

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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MARC DITOMASO
MICHAEL SCHWARZ

ZONING BOARD OF APPEALS MINUTES

DECEMBER 22, 2016

PRESENT: CHAIRMAN, JOHN MAXWELL, ROSE FABIANO, SILVIO BALZANO,
WILLIAM ROSSITER, MICHAEL SCHWARZ

ABSENT: VICE-CHAIRMAN, PHILIP AGLIETTI

<u>APPLICANT</u>	<u>TAX MAP #</u>	<u>PAGE</u>	<u>ACTION OF THE BOARD</u>
Rosalind D'Amore	87.6-1-57	1-2	Variance Granted.
NL & M Holding Corp (Mazzola)	75.44-1-47	2	Heldover.
Baldwin Hills Realty, LLC	86.11-1-1	3-22	Granted.
Ulysses Matsoukas	75.43-1-27	22-23	Granted.
Kamala Associates, LLC	44-15-1-37	23-28	Interpretations Were Approved & Use Variance Referred to Planning Board.
Estelle Sayles	64.12-2-41	29-31	Granted.
Minutes – 10/27/16 & 11/17/16		31	Approved.

The meeting was adjourned at 10:30 p.m.

Respectfully submitted,

Dawn Andren

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. Steve Miller, Applicant's Surveyor and Mr. Robert Raddit (friend) were sworn in.*

Mr. Miller stated that Ms. D'Amore owns the above-referenced property and is in the process of marketing the house to sell. Ms. D'Amore's realtor indicated that the 2 sheds on the property are probably in violation (which in fact they are). The 2 sheds on the property require a 10 foot rear line setback. One of the sheds is as close as 7/10ths of a foot from the property line and the other shed is as close as 2.4 feet from property rear line. Ms. D'Amore is seeking a variance for both those sheds to allow them to remain. The sheds have been on the property for approximately 40 years. The property was originally owned by her mother and father. Her father had a small masonry business that he stored equipment and materials in those sheds. Currently, her father's equipment is still in the sheds. She's hoping to be able to keep the two of the sheds. They've essentially been there for 40 years. They're, not particularly, out of character with the rest of the neighborhood. There is a shed immediately behind it. They're not creating an unsightly appearance in the neighborhood. Ms. D'Amore is seeking some relief for a variance.

Mr. Maxwell asked what would be the approximate cost to relocate them if they had to be brought into conformance.

Mr. Miller replied, the one shed that is immediately behind the garage is attached to the garage although I don't know if there's access through the garage to it. I could approximate that it might cost \$2,500.00 to move the two of them.

Mr. Maxwell said so it's kind of a burden at this point. There's no septic in the way?

Mr. Miller stated I'm not sure where the septic is on the property. Mr. Miller then deferred to Mr. Raddit as he may have an idea where it is.

Mr. Raddit stated that I've been a friend of the family for more than 40 years. I'm actually Ms. D'Amore's ex-husband from 40 years ago and we've remained friends all of the time. The applicant's father, when he was operating his business, his business operated out of both of these sheds, my recollection is that the septic is in the orchard which is next door, to the right of the property.

Mr. Maxwell asked so it's in the vicinity where you would want to put the shed?

Mr. Raddit replied correct. Ms. D'Amore lives on a small income that her parents' left her. Her parents are both deceased. It would be a burden to spend \$2,500.00 to take down the sheds that have been there for 40 years.

Mr. Maxwell asked if she has spoken to the neighbors; there are no problems?

Mr. Raddit replied that she spoke with the neighbor behind her at my request and he has a shed on the other side and he has no objection whatsoever.

Mr. Maxwell asked if there were any questions from the Board.

Mrs. Fabiano then stated I noticed there's a pipe coming out from the garage to the rear shed. Is there a pot-belly stove?

Mr. Raddit replied I'd have to ask. I think it's in the dayroom.

Mr. Balzano said there's definitely electrical there. Was it electrical?

Mr. Miller confirmed there's a pipe coming out of the back of the garage. It's not part of the shed. There's a cap on it. At which time, Mr. Miller & Mr. Raddit showed the Board pictures.

Mr. Miller said this is another picture of the shed – as it's attached to the garage.

Mrs. Fabiano asked so it's attached to the garage.

Mr. Miller responded it's fixed to the garage but there's no pass-thru between the garage and the shed.

Mrs. Fabiano asked if it would it be a huge hardship to get rid of that shed?

Mr. Raddit responded it's a matter of income; she'd have to hire someone to do it.

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

Application of Baldwin Hills Realty, LLC, for a Variation of Section 156-15, seeking permission to create a lot which does not meet the minimum required lot size or the minimum required lot width; and to create a lot which does not meet the minimum required lot size or the minimum required lot depth. The property is located at 150 Route 6, Mahopac, NY and is known by Tax Map #86.11-1-1.

Code Requires	Provided	Variance Required
Lot 1: 3 acre min lot area	2.05 acres	0.95 acre
Lot 1: 200 ft min lot depth	151 feet	49 feet
Lot 2: 3 acre min lot area	1.00 acre	2 acres
Lot 2: 200 ft min lot width	145 feet	55 feet

➤ *Mr. Paul Camarda, Applicant and Mr. Jeff Contelmo, Insite Engineering were sworn in.*

Mr. Maxwell said let us know what we're seeking here.

Mr. Camarda stated that he received some documents from the company's in-house council. Unfortunately, he couldn't be here tonight and I'm going to represent the company tonight. I am not an attorney but I'll do the best I can to answer your questions. I'm sure Mr. Contelmo will step in and will also help out here.

Mr. Camarda stated that there's been a lot of chatter about the variance request. A lot of the chatter I'm hearing (that's why I'm here tonight) doesn't really pertain to what we're doing but I wanted to address it in case there were questions. Otherwise, I don't usually come to these public hearings. I rely on the professionals to handle it but I thought tonight I should be here.

Mr. Camarda stated that the subject property is a 13 acre piece of property (points to map) right here; separate lot, separate tax lot. We went to the planning board; we got a subdivision for a 3.1 acre lot and a 9.8 acre lot. We went and got that approval for a subdivision; we then moved ahead with the subdivision in hand and we got approval for the road for access to come in; we also got approvals for the two individual site plans. So we went to the board, got our subdivision done, our site plans are now fully approved-both sides. One of the lots is going to be the new branch of the Putnam County Savings Bank (PCSB). It's well under construction; construction started out there about 5 or 6 months ago. The second lot, fully approved, for about a 5,000 square foot retail building – construction on that will start in the late spring or early summer.

Mr. Maxwell asked if that was lot 2.

Mr. Camarda replied that would be lot 2.

Mr. Camarda then stated the road, that we were approved for, is under construction. We black-topped a section of it before the cold came in so the road is under construction. There has been some talk about a traffic signal there. We sent to the D.O.T., 2 or 3 years ago; we did an exhaustive study; we looked at accidents in the area; we all know the common or obvious realities is that you can't make a left hand turn out of the ACME shopping center. People generally make a right and try to turn into the Koehler Center driveway and try to make a crazy u-turn out of that driveway. There have been a lot of accidents there. We also had people coming out of the Koehler Center trying to make a left hand turn with traffic coming in pretty quick cause it's a downhill. D.O.T. looked at all the information. About a year ago D.O.T. finally approved the traffic signal. Following up on that traffic signal, we did a lot of work with D.O.T.; we went through full plans with them; we submitted everything to them. At this point in time, D.O.T. approves all the building plans for the light, the coordination, the re-striping of the road, everything is approved. Contract bids came in; we signed the contractor; we put up all the

bonds, all the insurances; we now have a permit from D.O.T. to start the work and work has now started on the traffic signal. That work will be finished within 120 days. It will be a fully functional signal that will allow people to go into the ACME shopping center, make lefts going south into Westchester and also coming out of the PCSB branch and the adjoining retail, they'll also have access. As part of our studies, we looked at a couple other factors. The first one we looked at was the Koehler Center is a problem. Their entrance is too close to the light by the diner. So the light was better situated (points to map) at the midpoint of the two signals. We have a signal in front of Mobil and we have a signal up by the diner. This was probably the equal distant spot for it. So with that, we also looked at the Koehler Center and though it would be good to possibly get the Koehler center to access their facility through this new traffic signal. People could come in this way and then come into the Koehler Center at a signal. So that was kind of the master plan.

Mr. Camarda continued and said I want to show you exactly where we are without a variance today. Sites are fully approved, the road coming in is approved, the traffic signal in front is approved, construction of this Bank – they're going to open in approximately 90-120 days; so all of this is approved. This is a 9.8 acre lot and this is a 3.1 acre lot. We could stop right now, we could go home and we are going to build that. So why are we here? It's ready to go and we're doing it right now. D.E.P. approval, D.O.T. approval, the whole alphabet soup of approvals has all been obtained.

Mr. Camarda then stated if you look at these two maps, they're identical maps except for a couple of red lines and a pink line. The pink line is the new access from this new signal's intersection right into the Koehler Center. That is the optimum place to put it because of the grades. It gets them right in and they can drive right in. The darker red line runs between the pond and the rear would become a 2 acre lot for the PCSB as opposed to a 9 acre lot. The code allows me to go 3 acres. The county already has \$1,909,000 to build that bikeway. The third part is, working with the county, is a walking path around the pond so that the seniors who live at the Koehler Center could walk down the bikeway or take a little walk around the pond. Now; if we're doing these good things, why do we need to be here? The bottom line here is this: I cannot take the public amenities and put them on a retailer's property because there are liability issues. I can take on that liability but a publicly traded company will not. They want their property whole without having hundreds or thousands of people using it for biking or access to the Koehler Center. So we come here saying let's make this lot 2 acres that just provides enough space between the shore of the pond and the back property line. Believe me, we looked at making it 3, many times, because I didn't want to come here for a variance. But when we made it 3, we always got much too close to the pond and you would never be able to put a bikeway through there unless you wanted to peddle over the water. So, 2 acres is what is needed here. Any bigger than that, you're starting to really pinch this area (map referral). On this side, we would have liked to push this back a little further cause I end up with a 1 acre lot and it would have been nice if I could have gotten an acre and a ½ out of it; it would've given me a little more flexibility but we ended up with just over an acre and we'd like to still push it back a little but we don't think so. We don't get involved with the grades. The reason it's 1 acre is to allow this access. If you make 1 acre lot and then another 2, that's 3; you have 10 leftover. I have zero desire to develop the remaining 10 acres. Most of it is going to be a pond, wet areas around it. From a practical standpoint, it's not developable. Can we put a bikeway around it? Absolutely! Can we put a walking path? Yes. So our plan was to take the excess property back; we'll even put a conservation easement on it. We are going to build the road coming in. We know that because that was in our original approval. One day, that road is going to connect to the back of the property but the excess land, besides the road, we don't have any desire to build on. I would say the only building I may put on it is maybe a comfort station down the road if it's being used as part of my bigger property, so someone down there could have a public bathroom. Other than that, we would have no issue other than bikeway, walking path, fishing dock. We looked at it as a potential place to put a dock right there so kids can just go out there, throw a hook and it's just a nice thing. We do have 250 acres behind it so it is self-serving to make it nice. We wanted to open up, because when you come into Putnam County, you don't even know this is here. We thought it would be nice if we did this, as we developed the bank, to open it up so you'd see the lake on the left side. So the bottom line, is we're here, not because we want to build anything more, not because I want to come here and give you guys a hard time, I'm here just to see if we could do these two things but I cannot do it on the backs of my

retailers. I could take on the liability; I'm not a publicly traded company. I can say I'll do it. So, we could take care of the county. We could allow the bikeway to come through. I can do those things but I cannot encumber the lots with that kind of a legal liability. I'm not an attorney but I do understand the balancing act that you have to go through here and the five tests a zoning board has to look at to make a reasonable, thoughtful decision. We looked at the area, and we started there at the Westchester line, and we just went all the way up to Villa Barone. What's on Route 6? We looked at 47 parcels (there was more – probably 65); we took a random sampling. When we looked at the random sampling, 27 of 46 we looked at were under an acre in size. A number of them were under a ½ acre in size and some of them were less than 1/3 of an acre. So we have a really mixed bag of different size lots. Park Ford is 2.7 acres, Villa Barone sits on about 3 acres but most of it in between is 4/10ths, 3/10ths & 7/10ths. The Diner is 9/10ths of an acre. The Citgo station is 3/10ths of an acre. There's no impact to the neighborhood if we get the variance cause the neighborhood already is a mixed bag but it's more than that. Lines on the paper are just that. When you're going to drive by, I'm not pitting a building on the excess land that would make those lots look smaller because you'd say 'who did this, there's 6 buildings on 3 acres; obviously there were some variances and some people built on it'. My undersized 1 acre and 2 acre lots are still going to be surrounded by forever green space so the visual impact is no different than if it was the full size. There is no visual impact here. The neighborhood will certainly not be affected by it when you look at what's here. I don't say that in a derogatory way, I just say that it's reality of it over years. So I come to the Board today in the position of, "We're building. The light will go up in 120 days. The bank will open for business. And, maybe next summer we'll see a second retailer going in and it'll all be finished." We could just move on. I may go to the Planning Board one day and just make PCSB a 3 acre lot and have two 3 acre lots that conform so that I would still have control of the pond because I do view it as a long term amenity. But; I'd like to do the right thing here cause I don't think it's much of a stretch to get a bikeway in that's already been funded for almost \$2,000,000. I don't think getting an access to the Koehler Center, a safe one at a light, is a bad thing for me to try to do. It doesn't hurt me to do it and it's the right thing to do. If the Board doesn't agree, I understand. The County could, one day, find another way to get in, the bikeway money – I don't know what they'd do with it. But I'm here to try to help. That's why I'm here tonight.

Mr. Maxwell asked Mr. Camarda, you mentioned, on Lot 2, you have the ability to go back and make that a bigger lot. This Board's job is to allow the minimal variance possible. If you have the possibility of taking Lot 2, moving the roadway back (it might take a little extra work or manipulation of the grade), what's stopping you from doing it?

Mr. Camarda replied we've looked at it. Believe me; I would rather have come here with 1 lot. We couldn't get the 3 acres because as we got bigger, we were pinching up against the pond and you didn't have enough space to get the bikeway through.

Mr. Contelmo then stated there's actually a technical issue there. As Mr. Camarda indicated, the pond is surrounded by a wetland and that wetland is D.E.C. wetland. I just want to also add that the route of the bikeway has been predetermined by others. The line we're showing is what plans the County has put forth to the State relative to that bikeway which follows the old rail line that runs through the center of the wetland and an embankment that was placed there many, many years ago.

Mr. Maxwell interjected it predates any wetland restrictions.

Mr. Contelmo responded right and that's the route of the bike path, in fact, across Route 6 and then along the pond and through that wetland where we show that redline. The technical issue relative to the connection to the Koehler Center relates to that D.E.C. wetland. D.E.P. watershed and impervious services aren't allowed within 100 feet of a D.E.C. wetland. I'm going to point to you (refers to map). This is Lot 2; this is the rear line to Lot 2. This line, on our map which was submitted to you, is the D.E.C., 100' setback. The Koehler Center driveway and its impervious surface would have to run through here and that's where we cited that easement. There's also grade issues related to it. I want to just show that on the map. On Lot 2, this rear line is strategically set here to allow the driveway, just

to the west of it, and have that driveway be able to skirt the 100' D.E.C. wetland line which runs here. So there's a very specific reason why that easement, in our opinion, has to be there.

Mr. Balzano asked wouldn't the bike path be an impervious surface and that's going to be on the other side of that?

Mr. Contelmo responded that's true. That's an issue for a separate proceeding. The State of New York actually has a relief from requirements of the D.E.P. watershed regulations through an executive order of the Governor. So they're actually allowed to do things that the County and we are not allowed to do. So the D.O.T. does have some involvement in that bike path and that might be a way for them to overcome that but that's not our chart.

Mrs. Fabiano stated you had mentioned that you have 13 acres. Are you willing to grant a perpetual green space for that area – which no development will go on in those 13 acres? She said you do have watershed in there, you have wetlands, you have the pond; so if you give us the 13 acres, it's easier for us to say, you can have the two buildings.

Mr. Camarda responded what we are prepared to do is (and we did put this in writing to the Board) we would agree to not build any buildings on the remaining 13 acres because remember part of that 13 acres is where my road is going to continue. So if I said to you it's going to be green space, I couldn't finish my road. So we're not going to encumber it without being able to do 3 or 4 things. 1) we want the ability to put the fishing dock 2) we want the ability to put a walking path around that pond 3) we're going to want the bikeway on that parcel and 4) I'm also going to take my road, which is already approved but whatever is left (that would probably be 8 acres of it or at least ½ of it), we don't need. But I don't want to sign something and then I can't even do the things I want to do on it. There is no intention to build a single building for any sort of a profit.

Mrs. Fabiano further asked so there will be no other buildings on the 13 acres.

Mr. Camarda responded that's correct.

Mr. Balzano asked, "as it is now – if we did nothing today, that road is in Lot 2, correct?"

Mr. Camarda responded that's correct.

Mr. Contelmo stated that he wanted to clarify the extent of what we're talking about. The 13 acres on this plan is this kind of rectangular piece here. Baldwin Hills Realty also owns 172 acres to the rear of that. These two buildings are happening whether this happens or not. The issue relative to the easement and the residual land is that the residual land would be merged with the 172 acres making it 182 acre parcel, and the front portion of it Mr. Camarda agreed to restrict so that no future building outside the amenities he discussed and the continuation of the roadway. The other misconception that's out there relative to the roadway is that that extension of the roadway is somehow associated with a potential future project that needs special consideration. That future roadway extends to 182 plus acres of commercially zoned property which is probably the largest vacant commercial property remaining in the Town of Carmel. And, whether that property is developed sooner or later and whether it's developed to the current zoning for the commercial business park or other things is not relevant to why we're here tonight. I believe there's a lot of banter relating to that but the fact of the matter is, we want to be perfectly clear, the buildings, the development that surrounds the buildings, and the infrastructure for the buildings is the same under either scenario of the subdivision. The only difference is, with the smaller lots, future amenities to the County, to the State, to the Town aren't able to happen in a way that Mr. Camarda could accommodate. The conservation easement gets to the point where there's no change in either proposal when you drive by this down the road. You're going to see those two buildings and a bunch of open land. That's what we see as the simple side of this.

Mr. Maxwell said you stated before about the conditions that would be alleviated for the construction of the bike path but is there any chance that that would not happen so all this would be null and void if that bike path became null.

Mr. Contelmo responded we have no control over the bike path. By doing this, we're putting them one step closer.

Mr. Maxwell interjected 'it's not a certainty'?

Mr. Contelmo responded "absolutely not". We don't control the Koehler Center and we don't control the bike path.

Mr. Camarda stated all I could say is that I've submitted documentation to the Board that they have already been granted \$1.9 million dollars toward this. All we're doing is setting the table for them. If they build it, great. If they don't build it, that's a shame. But the bottom line is we're not using the land. I may, one day, put a walking path myself because I view it as an amenity and I own the land behind it and it would be a nice amenity.

Mr. Balzano stated if you didn't do this and the bike path is dead on arrival, just curious? Or do they have an easement to get through there.

Mr. Camarda retrieves map (Board member interjects trying to figure out how they get across Route 6 let alone everything else.) There's an old railroad bed from many years ago that was in there and the land is built up a little bit and it's just where they put these things because it's always been graded, the land, for the rail. So; that's where it's going. To build it somewhere else would be silly because right now you have this strip of a railroad bed that's sitting there and that's why they can build them a little more efficiently. That railroad ran across here, across this entire piece of property. We can see, eventually, the Town taking a spur off it and connecting it to Baldwin Meadows Park which would be a great thing because Baldwin Meadows Park sits right here and we think it would be a great thing one day if they connected it so people could go from the Park right on the bikeway.

Mrs. Fabiano asked, why is it that a year ago, when you or whoever came in for PCSB, you never needed a variance for that area and now you do?

Mr. Camarda responded because PCSB today, as approved, sits on 9.8 acres right now. We didn't ask for a variance. We came in and took the land, broke it into two pieces – one 9.8 acres, the other 3.1 and there was no need for a variance.

Mr. Balzano stated the only thing that came to us was regarding parking.

Mrs. Fabiano agreed that was the only thing that they came for.

Mr. Camarda added, only as this bikeway became more of something real and the County received the funding for it, this happened. Once I turnover and finalize my deal with the Bank, none of these corporations are going to want that liability; same thing with the Koehler Center. They're going to say it's a great idea but you put it on your land, not on ours. They have different standards. These are publicly traded companies.

Mrs. Fabiano said "I assume, at some point, you're going to build out those 180 acres. Is there going to be other ways to access that property besides that one road?"

Mr. Camarda replied yes. There are multiple ways to access it. We own almost a mile of frontage on one side and we own multiple spots on Route 6, so absolutely. Let me just touch on that because there is some talk out there. We went through an approval process where we received an accepted Draft Environmental Impact Statement (DEIS). That's a good standard but we're not finished yet. Don't get

me wrong. It's a certain standard. That's a mixed use development and it's going to be retail, bigger retail, smaller shops, commercial office space, professional office space, restaurants, a movie theater – all part of a mix use and a residential component. Let me make it very clear. It's been on the map from day one. Our plan, originally, was to do senior housing right across the board: senior rentals, senior sales and assisted living on the entire thing. If the Town wants to open zoning to allow younger people to also buy a condominium, the only difference to my plan is that some of the units will be for seniors and some of them will be open to young people or millennials as they call them. That's it. Nothing else changes. The retail goes in; it's just a matter of who is going to live in the unit. It's not how many of them there's going to be, it's who's going to live there. Is it only seniors – okay – there's a market for assisted living, rentals & buying or are we going to mix it up and allow some young people who are just coming up into the area, looking to start families, to move in. That's out of my control. Whatever happens, happens but that would be the residential component. We have the same unit count and there's a market either way.

Mr. Maxwell asked if there were any other questions from the Board.

Mr. Schwarz said I think the biggest concern you have is the ability to lease. Because of liability concerns? That's why you're requesting these variances.

Mr. Camarda responded yes.

Mr. Schwarz then asked can't you agree to indemnify them because you're willing to take on the liability anyway – right?

Mr. Camarda replied no. I'll take the amenities and put them on my land and keep it simple but I'm not going to go through trying to do all this stuff dealing with companies that just don't want to do it. That's really where it's at. All I'm really doing is taking the ownership off them so I can take the liability on of the bikeway or the new Koehler access. I'm doing something that they're not comfortable doing. But there's no economic benefit here. If anybody can find one, please enlighten me because there isn't.

Mr. Maxwell said I'm sure you'll hear that.

Mr. Maxwell said, "I just want to remind the public, before I open this up, PLEASE.....keep it non-redundant. If we're hearing the same thing over, I'm going to cut you off. He further goes on to remind the public that this hearing is about an Area Variance and NOT a Use Variance that Mr. Camarda is seeking. An Area Variance is a balancing test where the majority of these criteria are to be considered:

1. Will an undesirable change in the character of the neighborhood or a detriment to nearby properties be created by granting the variance?
2. Can any other method be used that does not require variance but still allow for benefit requested?
3. Is proposed variance substantial?
4. Will proposed variance have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district?
5. Is the alleged difficulty self-created?

Mr. Camarda wanted to make sure the Board has the report that was prepared by Mr. Fred Koelsch that was submitted (via email from Ms. Trombetta) to the Board. It was a 10 page package regarding the 'balancing test'.

With the exception of Mr. Maxwell, the Board members had a copy of the package.

Mrs. Fabiano asked 'if we didn't grant the variance, you would still have the ability from other areas to access from Route 6 to those 180 acres, is that correct? If the concern is that by us granting this variance, that's the only way to get to that 180 acres, that's correct. That 180 acres has its own access

on Route 6, doesn't it? So whether we grant the variance tonight, it's not going to stop the development of those 180 acres.

At which time, after back & forth it was concluded that the road, already approved, will go through with or without the variance.

Mr. Maxwell then opened the public hearing.

➤ *Mr. Frank DelCampo was sworn in.*

Mr. DelCampo acknowledged there was a lot said. Before he started he wanted to ask a few things. I have two documents here. Do you want me to hand you wanted 1) did the Board want copies of what he was going to read from this evening and a document from Spain & Spain who is assisting the residents. The Board members acknowledged that they already had them. He then asked, "What is the current status of this application? Are you going to be voting on it tonight?"

Mr. Maxwell responded that remains yet to be seen.

Mr. DelCampo then explained the reason for his question. There are so many people that wanted to come tonight, that object to this proposal, but the nearness of Christmas was an issue. There are at least 50 more people (which he will bring their names another time) that wanted to be here and there's over 55 here tonight.

Mr. DelCampo then greeted all in attendance and read, that he came here this evening not just for his concerns but rather for all the residents of our Town, many are who are here this evening. As your supervisor from 1996- 2003, I was honored to represent the interests of all residents. By the way, the residents are not just in the locale. This is not a just in my backyard issue that we're objecting to. With the able assistance of my Town Board and the many great employees under my supervision of Town Hall, we were always guided by what was good for the community and not one developer or any special interests. Whether it pertained to water supply, sewer capacities or many revitalization projects between our two hamlets of Carmel and Mahopac, our focus was always to protect, preserve and improve the quality of life for all our citizens. In 1999, the Town Board and I began a 2 ½ year project to revise the current master plan that would move us to the next century with confidence. Great pains were taken to consult with many professionals and many stake holders throughout the Community. We looked at all the undeveloped property throughout the whole Town. This issue of looking at the property included, but was not limited to, water supply protection, sewer discharge efficiencies and, most important, to minimize any anticipated negative traffic impacts. The benchmark of our revised plan that was finished in 2002 was to preserve the character of our neighborhoods throughout Carmel and Mahopac. This is why the Town Board agreed to zone the property, in question tonight, Baldwin Hills, Estate 86.11-1-1 and as you've heard from the developer that includes 100s & 100s of acres. Currently the old Zipkin farm is still under litigation. The debate is who owns that – the developer or the Zipkin family. These, as you know, border Route 6 and Baldwin Place Road. Now we find the developer, Mr. Camarda attempting to undo our work before the Planning Board and Zoning Board. Now you've heard it was 12.89 parcels. Yes it was approved in 2015. Yes he was within the zone. It was a subdivision with two commercial lots. Isn't it interesting that 13 months later, he comes back for a re-subdivision. Somehow, he was able to say it was a lot line adjustment. In those papers presented, you saw exactly what he intended to do. He is going for a re-zone for residential and to actually "an alternative to provide fee-simple which is hereditary access directly to the Union Place property. If you go there and look at the Bank and the vacant lot, the one lot that he wanted is 3.1 now; you can't go back there because it's 12.9 acres. What he did and year and 1 month later, he got a re-subdivision application. If you read that carefully, you know exactly what he's intending to do. He's not going to stick with making little paths. He's picking up 10 acres. I spoke to the County Executive. She said she's not aware, at all, of any pathway or of any road going there at this point in time, and the actual light could be put anywhere. That light wasn't able to be there back in 1992 when they first built the senior housing because they felt it would interrupt traffic both on Miller and on Route 118/6.

It would be too convoluted. We do find him attempting to undo our work and that's why I'm so concerned and these people are here tonight. Mrs. Fabiano said it beautifully – she said isn't there other accesses? Why do you think he wants this access? If you look on the map, it's very confusing. I was talking with the Planning Board six years ago when this Union Place/Baldwin Hills was first presented and I warned about these accesses by Baldwin Place and one by the Post Office. That's not going to be easy to do that. This is a perfect spot for him to go in and go into the back. As you can see, all that acreage goes all the way down along side of the Post Office. Union Place does not need residential development. That's why we zoned it. Retail is fine. I wouldn't be here tonight if he put a community college or some other thing up the top of the hill – whatever was in the legal bounds. If you allow him the area variance requested for the subdivision lots where he is currently constructing the Bank to occupy and the lot across from the retail building, you will be preparing him to have access to the back of the property. That's admitted in his application. It's not to put a little pathway or bikeway; not to beautify everything. It sounds great but it's a selling job. It's not going to work. This variance, if allowed, would reduce the lot size and width of the Bank property. Figure it out – 9.8 acres to 2.05 acres. I've never seen that in all my time here and I've attended many Zoning Board meetings – not that dramatic of a reduction in the minimum size. And; the lot on the other side from 3.2 to 1 acre. This reduction is unheard of for any developer. The memorandum from the Town Planner dated October 26, 2016 clearly states the intention of the Developer to provide "access to the Union Place sites with the adjacent Bernad Creations property as well as create an alternative to the above and provide a fee simple access directly to the Union Place property in the back. (Then Mr. DelCampo referred to Mr. Spain's letter which stated that it never should have been a lot line. A sketch plan should have been made. There's a code that should have been followed and it shouldn't even be before you tonight but that will be debated in the courts I'm sure and I'm not here to argue a legal question.) The stated intent of the Union Place Project is to include between 150-200 residential houses which would dramatically change the character of the community. That is exactly what is in the proposal and making these people come out here tonight. There will be negative impacts to our water supply, sewer and serious traffic problems. In my lifetime, and I've been here forty years, we've had three occasions when our wells went dry in Lake Baldwin. You know all about Rolling Greens. You know all about the Somers development that's destroying our pond, Lake Baldwin. You know what they're doing. Why are we compounding it? I've been over there complaining to the Somers Planning Board so it isn't that I'm sitting back on all of this. We have had historical problems in this area – water, sewer and traffic. There wouldn't be a day where you wouldn't see Mantovi or Evans running around Lake Baldwin. The aquifer, as you know, is very similar. In fact when Williamsburg wanted to come down Baldwin Place Road, where PARC is currently located, we stopped that back in 1988 because studies were made that whole aquifer comes right down that area into the Lake Baldwin well supply. We have no more land to dig more wells and you know the issue of Rolling Greens. Again; this is not just your backyard. By getting a variance tonight, this is going to be a spot zoning which is a serious issue. By getting a variance tonight, you're right you'll see other access points on the map but don't be fooled. He can't come in. That's why he went to get the light. That's why he asked Senator Murphy to get a grant to pay for the light. D.O.T. won't pay for the light because D.O.T. cannot contribute to the profit of a developer. So he (Mr. Camarda) is being asked to put the light in. He's absolutely right. All the approvals were made but he hasn't figured out how he's going to pay for it yet. The Developer knew that there was a 3 acre zone capacity for this property; he knew it was for commercial, business and park when he purchased it. This request for an area variance would clearly undermine the many efforts made by the current Master Plan to preserve and protect the few available lands that we have left. Therefore, I and all the residents you see here tonight, are requesting the following. If you do vote tonight, please, please deny the Applicant's request for the area variance. There can be no justification that it would be a positive for all the reasons stated above. It sounded great but I'm telling you it's opening the door and we're going to have to pick a fight. The Developer must be well aware of the CB Park zone when he purchased these properties. If you agree to the variance, you'd be, in effect, consenting to the efforts to move this project along.....Last month here, he asked to be removed. He said that he needed more information from the County. Well we all know that he never got the map signed and it was never presented to the County Clerk as per law. So you could see there's been a rush to movement, there's a fast track here. That's why I'm taking my time-out. I would have loved to have done this in January but we're here tonight. In conclusion, you are very important members of the

community. I know some of you and you have a terrific responsibility. I know that. I've been there, I've done it. It's not easy. Your denial of this variance will give all of us here, all of us, the comfort that you know what is right and you will do what is right for their interests. He certainly will have enormous profit with banks, a restaurant, whatever. We're not questioning his ability to develop the land. We're questioning what we know is written, in fact, what his intentions are. In my good conscience, I could not sit back, after 13 years of retirement, and see something like this go on. It's wrong. We have elderly people in a lot of these developments. They can't move out of them. They worry about their particular water that they have and they worry about drainage issues and you know what the traffic is. There's no way that the D.O.T. is going to come up with a signalization that's going to make a difference here. It's impossible now and it'll be more impossible. So, again, please listen to everyone. I know I was a little long but I wanted to give a lot of the residents an opportunity.....

Mr. Maxwell interjected, "let's give some people the opportunity, in the interest of time," to be heard.

Mr. DelCampo replied he will, thanked the Board again and to please think seriously on this. I appreciate all your services.

➤ *Frank Hansmann, a resident of Lake Baldwin, was sworn in.*

We are very concerned. Half the people that I spoke to today never even knew that this meeting was going to be on tonight. I just got this paper with the little half survey on the back of it, three days ago, as a flyer in the mail. My neighbor across the street had no idea it was going down. I mean, you've got to be kidding me! No? Most of the people in Lake Baldwin don't even know what's happening here.see anybody here.....

Mr. Maxwell interjected, it's only supposed to be given within 500' of the property, just so you know, for clarification but it's also in the newspaper that's publicly advertised. Mahopac News.

Mr. Hansmann said, "Oh, it's in the newspaper?"

Mr. Maxwell responded, "It is advertised."

Mr. Hansmann then said, half the people don't read newspapers anymore either but still....you know, I can't help that.

Mr. Maxwell responded, "It's the means of public record for notification."

Mr. Hansmann then stated, something, flyers put in - I'm talking about Lake Baldwin. This is my backyard, Hank's backyard. Across the street from us, this goes right back to - you're talking about taking property that goes right back to the animal hospital. That's one *heck* of a lot of property and you've got to give people more time. You can't just stick it down their throats Christmas weekend and go, hey we're going to do this now when they don't even know it's going down. I'm sorry.

Mr. Maxwell interjected, if you're going to get loud....and go against the board, I'm not going to hear it. I'm going to ask for someone else to come up. So; state your point, get to the facts and...

Mr. Hansmann interjected, okay, where does the water come from? Alright, what happens, to the sewers.

Mr. Maxwell responded, I want to state something. A lot of your points, that are going to be coming from the public, are really mostly to be addressed in the Planning Board for concerns. Our job is for the variance for the land - SOLELY. So, a lot of the points, that I'm sure the public is going to bring up, are not within our purview. Those are

Mr. Hansmann interjected, what land, the PCSB? PCSB is not a concern for anybody in here. If that's what your concern is for that variance...

Mr. Maxwell responded, you don't understand what I'm saying. We have a certain set of guidelines and rules that we are supposed to adjudicate on. The items that are being brought up are like your land concerns, water concerns, traffic – a lot of that is under the purview of the Planning Board. Some of those items we take into consideration, granted, but my point is, let's not be redundant tonight.

Mr. Hansmann asked, yours is for variance, right?

Mr. Maxwell confirmed for variance.

Mr. Hansmann okay for variance for the whole piece of property?

Several Board members responded “no”.

Mr. Hansmann then asked, just PCSB?

Several Board members clarified and the piece next door and then referred to the Map.

Mr. Hansmann thanked the board.

➤ *Michael Borelli, a 42 year resident of the T.O.C. was sworn in.*

I've known Mr. Camarda for twenty-five years. I have a great deal of respect for him. I really do. I like his work ethic. I've done business with him twenty-five years ago; Twenty years ago, he helped me with Mahopac Beach when I was building it. We both made a lot of money together twenty years ago. The difference between Mr. Camarda and myself is, I live in Mahopac. I love Mahopac. I've raised my children in Mahopac and they're going to raise their children, my grandchildren, in Mahopac. What I've seen happen, the last two months in this town, actually made me do something I never thought I'd do before which is run for the Town Board (which is another story). But; I've gone to these meetings for twenty-five years. I've stood in front of you a dozen times – different faces – same Board. I need to, if I may, ask Mr. Charbonneau a question. May I?

Mr. Charbonneau replied “sure”.

Mr. Borelli asked, “Has the map been filed on this?”

Mr. Charbonneau replied, “not to my knowledge.”

Mr. Borelli then asked, “Why are we here?”

Mr. Charbonneau replied, “this Board does have jurisdiction to hear this matter. It's something that I've discussed with Mr. Folchetti. It's something I've had a conversation with Mr. Spain about and the Board, in my opinion, has jurisdiction to hear this application. It's not something that I'm going to get into a big, philosophical debate over here.”

Mr. Borelli responded, “I'm not. I want to ask the board this. So, you gave-they got a subdivision. They didn't file a map; they don't have a subdivision – basically they have a sketch plan that he wants to change.

Mr. Charbonneau interjected, let me just clarify that. What happened was the applicant went back before the Planning Board with a lot line adjustment.

Mr. Borelli interjected he was there.

Mr. Charbonneau further stated right and that was then denied to the ZBA for the variances that are before it. So that's the vehicle, by which, they're here.

Mr. Borelli responded, let's go through some facts. Like I said, I live here. I don't think it's proper to come here with a map not being filed to re-subdivide that's not subdivided yet. If I did this, you would have laughed me out of the room. I really believe that. Now; the Koehler Center was there before they did this subdivision. It should have been taken into consideration when this subdivision was done. The bike path and the \$2,000,000 that the County has to bring the bike path over to the Koehler Center is a pipe dream because they have it designed going through one of my properties which is never going to happen. The elevation from the bike path and the elevation to the Koehler Center – I know my son-in-law takes Mountain Biking out on 301. That's what you're going to need to get. No senior's going to ride a bike up the hill or down the hill from the Koehler Center so let's just get rid of that. There's not an amenity here that's being proposed for the seniors of this community. The amenities that are being proposed for the future change of use from Union Place that I support. I told Mr. Camarda, over the years, I truly support every aspect of Union Place except the residential part of it. When he goes for Union Place, which I hope he gets - I really do, he has to come back here. You have to give him the variance to build residential and mixed use and everything else. So whatever you do tonight is part of the whole picture, and what I've seen out of the Town Board and what I've seen out of the Planning Board, in the last two months, has broken my heart as a resident and taxpayer of this community. I would hope that the integrity of the Zoning Board is a little better than the integrity of the other two Boards. There is no doubt, in my mind, that Union Place will never be built. The reason for this and the reason for the amenities are to make that entire hill residential. They tried sneaking something through, a month and a half ago that I picked up on. In forty years of living here (I haven't developed in fifteen years) and when I developed, to have something done in three weeks was unheard of. So, please, do not insult my intelligence because I've been doing this a lot longer than all of you on this Board. If you're going to grant it and I think you are going to grant it; not tonight – first of all coming on in front of Thanksgiving is a smart move for a developer. I read the book. Coming two days before Christmas is a brilliant move for a developer. I read that part of the book too. The first thing I would suggest is that you put this off to January so now the people know it's happening. You'll have your 400 people in here that'll ask you the right questions. But I would hope your integrity is higher than the integrity I've seen the last two months from the other Boards in this Town because it didn't get me mad, it literally – broke – my – heart. This is all bull and like I said, I like Mr. Camarda, I really do and I want him to build Union Place without the residential but I would also like him, as a taxpayer of this community, to pay the taxes on the property, get the map signed and come back here properly like I used to do it. For the record, I want to correct Mr. DelCampo and I want to add to your (?) point, do you have other access. As a developer, I looked at this property very closely. The Zipkin property is not in dispute on who owns it. It's owned by Barney Zipkin's family. I know because I've been negotiating with them. Mr. Camarda is in litigation to get back his monies that he paid on an option. That was the main entrance for Union Place. The other property next to the Post Office borders wetlands and has steep grades. Nobody, in their right mind, is going to give a main commercial entrance off Baldwin Place Road cause you'll give fifty people here heart-attacks. So, this is it. You grant this variance tonight, you are approving the only entrance possible for Union Place. Like I said, I'm for Union Place. Let's put that right there on the record but for you to think these amenities are being built for Koehler Center, you're dreaming. Remember the YMCA? Remember the hotel? Put the bike path with those two. It's never happening. The only thing that could happen here is Union Place. With the market that's out there, the only way Union Place is profitable for Mr. Camarda's company is to add the residential to it. Bottom line; what you do tonight, you're doing for the entire Town. Something the Planning Board should've taken a little more interest in before sending him here to you. They just passed the buck to you. I'm going to be watching very closely the zoning change that they're trying to ram down everyone's throat. Again, great deal of respect for Mr. Camarda. He's a great businessman; great work ethic; beautiful piece of property. It's a great piece of property for the entrance to the Town but I don't want the entrance to our Town to look like the back side of Somers because Somers was brilliant. They put all their affordable housing on their back side which is our entrance. I don't want to see 600 units between Somers and Mahopac on our entrance. Another thing for the record to point

out; we have three traffic lights within a 1/8th of a mile now. For a couple of times during the last couple of weeks, I've noticed it takes as long to get from NYC to the Taconic to Route 6 as it takes from Route 6 to get to Carmel. You hold the entryway to Mahopac in your hands. Please show a little more integrity than I've seen from the other Boards. Thank you very much. Merry Christmas and Happy Holidays.

➤ *David Gagliardi, Mahopac resident 49 years was sworn in.*

Mr. Gagliardi states, just want to say two words to you (the Board members). One is "history". Mr. Camarda has a history in this Town.

Mr. Maxwell interjects please address the Board.

Mr. Gagliardi continues, he has a history here. That's a fact. The second word is "trust". You've got Mr. DelCampo & Mr. Barile's material and their testimony. You (the Board members) have to decide whether you trust Mr. Camarda to continue his operations in this community. That's all I've got to say. That's it.

Mr. Maxwell thanked Mr. Gagliardi.

Mr. Ravnitzky, 124 Hill Street, Mahopac was sworn in.

Mr. Ravnitzky states, I see this as an initial what's good for the Town and what's bad for the Town. I've been living here for 37 years now and I've seen traffic increase tremendously – many times what it was when I moved here. It's almost impossible to drive through Town during rush hour. It's just impossible now. Trying to make turns from one street to another, especially left turns, in places where there are no traffic lights are impossible. If this is built where we're going to have residential housing, I think that if you have young families moving in, you're going to increase the number of students in the schools and I think that taxes will go up. We'll be paying additional taxes. The land is currently zoned commercial. If that is what is put in there, that will perhaps help our community. At least they'll be paying taxes and not having children in the schools. It is something that is allowed. Whatever is allowed according to the code now that should be what exists. I don't think we want to have things that would not be good for the Town. In terms of the history, if you look at The Retreat which is one of Mr. Camarda's developments, they had to destroy a mountain there and put up what looks like 'monopoly houses' and then they had to cut back on the plans after he sold it because they couldn't sell many of them cause they're overpriced and people just didn't want them. So I don't think we need more senior housing. I think that's one of the problems.

Mr. Maxwell interjected that he just wants to remind everyone that what is under review tonight is just the two lots that are in the front part of that 13 acre parcel. Not the future – which is not even to fruition at this point. Let's look at the two lots.

Mr. Ravnitzky replied that I think if you allow that, we're going to be letting ourselves in for.....

Mr. Maxwell interjected, what you have to understand is that roadway that leads to the back is already approved and in play. So, what we're talking about tonight is the area variances for the two lots, 1 & 2 in the front parcel.

Mr. Ravnitzky responded, but I think the implication of what it's for and what it leads to is also something to be seriously considered as was mentioned before. Thank you.

Mrs. Fabiano said, whether we grant this variance or not, the road is going to be built. The only difference is that the Koehler Center will have the ability to come in on that road. Is that correct?

Mr. DelCampo replied, if you give this variance, he goes back to the Planning Board for a lot line adjustment which he doesn't have now. He can't go to the back now but by gaining those 9 extra acres, it allows him....he does not have permission to make that road indefinite.

Mr. Charbonneau interjected, that's not accurate.

Mr. DelCampo restated, absolutely.

Mr. Charbonneau reiterated, that's not accurate. He has access to that. I think we talked about it before. He does have access and Mr. Contelmo can explain it. Regardless of whether the Board does anything with respect to this variance, he can access that back parcel.

Mr. DelCampo asked, "without the variance?"

Mr. Charbonneau replied that's correct. The variance has nothing to do with it.

Mr. DelCampo added, not to put a road through there and get into the back. I disagree.

Mr. Maxwell indicated to Mr. DelCampo that in fairness let some other people speak tonight. There are plenty of people here tonight that want to be heard.

➤ *Mr. Robert Buckley was sworn in.*

Mr. Buckley thanked the Zoning Board and Mr. Chairman for the time then stated he actually came here for a different reason to speak about but I'm going to delve into something else after what I've heard this evening. I am the Chairman of the Town of Carmel Parks and Recreation Committee. This project with the bike path was presented to my committee in our last meeting. I reviewed the maps, I did speak to the County Executive; I asked her what her input on this was. She told me the money is in place. We have the federal money. It's there. We would like to move forward with the bike path. As the Chairman of the Recreation Committee, I was excited. I said when the Town of Carmel can be granted \$2,000,000 (1.95 he thinks it is) in federal money for recreation, and we somehow don't accept/take it, I said we're crazy. I put it before the Recreation Committee, many distinguished members of our community, and we discussed it and decided this is a great idea. It's a great idea for a number of reasons: Obviously, the walking path, the bike path, the one word that wasn't used – a passive park, hanging around the pond, relaxing and sitting on a bench, the fishing dock. So tonight is called a pipe dream. Well, they said we would never get a Tappan Zee Bridge 20 years ago; they're rebuilding it. They said we probably wouldn't have the Empire State Building until there were plans put forth. Everybody has their negative, not going to get something, not going to happen, not moving forward and if you keep saying those type things, we'll never get anywhere. It's very difficult. I'm talking to you as co-members of different Boards in this Town. I can tell you that the Recreation Committee works off the Park Land Trust Fund. We have very limited money in recreation in this Town. We have millions of dollars of projects that need to be done and we have under a ½ million dollars in the Park Land Trust Fund. We nickel and dime our way through this Town to try to get projects done. We just completed Camarda Park this summer. We're waiting to blacktop it in the spring. I call it the 'central park' of the Town of Carmel and if people haven't seen it, you should go up and look at it. We just got some money for the airport property, \$250,000 – we're trying to put some soccer fields in there. We're dealing with the ball fields. Our issue is money. We don't have money. To get \$2,000,000 from the federal government and the County is looking for easement of property to make this happen and to sit here and say it's a pipe dream; maybe it is a pipe dream but you know what, things don't happen if you don't dream. If this variance goes through, as the Chairman of the Parks and Recreation Committee in this Town, I'm going to go meet with the County and discuss with them and want to try to see this project through. Just think about it. A windfall of \$2,000,000 but that's not the reason you're here as the Zoning Board. I just wanted to tell you how we felt as another Board in the Town, the Recreation Board. So, we really think it's a great opportunity. Somebody said seniors aren't going to climb down mountains and up hills. It's true they won't. But it's not just for

seniors. Long term, I heard Mr. Camarda say it may get connected to Baldwin Meadows Park. That's our park, the Town of Carmel Park. Young kids will be using this path. No one said this is exclusively for senior citizens. What they said was it will give the senior citizens in the Koehler Center and the housing unit right next to it access to a walking path, a bike path, a pond where they could sit, relax and fish. No one is expecting the seniors to go out and run thirty miles an hour but it's not just for senior citizens. It's not even just for the Town of Carmel. It's going to be a County easement. The County has gotten this grant and they're going to see it through. So I think it's a great opportunity and I ask you to move forward with this area variance. To the area variance; I have to speak on some of the stuff because it really disturbed me. I thought it was made very clear by this Zoning Board tonight that you're here for an area variance for two parcels of property – period. I thought it was made clear that whether the variance is granted or not, that the developer is going to have access to the property in the back. Some would like to believe that this is the night you're going to kill Union Place. But that's not true. We're not here talking about Union Place. We're talking about two pieces of property. There'll be a day, time where everybody can come out. If the developer comes out and moves forward with Union Place, at that point, everybody can come out and make those arguments. Tonight's issue is very clear from the way I see it. The issue is simple. He's asking for variances on two pieces of property and, if I heard him correctly, he said he would make a conservation area in the back, there would be no building going on in the back, and it would be open greenery. Nothing is really going to change whatsoever. The only thing that is going to change is, if we're all about the environment and all about recreation, and all about loving our community, we got \$2,000,000 on the table – potentially for a great recreation.

Audience interjected and Mr. Maxwell asked that nobody speak out from the public until you're asked to come up to speak.

Mr. Buckley continued, I did get an email from ??Filner?? with the County because I wanted to verify the money. He verified that money is there from the Federal Government. They just need to move forward. I spoke to the County Executive because I was skeptical. I don't want to come up here and make a statement about money that's available for a project and find out it's a pipe dream. It's not a pipe dream. It's real money; It's ready for the taking and hopefully the easements go through. Hopefully, you'll vote on them tonight and the Recreation Committee can get together with the County Executive and start figuring out a way to get some more recreation for our community. So, I hope that helps to answer some of those questions. I heard somebody speak about a college. College is a great thing. If somebody wants to build a college, they should go buy 300 acres of property and build a college. If an individual buys a piece of property, as long as he complies with the town's zoning & planning, he does what he's supposed to do, he should build as he wants to build. One of the problems with our Town is we're discouraging development. People are scared to present projects. We should be inviting things into this Town. We need some revenue. We need some taxes coming into this Town. Our school enrollment numbers are going down and down. We've got some issues with taxes in this Town and I would love for a place to shop with some really, really nice stores. I heard about the plans. I saw it like all of you. It really is a great place. Instead of being so negative, I would recommend that everyone really take a place at what Union Place is about. Someone also said D.O.T. is not going to build a roadway or put up a light to help a developer. Well, I've been dealing with the State for 30 years and I can tell you that the D.O.T., frequently, works with developers in conjunction with accesses on and off the highways, different projects going on. The D.O.T. wants to see....roads improve. The D.O.T. wants to see one lane go into two lanes and, maybe, circles going off. The D.O.T. encourages certain things and they're willing to work with developers who are willing to do things that are going to better the traffic flow, safety. They're concerned about these issues so to say the D.O.T. is not going to work with developers is 100% inaccurate. They're not going to go out and do 100% of the developer's work and say, go make money off it. But they will work in conjunction for the reason of safety for the communities that people live in and for the roads that they have responsibility for. We all know what the intentions are but nobody knows what the intentions are of anybody until they put a plan forward. It's not fair. What's on the table tonight, from what I saw, (is) two area variance usages – never really heard Union Place until somebody asked for something about it. I don't believe tonight's approval or vote will have anything to do with Union Place because that road is going to go from point A

to point B whether you approve the variance or not. If you don't approve it, I would hate for us to lose \$2,000,000 and a great potential for recreation in our Town. So, I'm asking you to consider supporting the variance. Thank you very much Mr. Chairman and Board members.

➤ *Judith Ravnitsky, resident of Hill Street, Mahopac was sworn in.*

Mrs. Ravnitsky stated, we have a beautiful bike path. We have beautiful lakes for recreation. You're talking about a pond, some wetlands – is this absolutely necessary? I feel like I've seen this story before. I saw the YMCA that never got built. I saw Camarda Park, partial swamp land, in order to divest land that you don't have to pay taxes on. Here's another Trojan horse that's being offered. I'm not swallowing that bait. I don't feel that that is the reason why this whole thing should happen. We're bequeathed this gift that we're probably going to regret. Giving that variance by the senior center is the faucet that you're going to turn on to start the flood. I am giving my words, in protest, of that. Please take it into consideration. My grandchildren want to come here; the future of our community is dependent on what's going to happen right here. Thank you.

Mr. Maxwell gave the floor back to the Applicant to respond to any comments or issues and then I'll close it after that. In the interest of time and fairness to the other applicants and other Board members and myself included.

➤ *Mr. Camarda came back to the podium.*

Mr. Camarda stated that he appreciates their (public's) concerns. I do. They're focused on the big project behind it. I appreciate that but there are some clear misstatements here. Just for the record: Residential senior housing, which I spoke about before, is permitted under the existing code. We could build senior housing, rentals, sales, assisted living, independent living but the statement that it's not allowed to have residential is incorrect. What is not allowed, under the code right now, is to offer that residential to people who are young people/millennials. I could build as many senior housing units there under the existing code. Mr. Camarda indicated that he knows people here for thirty years when he came here in 1986. The fact of the matter is, the road is approved. That's why we're building it right now. If this Board didn't grant the variance, the road is going in. We planned for it upfront. Why wouldn't we plan for it and as far as it was done in thirty days, we started this approval process back two years ago. This wasn't done in thirty days. Two years ago, we started with a subdivision, then we came forth with the road, the subdivision and then each of the individual lots. This was all done and out there.

Mr. Camarda added D.O.T. looked at this closely. Mr. DelCampo is correct – twenty years, they tried to get a light there because they knew they needed it there but they weren't able to. We were able to do a lot of homework, look at all the accident counts, look at everything and present a full argument to the D.O.T. They finally said, yes, we can do that.

Mr. Camarda further stated, I have letters from the County going back to 2015 and 2016 asking for a connection for the Koehler Center. They have a problem. Whenever they have events, they have a deputy's car out there or a Carmel Police car because it's very difficult to make a left hand turn out of there, because cars are coming down the hill at 40-50 miles per hour. So, the County is very supportive of this. I have the letters; you may have them on file. As far as the road is concerned, I own the whole 13 acres. I don't want anyone to continue to think that to deny this variance, the road doesn't go in. The road is going in! That's with D.E.P., D.E.C. and every approval. As far as the bikeway, they didn't build railroad beds on mountains. We've all traveled the country. Those old railroad beds were built on pretty flat land because they were smart and they had a big choice of where they wanted to put it. That railroad bed that's there is a pretty level area. That's why it was put there 100 years ago. They didn't have just one piece of land to access. They had eminent domain. They could have put it anywhere they wanted. That's a darn good place to put it and if you keep following the rail trail around the country, they're all built like that.

Mr. Camarda then referred to Camarda Park. "I would invite you to take a ride up there." That was 37 acres of beautiful land. My company built the road to get in there and my company paid \$213,000 in recreation fees to the Town of Carmel when we could've easily said, take the land or the money but we didn't say that because then someone would say it wasn't a gift. We paid direct fees. If you go up there today, there are two ball fields, a big lacrosse/soccer field. It's quite a nice place. I'm pretty proud of it when I drive in there.

Mr. Camarda then responded to Union Place. We're going to build it according to the zone. We're not coming back here. If we do, it will be for small things. It's zoned commercial and, I hope, one day if the economy holds up, I can build it. Why haven't we built it? I think you all know. It's a difficult economy out there. So I appreciate your time tonight and appreciate your listening. Thank you very much.

Mr. Maxwell offered Mr. DelCampo one more opportunity to speak.

Mr. DelCampo thanked Mr. Maxwell and then stated, I can't leave, without confronting this issue, in the submission of September 2016 for the lot line adjustment, read what it says, "the Applicant's purpose behind the lot line adjustment is to create an alternate "fee simple" access directly to the Union Place property." I didn't make that up. It's here. I don't care what is being said here. If you take the 10 acres and the 3 acres, it butts them right up against the pond. Do you understand what he's trying to do? He can't build a road where there's a pond. The D.E.P. would never allow that. It says it clearly here, 'an alternate' because, apparently, he can't get the access through the Bernad Creations property. I will argue with any attorney, even though I'm a school administrator and a former Town Supervisor, the way it is without the variance, he can't bring that road. He has to get that line adjustment so that everything shortens and he gets that distance away from the pond. They can tell you something here but it's incredible what people can say when it's not true.

Mrs. Fabiano wanted to see the map without the variance. If we do nothing tonight, what's going to happen? Can you compare the two? People may want to see it.

Mr. Contelmo said this is the plan without the variance. The Lot 2, 5,000 square foot retail building sits on the 3+....acres. The balance of the property, to the south, has the bank on it. The road will still come through there.

Mrs. Fabiano interjected, "it'll come through on the second lot, on Lot 2".

Mr. Contelmo responded yes, on Lot 2. The way this subdivision was set up and approved, there was an easement granted through there to accommodate that road. The point that Mr. DelCampo is reading out of and I think it's the Planner's memo, the distinction he's making (the Planner) in that statement, if you put it in a planning perspective, he's saying it creates a fee simple entry meaning that the road is on a portion of its own lot and not on these two lots. That was the point the planner was making to the Planning Board in that statement. I want to be clear, in no uncertain terms, that in either scenario, the road comes in at the right spot; the D.O.T. has seen the plans for Union Place way back when. The right place for the main entrance is, obviously, across from a major entrance to a commercial center and that's why this was aligned and the signal was approved. There's traffic and transportation logic behind that.

Mrs. Fabiano said so there's no change to the entrance whatsoever.

Mr. Contelmo confirmed, absolutely.

Mr. Balzano interjected, they're already building it.

Mrs. Fabiano reiterated, there's no change, it's not going to change anything other than the fact that you're going to have access from the Koehler Center directly in there so that those people will have an easier way of getting out of the Koehler Center.

Mr. Contelmo reiterated, you're absolutely right. I believe there's a tremendous misconception on that point. Again, as Mr. Camarda stated, I share the fact that people have concerns about the future development of several hundred acres in their town and they should have concerns but those are planning concerns. This variance has absolutely no bearing on what will be seen from the road in the two scenarios, what will be built in terms of the road and what the future of the road brings. We thought we made that clear in our submission and if we didn't, I apologize. We believe this is a very simple, straight forward area variance case. We believe that the memorandum that Mr. Koelsch forwarded makes that clear. We don't believe that there's any ill effect with it nor is there any hidden agenda. Really; this is good planning and shame on us for not coming up with this a year ago. Frankly, when we did this, we weren't thinking about these other things and I'll take part of the heat for that. The reason we changed our mind is because all of a sudden, these things came to our attention and we said there's a better way to do this. Let's plan for the future; whether it comes to fruition or not, we don't control that but to plan for the future is the smartest thing we can do. Granted, there are other issues for another day regarding the back to be discussed but none of them are relevant to what we're talking about today.

Mrs. Fabiano asked those large red dots going straight across are the bike path?

Mr. Contelmo replied that's the bike path. The bike path is under the State and County's control. It's intended to follow the old railroad line. As Mr. Camarda stated, the rail lines are flat. It isn't because they wanted to put them on flat lands. It's because the trains couldn't pull the cars up anything more than 3% so the rail trail is flat. Mr. Barile's right. You can't go from the Koehler Center straight down to the rail trail but if you come out the new driveway from the Koehler Center and get on it there, it's relatively flat – you're traveling a long way but you're going for a walk or a bike ride. It makes sense from a planning perspective. I'm not trying to minimize the concerns for the future but that's a different debate for a different day.

Mr. Maxwell said there's one more gentleman that wants to be heard.

➤ *Mr. Justin Lee was sworn in.*

Mr. Lee stated that he wanted to say something regarding Mr. Camarda's intentions. I know he said he doesn't want to build residential housing for young people in Union Place and that's an outright lie. It absolutely is because in 2011, Mr. Camarda, at the commercial and investment division of Putnam County and Westchester association of realtors, said that he did want to put millennial housing in Union Place. He then recites Mr. Camarda's presentation from a YouTube video in 2011, "it's a walkable neighborhood, and it's a green friendly, it's a great project; it represents 400,000 square feet. A couple hundred thousand square feet of offices, very nice housing contingent and both open housing. Let's face it; Putnam County is the worst for it. You can only live in Putnam County if you're 30-55. You can't afford it until you're 30 at your earliest and by the time you hit 55, you can't wait to leave because you can't pay the taxes. The County doesn't offer any housing for young people in the Town of Carmel. Of 36,000 people, there isn't even a zone to put up condominiums – 3 acres only. One shoe size fits all. How are you going to bring in young people I ask you? Okay; you don't want to bring in new people? – When your son and daughter graduate from college, where are they going? They're going to Danbury or Fishkill. So we don't have any housing for young people. Again; how is the State going to be fresh and young if we keep sending our people somewhere else. Then, after we lose money and everybody's had 3 kids in the school system, we don't have any senior housing. That's being fixed in Putnam. When this market comes back, it's going to be absorbed quickly because you want to keep these people around. They finally don't have any kids in the school system so you're finally going to be able to have a positive cash flow. So this job will offer young people housing; we want to make it a hip neighborhood but at the end of the day, I have to tell you, I'll be a realist. You have to give people what

they want. It's not my community. I own 300 acres. It's not my community. I have a right to build it but I have to work with the people to see what they want. I have to try to educate them; show them but at the end of the day, if you don't like my story, and if you don't believe it, I'm probably not going to be able to push it through. It's as simple as that."

Mr. Maxwell stated, that's fine and dandy but we're not even talking about a potential lot that's not even in planning right now. We're talking about these two lots and that's it. I'm not going to say it again. If that's all you have, I'm going to close the public hearing.

Mr. Camarda responded your notes are great; great notes. There's no question. If the Town modified their zoning and permitted millennial housing, it would be a good mix of housing. But; I said, three times tonight, right now what is permitted on that site is 55 and over housing. I think it would be smart to start bringing young people here but it's not my thing. I have to go by the zoning. If they do it, Union Place will have a mix of both. If they don't we'll build assisted living, senior housing, senior rentals. That's every one of my words.

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

Decision of Board

Mr. Schwarz moved to grant the variances for discussion purposes. The motion was seconded by Mr. Balzano.

Mr. Schwarz stated he is in favor of granting this application. He said we are not creating any new buildings or any changes to the community and I don't see any harm or any reason not to grant the variances.

Mr. Maxwell said the road is going in the same way whether it was 6 months ago or today. I think there is a benefit to a certain degree and we could condition that to the bike bath and the walking trail.

Mr. Schwarz said the applicant is willing to limit construction and place an easement on the property with the exception of the comfort station, the walking path and bike path.

Mr. Maxwell asked Mr. Charbonneau if there was any language we should legally add to it.

Mr. Charbonneau said the only thing that was discussed previously was the applicant made a representation that he does not desire to develop the remaining 10 acres and is willing to engage in a conservation easement for the remaining portion of the property.

Mr. Maxwell asked if there were any other opinions or discussion.

Mr. Balzano said we should go through the criteria.

Mr. Maxwell said all the following must be taken into consideration for an area variance.

1. Will an undesirable change in the character of the neighborhood or a detriment to nearby properties be created by granting of the variance?

Mr. Maxwell stated they made the case by showing a map of about 1 mile stretch of Route 6 where there were many lots that are much smaller in size.

Mrs. Fabiano said she agrees and given the circumstances whether we grant this variance or not you are still going to have two lots and what we are getting is 10 acres of underdeveloped land. If

we did not grant it the lot line would change and we will still have the problem with Koehler where it's difficult for the people coming out of the parking lot and I don't think it's a good situation.

Mr. Maxwell said I think that's the best part of this offering.

Mrs. Fabiano said the applicant could still do the project whether we do grant this variance or not it's going to happen. Whether its 3 acres on one lot and 1 acre on the other we still have the other 10 acres that encompass this project.

Mr. Schwarz reiterated there won't be any additional buildings only the two buildings that were approved.

2. Can any other method be used that does not require a variance but still allow for the benefit requested?

Mrs. Fabiano replied yes, but you won't have the Koehler benefit which is very huge. A lot of seniors go in and out every day.

3. Is proposed variance substantial?

Mr. Balzano said it is substantial where it stands. He said the lot 2 is substantial the lot 1 may not be.

Mrs. Fabiano said but you are also getting 13 acres total. So you are only getting 6 ½ on each lot if you look at it in totality.

Mr. Maxwell said these variances are not uncommon to typical commercial properties.

Mr. Schwarz said and this will not have a major impact on the environment and you could lead to the conclusion that it's not a substantial variance.

Mr. Maxwell said that's the fourth criterion.

4. Will the proposed variance have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district?

Mr. Schwarz said that could also go with the substantiality of the variance as well. The fact that it's not going to impact the environment in any meaningful way by the granting of the variances.

5. Is the alleged difficulty self-created?

Mr. Maxwell said I don't think he is creating it I think he is offering it as a benefit to the community with the potential for the bike path and the green land.

Mrs. Fabiano said if we don't grant this the applicant could still build the road and do everything he wants to do.

Mr. Maxwell said also the fact that it's self-created is not a reason to deny the variance application.

At which time, Mr. Schwarz amended his motion. Mr. Schwarz moved to grant the requested variances with the following conditions:

1. The applicant has to file his subdivision map with the Putnam County Clerk.

Mr. Charbonneau addressed the board and stated the matter is going back to the Planning Board and one of the contingencies would be the filing of the subdivision map.

2. There will be a conservation easement on the lot in accordance with what the applicant offered to us. No further development of structures with the exception of possible comfort station, dock, bike path and walking path and the road.

The motion was seconded by Mr. DiTomaso.

A roll call vote was taken as follows:

Mr. DiTomaso	For the motion
Mr. Schwarz	For the motion
Mr. Rossiter	For the motion
Mrs. Fabiano	For the motion
Mr. Balzano	For the motion
Mr. Maxwell	For the motion

Motion carries.

Application of Ulysses Matsoukas for a Variation of Section 156-15 and Use Variance, seeking permission to construct shed on lot without principal use. The property is located at 837 South Lake Blvd, Mahopac NY 10541 and is known by Tax Map # 75.43-1-27.

Code Requires	Provided	Variance Required
25' Front	5'	20'
10' Side	7'	3'

➤ *Ulysses Matsoukas, Applicant, was sworn in.*

Mr. Matsoukas stated I'm seeking permission to construct an 8 x 12 storage shed on my property located at 837 South Lake Blvd.

Mr. Maxwell asked if that's just a lakefront property.

Mr. Matsoukas replied correct.

Mr. Maxwell stated that there was no principal use and that it was not uncommon for lake properties. We've approved many similar applicants. You're 3 feet from that one side. Is there any reason it has to be that tight? Can it be brought in closer?

Mr. Matsoukas replied the natural slope of the property leads that area to be the most conducive to installation of the shed and then confirmed the property was pitched down toward the lake.

Mr. Maxwell asked what do you intend to use it for? Storage?

Mr. Matsoukas replied storage and security of personal items.

Mr. Maxwell asked if there would be electric or running water.

Mr. Matsoukas replied no.

Mr. Maxwell asked if there was any input from the Board. Each board member replied no questions.

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

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

Decision of the Board

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

Application of Kamala Associate, LLC, seeking an Interpretation and Use Variance (See below). The property is located at 87 Fair Street, Carmel, NY 10512 and is known by Tax Map # 44.15-1-37.

1. ACCESSORY BUILDING – (formerly barn)

Applicant seeks interpretation that the 1984 Zoning Board variance condition that the “residence shall revert to a guest cottage when the mother vacates the building....” is invalid in that it is personal in nature to the applicant.

2. OFFICE/GARAGE BUILDING

(A) Applicant seeks an interpretation of the 1984 Zoning Board variance condition that “the....office building....will cease upon the sale or transfer of the subject property” is invalid in that it is personal in nature to the applicant.

(B) If the Zoning Board decision is deemed invalid and “office use is therefore permitted” Applicant seeks an interpretation that a proposed single family residential unit is more restricted than a commercial office use.

3. PRIMARY STRUCTURE

Applicant seeks a use variance to permit a two family dwelling use.

➤ *Mr. William Shilling, Esq., applicant’s attorney approached the podium.*

Mr. Shilling indicated that Mr. and Mrs. Barnwal were there. They are the members of the LLC that owns the property.

➤ *Mr. and Mrs. Barnwal were then sworn in.*

Mr. Shilling addressed the board and stated the property is located on 87 Fair Street. It consists of .65 acres. It is, in of itself, a little complex in that there’s three structures and a very sizeable parking lot. The main structure is now being used as a two family. It’s a two story level house. The former barn has been converted to a single family house and the former office has been abandoned and we now propose that to be a single family studio. The property is serviced by Town water and Town sewer. As I said, it has a sizeable parking lot. It’s located on a major thoroughfare in the hamlet of Carmel, that being Fair Street. It’s in a residential zone. Our requested relief is really three-fold. As it relates to the accessory building (formerly the barn), we seek an interpretation of the condition that was attached to the variance that was granted in 1984 was invalid because it tied the variance into people. It effectively said when the people moved or died, variance ended. That is per se, invalid. Variances run with the land. I’ve provided case law that shows that you can’t tie a variance into a person because then it leads to favorites and

partisan politics and it is, per se, inappropriate to tie a variance into a person. Variances run with the land. We submit that the accessory apartment's variance is valid. However, the condition that was coupled with it is not. With regard to the office, once again, the variance stated that as long as Mr. Dorsey, who was the owner then, owned it, he could run an office there and then the office was to terminate when he sold. Again; it's an illegal, invalid condition. You can't tie conditions into persons. Variances run with the land. Once again, we say the variance that found the office used to be appropriate is valid but the condition that came with it is invalid (when Mr. Dorsey sold). If you agree with that, then what we're seeking is yet another interpretation that if the office building is legal because it received a variance notwithstanding the fact it was abandoned because variances run with the land, then we're asking you to find that a conversion from an office to a single family house is pursuant to 15647 of your code to be a more restrictive use. That is I submit the variance that was granted by the Board in 1984 allows for an office and allows for an office today because the variance runs with the land. We're asking you, through your interpretive powers, to allow a conversion of a non-conforming use (i.e. the office) to a residential use which is more restrictive. You have the right pursuant to 15647 of your code. As it relates to the main structure, we're simply seeking a use variance. We have no thumbprint of any zoning board activity on the single family house except that it's been used as a two family since 78, 79 or 1980 depending on whom you speak to. In support of what we're seeking, I've submitted Mr. Barnwal's affidavit, I've submitted an affidavit of a former owner, and I've submitted floor plans for each and every structure and will present some visuals today. We have a complex here and the complex provides for three different structures. The visual here shows, in red, where the property is. Fair Street is in front; there's the main building there. The accessory structure there and the office there. There is a very sizeable parking lot – plenty big enough to accommodate all the residents that would be there. The barn was turned into residential in 1972. It was an accommodation by Mr. Dorsey to accommodate his in-laws. When they died, he rented to third parties. With regard to the office that was approved through a building permit and a C.O. in 1972, and the main house has been multi-family from either 78 or 79. We're not exactly sure but around that time. It has been a multi-family use, the main structure, for almost forty years. The two family house was first, an apartment made for Mr. Dorsey's parents (remember that his in-laws lived in the accessory part) who lived in the main house. Again; they passed on and he rented to third parties. My client purchased the property in 2016 at a foreclosure sale. He was the highest bidder. The listing on Auction.com provided that there were legal 7 bedrooms and 3 ½ baths. The Carmel website also provided that there was a legal bedroom count of 7 and 3 ½ baths. After he was the successful bidder, but prior to the closing, he went to the Town and saw that there was confusion pertaining to legality of the property. However, those of you who know, at a foreclosure sale, they represent nothing. At that time, he was in a position to 'buy as is' or forfeit \$25,000 deposit. My client purchased. I will say that I don't think he used a real estate attorney; I think he thought everything was legal. My client is not a developer. This is his first venture into real estate purchasing other than his home. He did spend a lion share of his portfolio on this property. A review of the file shows the accessory building (building in the rear), that was converted to residence in early 1970/72. It was rented to Mr. Dorsey's in-laws and in 1984, twelve years later, it was approved by the Zoning Board but that's when the Zoning Board used the language that you can use it as a residence but when the mother vacates, then the variance is no longer valid. I submit to you, and have provided cases, that are per se invalid and inappropriate. It's an illegal condition and you folks on the Board know why. You can't have a popular person get relief but when it's sold, the variance stops. It's not what a variance is. A variance runs with the land as a matter of course. You can place conditions but not a condition based on persons. With regard to the office, it was run by Mr. Dorsey as an insurance company and then it subsequently became a real estate office and then a pool company before the commercial use ended. They said, in the 1984 variance, that the office building use is granted but will cease upon the sale of the property. Again; it's an illegal condition. In 1984, the two conditions imposed on the two accessory buildings were both inappropriate and illegal. I submit to you the variance for the office runs with the land. It's there now. It's part of the record and valid today. Today my client seeks, if you agree with me that it's an invalid condition and it's an illegal commercial, we seek your interpretation that turning an office building into a studio apartment is more restrictive. With regard to the main

structure, it's been a two family since at least 1978. Mr. Dorsey's parents lived in the main house with Mr. Dorsey. His in-laws lived in the accessory apartment. It is an up and down two family. It's not side by side and has plenty of parking. So, we have a complex here consisting of three buildings—some of which have the thumbprint of the Zoning Board already on it through its' 1984 decision. Town water, Town sewer, major thoroughfare, perfect for multi-family. We'll talk a little bit about the neighborhood. Nothing is changing. This is the way it has been for forty years. It's on Fair Street. Fair Street is a very heavily traveled thoroughfare. There are multi-families on Fair Street. There are many businesses on Fair Street. There's a building directly across the street from my client with a business in it. There's a school on the drive that intersects Fair Street. We propose no change in the neighborhood. There'll be no structural changes. It's unique. My client attached a profit/loss statement that shows without the 4 rentals, he's not making the money that he needed to pay the caring charges. So, on the issue of the law, the Decision and Order is invalid for reasons that I've stated. You certainly have the right to impose conditions but you cannot impose conditions that are personal in nature. I cited for you St. Onge, it's in the memo, it says it's fundamental that ZBAs have the right to impose conditions but it can't limit duration to periods of ownership. An Appellate Division case says you can't do it for the public policy reasons that I've already stated. In another case, St. Onge says that in similar circumstances, my clients don't have to re-create the variance, there already there. They just have to nullify the conditions that are inappropriate. That case was a case called Scarpatti. That case was in your memo as well. So with regard to the accessory building, we state that it's a legal residential by virtue of the variance and the condition should be removed. That building, with all due respect, is turnkey. It's already been approved as a residential structure by the Zoning Board in 1984. With regard to the office, I need two-fold interpretation. I need you to say yes, you can't impose personal conditions and then acknowledging that the office is legal, permit a more restrictive use which would be a residential use and you'd do that pursuant to 15647 of your code. With regard to the main structure, we do need use variances. It's a classic up and down, two entrances, ample parking. The economic hardship that we've presented you is pursuant to P&L statement that my client provided. It's in his affidavit. I've provided case law to you that say the economic hardship is reduced if you're not going to change the neighborhood. This is not going to change the neighborhood one bit. It's been there for almost forty years. Keep in mind too that as per my conversation with Mr. Charbonneau today, my client because of the number of units has to go to the Planning Board to get site plan approval so whatever guidelines or standards that they impose, we will be bound by as well. This is a process my client is willing to go through in order to legalize the project which is before you.

Mr. Charbonneau interjected, just to expand upon that, because the other thing that I said was my suggestion to the Board would be that prior to granting the use variance, that the referral go to the Planning Board and then come back to this Board (just in terms of the time line that we're talking about).

Mr. Maxwell then stated, so we have to make the interpretation first?

Mr. Charbonneau responded, my suggestion would be that the Board considers the interpretations relative to the accessory building and the office/garage building and the matter be referred under 1569H back to the Planning Board.

Mr. Shilling asked, why? Why would you.....

Mr. Charbonneau replied that's the conversation we had this afternoon.

Mr. Shilling further replied, well, I know but if we're here before the Zoning Board today on one project, does it make economic sense; does it make sense to hold off the use variance for another day. In the past, where I've had an interpretation of dimension or an interpretation of use variances, it was decided in one.....

Mr. Charbonneau interjected, that's my suggestion. If the Board doesn't want to do it that way, that's fine but my suggestion is also in line with my conversations with the Building Inspector.

Mr. Shilling responded, respectfully (Mr. Charbonneau), I don't think it's necessary. Obviously, we'll defer to the judgement of you (The Board members). Mr. Charbonneau is stating that it might be preferable, in his mind. I don't think it's incumbent upon you to do it. We are here now. Going to the Planning Board and then coming back is more money and you're ultimately going to hear it anyway and nothing is going to change. So we'd like a full decision tonight but I respect Mr. Charbonneau and whatever you (The Board) decide on with regard to that is certainly up to you. Finishing up and assuming you might listen, or deliberate on use variances, I've already gone over it. I think it's a unique application. There can be no change in the neighborhood. It's clearly unique. Self-created; I've provided you with cases where even a mistake doesn't get you out of the self-creation category. You still can get a variance even though you made a mistake (i.e. that's not self-imposed). I think I've provided legal and factual authority for each of the four units, the interpretation for the barn, the two interpretations for the office and the use variance standards for the main house. He said most importantly, there will be no changes to the neighborhood.

Mr. Maxwell asked when was the main building converted into two apartments.

Mr. Shilling replied 1978?

Mr. Maxwell said so prior to the other buildings.

Mr. Shilling replied yes.

Mr. Maxwell said it I think that's where the problem is. It should be owner occupied.

Mr. Charbonneau said you could certainly make it a condition.

Mr. Maxwell said we will have to interpret it as a board first and based on the opinion of the Building Inspector that it be remanded to planning board to clean it up.

Mrs. Fabiano stated to Mr. Shilling you're suggesting that a parent is not a guest. She said a parent could very well be a guest in a cottage. She said the decision and order clearly states there should be no rental.

Mr. Shilling said the D & O says after that person leaves there will be no rental. He said that's inappropriate. He said variances should be person neutral go with the land.

At which time, a discussion ensued regarding whether the parent was paying rent or not and whether it was relevant in this matter.

Mrs. Fabiano stated in order to have a multi-family it had to exist before 1955, so that multi-family use had to be enacted prior to 1955.

Mr. Shilling said I never said it was pre-existing, non-conforming. I said it was granted by virtue of Zoning Board decision that made its factors based on people.

Mrs. Fabiano stated if you want to invalidate that D & O.....

Mr. Shilling said I don't want to invalidate the D & O. I want to invalidate the condition that was attached to the D & O.

Mrs. Fabiano said I see this as a use variance.

Mr. Shilling said I don't see how you could see this as a use variance. He said it was a variance that was granted to them in 1984 upon the condition that then when they left it was over. That's not a use variance.

Mrs. Fabiano said it's a use variance because it's a multi-family.

Mr. Shilling said they went to the board on the basis that there were two families there. There were two different living units.

Mrs. Fabiano said now there are four families there. You have increased your multi-family usage.

Mr. Shilling said I'm only talking about the accessory apartment. I'm not talking about the main structure. He said with regard to the main structure the board said you can have the people live there residentially but when they leave or sell that variance is over. He said regardless of whether you calling it use or area they gave a variance for that use and the condition was inappropriate.

Mrs. Fabiano said it also said there shall be no rental.

Mr. Shilling said after they leave. It's an illegal provision. He said they are basing it on people not on the land. He said the condition has nothing to do with the land it has to do with people.

Mr. Maxwell asked Mr. Charbonneau if he thought the board from 1984 that made that decision if it was inappropriate.

Mr. Charbonneau stated I agree with Mr. Shilling's analysis with respect to that. He said I think the board overstepped its boundaries when it tied the conditions to individuals.

Mr. Maxwell said so we should remand this.

Mr. Charbonneau said that would be my suggestion.

Mr. Shilling said for the main structure.

Mr. Maxwell said that's correct.

At which time, Mr. Maxwell asked if anyone in the audience had any input on this application.

Mr. Maxwell said we did get one letter of opposition.

Mr. Charbonneau said with respect to that letter of opposition there was an issue as to whether or not there were any violations at the premises. He said that issue was researched by the building department and there are none.

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

Decision of the Board

Mr. Maxwell stated we need to discuss the interpretation. He said we interpret that the 1984 Zoning Board Variance condition that the residence shall revert to a guest cottage when the mother vacates the building is invalid. That it is personal in nature to the applicant. So I'm looking for a motion of that interpretation or a denial thereof.

Mr. Charbonneau stated that he thought the motion would be best couched in the affirmative due to the motion would be remove that restriction from the decision and order. I don't have the 1984 decision in front of me. So the motion would be to remove the restrictive language being xyz.

Mr. Maxwell interjected 'the residence reverts to a guest cottage when the mother vacates the building'.

Mr. Charbonneau replied correct.

Mr. Maxwell asked if there was a motion to revert that interpretation from 1984.

Mr. Balzano moved to revert the interpretation from 1984. The motion was seconded by Mr. Schwarz with all in favor.

Mr. Maxwell furthered, that being said, we have the issue with the use variance. I would look for a motion that.....

Mr. Schwarz interjected and stated I think there was another interpretation – that the office building will cease to be an office building upon the sale or transfer.

Mr. Charbonneau confirmed, yes. If you're going to handle the interpretation of both issues, there's a second one with respect to the office/garage building; that the office building will cease upon the sale or transfer of the subject property. The applicant is asking that to be invalidated.

Mr. Schwarz moved to invalidate that restriction in the Decision and Order. The motion was seconded by Mr. Balzano with all in favor.

Mr. Charbonneau then stated, with respect to the third aspect of the application, I would note that the Building Inspector has requested a referral back to the Planning Board – specifically for site plan approval and that is under the auspices of 56-9H which requires site plan approval required for all use of land except attached one family dwellings and detached two family dwellings and their permitted accessory uses. So; the Board can do one of two things. 1) They can heed the advice of the Building Inspector and make a motion to refer it back to the Planning Board or 2) you can move forward with respect to the use variance and go through the use variance criteria.

Mr. Schwarz moved to send the application back to the Planning Board for review under Town of Carmel code section 56-9H. The motion was seconded by Mr. Balzano with all in favor.

Mr. Charbonneau then stated, just so the Applicant understands; now you're going to have to process a site plan application before the Planning Board so they can review what it is that you want to do with that specific site location and then, it will be referred back to the Zoning Board for consideration of the use variance. When/If the Planning Board approves it, you'll have to come back here for consideration under the use variance. What I suggest is that you contact the Planning Department and they assist you with the paperwork for that. He then suggested that the applicant speak with his attorney for clarification of what the Board just did. Essentially, there's been no decision on the USE variance.

Mr. Balzano told the applicant on numbers 1 & 2a, the conditions that you wanted removed.....were removed.

Application of Estelle Sayles for a Variation of Section 156-15, seeking permission to renovate enclosed porch/Florida room and enclose existing patio. The property is located at 456 North Lake Blvd, Mahopac NY 10541 and is known by Tax Map # 64.12-2-41.

Code Requires	Provided	Variance Required
15' Side	14' for Patio	1'0"
15' Side	10'6" for Existing Porch	4'6"

➤ *Bob Strohm representing Estelle Sayles was sworn in.*

Mr. Strohm stated that there are two areas on the house; left side of the house has a Florida room in disrepair with a flat roof. We want to take that down with same footprint (it won't get any closer to the property line; it's a pre-existing and non-conforming. We want to put a proper gable roof on it. Behind that, there's an existing concrete porch that has a foundation and basement under it. They want to enclose that as well. Both areas are fairly small. The new structures don't get any closer to the property line than the existing structure is now but both areas are non-conforming. In the one part of the area, we're looking for a 1 foot variance against 15 feet. The other area is a 4½ foot variance against 15 feet. Again, both of these areas are existing.

Mr. Maxwell asked if they're following the same footprint that is there.

Mr. Strohm responded exactly.

Mr. Maxwell stated they're not major variances, small percentages. You've talked with the neighbors on the left?

Mr. Strohm responded I did.

Mr. Maxwell asked if they had any issues or concerns.

Mr. Strohm responded I don't think so. The neighbor is here tonight.

Mr. Maxwell asked (Dave in the audience) in support of & got an indication that "Dave" would present.

Mr. Maxwell then asked if they were effecting septic or anything.

Mr. Strohm responded no. This is on top of existing foundation and basement.

Mr. Maxwell asked the Board if there were any questions.

Mrs. Fabiano asked you're not tearing down the house, are you?

Mr. Strohm replied no. This is a Florida room that is basically an aluminum structure that is in disrepair; jalousie windows and a flat roof.

Mrs. Fabiano asked you're just taking that section, you're not redoing.....

Mr. Strohm replied we're just taking that section down, going to rebuild it so it's insulated & heatable space and the roof is correct so that you have a gable, shingled roof over it.

Mr. Maxwell stated that the deck goes the full length of the back of the house; it's going to be nice.

Mr. Strohm said it's probably a correct repair to the Florida room.

Mr. Maxwell asked if Mr. Strohm was doing the work.

Mr. Strohm replied yes; I think so.

Mr. Maxwell asked the Board members if there were any questions to which there were none.

Mr. Maxwell then opened it to the public.

➤ *Dr. David Gorman was sworn in.*

Dr. Gorman stated he lives at 460 North Lake Blvd and handed out some drawings, etc. to the Board and a copy for Mr. Strohm as well.

Dr. Gorman stated his family has been living at 460 North Lake Blvd. since 1989; it's been their summer refuge and home since that time and has enjoyed living here with the lake and all its beauties. He also stated that we were good friends to the Walkers (previous owners) and we welcome Ms. Sayles and applaud her desire to upgrade the property and to make improvements.

Dr. Gorman then stated when we received the legal notice, initially; we were concerned because we couldn't really understand it. So we requested a copy of the plans and then asked our NYS architect to review the plans and he had a couple suggestions that might ease the crowding that is presently at that location. They're very simple changes. One would be to relocate the stairs that are currently, if you look at the drawing it says rear elevation, located at the rear elevation very close to our bedroom. The houses are really quite close together. If you could relocate those stairs to the other side, there would be less foot traffic and less noise. On the other side, there is no residence. It's a pass through to the lake access. The second recommendation he had, which is on the second page, to help prevent the crowding in that area is to perhaps keep the same roofline as is currently there. It could be a pitched roof to prevent the water seepage but it would be less bulky in that area. That compared to the third page which is the current drawings and current requests. The next few pages of the document came from google maps of the 456 house including the left side of the house adjacent to our property. The next picture shows our property and you can see how close our bedroom is to that side of the house right there where the steps would be located. Another picture depicted the other side of the house which reflected room enough for the suggested relocation of the stairs. That is basically it.

Mr. Maxwell stated, Dr. respectfully, these are items are ones that maybe you can address privately with Mr. Strohm and the owner. The variances that they're seeking don't affect the roof line and the stairs. I don't think they're part of what variance they're seeking. I'm sure Mr. Strohm would accommodate a meeting with you and the Applicant.

Mr. Strohm indicated that we could adjust the roof line so it's not as steep a pitch if that's an objection. I would like to point out that there are stairs there already and there is a 14' high set of shrubs screening the two homes.

Mr. Maxwell interjected that when he was out there the other day; he recalled such screening between the two houses.

Dr. Gorman replied but the noise of the people going up and down the steps would be near our bedroom.

Mr. Maxwell stated I'm sure they're going to want their privacy also so maybe some additional screening. The two of you could work something out between you, maybe some additional evergreens or something but as far as what I see and what's under our purview, I don't see any major issues with it. It's very minimal and you're using an existing footprint. I would recommend you just go out in the hallway and see and then you could bring it to your client.

Dr. Gorman responded okay; this all came up very quickly so there was no chance to discuss prior to meeting.

Mr. Maxwell asked if anyone else wished to be heard on this application.

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

Decision of the Board

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

MINUTES - 10/27/16 & 11/17/16

Mrs. Fabiano moved to accept the October 27, 2016 minutes. The motion was seconded by Mr. Schwarz with all in favor.

Mr. Balzano moved to accept the November 17, 2016 minutes. The motion was seconded by Mr. Schwarz with all in favor.

The meeting was adjourned at 10:30 p.m.

Respectfully submitted,

Dawn Andren