

# APPROVED

JOHN MAXWELL  
Chairman

PHILIP AGLIETTI  
Vice-Chairman

## TOWN OF CARMEL ZONING BOARD OF APPEALS



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JULIE MCKEON

## **ZONING BOARD OF APPEALS MINUTES**

**APRIL 27, 2023**

**PRESENT:** CHAIRMAN JOHN MAXWELL; VICE-CHAIRMAN PHIL AGLIETTI  
SILVIO BALZANO, ROSE FABIANO, JULIE MCKEON & JOHN STARACE

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<b><u>APPLICANT</u></b>	<b><u>TAX MAP #</u></b>	<b><u>PAGE</u></b>	<b><u>ACTION OF THE BOARD</u></b>
Oscar Chavez & Giovanna Toranzo	75.11-2-15	1	Variance Request Granted
Frank Schmidt	64.9-1-8	2 – 3	Variance Request Granted
Lionel Rivera	44.15-2-15	3 – 4	Variance Request Granted
Phillip Lepore	74.42-1-69	4 – 16	Variance Request Granted w/cond.
Michael Madsen	85.12-2-13	16 – 18	Variance Request Granted
C.Torres/K.Santana	63.82-1-5	18 – 19	Variance Request Granted
David & Evelyn Santana	64.6-1-2	19 – 24	Variance Request Granted w/cond.
Mitchell & Lauren Karpf	75.7-1-18.2	24 – 36	Held Over
Fabian Pani	75.17-1-52	36 – 40	Dismissed w/o Prejudice
Robert Sorensen	75.13-1-22	40 – 42	Dismissed w/o Prejudice

**MINUTES:**

February 23, 2023	43	Accepted as Written
March 23, 2023	43	Accepted as Written

The meeting was adjourned at 9:43 p.m.

Respectfully submitted, Dawn M. Andren

## **HOLD OVER APPLICATIONS:**

1. Application of **OSCAR CHAVEZ & GIOVANNA TORANZO** for a Variation of Section 156-15 seeking a Variance for permission to build addition to kitchen (south side of house). The property is located at 710 South Lake Blvd., Mahopac NY and is known as Tax Map #75.11-2-15.

<b>Code Requires/Allows</b>	<b>Provided</b>	<b>Variance Required</b>
15' side	13.77'	1.23'

- Mr. Oscar Chavez of 710 South Lake Blvd., Mahopac was sworn in.
- Ms. Giovanna Toranzo of 710 South Lake Blvd., Mahopac was sworn in.

Ms. Toranzo said we are requesting to do an addition to the kitchen. It's a very small addition that we're requesting.

Chairman Maxwell said yes; it's only 1.23 feet.

Ms. Toranzo said the kitchen is really small right now.

Chairman Maxwell said how much are you bringing it out; how many feet? How much bigger are you making the kitchen?

Mr. Carnazza said the addition is about 4' but it's squaring off from the existing house where it originated.

Chairman Maxwell said I assume there's no property that you can buy that can help bring this into conformance – correct?

Ms. Toranzo said yes.

Chairman Maxwell said have you spoken with your neighbors; no issues or concerns?

Ms. Toranzo said we have one which is behind us and I don't think he had a problem. We let him know that we want to do that and it's not a problem.

Chairman Maxwell asked if there was anybody in the public wishing to speak on this application of which there was none.

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

### **Decision of the Board:**

***Mrs. Fabiano moved to grant the requested variance; seconded by Vice-Chairman Aglietti with all in favor.***

## **NEW APPLICATIONS:**

2. Application of **FRANK SCHMIDT** for a Variation of Section 156-15 seeking an Area Variance for permission to retain two sheds. The property is located at 50 Steiner Drive, Mahopac NY and is known as Tax Map #64.9-1-8.

<b>Code Requires/Allows</b>	<b>Provided</b>	<b>Variance Required</b>
<b>Shed 1: 10' Side</b>	<b>1'</b>	<b>9'</b>
<b>Shed 2: 10' Rear</b>	<b>8'</b>	<b>2'</b>

➤ Mr. Frank Schmidt of 50 Steiner Drive, Mahopac was sworn in.

Chairman Maxwell said you have two sheds here. How long have they been there?

Mr. Schmidt said I moved up here 55 years ago, and I built the sheds when I got out of the navy. I was a Seabee so the first thing I did was build more stuff.

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

Mr. Schmidt said I didn't know. Everybody was just doing things. It was like the wild west.

Chairman Maxwell said so it's been there since that long.

Mr. Schmidt said one shed has been there that long. The other shed is a pre-made shed, and I probably have it there about 20 years.

Chairman Maxwell said the one on the driveway?

Mr. Schmidt said the one on the driveway.

Mr. Balzano said the 8' x 10' looks pre-made.

Mr. Schmidt said the one in the back, I built from scratch.

Mr. Starace said is that two sheds in the back or one?

Mr. Schmidt said it's really one that I extended a little bit. It's the extension that is poking it's nose into the 10' so I need 2' back there.

Chairman Maxwell said you have no neighbors close, house-wise, in the back. You're pretty well screened.

Mr. Schmidt said the back is like 200' of woods before you even get to their yard.

Chairman Maxwell said I'll ask you the same questions. There's no property that you can buy to help bring you into conformance – right?

Mr. Schmidt said no.

Chairman Maxwell said have you spoken with your neighbors? Anybody have any issues?

Mr. Schmidt said nobody has issues.

Mrs. Fabiano said thank you for your service. I would like to ask you something. Who owns that fence/wall kind of structure behind the two sheds? It looks like it's falling down and could be a hazard. Do you own that fencing?

Mr. Schmidt said yes. I put that up years ago because my neighbor's dog was a pain in the neck.

Mrs. Fabiano said it looks like you need to take care of that because that could be a danger.

Mr. Schmidt said I have to replace that really. I've got it propped up so it's not going anywhere but it's something that my wife wants to replace with something nice.

Mrs. Fabiano said when do you think you'll get to that? Could we grant the variances with the condition that you'll fix this fence?

Mr. Schmidt said right now I can't afford it but it's something that we have in our plans.

Mrs. Fabiano said I'm just worried that if some child is there, it's going to fall.

Mr. Schmidt said it's sturdy; believe me. It's not going anywhere but it looks lousy.

Chairman Maxwell said well if you're a SeaBee, you have the wherewithal to make sure it's structural.

Mr. Schmidt said yes. I've got cables all over the place.

Chairman Maxwell asked if there was anybody from the public that wanted to have input on this application of which there was none.

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

**Decision of the Board:**

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

3. Application of **LIONEL RIVERA** for a Variation of Section 156-15 seeking an Area Variance for permission to build a front mudroom addition, portico and steps. The property is located at 13 Hillside Place, Carmel NY and is known as Tax Map #44.15-2-15

Code Requires/Allows	Provided	Variance Required
40' Side	38'	2'

- Mr. Lionel Rivera of 13 Hillside Place, Carmel NY was sworn in.
- Ms. Rachel Rivera of 13 Hillside Place, Carmel NY was sworn in.

Mr. Rivera said we're looking to build an 8' x 8' mudroom addition and the portico. Steps leading into the mudroom addition are 2' over the setback. We're expecting our 4th child so we can definitely use the space.

Chairman Maxwell said congratulations. There's no property that you can buy; obviously it's in the front so you're going to hit the road.

Mr. Rivera said correct.

Chairman Maxwell said I see some letters of support that we got from your neighbors so that always helps the case here. It's not a very big variance that you're looking for. I don't see any major problems with this. It's nice that you gave us the drawings that show us the elevations and all of that. Is there was any input from the Board Members? (none) Any input from the public on this application? (none)

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

**Decision of the Board:**

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

4. Application of **PHILLIP LEPORE** for a Variation of Section 156-15 seeking an Area Variance for permission to construct shed. The property is located at 28 Crosshill Road, Mahopac NY and is known as Tax Map #74.42-1-69.

Code Requires/Allows	Provided	Variance Required
10' Side	2'	8'
10' Rear	2.1'	7.9'

- Mr. Phillip Lepore of 28 Crosshill Road, Mahopac was sworn in.

Chairman Maxwell said I understand this was built without a permit or.....

Mr. Lepore said it was started and never completed so I'm looking to complete it.

Chairman Maxwell said I was out there the other day. Unfortunately, every property in Secor is tight. It looks pretty large and overbearing on the neighbor's property. Is there anything that you can do to bring this thing closer or minimize the size? It's under construction; I saw it. It was on blocks. It's not like it's on a foundation. What can we do to bring this thing back and minimize the size of it?

Mr. Lepore said I don't know if I could bring it back any closer to the house but I can make it smaller. I thought that there was a minimum of 10' x 15' that I'd be able to build?

Mr. Carnazza said 10' x 15' just goes to the lower setback. Once you go over 10' x 15', you go to the higher setback.

Mr. Lepore said my shed is not 10' x 15', it's 10' x 12'.

Mr. Carnazza said in [Lake] Secor, it doesn't affect it.

Chairman Maxwell said we got some letters in opposition from a lot of neighbors and, I think, the neighbor next door. We try to mediate these things and try to work with everybody. Can we cut the size down? Can we move this thing over? It's sitting on blocks. It's not like it's on a fixed foundation. How much more can you move it?

Mr. Lepore said I can move it more centered toward the property; maybe a little bit closer to the house to give me a little bit more room. I could downsize it to an 8' x 10'. I do need a pretty large shed. I have a lot of equipment that I'd like to store in it.

Vice-Chairman Aglietti said but you started building this a few years ago and you haven't used it since. Do you really need it? It's been two years since you started it.

Mr. Lepore said I do need it. I have a lot of stuff in storage that's waiting to go in there.

Vice-Chairman Aglietti said like what?

Mr. Lepore said snow mobiles, motorcycles, tools, equipment.

Mrs. Fabiano said I think part of the problem is the height. It's so overbearing over everyone else's. When I first saw the pictures, I thought it was a two-story. Is there some way you can bring it down below the fencing line? I see there's a 6' fence. If people can't see it behind the 6' fence, I don't think it would be as intrusive.

Mr. Lepore said I don't think I can lower it to 6' but it's 10' tall. I could lower it to 8'. Would that be sufficient?

Vice-Chairman Aglietti said do you have any neighbors that are in favor of this? Do you have any letters or anything to sway us?

Mr. Lepore said I didn't have anyone come to me and tell me they were against it.

Vice-Chairman Aglietti said we did; there's a lot of opposition.

Chairman Maxwell said we try to negotiate and help out and meet in the middle somewhere. I'd like to see this thing cut down 30%-40% from where it is now. Like Mrs. Fabiano had mentioned, the height. Unfortunately, your property is higher than a lot of the other neighbors so the height of this

thing is really overbearing on everybody. What are the finishes on this thing; clapboard siding to match the house?

Mr. Lepore said probably going to go with T1-11 I think it is; painted.

Chairman Maxwell said from an aesthetic point of view, maybe it's not as desirable if it's as high as it right now. I'm throwing out some numbers: right now this thing is 10' x 12', so if you shorten this thing to 10' x 8', it'll get further away from that immediate neighbor that you're overbearing right now. If we can minimize the height - what's the height of the studs right now?

Mr. Lepore said right now the peak is 10'.

Chairman Maxwell said are you sure about that? It seemed if they were 8' studs.....

Mr. Carnazza said it does appear tall. Looking at the picture.....

Mr. Starace said it's above the height of the eve of the house.

Chairman Maxwell said it looks like at least 8' studs now and your peak and your ridge is going up higher.

Mr. Starace said it looks about 12' to the peak from the ground. I wanted to mention that I was just up there, and the shed itself: you have a pressed board floor. It's probably been there for years. The 2" x 4"s are already compromised by UV and water, and I don't know what you used to fasten that but you couldn't really build on that structure.

Mr. Lepore said I'll probably replace the flooring.

Mr. Starace said but even the studs. I'm not the inspector but it looks like it couldn't hold. The T1-11 - you're going to bang that in with nails? It's been out there for how many years unprotected.

Mr. Lepore said a year and a half.

Mr. Starace said it looks like it's been longer but it's just the look. If you had to take it apart anyway, maybe you could restructure it and move it over - more in the middle - behind your house and get it back.

Mr. Lepore said I didn't want to move it too far over because I want to put a patio in the back, and it would encroach on the patio and the back yard.

Vice-Chairman Aglietti said do you want the storage or do you want the patio? You've got to make a decision. That's what it's going to come down to. Right now, you have it stored some place else that's safe and dry and everything but you want a patio. So, what do you want to do? We're trying to work with you here and I don't hear it. I don't hear that you want to work with us.

Chairman Maxwell said I also say, put yourself in your neighbors' shoes. Look at this picture. You're overbearing to their property. Your property as it's structured or built is overbearing that property as it is now. If you put this thing in the corner, 2' away from their property, it's not fair. If that was your house, would you be happy about this?

Mr. Lepore said with it finished and painted and looking presentable, I wouldn't see what the problem would be.

Chairman Maxwell said it's encumbering someone else's enjoyment and view. What do you have to do to make this thing smaller and bring this thing over?

Mr. Lepore said absolutely.

Chairman Maxwell said okay; so, let's throw some numbers out here. To make it easier for you to build.....

Mr. Lepore said I'd like to make it as large as I possibly can with the amount of equipment and things I'd like to store but I'll work with you; whatever numbers you throw at me is what I'll make it.

Chairman John Maxwell said I don't know what the right number is here. I'll take some suggestions from the Board.

Mr. Starace said we're going to hear from some people I imagine but if you were able to plant some evergreens there at a mature height, would that be something that you could do?

Mr. Lepore said I was thinking about putting a 6' fence in the back.

Mrs. Fabiano said do you own the fence that exists now on that sideline?

Mr. Lepore said no; that's my neighbor's.

Mrs. Fabiano said okay; because that's in tremendous disrepair as well.

Mr. Lepore said I don't own any of the fences that surround my property.

Chairman Maxwell said so it's 8' wide by 12' long with the peak going like this. If you made this thing 8' x 8', you could take back so it's easier for you to build and reconstruct – take back the 4' that it is now. Then lower this thing by..... 6' studs, Mike [Carnazza], will still give you headroom to get in and then you leave a ridge roof.

Mr. Carnazza said that's small. Even a 1' roof is fine.

Mr. Lepore said 8' center you're saying in other words?

Chairman Maxwell said it's not center. Where it starts and goes to your neighbor's property is 8' x 12' – right? You take this thing back 4' so it's 8' x 8' and then you drop it by.....I didn't have a tape measure when I was out there but from the pictures it looks like 8' studs and the ridge is going up. You're really overbearing your neighbors. I think Mr. Starace has a good point. You put some evergreens on that side; 3 or 4 full height evergreens to protect your neighbors from that side would be.....

Mr. Lepore said I can do that.

Mr. Carnazza said you've got to pull that pod that's out on the road back onto your property too though. You have a big right of way there. Make sure it's on your property. It should have been all winter to be honest with you. We didn't have a bad winter so it wasn't a bad issue but get it off of the right-of-way.

Mr. Lepore said okay.



Chairman Maxwell said any other comments from the Board Members?

Mr. Balzano said no; I'm leaning toward.....

Chairman Maxwell said are you good or do you want to get rid of this thing altogether? Speak up.

Mr. Balzano said I'm okay with the 8' x 8' provided that it's surrounded by greenery to ease the burden of the neighbors but let's hear from the neighbors and see.

Mr. Carnazza said and pulled away from the property line.

Mr. Balzano said of course.

Chairman Maxwell said and the height lowered.

Mr. Lepore said I can get the numbers from you and you'll give me where this is supposed to be?

Mr. Starace said it's all going to be in the minutes.

Mrs. Fabiano said another thing I noticed is that you have a lot of wires hanging out. Are you putting in light fixtures or have those wires been coming out of the house for a long time?

Mr. Carnazza said the house is still under construction, and actually he was already told. I think Denis [Marousek] sent you a letter already? You can't occupy it without the C.O. and that's already been spoken to with Mr. Lepore. I don't know if you got it yet but it was definitely sent out.

Chairman Maxwell said are you living there currently?

Mr. Lepore said I am.

Chairman Maxwell said without a C.O.

Mr. Lepore said I am.

Mr. Carnazza said you've got to finish that up.

Mr. Lepore said I will. It's been a money issue but I'm working on it.

Mrs. Fabiano said how long has that pod been there and how long do you plan on having it be there?

Mr. Lepore said I'd like to get rid of it in a couple of months. As soon as I finish this project.

Mrs. Fabiano said how long has it been there?

Mr. Lepore said a year and a half.

Mr. Balzano said I'm a little more concerned now that he says he's having a money issue with the house and not having a C.O. I almost don't want to bother with the shed until the house is resolved and then we can revisit this.

Chairman Maxwell said I don't think we have any control over that; right Mike [Carnazza]? We're only here to hear about the shed.

Mr. Balzano said Greg [Folchetti] is on the screen (via zoom). He can tell us.

Chairman Maxwell said I didn't realize he was on the screen. We have our Town Counsel on via zoom. I'm sorry for your troubles, woes, etc. but it is a good point. You should get your house done first and deal with this secondary. The only part that's in front of us right now is your shed.

Mr. Balzano said the reason why I'm going there is because the framing is already up so there may not be any addressing. So, that's going to stay and the neighbors.....

Vice-Chairman Aglietti said but the framing is going to have to come down if we even change the numbers.

Mr. Balzano said that's true.

Vice-Chairman Aglietti said you could show good faith to your neighbors and pull it down, deal with your house and then when you want a shed and have an idea for a shed, come back to us and then we'll figure it all out.

Chairman Maxwell said it's not built. It's not 100%; you're 30%-40% there. You still have siding and roofing and trim to do if you're going to build a shed that's completely nice.

Vice-Chairman Aglietti said the alternative is that we vote it down and you're going to have to pull it down anyhow.

Mr. Lepore said I have stuff that's inside of my house that I need to get out of it to be able to finish what's going on inside. I have power equipment, lawn equipment that I'm storing in the house right now. So, that's the reason for me also finishing the shed.

Chairman Maxwell said alright; let's hear what the neighbors have to say.

➤ Ms. Lisa Fitzsimmons of 42 Crosshill Road, Mahopac was sworn in.

Ms. Fitzsimmons said I've been a resident at 42 Crosshill since August 2003. So, I'm coming up on 20 years. During 17 years of that time and at the 28 property, my neighbors were squirrels, raccoons and feral cats. Also, during that time, the owner of the property was not taking care of the property which is not very neighborly when you have trees, sprigs, holes in a house, a tree fell on it, it was a bad eyesore and it was attracting vermin. He would come from time to time. I guess a violation would come up, he would mow everything down and it would just repeat for 17 years. Mrs. Fabiano, I did hear you ask a question about the fencing that is in disrepair. That fencing I could easily take down. The only reason I had it up is because I couldn't stand seeing what was behind on the other side and even in the front. The Board has recognized that you've received the letter from 6 neighbors and also a letter from a realtor supporting what the situation is with the structure. That structure was erected in 2020 so we're coming up on 3 years. I have a photo of it when it had a blue tarp on it. It's not a year and a half. It's almost 3 years. I don't work in construction. I don't know what the integrity of the structure is. It's really not my concern about the integrity of it. I'm not afraid it's going to do anything like fall over. It's probably not going to hurt anything but that's why the fence is there. I have no problem replacing those things. The one thing that no one has mentioned yet is that our property is divided by a retaining wall. It's a rock wall that is not made of cement; just rocks. His property is significantly higher than mine so it gives

the appearance that the structure is much higher from where I am which is true but then the picture shows that it's also half the size of his house. Even if you lowered the height, I'm still going to see it which is okay for me. I want my neighbor to have a storage area. I want my neighbor to be successful in repairing..... I've lived there for 17 years, and it was awful. I understand my neighbor's back and he's trying to do the best that he can. I recognize that but he's had 3 years to do the best that he can and, to your point, you shouldn't be living in the house if you don't have a C.O. and there's wires hanging out. I'm not an electrician. I don't know if these are connected to a box. I don't know if they're hot and they could start a fire. I have no idea but as you bring it up, it raises a concern: why are you worried about the shed when you've got to get your house fixed up and this giant pod container that is kitty-corner and almost on the street has also been there for the 3 years. So, it's not just been a year and a half. It's three years. I don't know what the rules are and I want everyone to be able to be happy and successful but it's just an on-going time that's being taken up. Something else to think about: because this structure being two feet off my property, even if he moves it over, I'm worried about planting large trees that are going to grow roots and they're going to impinge on a rock wall made of nothing really. It's going to knock that over and spill over onto the patio. It's a great idea. I want it to be able to work for the both of us but I'm not really sure how that is. I've never been on the back of his property so I don't know how much is on the other side. I'm totally fine with him to build this structure but really if he could put it behind his house, that would be better. If you put it behind your house, you don't even have to drop the height because then you could put the trees. It's just not fair to encroach just because you want to maximize your space for a patio or whatever. It sounds like he really needs a large structure if he does, in fact, have large machinery that he wants to put in the shed. So, he will need that space but not at the compromise of me or anyone else. This all being said and listening to everybody's points, it sounds like we're going to come to an agreement hopefully. My main concern is that I would really like a timeline because the willy-nilly of 3 months, it's going to take some time, I'm going to do the best I can.....

Chairman Maxwell said we can condition it.

Ms. Fitzsimmons said I would appreciate it to have that done. I'm willing to compromise with the shed; keep the shed, keep the height; just put it behind your house at least. Then there will be space.

Chairman Maxwell said you're the neighbor on the immediate right-hand side?

Ms. Fitzsimmons said 42 Crosshill; yes. That's the main concern and, of course, I don't know if somebody goes out to check but the wires that are hanging out of the house.....

Chairman Maxwell said that would be a condition of the C.O. if it's under construction right now. He can't get a C.O. until that's done by the underwriters as well.

Mrs. Fabiano said if he moves it to the other side or to the middle of his property, he will then be affecting people on either side – right? I can't remember if there was house behind him.

Ms. Fitzsimmons said there is a house behind him which is considered #10 Circle Road. He is one of the petitioners on the objection. I can't speak to his position on moving it.

Mr. Starace said it looks like you're a circle with all the neighbors in opposition.

Ms. Fitzsimmons said there is a small blue house to the opposite side. That person is not on the petition, not for any reason, but I don't know if he wanted to ask them. The idea is that it creates more crowding in our already crowded community. I will probably be looking to sell my house in the

next couple of years. My kids are going off to college and, for me, I want to enjoy my time there but I don't want it to be an issue when I go to sell. It's a hard area to sell sometimes. I want Mr. Lepore to be moved in and happy. He does gardening; he's trying to do better but we also have been dealing with this for three years.

Mrs. Fabiano asked did Mr. Lepore own this house 17 years ago?

Ms. Fitzsimmons said as far as I know, since I'd moved in 2003 & from what I'm told, he was the owner the whole time.

Chairman Maxwell asked if there was any other public wishing to speak on this application.

➤ Ms. Carol Chach of 22 Circle Road, Mahopac was sworn in.

Ms. Chach said I've been living in my particular home since 1985. That house has been under construction since we've been there. The wires have been hanging out for I don't know how long. I don't want you guys to issue a variance until that house is finished and gotten a C.O. I worry that he or somebody else is going to get hurt because there is no C.O. and there are wires hanging out. My husband is an electrician. He notices it all the time. It's not right. God forbid there's a fire. The amount of garbage that's in the neighbor's yard next to him, which they don't clean up, and between the people right behind him – they just bought the house two years ago but they're trying to clean it up – if there's a fire, that's going to go up like that. I just feel like the house should have a C.O. before we give them a variance for the shed, and the shed is way too big.

Chairman Maxwell said we appreciate your concerns but the shed is the only issue in front of us tonight. Control of that is with the Building Department, and Mike [Carnazza] is aware of it.

Ms. Chach said I understand but that shed is way too big for that piece of property; way too big. If we can see it from our yard.....

Chairman Maxwell said and where are you?

Ms. Chach said we're diagonally behind. It's an eyesore. There's garbage all over the place. Like I said, I don't want anybody to be put out. We all keep our property nice and I don't want my value to go down. I do my permits and I do what I have to do to get it done and I think everybody else should.

Chairman Maxwell said in fairness, it sounds like a work in progress. So, lets give him some due.

Ms. Chach said it's been a work in progress since I've been there in 1985.

Chairman Maxwell asked if there was anybody else wishing to be heard on this application (none).

Mr. Lepore said I have stuff that's in the container in the front yard and I have stuff in another storage container – furniture and other stuff.....

Chairman Maxwell said once you get a C.O., you'll mitigate some of those items and you'll get rid of the container, you'll fill the shed with some items and complete your house.

Mr. Lepore said I do need the shed to be able to move some of the stuff out of storage. It's costing me a lot of money keeping these things in storage. The container in my front yard is costing me "x amount" of dollars and the other storage facility is costing me a lot of money too.

Chairman Maxwell said if we approve some semblance of the shed, what is a fair time line? Five months?

Mr. Lepore said I'll have it done in a month.

Chairman Maxwell said so you'll commit to that on record?

Mr. Lepore said absolutely.

Mrs. Fabiano said the shed will be done in a month?

Mr. Lepore said yes.

Mrs. Fabiano said not the house.

Mr. Lepore said I'll work on the house and hopefully have it done as quickly as I can.

Mrs. Fabiano said how long have you owned this house?

Mr. Lepore said 35 years.

Mrs. Fabiano said and you've always lived in this house?

Mr. Lepore said no; never lived in it. I was living in Bedford and I ended up taking care of my mother. She recently passed away three years ago. I stayed there another year, fixed up the house and sold it. Then, I had no where else to go so that's why I moved into this in the condition it was in. Those wires that are hanging out – all of those lines are dead for right now. They're all shut off at the box. There's no chance of anything starting on fire or anything like that.

Chairman Maxwell said are they wired into the box?

Mr. Lepore said they are. The house is rough wired right now.

Chairman Maxwell said and you have the breakers locked off; could they be live?

Mr. Lepore said they could be if they were turned on. I'm the only one that's living in the house.

Mr. Starace said I'm just curious. Maybe in order to assist your neighbors, to wrap that in on the outside where you don't see that. Can you do that with evergreens?

Mr. Lepore said I could.

Chairman Maxwell said it's a condition that we can mandate here. It's to be considered. Where I see this thing going is we minimize the size – the length. We minimize the height, and we add evergreens. Then, you commit to doing this within a month, at least building the shed, plant some evergreens if we decide to do that. They'd have to be a decent size though. I'd say at least 6' so they'll grow. I'm thinking three to four along that short side.

Mr. Lepore said can I move the shed to the other side of the property to get away from overhanging the property.

Mr. Starace said you'd move it behind your house?

Mr. Carnazza said if you're going to do that, we're going to have to redo the numbers.

Mr. Balzano said if it's that, it has to be re-noticed.

Chairman Maxwell said what I'm thinking is where the shed begins behind your house, going toward your neighbor to the right, you take this thing back 4' at least, gives you room to plant those evergreens and you minimize the height. Does that sound like it's feasible?

Mr. Carnazza said the evergreens are to go close to the shed, not close to the wall?

Chairman Maxwell said the evergreens are to go on the side of the shed, as close to the shed as possible. They're evergreens. They're not going to grow, deep and wide and spreading. I think that's what we do.

Vice-Chairman Aglietti said I love the idea that we try to come to some kind of agreement. I'm just not for it so I am not voting for that.

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

**Decision of the Board:**

***Vice-Chairman Aglietti moved to deny; seconded by Mr. Balzano.***

***Chairman Maxwell said discussion:***

***Mrs. Fabiano said this is a tough case because he needs it to move forward but yet.....***

***Mr. Starace said we had discussed the possibility of taking the shed and moving it 4' from the property, that would be #42 Crosshill and cutting it down. So, that variance to the side would go down to 4' variance needed. Additionally, plant 6'-8' arborvitaes; 3' on center around all three sides.***

***Mr. Balzano said two of the three sides that abut the immediate yards but they have to be close to the shed.***

***Mr. Starace said for everyone that was surrounding him on objections.***

***Mrs. Fabiano said he'd have to reduce the height too.***

***Mr. Balzano said if we're going to go down this path, the other thing we have to consider too is the time limit also.***

***Mr. Starace said we can put a time period on the variance.***

***Vice-Chairman Aglietti said can I move to withdraw my motion so there could be a motion that would.....***

***Mr. Balzano said sure.***

***Vice-Chairman Aglietti said I'm going to withdraw my initial motion.***

***Mr. Balzano said I accept that.***

***Chairman Maxwell said I'll look for a new motion. We have to have a motion to discuss.***

***Mr. Starace moved to grant the variance [with conditions]. He would have to provide 6' on the side. The variance would be 4' and he would have to install 6'-8' arborvitaes; 3' on center. I propose to go all around the shed – 3 sides.***

***Chairman Maxwell said I don't know if he has any room in the back. Here's the shed as it's built. Here's the other property line and the fence. If you take this back the 4', you leave it the same width – not the length. So, it's 12', you're now cutting it down to 8' x 8'.***

***Mr. Balzano said you're not going to get trees there.***

***Chairman Maxwell said that's what I'm saying. The most effected side and the only issue was with the neighbor to the right-hand side. I was with her, and I saw the shed from her property. Honestly, three or four arborvitaes on that side would totally screen what you could see from her house. She has a garage here and a patio in the back. You can only see the shed from the patio portion. So, definitely 3-4 arborvitaes at 6' high on that side would totally shield it. To help this guy somewhat, it's easy enough to build back the 4' but he's going to have to drop the height too I think. Even the other neighbor had an issue with the height on it.***

***Mrs. Fabiano said you could see it all the way around the corner past the woman's house.***

***Chairman Maxwell said all he has to do is take the rafters down, move this thing back to the 4' and cut the studs from 8' to 6', and he builds the rafters the same pitch as what he's got there now.***

***Mr. Carnazza said so no higher than 8' to the peak.***

***Mr. Balzano said no higher than 8' to the peak.***

***Chairman Maxwell said to the ridge. It's the same thing.***

***Mr. Carnazza said 8' to the ridge. 6'-8'? Does that mean 6', 8', 7'?***

***Mr. Starace said yes; 6, 7 or 8'.***

***Chairman Maxwell said no; 8' to the ridge.***

***Mr. Starace said no; he's talking about the arborvitaes.***

***Chairman Maxwell said I think 6' and in a year, they'll grow.***

***Mr. Carnazza said every 3'?***

***Mr. Starace said yes.***

***Chairman Maxwell said do I have a second to that motion?***

***Mr. Balzano said I'll second it.***

***Mr. Carnazza said with a time frame?***

***Mr. Balzano said yes. So, let's amend that motion to give him 6 months.***

***Mr. Starace said it has to happen this year.***

***Mr. Balzano said if he doesn't act on it, it expires in 6 months.***

***Chairman Maxwell said it's got to come back and we'll reject it?***

***Mr. Starace said it's only good for 6 months.***

***Mr. Balzano said it's good if he builds it. Variances go with the land.***

***Mr. Carnazza said he's going to get a permit. If I give a permit, he has a permit. If it's not done in 6 months, he has to come back to this Board?***

***Chairman Maxwell said yes.***

***Mr. Starace said absolutely.***

***Chairman Maxwell said he stated tonight that it would take him a month.***

***Mr. Balzano said we're giving him reasonable time.***

***Chairman Maxwell we're giving him some room to move whatever is in his house or in his mini storage thing into his shed and that'll help alleviate another eyesore. Hopefully, he'll continue on finishing the rest of the house.***

***Mrs. Fabiano said and we're cutting the size to what?***

***Mr. Starace said 8' x 8'.***

***Chairman Maxwell said so he can't move the whole thing. He can't slide it down and keep it 8' x 12'. It has to be an 8' x 8' from where it stands now, on the left side as you're facing his property.***

***Mr. Carnazza said what about moving that mini back onto his property?***

***Chairman Maxwell said I guess we can condition that. You're right. If that's a sticking point here.***

***Mr. Balzano said until that mini comes into conformance, you have to amend this John [Starace].***

***Mr. Starace said Mike [Carnazza] has them all written out.***

***Mr. Carnazza said do you want me to read them out?***



**Mr. Balzano said please.**

**Mr. Carnazza said no more than 8' to the ridge; 6' arborvitae – 3' on center on all three sides except the door side – is that right?**

**Mr. Starace said we don't know if you can get them in the back.**

**Mr. Balzano said no; you can't get them in the back.**

**Vice-Chairman Aglietti said do we know if it's on dirt?**

**Mrs. Fabiano said so two sides?**

**Mr. Starace said I would like to put it on two sides.**

**Chairman Maxwell said it's sitting on cinderblocks.**

**Mr. Carnazza said so he built a 1' deck and then put this on top. So, it's probably 9' up and then the roof. Whatever the roof is – 12'?**

**Chairman Maxwell said they're like pavers; not full-size cinderblocks.**

**Mr. Starace said Mike [Carnazza], it'd only have to be on the one side. 42 is the only one.**

**Chairman Maxwell said he's got to rebuild the rafters so he'll build the rafters to whatever height we restrict him to.**

**Mr. Carnazza said so; 8' ridge, 6' arborvitae – 3' on center, 6 months to complete the job, 8' x 8' maximum and move the mini pod onto his property.**

**Chairman Maxwell said to Mr. Starace: do you agree to as written for your motion?**

**Mr. Starace said that's my motion as written by Mr. Carnazza.**

**Mr. Balzano said and I seconded it so I agree with the changes.**

**Chairman Maxwell called for a roll call vote:**

<b>John Starace</b>	<b>for the motion</b>
<b>Rose Fabiano</b>	<b>for the motion</b>
<b>Vice-Chairman Aglietti</b>	<b>against the motion</b>
<b>Silvio Balzano</b>	<b>for the motion</b>
<b>Julie McKeon</b>	<b>for the motion</b>
<b>Chairman Maxwell</b>	<b>for the motion</b>

**Motion carries.**

5. Application of **MICHAEL MADSEN** for a Variation of Section 156-15 seeking an Area Variance for permission to replace existing deck and add portion. The property is located at 26 Boniello Drive, Mahopac NY and is known as Tax Map #85.12-2-13.

<b>Code Requires/Allows</b>	<b>Provided</b>	<b>Variance Required</b>
<b>15' Side</b>	<b>8'</b>	<b>7'</b>

➤ Mr. Michael Madsen of 26 Boniello Drive was sworn in.

Mr. Madsen said I removed an existing deck. I'd started building a new deck, and I added a portion to it. [I] did not have a permit so I got stopped in the meantime, and was told that I needed a variance because I'm close to the property.

Chairman Maxwell said the decking was existing on this existing framing or you added to it?

Mr. Madsen said there was an existing deck on top of the wall. I did replace all the framing.

Chairman Maxwell said so that piece that's there – that gray decking – that was there?

Mr. Madsen said yes. That was all there. Originally it was 8' from the property line. I just kind of squared it off. It was oddly shaped.

Chairman Maxwell said so you went and framed this deck further out without getting a permit?

Mr. Madsen said yes; further back. That's correct.

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

Mr. Madsen said I didn't know that I needed a variance.

Chairman Maxwell said in order to get a permit, you got get a variance.

Mr. Madsen said I'm aware of that now.

Chairman Maxwell said there's no property that you can purchase to bring this into conformance?

Mr. Madsen said no. I've already spoken with my neighbor next to me who's adjacent to the left of me and he's perfectly fine with this and glad it's happening. The deck that was there was unsafe and falling apart.

Mr. Starace said it's 35' x 40'?

Mr. Madsen said yes. There's also a pre-existing enclosed porch that's still there.

Chairman Maxwell said what kind of decking?

Mr. Madsen said Trex.

Chairman Maxwell said be careful; it gets hot.

Mr. Madsen said yes. There's a lot of sun back there. That's the only downfall to the Trex.

Chairman Maxwell asked if there was an 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 Ms. McKeon with all in favor.

**Decision of the Board:**

***Vice-Chairman Aglietti moved to grant the requested variance; seconded by Ms. McKeon with all in favor.***

6. Application of **C.TORRES/K.SANTANA** for a Variation of Section 156-15 seeking an Area Variance for permission to retain deck. The property is located at 258 Topland Road, Mahopac NY and is known as Tax Map #63.82-1-5.

Code Requires/Allows	Provided	Variance Required
15' Side – South	4'	11'
15' Side – North	13'	2'

- Mr. Carmelo Santana of 258 Topland Road, Mahopac was sworn in.

Mr. Santana said we purchased the house last year. The previous owner was supposed to get some permits, and we believed that he applied for it so we went ahead and closed with the house assuming we would get the permits. Later on, we got a notice of violation, and we tried to contact the previous owner but he never responded. We never heard back from them. We contacted the lawyer and had some money in escrow just in case. We didn't know that we needed a variance to keep the deck.

Chairman Maxwell said so it never got picked up on the title search.

Mr. Santana said it did. However, one of the Bank's requests was for the previous owner to apply for the permit. He made the application but.....

Chairman Maxwell said so they let you close without that being resolved.

Mr. Santana said yes.

Chairman Maxwell said the deck looks like it's been there for quite some time. It's weathered to a certain degree. How long do you think it was there?

Mr. Santana said probably five or six years. I just have to finish and re-stain it.

Chairman Maxwell said it's pretty low lying. It's not high up or incumbering on any neighbors. There's no property that you can buy to bring it into conformance?

Mr. Santana said no.

Chairman Maxwell said have you checked with your neighbors; any issues?

Mr. Santana said nobody has any concern about it.

Chairman Maxwell said you're pretty self-enclosed. You've got a fence and a shed on both sides so it's pretty hidden from plain view here so I don't see any major issues with it.

Mr. Starace said you have a shed back there?

Mr. Santana said I do have a shed.

Mr. Starace said and next to that is your retaining wall. How does that look?

Mr. Santana said I believe I have to do some work on the retaining wall but it's still strong.

Mr. Starace said it looks like it's bulging out. You may want to sister it up.

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 Ms. McKeon with all in favor.

**Decision of the Board:**

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

7. Application of **DAVID & EVELYN SANTANA** for a Variation of Section 156-20 seeking an Area Variance for permission to retain existing 52" fence in front and 6' high on sides as well as Driveway Gates. The property is located at 467 Bullet Hole Road, Mahopac NY and is known as Tax Map #64.6-1-2

Code Requires/Allows	Provided	Variance Required
4' Fence Front Yard	52" across front of house and 6' along driveway & adjacent to easterly property & 6' Driveway Gate	4" along front and 2' along driveway & easterly property line

- Mr. David Santana of 467 Bullet Hole Road was sworn in.
- Ms. Evelyn Santana of 467 Bullet Hole Road was sworn in.

Chairman Maxwell said did you get noticed by Denis [Marousek]?

Ms. Santana said yes.

Chairman Maxwell said I was out there the other day. It's very meticulous and very pretty. However, it doesn't fit our Code. How long has it been there first of all?

Ms. Santana said like three years. We have a major problem with the rental property in front of us. Our property declines like you saw. Their garbage and their dog was constantly coming over to our property. That's why we had to put fencing. Max crosses the street on Bullet Hole Road which is like the Indy 500, and he kept pooping on our property but they didn't want to pick it up. That's why we got cameras. We also got vandalized. We were 'egg bombed'. We've been here 28 years, and we have a foreclosed property on the easterly [border] and they're not doing anything with that property. It's an eyesore. I got poison ivy trying to cut the branches back. There are lots of mice running around because of that. The reason why we did the fencing in the front is because poison ivy and bushes with big thorns keeps coming over our fencing and we've got to keep cutting every single year. We've hired Mike's Blue Wheel Service Inc. so that he could do the other side because trees were falling down. That's on the opposite side. Everything is overgrowing and being tick infested. Then, we get all kinds of animals coming into the property. We have grandkids and we want to keep ourselves secluded in our little paradise there.

Chairman Maxwell said so if you had to cut this down, what would the cost be roughly?

Ms. Santana said a lot.

Mr. Santana said wait; to cut down the.....

Chairman Maxwell said if you had to bring everything into conformance, what would the cost be? The fence in the front and the easterly side.

Ms. Santana said there's a lot of boulders there.

Chairman Maxwell said if you had to bring this into conformance, what would the cost be?

Ms. Santana said I have no idea. He did it with my brother.

Chairman Maxwell said how much did it cost between materials and labor?

Mr. Santana said between materials and labor, it was close to \$6,000.

Mr. Carnazza said so to replace it, it would be 6 again.

Ms. Santana said right.

Vice-Chairman Aglietti said probably more.

Mr. Starace said yes; it's removal and replace.

Mr. Santana said when you were there, facing the house on the left-hand side where the fencing is 6' where we have the gravel and park our cars, the reason we have that is because we were getting a lot of deer jumping into our property and we have trees that are falling and vines that are overgrowing like she said and it just looks horrible. Nobody takes care of that because I think it's all wetlands.

Mr. Carnazza said the gas line goes through there?

Mr. Santana said the gas line is in the front.

Ms. Santana said King Pond drains onto the property that is next to us.

Chairman Maxwell said the front fence, in my mind, is not very.....it's an open picket, it's not solid fence and it's only 4". To me, that's not..... On your right-hand side, the fence is lower until it goes up to 6' but it's not in line with the house.

Mr. Santana said we did that so that if they come out of their driveway, they can see traffic.

Mr. Carnazza said did you get the colored one?

Mr. Balzano said I got the colored one.

Mr. Carnazza said so those 3 panels would be 18'.

Chairman Maxwell said so to replace those 3 panels is obviously not as costly than to replace the whole fence.

Ms. Santana said that's the problem. It's all full of poison ivy and thick.....

Mr. Santana said you can see the overgrowth on the picture; the trees.

Ms. Santana said I don't know if they call it Thornberry. It's a thick branch and has big thorns.

Mr. Starace said are there miniature roses that are on there in the springtime?

Mr. Santana said no.

Ms. Santana said that was foreclosed and they've recent bought it but the man hasn't done anything with the house. I don't even want to look over there. It's making my pretty house look like *(junk)*. That's why I fenced it out.

Chairman Maxwell said how long has the house on the right been unoccupied?

Mr. Santana said probably about two years.

Ms. Santana said and he bought it last year.

Mr. Santana said I had to call him to cut his evergreens down.

*Board had several small discussions amongst themselves.*

Mr. Starace said (to Chairman Maxwell) if that was a picket instead of a solid, would that be considered going along?

Chairman Maxwell said it's the height. That's the issue.

Vice-Chairman Aglietti said it's three panels.

Mr. Starace said each panel is 8' [wide]?

Mr. Carnazza said 6'.

Mr. Starace said so you're looking at 18'.

Chairman Maxwell said it's PVC – right? You can cut down a bit if you need to. It's not going to be that costly.

Ms. Santana, using her tablet, said so we're talking about these panels?

Mr. Starace said along your driveway.

Chairman Maxwell said you've got them marked out here.

Ms. Santana said that's where all the poison ivy and stuff is.

Vice-Chairman Aglietti said those are the 3 that need to go down. They need to be replaced or cut?

Ms. Santana said how can we get the neighbor to get rid of the poison ivy?

Vice-Chairman Aglietti said there's nothing you can do about that.

Chairman Maxwell said you'd have to do all the work from your side I'm pretty sure. You take the top rail down, cut it down and put the top rail back in. You did the work yourself you said?

Mr. Santana said yes.

Chairman Maxwell said you're pretty handy. It sounds like you could do it.

Mr. Carnazza said the problem is when you cut the PVC; it's just not going to be right.

Mr. Balzano said yes; it's tough to. You have to replace them.

Mr. Starace said are they in cement?

Ms. Santana said yes.

Chairman Maxwell said and you've got, on the left-hand side, the same situation. How many panels are on the left-hand side?

Ms. Santana said that's where the wetlands are at; that empty lot. No one lives there.

Chairman Maxwell said if we make you do one side, we have to make you conform on both sides.

Mr. Starace said there's only one of them though that they have to move – right?

Chairman Maxwell said that property is wetlands until the next house?

Mr. Santana said there's drainage from the lake.

Ms. Santana said from King Pond across the street.

Chairman Maxwell said so it's an easement. Is that an easement there Mike [Carnazza]?

Ms. Santana said it's been empty. We've been there for 28 years and no one builds there. There's a lot of woods and a swamp.

Mr. Carnazza said it's owned by somebody but I just don't know who.

Chairman Maxwell said if anything, we're probably going to make you guys drop this thing on the right side. I don't know about the rest of the Board Members.

Mrs. Fabiano said I'm thinking that if this is in foreclosure, it's going to sell soon.

Ms. Santana said it's sold already; last February. They had a short-sale but the guy.....my husband keeps calling him and asking him when he's going to come and start. The grass was up to here [hip height].

Mr. Carnazza said if the grass is tall, you can call us but we can't make him spray poison ivy.

Mrs. Fabiano said the problem is eventually somebody is going to clean it out and then you have this forever fence.

Chairman Maxwell said which is not fair to them.

Vice-Chairman Aglietti said we're willing to give you part of the variance it looks like but we need those three panels to be replaced.

Ms. Santana said that's fair.

Vice-Chairman Aglietti said that's fair?

Ms. Santana said yes.

Mr. Balzano said I'm okay with that.

Mr. Carnazza said replaced with what?

Chairman Maxwell said to conform; 4'.

Mr. Carnazza said and obviously they can go solid if they conform.

Chairman Maxwell said on the right-hand side.

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 Ms. McKeon with all in favor.

Ms. Santana said I have a question: the only thing we have to fix is those three panels and that's it?

Mr. Balzano said on the right-hand side.

Vice-Chairman Aglietti said we'll vote for it later.



**Decision of the Board:**

**Mr. Starace moved to grant 52" across the front of the house and remove or lower to 4' high three 6' x 6' panels/18' along the easterly property; seconded by Ms. McKeon.**

**Chairman Maxwell called for a role call vote:**

<b>Julie McKeon</b>	<b>for the motion</b>
<b>Silvio Balzano</b>	<b>for the motion</b>
<b>Vice-Chairman Aglietti</b>	<b>for the motion</b>
<b>Rose Fabiano</b>	<b>for the motion</b>
<b>John Starace</b>	<b>for the motion</b>
<b>Chairman Maxwell</b>	<b>for the motion</b>

**Motion carries.**

8. Application of **MITCHELL & LAUREN KARPf** for a Variation of Section 156-20 seeking an Area Variance for permission to retain 6' fence in front yard. The property is located at 19 Woodland Road, Mahopac NY and is known as Tax Map #75.7-1-18.2.

Code Requires/Allows	Provided	Variance Required
4' Fence in Front Yard	6' Fence	2' variance

- Mr. Mitch Karpf of 19 Woodland Road was sworn in.
- Ms. Lauren Karpf of 19 Woodland Road was sworn in.

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

Mr. Karpf said the current fence has been there for just over two years. When we purchased the home in September 2001, we had a fence, already existing, that was the same height, the same length, same footprint.

Chairman Maxwell said I read that. So, you replaced what was there?

Mr. Karpf said we replaced an alternate board fence that had run down over time with a new fence.

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

Mr. Karpf said frankly, it never occurred to us that the house would have been sold to us with that kind of violation if that pertained.

Chairman Maxwell said so again, it didn't get picked up on the title search.

Ms. Karpf said and we were replacing the same height, same footprint.

Chairman Maxwell said do you know how long was that fence prior?

Ms. Karpf said we bought the house with it.

Mr. Karpf said we only know that it was there from September 2001 when we purchased the house until March of 2021.

Chairman Maxwell said actually there's pictures.

Ms. Karpf said the Rienzis built the home and they built the house in 1993. So, somewhere between 93 and when they sold to us in 2001, they put the fence up.

Mrs. Fabiano said but definitely over 20 years.

Mr. Karpf said over 20 years.

Vice-Chairman Aglietti said did you hire somebody to put the fence up?

Mr. Karpf said we did. We purchased it from a local store and contractors put it up.

Chairman Maxwell said the same situation; if you drop this thing down to conform, what do you think that cost would be?

Mr. Karpf said I'm not totally sure. We've gotten estimates that have been in the thousands. We'd spent about \$7,500 on the fence purchase and installation. We actually still have an issue pending with the Homeowners Association, unrelated to this, but about the fence in general that we might have to.....

Chairman Maxwell said yes; you have restricted deeds here.

Mr. Karpf said yes.

Chairman Maxwell said I know it well.

Ms. Karpf said this is a vinyl, tongue & groove fence. Because we are not the handy ones putting this in, can you cut vinyl fence down 2'?

Chairman Maxwell said if you're the right person doing it, I think you can; not YOU obviously.

Mr. Karpf said we've heard very mixed opinions on that.

Chairman Maxwell said every fence is made differently so I don't know. I was there but I didn't stop and take a look, up close, at it so I can't guide you on that one.

Ms. Karpf said you're talking about replacing a huge amount of fence from scratch.

Chairman Maxwell said it's not the whole length. It's up to the front of the house line if we do make this. How far back does it go?

Mr. Karpf said it goes back another 150' from the front of the house.

Ms. Karpf said the fence doesn't start beyond 30' from the street. Our house is about 80' from the street. We have a lot of property.....

Vice-Chairman Aglietti said it is a little different in that it's not starting at the street and going back.

Mr. Karpf said not even close frankly. There's a tree about 30' off the street and the fence starts behind that.

Chairman Maxwell said is there any other reason why it should remain. Are there any issues with the neighbor on the left-hand side? Is there any unsightly.....

Mr. Karpf said every review we've gotten about the fence from our adjoining neighbors and friends has been very positive. We actually included letters from neighbors on both sides including the ones that the fence abuts with.

Chairman Maxwell said yes; we have those.

Mr. Karpf said they're all in favor of us keeping it; likes it and it looks good and provides him a service because he's had dogs since we've moved in and it keeps them on their property. He's all for keeping it as is.

Chairman Maxwell said good fences make good neighbors.

Ms. Karpf said because our house and the Wagman's house used to be one big farm, there's no tree line there so I don't know why the Rienzis initially put the fence up but it does help with the Wagman's dogs or the leaves blowing. All the homes have trees that sit in every little section. This one would be just one big vast yard. Our two yards are huge if we had nothing. It just has worked out over the years for dogs, leaves and such but we never knew that there was an issue with the height.

Chairman Maxwell said it looks like you're a good 30'-40- from the street line before the fence starts.

Mr. Karpf said the fence starts about 31'-32' off the street. Again, that tree that you see right at the end of it is about 30' and then the fence starts after that.

Ms. Karpf said and like Mr. Wagman said: it doesn't block him at all or us from getting out onto the street visibility wise.

Mr. Starace said what was wrong with the fence when you bought it with the house?

Mr. Karpf said nothing. The fence was existing. We had no idea that the 6' height was any kind of issue. So, we bought it as was. The fence was fine. It's just that it was wooden and over 18-20 years of time, it was weathered and started to fall apart. It really needed to be replaced. It was an eyesore in the community. We liked having the fence, in general, for the reasons my wife and I have mentioned. So, we wanted to replace it.

Mr. Starace said that was never in front of the Board before?

Mr. Balzano said no.

Mr. Starace said what year did you buy the house; 93?

Mr. Karpf said 2001. The house was built in 1993 but we bought it in September of 2001.

Ms. Karpf said the fence was breaking down because if they were a farm, they must have buried things in the yard. So, over the years, the land was sinking and we would have to bring in dirt. The dirt, I guess where the fence was, broke down and the fence started collapsing. During Covid, we had a moment since we were all hunkered down at home, we said now we'll change the fence. We picked a fence that was already up in our community and never knew that there would be an issue with it.

Mr. Karpf said at first, just slats were falling from the fence. Eventually, sections were falling from the fence and it really did need to be replaced.

Chairman Maxwell said you did state this but we have two letters from neighbors in support: Karen Bodon of 21 Woodland Road and David Wagman of 15 Woodland Road.

Mr. Karpf said he's the one we share the fence with.

Chairman Maxwell said any other comments from the Board Members (none); anyone from the public wishing to speak on this application, please come up.

➤ Mr. William Hines of 63 Highland View Road, Mahopac was sworn in.

Mr. Hines stated I'm here representing the Mahopac Hills Homeowners Association and as President of that Association. In April 2021, the Association Board was notified that a fence had been erected on the property in question which is encompassed within the Association boundaries. The Association Board of Directors found that the fence was erected without proper approval of both Town and by Association which are guided by covenants and restrictions that are bound to properties within the Association. Since then, the Association has reached out to the property owners to remedy the covenant and restriction violations that the fence imposes, which by chance, would also alleviate any Town violations. The property owners didn't act to modify their fence into conformance of those guidelines and did not respond to follow-up correspondence. The Board then reached out to the Town to see if there were, in fact, any Town Code Violations that the fence created. The variance submitted tonight confirms that. The Association and Town have a history on the subject matter. I've stood before this Board in 1994 addressing the same issue. The Zoning Board had set past precedent in understanding the relationship between Town Codes, Land Covenants and Restriction Guidelines and what recourse neighbors have in situations like this. At that time, the ZBA decided all violations should be resolved before any C of O or variance is issued. The Association was, and is, very appreciative of that. The Mahopac Hills area is one of Town of Carmel's neighborhood gems. It's beautiful, open, quiet and we are a very active Lake Community. It has certain covenants and restrictions, guidelines as well as Town Codes that ensure that we have an open and bucolic feel to the neighborhood. I'm here because we feel that we are, again, in the continuous dilemma of 'build now and ask for forgiveness later'. It's unfortunate that this is the case here. There are guidelines and codes that are in place for a reason. The covenants and restrictions of our lands in Mahopac Hills have been in place since 1925. The present owners documented the covenants and restriction guidelines, as part of their property deed, in 2008. It's understood that certain situations require boundary separation and/or fence for safety or privacy reasons. We understand that but we don't believe that the covenant and restriction guidelines of the land and/or the Town Codes are against that but there is a procedure that all of us need to follow. These procedures ensure that neighboring property owners have a chance to weigh in and ensure the good of the area. We have a number of private homeowners that have attended our H.O.A. meetings and they've raised questions and concerns regarding this variance and its repercussions. In the end, we don't want the Association to be the one left holding the bag. I would like to ask the Board to consider the tabling of this variance discussion to a future Zoning Board Meeting so that the Town related questions, Association related questions and private homeowner

questions can be thoroughly researched and investigated before a decision is made. Thank you for that.

Mr. Balzano said I have a question. The fence was there prior. How did it get there prior?

Mr. Hines said I'm sorry?

Vice-Chairman Aglietti said before this fence was put up, there was another fence that was non-conforming.

Mr. Hines said it's an interesting area because the Mahopac Hills Association, which some of us in the room are familiar with, started out as a bungalow colony. There were certain boundaries of that bungalow colony. When the realty company and the families sold and started selling off plots, they sold it off saying there should be certain restriction covenants to keep the lands a certain way. So, they started that off and then in 1932, they formed what is called the Mahopac Hills Association, Incorporated which now says 'if you want to be in the Association, you sign on to these covenants and restrictions and then they added a new one; the eighth one saying you are now a member of the Mahopac Hills Association which [entitles] you to all the amenities of that Association. So, the original boundaries did not encompass certain properties. So, what happened was over the years, those properties were voted in and the boundaries were expanded. You talked about the Wagman house which was a farm. That was not in the original boundary but it was brought in. What happened is in researching properties, when we look at who has restrictions and who has the covenants and who doesn't, we have to do a deep dive research on that. We found that there are certain properties that didn't have some or all of those covenants and restrictions until they signed on to become members of the Association. The property and the fence in question, as we go and look back, those properties had to be signed on at a later date. We did a mass-signing starting in 1994 through 1996 to get the properties signed on. Some properties did not want to take advantage of that and they didn't. There were properties then that afterwards which signed on which is this property in question was one of the properties that were signed on in 2008.

Vice-Chairman Aglietti said before the Karpfs purchased that property, the property owner that had it before them, signed on.

Mr. Hines said that is incorrect.

Vice-Chairman Aglietti said they did not?

Mr. Hines said no, it wasn't signed on.

Vice-Chairman Aglietti said you never had to approach them and say you need to take the fence down?

Mr. Hines said we did because somebody said there was a fence going up. So, we approached and when we did the deep dive, we found that they didn't have the covenants and restrictions on their property. We didn't really have any recourse for that.

Vice-Chairman Aglietti said so when you went to the Karpfs and you said the problems that you have with the fence, you said you had an idea to make this palatable for everyone. What was that idea?

Mr. Hines said there were a couple of ideas. You'd mentioned one of them – modify their fence. The covenant and restriction that is in question here is there are no solid board fences on the property

and fences also have to be at least 40' from the street line. Those are the two guidelines of all our area to keep the area open. The idea, way back when, was probably to keep everything in the back of the properties of these houses. What we did was ask them to modify your fence. We're looking for spacing. That was one of our things. We gave that idea to them. The other idea, which was more intense, is you're going to have to take the fence down.

Mr. Balzano said I'm still unclear. When the property was welcomed into the Homeowners' Association, was the fence present or not?

Mr. Hines said the old fence or the new fence?

Mr. Balzano said the old fence.

Mr. Hines said the old fence; yes.

Mr. Balzano said so already we've agreed to the height of that fence and where it's situated based on the fact that you guys 'accepted that into your Homeowners' Association' – no?

Mr. Hines said that's a hard question to say yes or no to, and I'll tell you why. It's because 1) we'd have to grandfather that in. It was already there existing, non-conforming in the Town's eyes I guess you would call that. The other thing is that they weren't under our covenants and restrictions but what the previous homeowner said and did was say we will compromise and put an alternating board fence up. We will not put a solid board fence up. That's what they did. That was the existing fence when the present owner moved into the house.

Mr. Starace said that's in 2008?

Mr. Hines said no. The present owner signed onto the covenants and restrictions in 2008.

Mr. Starace said 2008; there was a fence up that was alternating?

Mr. Hines said that alternating fence was up until they took it down.

Chairman Maxwell said this matter is in front of the Board as what's presented to us as a variance for what it is. For covenants and deeds is a whole private topic, respectfully Bill [Hines], that has nothing to do with this Board. Right now, what's in front of us solely is just this variance in the Town's eyes and what's required for our Town ordinance. If it ends up being another situation, that's on your own.

Mr. Hines said that's why I brought up that 1994 case when Chairman Spain was here. We went through this whole thing again and, with all due respect to the Board, we have several Homeowners' Associations in this Town. They have their guidelines and their covenants. As I come to some of these meetings, I hear we put it up and now we want you to give us a variance. There are a lot of things in question here. Should the Town just say to a Homeowners' Association, we're going to go with our Town Code and whatever you have to do on a Homeowners base, that's fine. We're going to run into these problems. I'm going to have to come in front of you again and state our case. Here's a case now where it's not only against our covenants and restrictions which we are very open for a remedy to; as long as we have the conversation. This might be the catalyst to continue that conversation with the property owners but the Town has to, at least, take into consideration, especially the Town of Carmel where there are homeowner associations around here, that puts a strain on us to continue to keep our neighborhoods solid. You're hearing and I'm hearing, some of

the cases you just had here tonight, we're fortunate that we at least have a procedure here and we have a homeowner's association that can support us.

Chairman Maxwell said we're a quasi-legal Board. We take guidance from the Town. That would be like a Town Board issue that you'd have to present to.

Mr. Balzano said right; we're also governed under State Law how we can consider cases. There's five criteria and it's a weight and test for each Member. That's what we have to do. That's what State Law dictates this Board has to do. Regardless of precedent, I have to abide by the rules that New York State tells me I have to abide by which is the criteria for an area variance.

Mr. Hines said I totally understand that so, again, my request is then if this can be tabled for me to go to the Town Board, let them know what the situation is and then, they'll give you guidance on what to do on this situation but I'm very open to the conversation so that it can be remedied but you have to give us, as Homeowner Associations, the benefit to have some sort of recourse, and not to just push us aside. I think that's really important.

Mr. Carnazza said can you ask Greg [Folchetti]. I think he's [remote].

Mr. Folchetti said is there a specific question or you want kind of a general response to what's been said?

Mr. Carnazza said what he's asking is if the HOA's covenant & restrictions would make the Zoning Board not be able to grant a variance I believe?

Chairman Maxwell said no; he's asking for time to vet the Town Board to discuss the fact that we have many variances that come in front of this Board that people come and seek forgiveness instead of permission, and if he has time to make that happen. Is that correct?

Mr. Hines said yes. I'd like to see. You need guidance and I totally understand.

Mr. Balzano said but isn't that one of the criteria? That's self-creation.

Mr. Folchetti said I can answer that. The first thing is that the Covenants & Restrictions (C&Rs) of the HOAs within the Town are private rights of action. They don't have anything to do with or any impact, necessarily, on any decisions that the Board makes upon issuance of a variance whether or not the person is coming in advance of making the improvement or after having made it. Every property owner who benefits from those C&Rs has a private right of action. If an individual property owner is violating the C&Rs, and that's independent of whatever the Zoning Code says. The Zoning Code could permit 10' fences and the C&Rs could say you can't have any fences or they can't be higher than 4'. The applicant can get that relief from the Zoning Code from the Zoning Board of Appeals and still be in violation with the C&Rs but it's up to the people and the property owners who have the benefit of those C&Rs to enforce. Second thing is we don't go to the Town Board for guidance. You guys are a quasi-judicial Board and you're autonomous. If there is something that they're proposing for Code changes, again that's possible with the Zoning changes or the Comprehensive Plan but your job is to consider relief from the Code. So, whatever ends up being in the Zoning Code chapter 156, the people in front of you are always going to be in there asking you to waive some portion of that. So, there's not a process where we go to the Town Board for guidance on an application. There's no precedential value of any variance. Every variance application stands on its own. Giving one to one particular applicant doesn't necessarily bind the Board to giving it or denying it to the next applicant even if it's virtually identical and it's (inaudible) parameter. If the Board wants to hold the decision on this in abeyance, you're right. You have 62

days from the close of the public hearing but there's no process where you go to the Town Board for guidance at the application process or procedure.

Chairman Maxwell said that makes sense.

Mr. Balzano said that's where I was coming from. Thanks Greg [Folchetti].

Chairman Maxwell said does anybody else from the public have any input? (none) I'm going to give them a chance to respond.

Mr. Karpf said frankly, I'm not sure where to start but the one thing that popped out, from several, is that there is nothing in the Covenants & Restrictions around the height of the fence which is why we are here tonight in front of you. The Covenants & Restrictions and the violations that we've been told about was 1) the solid versus alternate board fence and 2) the length of the fence from the street. No where in our C&Rs does it say we cannot have a 6' fence. There's no restriction on how close that could be or how tall it could be so I'm not sure where he got that.

Chairman Maxwell said we understand that. That's not in our prevue tonight. What's in front of us tonight is just the variance in front of us.

Mr. Balzano said the application as it stands.

Mr. Karpf said that's great. We can go into chapter and verse about what's going on with MHA. I don't want to bore you with that time but the one thing I'd say about a continuance and putting this off, it took us ten months to put the fence up during the pandemic from the time they actually got the equipment and the supply chain issues and to put people in to install it and actually put it up. We enjoyed the fence for a week and a half before Mr. Hines came to our front door. He told us that somebody had complained about the fence so he had to investigate. We looked into it and, ultimately, found the email from the person that had brought it up to the Board but nobody had complained. They simply raised a question to the Board as to whether they were still observing these specific Covenant Rules or not. So, a lot of the information that you were just given is not wholly true. Some of it is wholly untrue, and I'd just appreciate it not being considered when determining the variance decision or not.

Mr. Balzano said Mr. Karpf, we can consider the criteria that the State dictates we consider. Any private covenants between the Homeowners Association and you, is your problem.

Chairman Maxwell said it's a separate issue.

Mr. Balzano said that's not this Board's problem.

Chairman Maxwell said any other questions from the Board Members.

Vice-Chairman Aglietti said we talked before about the cost of you taking the whole thing down. What about just the few sections?

Mr. Karpf said I don't know if I talked about the cost of taking the entire thing down to be clear. What I tried to communicate was the fence installation, in terms of the purchase and the installation, cost us \$7,500. In addition to that, if we need to repair the fence in terms of the MHA violations that we're still fighting relative to the solid versus alternate, we've had that estimated at several thousand dollars. If we need to lower the fence from 6' to 4' in certain situations, we've had that estimated at several thousand dollars. Unfortunately, the type of fence that it is says.....



Chairman Maxwell said several thousand dollars to lower a few sections of it?

Mr. Karpf said I was told \$2,000-\$3,000 for both potential pieces of work.

Chairman Maxwell said wow.

Mr. Karpf said when you're in for close to \$10K already, it's not thousands of dollars that you want to be spending anymore.

Vice-Chairman Aglietti said the variance we're concerned about only goes up to your house; the front line.

Mr. Karpf said understood.

Chairman Maxwell said I'm thinking as a negotiation, because I know Vice-Chairman Aglietti as well as I do, we take three panels out almost like the previous application. It seems like a fair thing even though it may not line up with the front of the house.

Vice-Chairman Aglietti said your house is further back.

Mr. Karpf said we're eighty feet off the street, and I think that's relevant to the location and all.

Ms. Karpf said the look will be 6' and then in the middle of the driveway it'll have to drop to 4'.

Mrs. Fabiano said we just did that with the other one.

Chairman Maxwell said it'll be closer to conforming.

Vice-Chairman Aglietti said no. I'm saying take away those three panels. Just take them away and maybe, cause you're further back.....if your house was further up toward the road, there might be better compliance here but it's just where your house is. Your fence starts 30' from the road.

Mr. Carnazza said the front yard is between the front of the house and the front property line. Yours is very large.

Vice-Chairman Aglietti said {to Mr. Carnazza} how far away from the road does a house usually have to be; the minimum that it can be from the road?

Mr. Carnazza said the setback of the house?

Vice-Chairman Aglietti said yes.

Mr. Carnazza said it depends on the lot size but anywhere from 25' to 40'.

Chairman Maxwell said this is 1.953 acres.

Mr. Carnazza said then 40'.

Ms. Karpf said like Mr. Hines said, our community used to be a bungalow colony so homes were already tight and small but because our property and the Wagman's used to be the farm, they divided it into two which sold off, and then our house was built by the Rienzis, we have a huge

property compared to a lot of the other lots in our neighborhood where the covenant was set because they didn't want people coming up and boxing people in with fences. But; our property is so much bigger than the standard that the ruling was made for one hundred years ago. I mean it's not a bungalow colony anymore.

Vice-Chairman Aglietti said we're not concerned about that.

Chairman Maxwell said we're looking for you to conform to our Code as best as possible.

Vice-Chairman Aglietti said and we like to try to cut the baby in half. In this case, cut a part off the fence; just, maybe, three panels.

Chairman Maxwell said if you take three panels out completely – not even cut them, that cost will be a lot less because you're just removing them

Mrs. Fabiano said I'm looking at the criteria, and the criteria clearly says 'can any other method be used that does not require a variance but still allow for a benefit requested'. To me, that one statement, right there, says cut it down to 4' until you get to the house. That's the way you cannot even have a variance.

Vice-Chairman Aglietti said or remove it all to the house.

Mr. Balzano said but Rose [Fabiano], but then you don't need a variance and why are you coming here.

Mrs. Fabiano said right.

Mr. Balzano said that doesn't fly with me.

Chairman Maxwell said they're seeking relief. We look for middle ground and I think what Phil is proposing is fair. It's less costly than actually cutting it down and altering the fence. There's going to be costs involved to enhance it. So, if you remove it completely, it's just removal and carting.

Vice-Chairman Aglietti said then you're about 50' away from the roadway.

Mrs. Fabiano said what are you saying; 18 feet?

Vice-Chairman Aglietti said three panels. That's approximately 18'.

Mrs. Fabiano said 18' plus the 30 brings you about 48'. How far are you from the road?

Mr. Karpf said 80'. The house is 80' back from the road.

Mr. Carnazza said we go by front property lines.

Mr. Starace said it's 62.4'.

Mr. Balzano said which gets you to a more reasonable setback.

Vice-Chairman Aglietti said and the neighbors have no problems. We have two letters from both sides.

Mrs. Fabiano said well I just wasn't sure if they wanted to keep the fence to keep the dogs out. If you don't want the dogs coming in, maybe the 4' is better than.....

Mr. Starace said they go around that.

Mrs. Fabiano said yes because the dog can run around that.

Vice-Chairman Aglietti said the dog can run around it now.

Mr. Starace said it's irrelevant.

Mrs. Fabiano said that's their call.

Mr. Karpf said can I just ask a quick final question please?

Vice-Chairman Aglietti said (inaudible) considering, and we can put it as part of it, it's fine. If not, I understand. There's no forcing. Can you live with that? Can you live with taking down three panels?

Ms. Karpf said I'm not sure how we were able to buy the house with them though.

Vice-Chairman Aglietti said that's not the issue. Can you take down three panels? Can you do that?

Mr. Karpf said we haven't looked into it. We haven't looked into the cost. I assume we could do it. I honestly don't know but to my wife's point and I do think it's a fair question: As we've already said, there was nothing in our C&Rs that said we couldn't have a 6' fence.

Vice-Chairman Aglietti said I don't care about the C&Rs.

Mr. Karpf said I understand so, if that's the case and we purchased the home as is with a 6' fence, how were we possibly to know that that was in violation of anything?

Ms. Karpf said twenty some odd years ago.

Chairman Maxwell said shame on your title company and the person who put up your fence.

Mr. Karpf said I understand what you're saying but when you're in for the amount of money and time and sweat that we've put in, that's a tough answer for us. I'm just being honest.

Chairman Maxwell said I hear you.

Vice-Chairman Aglietti said once a month and we sit here and listen to stories like this. That's just the way it is. We're not blaming anyone. We're just saying that we've got to try and make it right; to you and to the Town. I'm not concerned about the Homeowners Association.

Mr. Karpf said frankly, and to your point about the Town, one of the steps in the process was that we had to get signatures of 35-37 different neighbors that our new fence was okay as is. We got all of those signatures and we submitted them to the Board before they took a vote and decided that they weren't going to approve it anyway. I don't think it's a neighborhood issue. I think if you polled our neighborhood, a solid 90% would be in favor of it but I believe because of the issue that we've made with the Board, the Board, and we know this for a fact, came to your property

compliance officer, Denis Marousek and asked him to investigate the houses in our neighborhood for violations. That's really the only reason we're here tonight. If that hadn't happened, none of this would have happened.

Mr. Balzano said you may have gotten here anyway. Denis drives around.

Ms. Karpf said Denis told me. He said our Association did it.

Mr. Balzano said he just didn't call your number yet; trust me. He drives around all the time.

Ms. Karpf said Denis lives in our neighborhood.

Mr. Karpf said he lives around the corner from us and he's been there for twenty years as we have. I'm not sure I agree but I understand what you're saying.

Chairman Maxwell said the case in front of us is what's in front of us now: a variance for this fence. There are some proposals here, and I think we're going to clip this now and if there's no further input, we'll bring this to a vote as we adjudicate.

Ms. Karpf said will there be an option?

Vice-Chairman Aglietti said no. It's either/or. You either get the variance or you don't.

Chairman Maxwell said we'll afford you the opportunity to hold this over if you want to think about it.

Vice-Chairman Aglietti said if you want to get a price.

Mr. Karpf said I think in fairness, what my wife is asking is when you say the variance is either going to be yes or no, it sounded like there was some middle ground as far as taking down these 3 panels. So, is that a third option or is it just yes or no?

Vice-Chairman Aglietti said like the Chairman said: you can table this until next month and then you can go and find out how much it will cost to get three panels removed.

Chairman Maxwell said I would suggest to drop to 4' to conform with our Code.

Vice-Chairman Aglietti said you can do that too. When you come back here, I think the Board will be willing to accept that because you're showing that you're trying to bring things into compliance. We understand there's only one person saying that it shouldn't happen. There's no other letters from anyone else. There are two that say they have no problem with it. So, we're willing to work and try to come to some compromise. If you want to put it over and try to figure out how much it is or speak to your fencing company who put it in and say how did you not know. Maybe they could do it on their time and their dollar. We could do that. We'll put it over for a month and we'll come back.

Ms. Karpf said I just didn't know if you were going to say you have to take all three out or you can do the 4'.

Mrs. Fabiano said if you do 4' to the front of the house, you don't need a variance at all. You're done.

Chairman Maxwell said in my mind, there's a cost to alter it at "x", and there's a cost to just remove it and cart it and "x minus". I've been in construction my whole life so those options are there. You want to think about it, mull it over and come back next month with some decisions, or we can vote on this tonight.

Mr. Balzano said if you're willing to compromise and take the 3 sections out, you would probably walk away from here with a variance most likely.

Mrs. Fabiano said or if you want to keep 4', that's another option.

Mr. Starace said how far back does that fence go?

Ms. Karpf said it's a 200' fence.

Mr. Karpf said you might see a picture of a shed if you look toward the end of the back yard. The fence ends around the shed; give or take.

Ms. Karpf said our property continues back into the woods though.

Mr. Starace said maybe you need three more pieces back there.

Chairman Maxwell said there's no rush to remove this or build it. My advice would be take the month and think about these options and come back to us next month and we'll take it from there. From my twenty years plus on this Board, that's my advice to you.

Mr. Karpf said okay. I just want to be clear; I'm sorry. If we don't take that option, then, as you said, it's going to be yes or no on the variance.

Vice-Chairman Aglietti said if the variance is not approved, you can still fix it. You can tear down 12 panels or whatever it is to get you to the house or cut it to the house and that will make it in compliance.

Mr. Balzano said or propose coming back with the three and that's going to cost you more money but whatever. There's many ways we can skin this but if you want us to vote on it as is, we'll vote on it as is.

Mr. Carnazza said somebody is going to make a motion and that's what's going to be voted on.

Mr. Karpf said yes; with your permission we will accept the stay and come back in May. We'll do some investigation and talk about it then.

***Vice-Chairman Aglietti moved to hold this application over; seconded by Ms. McKeon with all in favor.***

9. Application of **FABIAN PANI** for a Variation of Section 156-20 seeking a Variance for permission to retain 6' fence in front. The property is located at 112 Stillwater Road, Mahopac NY and is known as Tax Map #75.17-1-52.

<b>Code Requires/Allows</b>	<b>Provided</b>	<b>Variance Required</b>
<b>4' fence in front yard</b>	<b>6'</b>	<b>2'</b>

- Mr. Fabian Pani (father) of 112 Stillwater Road was sworn in.
- Mr. Frank Pani (son) of 112 Stillwater Road was sworn in.

Chairman Maxwell asked how long has this fence been here?

Mr. Frank Pani said for a month.

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

Mr. Frank Pani said this is a tough night.

Vice-Chairman Aglietti said did you put this up yourself or did you hire somebody?

Mr. Frank Pani said we did it ourselves.

Mrs. Fabiano said do you realize that if you had moved it back to where the house starts, that you don't need a variance?

Mr. Carnazza said 20' is all it is.

Mrs. Fabiano said if you move your fence back to where the house starts, then you don't need a variance.

Mr. Balzano said could you move it back along the house line?

Mrs. Fabiano said for 6' high, it has to be along the house.

Chairman Maxwell said here's the front of your house. If this fence was back along that line of the house, you're good.

Mrs. Fabiano said you just push it back; then you don't need a variance. Right now, it's right on the road.

Mr. Fabian Pani said it's built already.

Vice-Chairman Aglietti said yes; but it's built incorrectly.

Mr. Balzano said that becomes self-created and that's a problem.

Mr. Fabian Pani said we did this because there's a lot of traffic and big trucks back into our area.

Chairman Maxwell said yes; you have a commercial property across the street. I get that.

Mr. Fabian Pani said it's all the time.

Chairman Maxwell said I can appreciate that and I'm sorry that maybe you didn't know better but this really should be back along that line. I think you might be able to do this easy enough. You just have to set new footings. You're basically taking that same section of fencing and just moving it back. You remove whatever portions on the returns on both sides but that whole front line can be brought back in line with the front of the house. If you guys did the work yourselves, it's less costly. It's not going to be as costly as hiring a fence company to do this.

Mr. Carnazza said and you can reutilize the pieces you have.

Mrs. Fabiano said it's too close to the road.

Mr. Carnazza said it looks like a move screen.

Mr. Starace said and then if you were coming out, you can't see the traffic. It's very dangerous.

Chairman Maxwell said and that's a high-speed road.

Mr. Starace said that would fit perfect back there. What is it; all grass?

Mr. Fabian Pani said yes; it's all grass.

Mr. Starace said there's no utilities out here; no septic?

Mr. Fabian Pani said no.

Vice-Chairman Aglietti said {to Mr. Carnazza} if the variance is not granted, how much time do they have to bring it into conformance?

Mr. Carnazza said they have to do it; immediately.

Chairman Maxwell said ultimately, you can cut this down to 4' and you'd comply with Code. I think for the reasons why you stated, you want this height fence to protect from noise barrier and traffic. If you brought it back, you can keep it at 6' as long as it's in line or behind the front of the house.

Mr. Starace said it has to be level with the front of the house.

Mr. Balzano said if you put it in front of the house, you're good.

*Mr. Fabiano Pani approached the dais so the Chairman could show him what they meant for bringing the fence in line with the front of the house.*

Chairman Maxwell said any fence that's in front of the front line of your structure (the house) has to be 4'. You have it at 6'. The fact that it's 6', you can either cut this down to 4' and leave it where it is OR if you want the privacy and noise barrier of 6', you can move this whole section back to here in line with the front of the house. You're going to lose some yard and it's going to break it up but you have to weigh your options: what's more important to you.

Vice-Chairman Aglietti said what I would suggest you do is hold this over for a month and in 30 days get it done. If we deny your variance, you're going to have to do it right away. This would buy you time.

Mr. Balzano said that gives you time.

Mrs. Fabiano said so come back next month. Decide to cut it or if you want to pull it back.

Mr. Starace said he has other options too if he wanted to – right? Say if he had a rock wall out there, couldn't he put a fence on top of the rock wall?

Mr. Carnazza said for a total height of 4'.

Mr. Starace said 4' for the fence.

Mr. Carnazza said 4' TOTAL height.

Mr. Balzano said the rock wall counts.

Mr. Starace said so if you had a rock wall, that would still count?

Mr. Balzano said yes.

Chairman Maxwell said some people berm it up and say I've got a 4' fence. No; its from your average grade.

Mrs. Fabiano said do you want to think about it?

Mr. Fabian Pani said we'll leave it at 6'.

Mrs. Fabiano said so you're going to move it back to the house.

Mr. Fabian Pani said yes.

Vice-Chairman Aglietti said alright then we're going to put this over until next month.

Chairman Maxwell said no. We could deny this and.....

Mr. Carnazza said why don't you just dismiss it without prejudice.

Mr. Balzano said yes; dismiss without prejudice.

Chairman Maxwell said sorry about this but do your research before you do a project. Call the Building Department. Anybody there can guide you.

Chairman Maxwell looked for any input from the public on this application.

➤ Mr. Robert Bohlmann of 96 Stillwater Road, Mahopac was sworn in.

Mr. Bohlmann stated I'm not sure I have anything else to add to this. I do have some concerns. The applicant has a commercial business. I remember when he first moved into the property. It was 11:00 at night. Traffic was blocked because he was backing a truck with a trailer into his driveway. Mr. Carnazza has already been to the property concerning parked commercial vehicles and equipment in the yard.

Vice-Chairman Aglietti said what about the fence?



Mr. Bohlmann said the fact that a current portion of the current fence is actually a gate leads me to believe that there may be traffic going in and out of that.....

Vice-Chairman Aglietti said I don't care about traffic. I care about the fence.

Mr. Bohlmann said I really don't have nothing else to add to that. My concern is what's going to be in the back yard there.

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

**Decision of the Board:**

***Vice-Chairman Aglietti moved to Dismiss without Prejudice; seconded by Ms. McKeon with all in favor.***

10. Application of **ROBERT SORENSEN** for a Variation of Section 156-20 seeking a Variance for permission to construct fence along front/side of corner lot. The property is located at 1 Fabbri Court, Mahopac NY and is known as Tax Map #75.13-1-22.

Code Requires/Allows	Provided	Variance Required
4' tall fence in front yard	6' fence along Rt. 6N	2' Fence Variance

- Mr. Robert Sorensen of 1 Fabbri Court, Mahopac was sworn in.

Mr. Sorensen stated you have the pictures; it's easier if I reference those. I'm looking for a 6' [fence] along Rt. 6N. Six pictures down, you can get an idea, from across the street looking at the property – where that car is – the fence would start down there and find its way all the way past the drywall on the last picture to the very end there.

Mr. Starace said so on top of the rock wall?

Mr. Sorensen said I've got a surveyor coming out. My property line basically goes out 10' back from the wall. It gets more narrow toward the far right where you're turning onto Fabbri. To be clear, this is not for sound barrier or for privacy. This is for safety. Cameron James is going to be 3 [years old] next month and he's almost 41" tall. I have another one due in July, and they're fast. This slopes down. You can see from picture three or four – that's from the back deck – it's about 25 yards to the street – downhill and he wanders. It's for safety; to be clear. It's a corner lot. So obviously, the side of my property is considered the front of my property. So, a 4' would do but considering his size and the cost of it, I figured requesting a variance would not hurt. That's why I'm here. To boot, it's Rt. 6N. I'm sure you know; that comes down and it rounds out. It's not a (XXXXXX) residential area. These are eighteen-wheelers with excavators on top of them getting transported, cement mixers, etc. I'm not worried about somebody jumping that wall. There's a big embankment. The drywall is there. It's to protect him from wandering down there. Grandma and Grandpa are too slow to catch him.

Chairman Maxwell said I get that. I respect your concerns but I think a 4' fence would stop a man or a woman from getting through it without having to hop or jump over it. [With] that fact, I don't

think you're right there about a child. It certainly would stop a child. Just in light of tonight and everything else that came in front of us, it's the fence frenzy. We've got to be fair in what we've done to the previous applications and to yours as well. Again; I respect your concerns and safety is always at the top of my mind. I'm the safety manager at my construction company so safety is always number one. I think it's a tough sell. It's a very long piece. I think a 4' fence would achieve the same outcome here.

Mr. Starace said that masonry retaining wall is up a couple of feet off the road from 6N – right?

Mr. Sorensen said it is.

Mr. Balzano said but is that on your property or is that in the right of way?

Mr. Sorensen said it's State property.

Mr. Balzano said that's the right of way.

Mr. Starace said so you'd start 10' in.

*Several discussions ensued between Board Members and applicant.*

Mr. Starace said it's the whole way – right?

Mr. Sorensen said it's 215 linear feet. It's from the far right to the far left it would stop; well before the corner.

Mrs. Fabiano said so it'd look like 8' when you include the 2' stone wall and then the 6' would look like 8' which would really be intrusive.

Mr. Sorensen said from 6N, I'm not quite sure. I can't answer that. The issue is not somebody coming up over the wall. It's him getting down off the wall; where there's a will, there's a way. Again; it's not up yet.

Vice-Chairman Aglietti said we appreciate that.

Mrs. Fabiano said {to Mike Carnazza} if he wanted to put in a 6' fence, where would he have to go?

Chairman Maxwell said he's got a corner lot.

Mrs. Fabiano said so he's got two fronts.

Mr. Carnazza said do you mean where is he allowed?

Mrs. Fabiano said yes.

Mr. Carnazza said I showed him that little triangle in the back. It's very small.

Mr. Starace said it's behind his house into the corner of his house.

Mr. Carnazza said the shape of his lot made it even more difficult.

Mr. Sorensen said I had inquired with Campanella [Fence] and a number of others. They had suggested I could go from the far right down until basically the back of the house 6' and then 4'. Then I spoke with Mr. Carnazza and he said no; it's 4' pretty much the whole way. I'm glad I didn't because the last thing I want to do is waste money. It's \$14K. It's a long haul. Again; it's for safety.

Vice-Chairman Aglietti said we understand.

Mr. Sorensen said people throw their stuff onto the embankment and the lawn but I could care less about that stuff. I'll pick it up. It's for stopping the kids from going down there.

Chairman Maxwell said I don't know if there's any other solution. You can build a stone wall but you're talking \$20-\$30K.

Mr. Carnazza said and it can only be 4' tall, and stone walls are climbable.

Chairman Maxwell said chain link would be a lot cheaper but it could only be 4'.

Mr. Sorensen said and I can't do a 2' and a 4' – right?

Multiple Board Members said no.

Mr. Sorensen said it's a nice piece of property. I cleaned it up nicely. It's just wide open to 6N.

Mrs. Fabiano said yes; it's a bad spot.

Mr. Sorensen said I've lived there for a year. I'm here to stay but there's been three accidents: two motorists and a motorcycle since I've lived there last year. The shed's down there. The balls are traveling down so he's running around.

Mr. Carnazza said what about a 4' fence and some trees.

Mr. Sorensen said with trees, there's irrigation. I've got to get the water down there. The expense of it.

Mr. Carnazza said just trying to help you.

Mr. Sorensen said I hear you. I went that route and talked with.....

Chairman Maxwell said that's why I said a black chain link fence blends in with everything and then you put some evergreens along it. You don't need to water evergreens. They'll seek their own water. It's something to consider.

Mr. Sorensen said it is.

Chairman Maxwell said it's a tough one. I'm sorry we can't help. I don't think we're geared toward letting this fly tonight.

Mr. Starace said you have a pool there? Is that actually installed?

Mr. Sorensen said it's gone. That was taken out before the builder re-did it. Believe it or not the 4' fence is actually more expensive than a 6' because they make the 6' in mass production.

Mr. Balzano said I was going to say it has to do with production.

Mr. Sorensen said I don't care about the expense honestly. It's just the [safety].

Chairman Maxwell said alright. Do you guys have any other questions or concerns and then asked the public if there was any input on this application of which there was none.

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

**Decision of the Board:**

***Vice-Chairman Aglietti moved to Dismiss without Prejudice this application; seconded by Mr. Balzano with all in favor.***

## **MISCELLANEOUS:**

**MINUTES:**

- **February 23, 2023: Mr. Balzano moved to accept minutes from February 23rd as written; seconded by Ms. McKeon with all in favor.**
- **March 23, 2023: Vice-Chairman moved to accept minutes from March 23<sup>rd</sup> as written; seconded by Ms. McKeon with all in favor.**

Mr. Balzano moved to adjourn the meeting; seconded by Ms. McKeon with all in favor.

By Order of the Chairman,

John Maxwell