

APPROVED

JOHN MAXWELL
Chairman

PHILIP AGLIETTI
Vice-Chairman

TOWN OF CARMEL
ZONING BOARD OF APPEALS



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MICHAEL CARNAZZA
*Director of Code
Enforcement*

BOARD MEMBERS

ROSE FABIANO
SILVIO BALZANO
WILLIAM ROSSITER
MARC DITOMASO
MICHAEL SCHWARZ

ZONING BOARD OF APPEALS MINUTES

JUNE 22, 2017

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

| <u>APPLICANT</u> | <u>TAX MAP #</u> | <u>PAGE</u> | <u>ACTION OF THE BOARD</u> |
|-------------------------|-------------------------|--------------------|-----------------------------------|
| Carmen Diaz | 74.42-1-12 | 1 - 2 | Granted |
| Natalie Ancillotti | 75.12-1-24 | 2 - 4 | Granted as amended |
| Joseph Polito | 75.9-2-17 | 4 - 5 | Granted |
| Robbin Gold | 64.12-1-68 | 5 - 6 | Granted |
| Justin Prisco | 53.-2-46 | 6 - 8 | Granted as amended |
| Roger Nault | 54.8-1-55 | 8 | Held over |

Minutes: May 25, 2017 Accepted

The meeting was adjourned at 7:51 p.m.

Respectfully submitted,

Dawn Andren

NEW APPLICATIONS:

Application of CARMEN DIAZ for a Variation of Section 156-15, seeking permission to retain existing pool. The property is located at 20 Topland Road, Mahopac NY 10541 and is known by Tax Map #74.42-1-12.

| Code Requires | Provided | Variance Required |
|----------------------|-----------------|--------------------------|
| 10 ft. side | 8 ft. | 2 ft. |
| 10 ft. rear | 0 ft. | 10 ft. |

➤ Ms. Carmen Diaz of 20 Topland Road - Mahopac was sworn in.

Ms. Diaz verified that she was seeking relief on an existing pool.

Chairman Maxwell said the pool has been there for how long?

Ms. Diaz replied it's been there for a while.

Chairman Maxwell said you didn't know that you needed a permit?

Ms. Diaz replied when we purchased the home, there was actually a pool there and five or six years later, we purchased a *new* pool and we paid someone to take out the permits. I had no idea that we had to.....we're first time home owners so I had no idea that we had to do anything.

Chairman Maxwell said so they never took the permit out then.

Ms. Diaz replied correct.

Chairman Maxwell said but it's in the same footprint as the pool that was there?

Ms. Diaz replied yes.

Chairman Maxwell said and it never got picked up on a title search or anything?

Ms. Diaz replied I don't think so.

Chairman Maxwell asked have you spoken with your neighbors on either side. Does anybody have an issue with where it's located?

Ms. Diaz replied no; not at all.

Chairman Maxwell said and this is in Secor which are all sewers so there's no septic or anything that's interfering with it.

Ms. Diaz confirmed no septic.

Chairman Maxwell then polled the Board.

Ms. Fabiano asked what's behind the pool.

Ms. Diaz replied grass.

Ms. Fabiano further asked is there an individual's property? I tried to go on Secor Road to see what was going on and I couldn't figure out where the back of your house was in relation to Secor Road. Are you over where the high tension lines are? Is there another house in front of you?

Ms. Diaz responded yes; it's our house and then the power lines are here.

Ms. Fabiano said so the tension lines are behind your house. There isn't a house behind you.

Ms. Diaz confirmed no.

Ms. Fabiano said the land is owned by, I guess,.....

Mr. Carnazza interjected NYSEG.

Ms. Diaz confirmed.

Ms. Fabiano said okay; and the pool is the same size and same location?

Ms. Diaz confirmed yes.

Chairman Maxwell looked for public input on this application to which there was none.

Vice-Chairman Aglietti moved to close the public hearing on this application; seconded by Mr. Balzano with all in favor.

DECISION OF THE BOARD:

Mr. Balzano moved to grant requested variance; seconded by Vice-Chairman Aglietti with all in favor.

Application of NATALIE ANCILLOTTI for a Variation of Section 156-15, seeking permission to install above ground 15' x 52" round swimming pool. The property is located at 33 Mary Avenue, Mahopac NY 10541 and is known by Tax Map #75.12-1-24.

| Code Requires | Provided | Variance Required |
|---------------|----------|-------------------|
| 25 ft. front | 10 ft. | 15 ft. |

- Ms. Natalie Ancillotti of 33 Mary Avenue – Mahopac was sworn in.

Ms. Ancillotti confirmed she was looking to install an above-ground pool.

Chairman Maxwell stated this was one he couldn't get to but he google mapped it. There is not a pool there now?

Ms. Ancillotti replied no. We took it down.

Mr. Balzano stated that's the property next door. It's a weird curved street situation.

Chairman Maxwell stated you're in a unique situation because you're a corner lot. We usually don't; we kind of frown upon pools in the front yard but because you're a corner lot and you don't have much land behind the house, it's a different situation.

Ms. Ancillotti said I always thought that was the back of the house but.....

Chairman Maxwell said technically, it's because you have two road fronts on both sides. You did talk with your neighbors? Do your neighbors have any issues with it?

Ms. Ancillotti replied not at all.

Chairman Maxwell said obviously someone would be here if they were against it.

Ms. Ancillotti added I did have one of the pools you put up yourself but then I received a letter to take it down and I did about two years ago because I didn't know that you needed a permit.

Chairman Maxwell said okay; that was going to be my next question so; now you do know that you need a permit and a variance.

Chairman Maxwell polled the Board for any questions.

Mr. DiTomaso said I'm just looking at the picture and wondering if it can't be put back five more feet. It looks like there's some space there. Am I reading that wrong?

Chairman Maxwell said yes; it looks like it's 10 feet from the property line. You do have the opportunity to make this comply a little further. If it's possible, we like to make that happen.

Ms. Ancillotti replied okay.

Chairman Maxwell stated if you moved it 5 feet more, you would only need a 10 foot variance as opposed to a 15' variance. It looks like there's room to do that.

Ms. Ancillotti replied okay.

Chairman Maxwell then stated if you're not against that, I think we, as a Board, would like to see the minimal possible.

Mr. Balzano added it'd be a little further from the road.

Mr. Rossiter, Mr. Carnazza and others discuss moving it toward the property line next to it.

Chairman Maxwell said I'm going to ask you if you're okay with doing that. We'll amend your application but I need you to sign it. There's no other property you can buy to make this conform – correct?

Ms. Ancillotti replied no.

Chairman Maxwell said you're land-locked there.

Ms. Fabiano asked are you putting it where the trampoline is.

Ms. Ancillotti replied yes.

Ms. Fabiano said so it's on top of the retaining wall.

Ms. Ancillotti replied yes.

Mr. Carnazza said you know how close it is to that retaining wall?

Ms. Ancillotti replied no I don't.

Ms. Fabiano added you can see it on the picture.

Mr. Carnazza said well we're going to move it though – right?

Ms. Fabiano asked oh; do you need to keep it away from the retaining wall?

Discussion takes place among Board Members.

Chairman Maxwell then says if it were a more extreme variance that you were looking for, then we'd have to re-advertise it but you're lessening it to appease the Town and the Board, so it should be okay.

Chairman Maxwell looked for public input on this application to which there was none.

Ms. Fabiano moved to close the public hearing on this application; seconded by Vice-Chairman Aglietti with all in favor.

DECISION OF THE BOARD:

Ms. Fabiano moved to grant requested variance as amended with 15' provided and a variance required of 20'; seconded by Vice-Chairman Aglietti with all in favor.

***** Motion was immediately amended by Ms. Fabiano.**

Ms. Fabiano moved to amend the motion and grant requested variance as amended with 15' provided and a variance required of 10'; seconded by Mr. Schwarz with all in favor.

Application of **JOSEPH POLITO** for a Variation of Section 156-15, seeking permission to retain existing shed. The property is located at 38 Hillside Avenue, Mahopac NY 10541 and is known by Tax Map #75.9-2-17.

| Code Requires | Provided | Variance Required |
|---------------|----------|-------------------|
| 10 ft. side | 0 ft. | 10 ft. |
| 10 ft. rear | 6 ft. | 4 ft. |

➤ Mr. Joseph Polito of 38 Hillside Avenue-Mahopac was sworn in.

Mr. Polito stated I'm seeking permission to retain an existing shed. I need some relief and a variance. The shed has been there since 2000 and it was never caught in a title search I believe. When I purchased the house, the shed was there already so it probably never got caught in the title search or whatever and I was notified that I need a variance to leave the existing shed there.

Chairman Maxwell said okay; I'm sorry – it's been there how long?

Mr. Polito replied since I purchased the house in 2000 it was there already.

Chairman Maxwell said and you spoke with your neighbors? There are no issues?

Mr. Polito replied yes; my neighbors are fine. It's only affecting one neighbor and she doesn't care.

Chairman Maxwell said it's kind of screened well around each side. Your lawn is meticulous. What would be the cost if you had to relocate it?

Mr. Polito replied to get somebody in there to move it alone would probably cost me \$500 just to move it and where I would move it, I have no idea at this point. To get it off the line, it'd take quite a bit of work to do.

Chairman Maxwell said okay; there's no property you can buy to bring this into conformance. It looks like you're land-locked there.

Mr. Polito confirmed yes. I'm really locked in over there. I really don't have a spot. I'd prefer, with the Board's approval, to leave it there. It's not really bothering anyone or anything.

Chairman Maxwell said okay. I think you had four other sheds – like plastic sheds.

Mr. Polito confirmed yes; I applied for permits for those.

Mr. Carnazza stated he's has permits but he's – right you're getting those? They're legal though.

Mr. Polito replied yes; I already put the permits in with the setback forms. I'm just waiting. It takes a long time for them to process. I called today and they told me it could take about another 3 weeks.

Chairman Maxwell polled the Board for any questions.

Ms. Fabiano said no questions. It's well screened and far from the neighbor's house.

Chairman Maxwell looked for public input on this application to which there was none.

Mr. Balzano moved to close the public hearing on this application; seconded by Mr. Schwarz with all in favor.

DECISION OF THE BOARD:

Vice-Chairman Aglietti moved to grant requested variance; seconded by Mr. DiTomaso with all in favor.

Application of **ROBBIN GOLD** for a Variation of Section 156-15, seeking permission to construct enclosed mudroom. The property is located at 501 North Lake Blvd., Mahopac NY 10541 and is known by Tax Map #64.12-1-68.

| Code Requires | Provided | Variance Required |
|---------------|----------|-------------------|
| 15 ft. side | 11.5 ft. | 3.5 ft. |

- Ms. Robbin Gold of 501 North Lake Blvd. – Mahopac was sworn in.

Ms. Gold stated that Raul Matos was her architect and that she is adding a mudroom on the side of the house. We need a 3.5 *ft.* variance to help with the elevation for getting in because it's very difficult to get into the house and I have elderly parents so it's a lower elevation *that's needed*.

Chairman Maxwell said okay so your parents live with you.

Ms. Gold said they don't but they visit a lot.

Chairman Maxwell said okay.

Ms. Gold said and my neighbor is fine with it.

Chairman Maxwell stated okay; it's not a big variance and I see that it looks like you're doing a complete overhaul of the house?

Ms. Gold responded no.

Chairman Maxwell said it looked like, on the elevation of the drawings, it's different than what's there.

Ms. Gold added a front porch and just fixing the stairs because they're all broken.

Chairman Maxwell said okay; there's no other property you can buy to conform?

Ms. Gold replied no.

Chairman Maxwell said I was out there yesterday. It looks like you have good screening on that side with the neighbor. I think there are some evergreens?

Ms. Gold replied yes; and we'll plant more to give it better screening as well.

Chairman Maxwell said that's very neighborly of you.

Chairman Maxwell polled the Board for any questions or concerns.

Chairman Maxwell then looked for public input on this application to which there was none.

Vice-Chairman Aglietti moved to close the public hearing; seconded by Ms. Fabiano with all in favor.

DECISION OF THE BOARD:

Mr. Balzano moved to grant requested variance; seconded by Ms. Fabiano with all in favor.

Application of **JUSTIN PRISCO** for a Variation of Section 156-15, seeking permission to construct shed. The property is located at 192 Barrett Hill Road, Mahopac NY 10541 and is known by Tax Map #53.-2-46.

| Code Requires | Provided | Variance Required |
|---------------|----------|-------------------|
| 20 ft. side | 6 ft. | 14 ft. |

Mr. Justin Prisco of 192 Barrett Hill Road – Mahopac was sworn in.

Mr. Prisco confirmed that he was seeking to construct a shed.

Chairman Maxwell said I was out there yesterday. Any reason why it's going where you're showing it?

Mr. Prisco replied that's the only place I could put it because I want to put a snow blower in it and stuff like that to use for the driveway.

Chairman Maxwell said I'm assuming you have septic field and what not in the back yard?

Mr. Prisco replied that's correct. If you're looking at the house, to the right are the septic fields.

Chairman Maxwell okay and your tank is probably close by – right?

Mr. Prisco replied yes.

Chairman Maxwell there's no other property you can buy?

Mr. Prisco replied I wish there was.

Chairman Maxwell said you have a lot of land nearby but nothing available – right?

Mr. Prisco replied no.

Chairman Maxwell said since you haven't built this yet or put it in place, is there anything you can do to bring this into further conformance? A couple of feet; 4 or 5 feet maybe?

Mr. Prisco replied I just don't want to go into my backyard with it. I don't want to have it in the middle of my backyard.

Chairman Maxwell said I understand for the convenience but if you have the ability to do it, we're going to ask you to negotiate a little bit. I think it looks like maybe you have a couple of feet. It's hard to tell from your site plan which is kind of small and faded. If we could bring this thing over a couple more feet, that would help.

Chairman Maxwell polled the Board for any questions or concerns.

Ms. Fabiano said this doesn't look like a shed. It looks like a garage.

Chairman Maxwell said this is a shed because it's just under.

Mr. Prisco added it's a 10' x 18'.

Mr. Carnazza stated 10' x 20' is a garage.

Ms. Fabiano said okay but there are pictures of big garage doors.

Mr. Prisco stated yes; that's just the model they have and then you can size it however you want. So I could change it to 10' x 10' if I want or I could go up if I wanted to.

Ms. Fabiano then asked "the garage door - is that an oversized door?"

Mr. Prisco replied no; it's actually smaller because I'm going with the smaller door.

Chairman Maxwell said if we bring this in a couple more feet, so 8' would be provided and you would need a variance of 12'. Does that work for you?

Mr. Prisco replied that works for me.

Chairman Maxwell then looked for public input on this application to which there was none.

Vice-Chairman Aglietti moved to close the public hearing; seconded by Mr. Balzano with all in favor.

DECISION OF THE BOARD:

Vice-Chairman Aglietti moved to grant variance as amended to 8' provided and variance required of 12'; seconded by Mr. Balzano with all in favor.

Application of **ROGER NAULT** for an Interpretation that a legal merger of the property did not occur and a return to original lot lines is appropriate. The property is located at 2-6 Rogers Lane, Carmel NY 10512 and is known by Tax Map #54.8-1-55.

Applicant seeks interpretation that a legal merger of the property did not occur and a return to original lot lines is appropriate for the following reasons:

- The combination of properties via a 1985 deed was illegal and without Town of Carmel approval resulting in four dwellings on one lot. Nullifying the attempted illegal merger is consistent with Town Law 268 which grants local authorities broad remedies to correct violations of local ordinances.
- The three combined parcels were never used in conjunction with one another and were used by different families independent of one another.
- The merger clause in effect in previous codes had no application with adjoining improved lots.

If the merger is deemed to have legally occurred applicant seeks:

- To return to original lot lines as there is no statutory prohibition to “undo” merged lots. The appropriate standard is that of area variance standards.

| CODE REQUIRES | PROVIDED | VARIANCE REQUESTED |
|-------------------------|----------|--------------------|
| Lot 1 – 120,000 sq. ft. | 31,278 | 88,722 |
| Lot 2 – 120,000 sq. ft. | 30,994 | 89,006 |
| Lot 3 – 120,000 sq. ft. | 36,904 | 83,096 |

- An interpretation that the return to original lot lines is clearly more restrictive. The current configuration based on the merger results in four dwellings on one lot. The return to original lot lines results in four dwellings on three lots. Hence the proposal will result in a more restrictive use and a permissible change of a non-conforming use to a more restrictive non-conforming use.

Chairman Maxwell indicated that the applicant has requested a hold over.

Mr. Balzano moved to holdover the above application; seconded by Vice-Chairman Aglietti with all in favor.

MISCELLANEOUS:

Minutes:

May 25, 2017: Mr. Balzano moved to accept the corrected minutes; seconded by Mr. Rossiter with all in favor.

The meeting was adjourned at 7:51 p.m.

Respectfully submitted,

Dawn Andren