

APPROVED

JOHN MAXWELL
Chairman

PHILIP AGLIETTI
Vice-Chairman

TOWN OF CARMEL ZONING BOARD OF APPEALS



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MICHAEL CARNAZZA
*Director of Code
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BOARD MEMBERS

ROSE FABIANO
SILVIO BALZANO
WILLIAM ROSSITER
MARC DITOMASO

ZONING BOARD OF APPEALS MINUTES

SEPTEMBER 27, 2018

PRESENT: CHAIRMAN: JOHN MAXWELL, VICE-CHAIRMAN: PHILIP AGLIETTI
SILVIO BALZANO, MARC DITOMASO, ROSE FABIANO & WILLIAM ROSSITER, JR.

<u>APPLICANT</u>	<u>TAX MAP #</u>	<u>PAGE</u>	<u>ACTION OF THE BOARD</u>
Joseph Kokasko	86.5-1-51	1 – 2	Variance Granted
Francis D'Ausilio	75.7-2-12	2 – 3	Variance Granted
Richard E. West	55.19-1-2	3 – 4	Variance Granted w/condition
Thomas Fisher, Inc. Cargain Funeral Home	75.15-1-6	5	Variance Granted
Carl Fanelli	86.5-1-49	5 – 9	Variance Granted w/condition
Christopher Creegan	64.5-1-27	9 – 10	Variance Granted
Greg Ricciardi	75.59-1-7	10 – 11	Variance Granted

MINUTES:

August 23, 2018	11	Approved as Written
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The meeting was adjourned at 8:06 p.m.

Respectfully submitted,

Dawn M. Andren

HOLDOVER APPLICATIONS:

1. Application of **JOSEPH KOKASKO** for a Variation of Section 156-15, seeking permission to retain existing above-ground pool with deck. The property is located at 198 Route 6N, Mahopac NY 10541 and is known by Tax Map 86.5-1-51.

Code Requires	Provided	Variance Required
15 ft. – Side	10 ft.	5 ft.
15 ft. – Rear	8 ft.	7 ft.

➤ Mr. Joseph Kokasko of 198 Route 6N was sworn in.

Mr. Kokasko stated I did not pick the location for the pool. The pool has been there since I'd moved in. My neighbor told me that it's been there since about the mid-70s. I recently installed a new pool, this spring, but it's the same dimensions, same size, location and footprint as it was before.

Chairman Maxwell asked have you talked with your neighbors about it.

Mr. Kokasko replied I have.

Chairman Maxwell continued any issues or concerns?

Mr. Kokasko replied none; in fact, my next door neighbor just happens to be here as a coincidence.

Chairman Maxwell said it looks like it's well screened on both sides of the corner of the property. There's no other property you can purchase to bring it into conformance.

Mr. Kokasko replied no; and I don't think you can move a pool anyhow.

Chairman Maxwell said if you had to move it, what's the value of doing so?

Mr. Kokasko said I think the present pool cost me about \$15K to set up.

Chairman Maxwell asked the Board Members for any questions or comments.

Mrs. Fabiano asked where is your septic system.

Mr. Kokasko said in the backyard – not even close to the pool.

Mrs. Fabiano asked do you think that could be the reason why it was put in that specific location.

Mr. Kokasko replied I do not know why but I would think it wasn't because originally my septic system was in front of the house and at some point it was moved to the rear just to expand it but the pool was already in the backyard at that point.

Mrs. Fabiano asked could you show me on this survey where you think the septic is. (Mr. Kokasko complied.) So there really isn't much room to move it.

Mr. Kokasko said not really. I know my well is right here.

Mrs. Fabiano agreed you don't have much room; no other questions.

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Chairman Maxwell asked if the public had any input on this application of which there was none.

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

DECISION OF THE BOARD:

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

2. Application of **FRANCIS DAUSILIO** for a Variation of Section 156-15, seeking permission to retain existing deck and existing shed. The property is located at 6 Highland View Road, Mahopac NY 10541 and is known by Tax Map 75.7-2-12.

Code Requires	Provided	Variance Required
Deck: Side Yard – 10 ft.	9 ft.	1 ft.
Shed: Side Yard – 10 ft.	6 in.	9' 6"
Shed: Rear Yard – 15 ft.	6 in.	14' 6"

- William Shilling, Esq. representing the applicant appeared before the Board.
- Mr. Jordan Francis D'Ausilio of 6 Highland View Road was sworn in.

Mr. Shilling stated the property is 6 Highland View Road; zoning is residential; single-family dwelling on the property together with a garage, the deck and the shed which is what we're seeking relief from today. The property consists of about 1/5th of an acre. It's a small lot which makes compliance with set-backs virtually impossible. To summarize, very quickly, our deck is fairly compliant. We need a 12" variance. The shed is placed back in the corner and we're only 6" from the neighbor's property line. We do have letters from both neighbors whose property lines our encroach supporting the application and I'd sent that to you. I have copies for you this evening in case you didn't get it. So; we seek the variances and in support, we've submitted a very short statement signed by Jordan and a Memorandum of Law with the standards of area variances. My client's family purchased this in 1985. The shed was there at the time. We learned that it was a converted doll house. It's right on the property line in the corner. I have photos here if you would like to see. This property is part of a bungalow colony built on small lots. My client built the deck in 2004. His motivation was that his mother was very ill at the time and he wanted to build it for her so that she could get some time outside. The shed had been there since 1985. I'll ask you to balance the applicant's benefit to the detriment that may be caused to the safety, welfare or the community neighborhood in which case I submit to you that there's none. It's been there a long time, it's a small lot and it would be impossible to comply with the setbacks. The fact that there's no neighborhood change is memorialized in two letters that supported the application. The deck isn't substantial and while the shed, at first blush is substantial, it's been there for a very long time – since my client purchased it in 1985. No change in the neighborhood; letters in support; there's really no way to exact compliance on this; the lot is too small; no environmental conditions. My client admits to the building of the deck so you may say that's self-created but that issue is not dispositive of the issue of area variances. Again; there'd be no place to comply with the setback. I've brought these pictures just to show how nicely they're done. They're not eyesores. Jordan and/or I will answer any questions you may have.

Chairman Maxwell said I grew up in the neighborhood so I know the lots are very tight and it was a bungalow colony with ¼ acre lots. I will mention that I was out there the other night and it's well maintained and meticulous so I don't have an issue with it.

Chairman Maxwell asked the Board Members for questions, comments/concerns.

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Mrs. Fabiano said I've also lived in the neighborhood for 10 years and know the lots are very small.

Chairman Maxwell asked the public for input on this application of which there was none.

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

DECISION OF THE BOARD:

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

NEW APPLICATIONS

3. Application of **RICHARD E. WEST** for a Variation of Section 156-15, seeking permission to retain existing shed. The property is located at 4 Lake Gilead Road, Carmel NY 10512 and is known by Tax Map 55.19-1-2.

Code Requires	Provided	Variance Required
40 ft. – front	17 ft.	23 ft.

➤ Mr. Richard West of 4 Lake Gilead Road was sworn in.

Mr. West stated I've been up here for 27 years and we had no idea that there was that type of restriction for where the shed was. We put it there; nobody ever said a word to us. When we went down to get the permit for the shed is when we learned about it because we're in the process of trying to sell the house.

Chairman Maxwell said yes; I saw the for sale sign. So I assume it was picked up on a title search – correct?

Mr. West replied no; we went down to the Town to ask them about it.

Chairman Maxwell said so it's been there for 25 years?

Mr. West replied yes.

Chairman Maxwell said there's no other property you can buy to bring it into conformance?

Mr. West replied I'm on 1.75 acres but it's been there and nobody's ever complained about it and to move it 23 feet.....

Chairman Maxwell said it's pretty surrounded by evergreens and bushes. Typically in front yard situations, we don't but you're in an odd situation because you have two frontages, are on a corner lot and it seems like that is the most logical place to put it. If you had to relocate it, what would the cost be?

Mr. West said I honestly don't know. I'd have to empty it and it may fall apart when I go to move it anyway as it's 25 years old.

Chairman Maxwell said I was out there but it was dark.

APPROVED

Mr. Rossiter said it looks well maintained and well hidden.

Mrs. Fabiano said I think I would like to condition it that when it needs to be replaced, someone should come in and have it come into conformance.

Mr. West replied when we sell the house, I can mention it to them.

Mrs. Fabiano said I think I would like to see it go into conformance at that point because it is a front lot and it is close to the road and you're the first house on a long drag so I'm afraid that if screening were to go for some reason, I'm afraid that people would be looking at this front shed because it's so close.

Chairman Maxwell to Mr. Folchetti: I know we used to do that many years ago but I think we stopped the practice because once.....

Mr. Folchetti responded yes; I'm not a big proponent of conditional variances like that. I think they create more problems than they solve but I wasn't 100% clear on what Rose's condition was. When this particular structure ceases to exist by either removal or comes down, than the variance would expire?

Mrs. Fabiano said or they would have to come in for conformance with the new structure although we can't really do that, can we?

Mr. Folchetti replied the variance is the relief from the restrictions of the zoning; it runs with the land. If you're inclined to grant it, that's fine but I don't think it's practical to condition it on that structure any more than it is to condition it on a period of ownership. If it was challenged, it wouldn't be enforceable.

Mrs. Fabiano said can we condition the screening as it can go at some point and it is in the front?

Chairman Maxwell said it looks like they're pretty healthy trees.

Mr. Folchetti said you could condition it on type and minimum size of screening. That's, at least, workable.

Chairman Maxwell said so we can condition it that screening is maintained – right?

Mr. Folchetti replied I would just specify evergreen, hemlocks, year-round type or something like that. If you do that, at least it addresses some concern.

Chairman Maxwell asked if there was any input from the public on this application of which, there was none.

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

DECISION OF THE BOARD:

Mrs. Fabiano moved to grant the requested variance with the condition that screening is maintained; evergreen/arborvitae; seconded by Vice-Chairman Aglietti with all in favor.

APPROVED

4. Application of **THOMAS FISHER, INC./CARGAIN FUNERAL HOME** for a Variation of Section 156.42A(1), seeking permission to change to 9' x 18' parking spaces at funeral home. The property is located at 418 Route 6, Mahopac NY 10541 and is known by Tax Map 75.15-1-6.

Code Requires	Provided	Variance Required
10' x 20' parking spaces	9' x 18'	1' x 2'

➤ Mr. Mike Muenz of 418 Route 6 – Mahopac was sworn in.

Mr. Muenz stated I expanded the parking lot and I had the blacktop redone; I had the contractor also choose the people to put the lines down. The line man asked what size and the contractor said standard. Standard size in most areas are 9' x 18' but in the Town of Carmel, it's 10' x 20'.

Chairman Maxwell said we're well aware of that. We're working on making changes in the near future.

Mr. Muenz said I'm looking to get a variance because I had the Engineer come down and the lineman come down and he said it's not going to look right. It'll never cover. I want the aesthetics of the funeral home to stay the same and that's why I'm seeking the variance.

Chairman Maxwell said and I'll mention you did a great job back there. The place looks great. Nowadays, cars are a lot smaller than they were back when the code was written so that's one of the reasons we're working on it. I don't see an issue with it.

Chairman Maxwell asked the Board Members for comments/questions.

Vice-Chairman Aglietti asked what is your role with Cargain Funeral Home?

Mr. Muenz replied I'm the owner.

Mr. Balzano asked do you have enough spaces for the Code.

Mr. Muenz replied yes.

Chairman Maxwell asked the public for any input on this application of which there was none.

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

DECISION OF THE BOARD:

Mr. Balzano moved to grant the requested variance; seconded by Mr. Rossiter with all in favor.

5. Application of **CARL FANELLI** for a Variation of Section 156.15, seeking permission to construct a garage. The property is located at 11 Rose Drive, Mahopac NY 10541 and is known by Tax Map 86.5-1-49.

Code Requires	Provided	Variance Required
15' – side	11'	4'

➤ Mr. Carl Fanelli of 11 Rose Drive was sworn in.

APPROVED

Mr. Fanelli stated I'm looking to construct a 30' x 30' garage. *The Code requires 15'* and I need a variance of 4' so I can be 11' off the property line.

Chairman Maxwell said I was out there last night in the pouring rain but I did notice you have a shed in the back left corner.

Mr. Fanelli replied right. I just did the permit and that's all taken care of. I did it with the Building Department about a year ago.

Chairman Maxwell said because it wasn't listed on the previous Board appearances. It may not have needed a variance.

Mr. Fanelli replied they came out and I basically just needed to file a Building Permit for that.

Chairman Maxwell said so what's this for; more storage, etc.?

Mr. Fanelli responded yes; and my car.

Chairman Maxwell asked did you talk to your neighbors on, particularly the left side?

Mr. Fanelli replied yes; no problem and I told them I was probably going to re-do the fence between our properties just to make it look a little better.

Chairman Maxwell said I am assuming your septic is in the back?

Mr. Fanelli replied yes; the septic is in the back.

Chairman Maxwell asked there's no other property you can purchase?

Mr. Fanelli replied no.

Chairman Maxwell said the renderings and the elevations looks pretty sharp; a pretty crisp design.

Mr. Fanelli said I'm trying to keep it the same as the house.

Chairman Maxwell said no plumbing upstairs?

Mr. Fanelli said no; basically the second floor is going to be storage. My house doesn't have much storage so I need it.

Chairman Maxwell said I assume you're going to have electric for garage doors and general lighting and so.

Mr. Fanelli responded yes; no plumbing in it.

Chairman Maxwell said make sure there's going to be no apartment going in it. That's what we're concerned about here.

Mr. Fanelli said no.

Chairman Maxwell asked the Board Members for questions/concerns on this application.

Mr. Rossiter said your plan has it listed as a playroom.

APPROVED

Mr. Fanelli said I don't know what he wrote on it but right now, it's just going to be storage. I'm not putting any bathroom, no plumbing, etc.

Mr. Rossiter asked what's the height of the ceiling there.

Mr. Fanelli replied whatever will be on the plan.

Mr. Rossiter said you can hardly read it.

Mrs. Fabiano said it looks like 8'9".

Mr. Rossiter said (inaudible) as long as it's not over 7 feet.

Mr. Fanelli added I'm trying to keep the roof line the same as my house so it matches. I didn't want to have a different kind of roof line than I already have; same pitches and everything. I attempted to duplicate what I have.

Mrs. Fabiano said you actually wouldn't even need a variance if you got rid of that side door. If you just had the two garage doors.

Mr. Fanelli said on the plan, there's going to be no windows, no side doors on my neighbor's side because they have a pool. I didn't want to make it like I was spying on them. That side is just going to be basically siding the whole way.

Mrs. Fabiano said I'm looking at the front. You have the two garage doors and then you have this side door. You wouldn't even need a variance if you got rid of this side door and you just stopped right here.

Mr. Fanelli said I need the space.

Mrs. Fabiano said this is probably as big as your house. This is a big structure to put in an area like this.

Mr. Fanelli said it's a little bit smaller than the house.

Mrs. Fabiano replied not much. It seems pretty large to me. Like I said, we wouldn't even have to see you if you got rid of that door.

Mr. Fanelli said I have cars so I basically want to keep them in there.

Mrs. Fabiano said I'm also thinking that your neighbors won't be too happy with this structure being right next to their house because it looks like a second home because it's so big.

Mr. Fanelli replied the neighbor next to me was just here; and the neighbor on the other side just built a garage about 5 or 6 years ago – same thing.

Mrs. Fabiano asked can you get rid of the dormers.

Mr. Fanelli replied I want to make it look right. I want to match my roof line. It won't look right and I need storage because my house doesn't really have any storage.

Mrs. Fabiano said I get that but we are supposed to grant minimal variances and there's a way of doing this without needing a variance.

APPROVED

Mr. Fanelli interjected I could put the garage 15' into my property line. I'm asking only for 4' to make it look better because it'll sit nicer on the property.

Chairman Maxwell asked where is your septic.

Mr. Fanelli replied my septic is all the way in the back.

Chairman Maxwell said way back or is it in here (referring to the map).

Mr. Fanelli said I just put a pool in.

Chairman Maxwell said the pool's right there.

Mr. Balzano said so I guess that pool's coming down?

Mr. Fanelli replied no.

Mrs. Fabiano said it looks like the garage is in the pool.

Mr. Balzano said yes; on your drawing.

Mr. Fanelli said no; that's an old drawing. The pool is here.

Mr. Balzano said and you said you're going to get rid of the door that's on the side.

Mr. Fanelli replied yes; my neighbor's side is just going to be a straight siding. I didn't want to have him feel like we were looking in because he does have a pool. I know he has, on the plans, a door and a window but there's not going to be.....

Chairman Maxwell interjected are you keeping that upper window?

Mr. Fanelli replied no. The upstairs is basically for storage so I just don't want them to feel uncomfortable.

Chairman Maxwell said but you spoke with him?

Mr. Fanelli replied yes.

Chairman Maxwell said he saw the plans; obviously he had an opportunity to be here.

Mr. Fanelli said I went over it with them and basically told them that I was going to redo the fence. It wasn't an issue.

Chairman Maxwell opened up this application to the public for input of which there was none.

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

DECISION OF THE BOARD:

Vice-Chairman Aglietti moved to grant the requested variance;

Mr. Rossiter said with the condition that there's no electric, no plumbing upstairs and removing that window.

APPROVED

Chairman Maxwell said he's got electric coming into the garage.

Mr. Rossiter said he's got to have light to the second floor for storage.

Mr. Folchetti added it could be just no plumbing.

Vice-Chairman Aglietti stated okay; as amended.

Mr. Balzano stated so the motion is to grant the requested variance with no plumbing.

Vice-Chairman Aglietti stated I agree to that.

Mrs. Fabiano asked for a discussion and stated I look at that structure and it's tremendous; it's as big as the house and the plans do say playroom on there. I do think they can do this without a variance at all. They can move it over or he can cut it back those 4' by taking away that doorway. This structure, whether it be this gentleman/family here or the next family could easily turn this into another living situation. I think it would be very big in this yard with other people looking at it so I'm inclined to vote no on this. I think we're charged with the responsibility of granting minimal variances and I don't think this one needs a variance at all.

Chairman Maxwell called for a roll call vote:

Marc DiTomaso	for the motion
Silvio Balzano	for the motion
William Rossiter, Jr.	for the motion
Vice-Chairman Aglietti	for the motion
Rose Fabiano	against the motion
Chairman Maxwell	for the motion

Motion carries; variance granted.

6. Application of **CHRISTOPHER CREEGAN** for a Variation of Section 156.15, seeking permission to legalize existing fence. The property is located at 33 Barrett Hill Road, Mahopac NY 10541 and is known by Tax Map 64.5-1-27.

Code Requires	Provided	Variance Required
4' – front yard	7'	3'
6' – rear yard	7'	1'

➤ Mr. Christopher Creegan of 33 Barrett Hill Road was sworn in.

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

Mr. Creegan responded since 2008.

Chairman Maxwell said this came to light how?

Mr. Creegan replied I got something in the mail a month ago that the fence was too high but just the part that covers the pool from the road but the fence is set back 70' from the road but the road goes up the hill so you can still see my nieces at my pool. I wish it was a little higher to be honest with you but the rest of the fence is 4' for the dog.

Chairman Maxwell said it's kind of a unique situation; it's set back further. It's not typically along the street side like we normally see.

APPROVED

Mr. Creegan said when I put the fence in, I didn't know about any regulations or anything, I just wanted to keep my nieces safe from anybody viewing them from the road but I put up a nice fence as you can see from the pictures.

Chairman Maxwell said there are a few letters from your neighbors.

Mr. Creegan said there was 6 or 7 that got a little upset and they emailed to the Town which was nice of them. Those are all my neighbors that also use my pool.

Chairman Maxwell read from several of the letters/emails. All communications indicated much support of the fence and it affords privacy for both Christopher Creegan and the neighbors.

Chairman Maxwell said so it's been there since 2008 and I guess it came up from the Town from searching. What would be the cost to replace it?

Mr. Creegan replied it's been there so long, I don't have the energy to build another one. I used pressure treated wood. I build everything myself.

Chairman Maxwell asked the Board Members for questions or concerns regarding this application.

Mrs. Fabiano said I was out there and I see that it's below the street line so it doesn't seem like it's 7' and it is set back quite a bit so I don't have any issue with it.

Chairman Maxwell opened this application up to the public for questions/comments of which there was none.

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

DECISION OF THE BOARD:

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

7. Application of **GREG RICCIARDI** for a Variation of Section 156.15, seeking permission to legalize existing carport. The property is located at 65 Ellen Avenue, Mahopac NY 10541 and is known by Tax Map 75.59-1-7.

Code Requires	Provided	Variance Required
10' – side yard	8'	2'

➤ Mr. Greg Ricciardi of 65 Ellen Avenue was sworn in.

Mr. Ricciardi stated there was a carport on the property for about 28 years; I ripped it down and put this up in its place.

Chairman Maxwell said it's in the same footprint?

Mr. Ricciardi replied yes; the other carport was aluminum.

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

Mr. Ricciardi replied no.

APPROVED

Chairman Maxwell said because it was existing.

Mr. Ricciardi responded yes; you can see the roof line is over by about a foot.

Chairman Maxwell said it basically just covers the front of the garage that's existing as well.

Mr. Ricciardi replied yes.

Chairman Maxwell asked how long was the previous carport there for.

Mr. Ricciardi replied I bought the house over 25 years ago and it was there when I bought it.

Chairman Maxwell asked did you do the work yourself.

Mr. Ricciardi responded I had someone come in and put the footings in and build it.

Chairman Maxwell said it looks pretty aesthetic; it matches the house and such. There's no other property you can purchase to bring it into conformance?

Mr. Ricciardi replied no.

Chairman Maxwell said it's really just the side yard variance of 2' so it's pretty minimal. If you had to relocate it, what kind of value are you looking at?

Mr. Ricciardi responded the value is probably about \$5,000.

Chairman Maxwell added pretty costly and then asked the Board Members if there was any input, questions/comments on this application.

Mr. DiTomaso said we don't know what the aluminum one looked like but most likely it was an improvement.

Chairman Maxwell asked if there was any input on this application from the public of 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 the requested variance; seconded by Mrs. Fabiano with all in favor.

MISCELLANEOUS

Minutes: August 23, 2018:

Mr. Balzano moved to accept the minutes as written for August 23, 2018; seconded by Mr. Rossiter with all in favor.

The meeting adjourned at 8:06 p.m.