

**APPROVED**

**JOHN MAXWELL**  
*Chairman*

**TOWN OF CARMEL**  
**ZONING BOARD OF APPEALS**

**MICHAEL CARNAZZA**  
*Director of Code Enforcement*

**PHILIP AGLIETTI**  
*Vice-Chairman*



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**BOARD MEMBERS**  
**ROSE FABIANO**  
**SILVIO BALZANO**  
**JOHN STARACE**  
**JULIE MCKEON**  
**WILLIAM SANTINI**

**ZONING BOARD OF APPEALS MINUTES**

**NOVEMBER 2, 2023**

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

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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>
Liz & Pat Martin	74.12-2-56	1	Dismissed without Prejudice
Robert Altero	53.12-1-17	1	Held Over
Frank Giordano	55.6-1-68	1-6	Requested Variance Granted
Bore Cotaj	76.30-1-5	6-17	Held Over
Christopher McBride	44.14-1-85	17-18	Requested Variance Granted
Richard & Pamela Stanley	64.19-1-60	18-19	Requested Variance Granted
Patrick Kohlman	87.9-1-33	19-22	Held Over
Alex Malichek	53.-1-50	22-23	Requested Variance Granted
Jason Shott	54.9-1-29	24	Requested Variance Granted
Joseph Caruso	75.17-1-16	24-26	Requested Variance Granted
Antonio & Beth Reale	74.12-1-3	26-27	Requested Variance Granted
Alison & Daniel Brown	64.19-1-62	27-28	Requested Variance Granted
Brian Kelly	53.-1-59.-13	28-29	Requested Variance Granted
Warren & Angela Messner	76.5-1-28	29-36	Requested Variance Granted
William Wezenecker	77.19-1-11	36-37	Requested Variance Granted

Minutes: August 31, 2023 37 Approved as Written  
September 28, 2023 Approved as Written

Negative declaration & Approval of stipulation & settlement of consent order New York SMSA Partnership et al. v. Town of Carmel 19-cv-10793 37-38

The meeting was adjourned at 9:41 p.m.

Respectfully submitted, Dawn M. Andren

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**HOLD OVER APPLICATIONS:**

1. Application of **LIZ & PAT MARTIN** for a Variation of Section 156-15 seeking a Variance for permission to relocate accessory apartment (no setback variance needed). The property is located at 151 Secor Road, Mahopac NY and is known as Tax Map #74.12-2-56.

<b>Code Requires/Allows</b>	<b>Provided</b>	<b>Variance Required</b>
<b>Single Family House w/accessory apt can be detached if existing prior to 1998.</b>	<b>Separate cottage as an accessory apartment being relocated</b>	<b>To relocate accessory apt./cottage, therefore, not existing prior to 1998.</b>

***Mr. Balzano moved to dismiss this application without prejudice; seconded by Mrs. Fabiano with all in favor.***

2. Application of **ROBERT ALTERO** for a Variation of Section 156-15 seeking a Variance for permission to retain gazebo and legalize room above garage. The property is located at 3 Curry Spur, Mahopac NY and is known as Tax Map #53.12-1-17

<b>Code Requires/Allows</b>	<b>Provided</b>	<b>Variance Required</b>
10' rear (gazebo)	2'	8'
25' front (garage)	0' (over property line. Easement agreement needed.)	25'

Chairman Maxwell indicated that this application had requested another holdover.

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

3. Application of **FRANK GIORDANO** for an Interpretation of Section 156-15. Applicant seeks Interpretation that the apartment above garage is legally pre-dated, or in the alternative, a Use Variance to permit same to continue. The property is located at 23 Seminary Hill Road, Carmel NY and is known as Tax Map #55.6-1-68.

- Mr. Francis Giordano of 18 Partridge Lane, Putnam Valley was sworn in.
- Mr. Frank Smith, Esq. of Shilling & Smith Law Office representing the applicant appeared before the Board.

Mr. Smith stated the property in question is 23 Seminary Hill Road, Carmel NY. It is known as tax map #55.6-1-68. The property consists of ¼ acre; improved with a two-family dwelling and a free-standing garage with an upstairs apartment. It is located in the Town's commercial zoning district. The relief we're requesting this evening is an Interpretation that the apartment above the garage was legally pre-dated or, in the alternative, a Use Variance to permit the apartment. In support of the application, prior to this meeting, we'd submitted a completed Zoning Board of Appeals application,

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a Memorandum of Law, a client affidavit in support, an affidavit from Peter Coppola in support, an affidavit from Dawn Pinkney in support, a letter from the owner of 25 and 27 Seminary Hill Road and 2 Church Street in support of the application, a Profit & Loss statement which I've provided the Board with a revised copy today and other various supporting documents. A brief history: Mr. Giordano purchased the property in 2016. At the time of purchase, the property was represented as a legal two-family along with a legal apartment above the garage. The applicant discovered that the apartment above the garage was illegal prior to the closing. However, at that time, counsel suggested it was possible to legalize due to the surrounding neighborhood. The garage apartment has had a tenant since time of purchase in 2016. The history of the property pre-dates Mr. Giordano's purchase. Town assessment records indicate that the primary structure was built in 1888. Assessment records further indicate that the garage apartment was recognized in 1960. A former tenant, Dawn Pinkney, rented from the Grioli family. The Grioli family owned the property between 1973 and 20016. In her sworn affidavit, she attests that the apartment existed prior to 1955. Additionally, a nephew of the Griolis, Mr. Peter Coppola, attests that the garage existed prior to 1955 by a sworn affidavit as well. Mr. Coppola also represented the Griolis before the Carmel Zoning Board in 1978. At that time, he sought to legalize the apartment and, through his affidavit, attest that the apartment was in existence and he was merely attempting to legalize what was already there. I think it's important to note that the 1978 application was denied due to dimensional deficiencies of the lot and not for reasons related to its use. The property is also serviced by municipal water and municipal sewer which can accommodate the additional unit. Mr. Giordano has had open communications with Mr. Carnazza related to legalizing the apartment. Hence our appearance here this evening. The first form of relief requested tonight is for the Board to use its interpretive powers to interpret that the apartment above the garage is a legally pre-dated use. As the Board is aware, it is getting more difficult to prove whether a use was predated being the Code being enacted more than sixty years ago. With that said, there's a number of items offered in support of the apartment being predated. First is the Town's assessment card which reads "garage with upstairs apartment" beginning in 1960. A lot of times, and as we know, the tax assessor office does not begin assessing a certain property for a certain item until that item is discovered, whether it's a shed, a deck, a finished basement, etc. In this instance, the assessment card showing 1960 can be used as evidence of the apartment being discovered and it is likely that it existed prior to this. Next are the two sworn affidavits that were previously mentioned. The first sworn affidavit is by Mr. Peter Coppola. Mr. Coppola was a nephew to the predecessors in title and he states, under oath, that the apartment existed prior to 1955. Mr. Coppola attempted to legalize the apartment in 1978. His affidavit also states that the apartment was in existence in 1978 and he was seeking to legalize what was already there. Again, I believe it's important to note that the 1978 denial was based on dimensional deficiencies and not use. Further, there is a second sworn affidavit from a former tenant named Dawn Pinkney. Ms. Pinkney lived there roughly ten years. During her tenancy, she became friendly with the Griolis – the predecessors in title. Ms. Pinkney swears that she was told that the apartment existed prior to 1955. The record reflects that the Town has recognized the garage apartment since 1960 and two sworn affidavits state the apartment to pre-1955. In addition, the property owner of three surrounding properties: 25 & 27 along with 2 Church Street support the application. Based on the foregoing, I respectfully request that the Board interpret that the garage above the apartment was legally predated. If the Board does not interpret that the apartment was predated, I respectfully request that a Use Variance be granted to permit it's continued use. As the Board is aware, a Use Variance has four criteria that must be met in order to be granted. Additionally, this is not a true Use Variance in the sense of proposing a use that is inconsistent with the zone; it is a residential use. First, the property cannot yield a reasonable return. Second, the plight of the owner is due to unique circumstances. Third, if granted, the Use will not alter the essential character of the neighborhood. Fourth, the hardship was not self-created. For the following reasons, I respectfully contend that the applicant satisfies the Use Variance criteria. 1) the applicant cannot yield a reasonable return. Earlier in the evening, I provided the Board with an updated profit & loss statement. The applicant shows year-to-date (YTD) expenses of \$54,019.61.

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The applicant further shows that YTD income is \$42,000. This represents a YTD loss of \$12,019.61. Therefore, I argue that the applicant cannot yield a reasonable return without the issuance of the variance. 2) is the plight to the owner due to unique circumstances. In this instance, I argue that the circumstance is unique. The primary building has been in existence since 1888. Additionally, a number of affidavits state that the apartment existed prior to 1955. The Town's assessment records indicate that the apartment was recognized as of 1960. We can also see a series of continued use as an apartment during that duration of time. Additionally, although incorrect, the applicant was led to believe that the apartment above the garage was legal. Based upon this information, I argue that the circumstances are unique. Next is, if granted, whether there'd be a negative impact to the surrounding neighborhood. In this case, there would not. This area of Town is home to a number of multi-family dwellings, mixed-use dwellings; many in existence for many decades. Additionally, affidavits in support date the use prior to 1955. There's been continuous use as an apartment without interruption. Because of this, if granted, there would be no adverse change to the surrounding neighborhood. Lastly, is whether the hardship was self-created. In this instance, it was not. As previously mentioned, the premises was represented as a legal apartment above the garage. The MLS Listing stated "great investment opportunity; turnkey and collect rent. Large Victorian two-family house with detached three car garage with LEGAL accessory apartment." The applicant did not create the apartment above the garage and, at the time of purchase, it was occupied by a tenant. Therefore, I argue that the hardship was not self-created.

Chairman Maxwell said what year was that advertisement?

Mr. Smith stated 2016.

Chairman Maxwell said just a quick question; is this a signature on this affidavit from Pickney?

Vice-Chairman Aglietti said it's a copy. It's an S-signature. It's not the original so do you have the original with the signature of the notary?

Mr. Smith said I would have to double check. A conformed copy was presented?

Vice-Chairman Aglietti said yes. You can see it from there.

Mr. Smith said I can dig through my file and see if I have that copy with me. If not, I would respectfully request that I be able to provide it to the Board after tonight if possible.

Chairman Maxwell said we'll give you a chance to look.

Mr. Smith said my recollection is that Ms. Pickney is out of state. I could be wrong. I think she's in Pennsylvania. I believe it was emailed to me but I can certainly double check and provide you with that full copy.

Chairman Maxwell said what was the reason, in '78, why the owner was looking to legalize it?

Mr. Smith said it was in existence then. My understanding is that they had tried to change the use to some kind of ceramic retail store which didn't happen. They, then, sought to legalize the apartment that was there. At that time, that apartment was a legal use but the decision was related to a dimensional deficiency of the lot itself. I would have much preferred to argue under that standard.

Chairman Maxwell said they prompted it or was it discovered by Town Officials?

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Mr. Smith said that's a good question. I would have to double-check the Decision & Order from the ZBA if it was referred or a straight application. It's a straight application – correct?

Mr. Balzano said yes; that's what it looks like.

Mr. Smith said so, in conclusion Mr. Chairman, we would respectfully request the Board use its interpretive powers but in the alternative, we would request a Use Variance. Myself and Mr. Giordano are open for any additional questions.

*Chairman Maxwell opened up the application to the Board Members.*

Mr. Starace said this application has photos in the back. I'm curious; when were these photos taken?

Mr. Giordano said that photo was recently.

Mr. Starace said within the last couple of months?

Mr. Giordano said that's correct.

Mr. Starace said and that is a 3-car garage?

Mr. Giordano said that's correct.

Mr. Starace said so behind that door, there's a room?

Mr. Giordano said correct. My understanding is that the previous owners put in a door there but there was a third garage door there at one point in time.

Mr. Starace said and just out of your recollection, on your P&L statement, you have over \$12,000 in repairs. What did you do to the garage?

Mr. Giordano said to the garage itself, there were no repairs done. That's just all the repairs including the buildings. Actually; that's not correct. In January of this year, the pipe froze and so I had to hire a plumber who came in and he did a heat blasting on the pipe that was coming in.

Mr. Starace said the heat comes from the house?

Mr. Giordano said the heat comes over from the house. It's electric heat.

Mrs. Fabiano said it said there was a significant loss in 2022. What was that?

Mr. Giordano said there were a couple of factors related to this significant loss. One, actually, was related to the garage in which there was an issue with the pipe and we had to install a whole system, for lack of a better term, where they encased the plumbing that was coming into the house because that pipe had frozen in the prior year as well. I'm not sure why it froze this year again but they basically built an encasement. They put a whole bunch of insulation over the piping coming into the house. They installed an electrical baseboard heat to provide additional heat to the piping to prevent it from freezing. They also had to cut and do a number of new pipework to prevent the issue. So, there was electrical work, plumbing work, parts and labor. So, that was a significant portion of the loss.

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Mrs. Fabiano said so you did a lot of work but you didn't put a garage door in? What's the plan?

Mr. Giordano said that is the next thing I will do and in full candor, the reason why I haven't done anything related to the garage is because of the matter at hand. I wanted to wait for the decision to make next steps. The plan is absolutely to put a new door. I do not like the way it looks and it's something that we want to rectify.

Mrs. Fabiano said (to Mike Carnazza) have you been in the building?

Mr. Carnazza said I think I was in the night of a fire? Was that the house with the fire?

Mr. Giordano said so the back apartment, I don't know if that's what you're referring to, but yes, you were in the building.

Mr. Carnazza said the night of the fire I was out there and Joe's (Wilichoski) been there every year for the past 'x amount' of years.

Mrs. Fabiano said I was just wondering if there's anything in the building that would help you predate it before 1960 or 1955? Is there anything in there that would help you?

Mr. Carnazza said there was nothing that I saw when I was there but it was hard to tell. We were in and out; running around with the fire department. It's kind of hard to (inaudible) that time. I didn't notice anything that was obvious but I wasn't really looking for it at that time.

Mrs. Fabiano said okay; thank you.

Mr. Balzano said for clarity; this is a residential property in a commercial zone. So, you already have a pre-existing, non-conforming use that goes way back before 1955 apparently.

Chairman Maxwell said this is something that's not out of character.

Mr. Balzano said it's not out of character for that neighborhood at all.

Mr. Carnazza said the biggest issue we have is it was denied at Zoning once before so that's basically where we were getting hung up.

Chairman Maxwell said I think you've provided the back-ups and the affidavits that helps to attest to yourself.

Mrs. Fabiano said and it was in 1978. That was a long time ago. A lot has changed in zoning since '78.

Mr. Balzano said that's true.

Chairman Maxwell opened up this application to the public for any comments, input of which there were none.

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

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**Decision of the Board:**

***Vice-Chairman Aglietti moved to grant an Interpretation that the apartment above the garage is legally pre-dated; seconded by Mr. Starace.***

***Chairman Maxwell said I believe that the counsel provided the proper documentation; the hardship and the affidavits of real-life people that actually lived there and were familiar with the property.***

***Mr. Balzano said the only concern that I have is the zoning decision that was made against it, sort of, made it illegal. I agree with everything else until that one decision was in the file, and then I wasn't sure if I could do this Interpretation.***

***Mr. Starace said that was a 1978 Interpretation.***

***Chairman Maxwell said understand that things change over time and Boards change. I'm the longest running one here but prior to me, there were.....***

***Mr. Balzano said sure but in my mind, that made it invalid. That's just me; I'm one Board Member. I could sit here and (inaudible) the Use Variances, trust me, but for me, I can't agree to the Interpretation because of that break.***

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

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

***The motion carries.***

- Application of **BORE COTAJ** for an Interpretation of Section 156-15. Applicant owns the parcel upon which the temporary dock is located and a parcel improved by at least one residential dwelling unit which is directly across the street but separated by a road (i.e. East Lake Blvd.). Applicant seeks an Interpretation that the intent of the statute (i.e. a dock when not located on a parcel improved by at least one residential unit) is met under the circumstances set forth herein or, in the alternative, the following area variances (table below). The property is located at 148 East Lake Blvd., Mahopac NY and is known as Tax Map #76.30-1-5.

<b>Code Requires/Allows</b>	<b>Provided</b>	<b>Variance Required</b>
<b>Dock:</b>		
<b>Lake frontage 50'</b>	<b>6'</b>	<b>44'</b>

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<b>Minimum Depth 30'</b>	<b>4'</b>	<b>26'</b>
<b>Minimum Area 3000</b>	<b>96</b>	<b>2904</b>

- Mr. Gjovalin Cotaj (son to Mr. Vieko Cotaj & Mrs. Bore Cotaj) was sworn in.
- Mr. Frank Smith, Esq. of Shilling & Smith Law Office representing the applicant appeared before the Board.

Mr. Frank Smith said in preparation for this evening, I did want to bring it to your attention that the dimensions that were noticed are incorrect. Those dimensions are actually for the proposed dock and not the lot, itself, which we are seeking the variances on. So, it turns out that the variances are actually lesser, and one of them, we do not need. The other two become smaller. So, I would respectfully request that I be able to modify the application tonight. If you would like it to be done in written form, I can certainly do so. I would like to present the Interpretation if possible.

Chairman Maxwell said (to Greg Folchetti, Esq.) we've done that before in the past.

Mr. Carnazza said as long as it's less, you can do it.

Chairman Maxwell said so you know the numbers?

Mr. Smith said yes.

Chairman Maxwell said just so that the public understands, it was what was advertised but we're going to lesser variances being sought so it's typically okay.

Mr. Carnazza said your provided will be more than what you were on the application.

Mr. Smith said Mr. Chairman, whenever you're ready, I can go through each one; frontage, depth, and then square footage.

Chairman Maxwell instructed Mr. Smith to come up and write in on the application the adjustments.

Mr. Smith said lake frontage required is 50', provided is 6.25' requiring a variance of 43.75'. Minimum depth is 30'. The depth of the property on the left side is 45.18' and on the right side is 44.44'; when averaged, the mean lot depth is 44.81', and therefore, greater than the required 30' for a variance is not necessary. Lastly; minimum area is 3,000 sf; provided is 280 sf, requiring a variance of 2,720 sf.

Mr. Smith said for clarity: the dimensions that were provided in the application were the dimensions of the dock itself that is proposed. So, assuming my client prevails tonight, he still needs to apply for the dock permit with Mr. Carnazza and then, from there, a determination can be made whether or not the dock is permitted. Tonight is just about the lot size.

Mr. Carnazza said that is incorrect but we'll talk after.

Chairman Maxwell said so there is no dock out there now. I was out there four months ago and it was floating from all the high water.

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Mr. Smith said it's a temporary dock. Is it currently in existence or is it out of the water (to Mr. Cotaj)?

Mr. Cotaj said we took out whatever was floating.

Chairman Maxwell said because it wasn't affixed to anything and the water was high and there was a risk of it going out and boats hitting it or whatever.

Mr. Cotaj said we took it out; yes.

Mr. Smith said I'd like to start from the top and try to be as brief as possible. As the Board is aware, the property is known as tax map #76.30-1-5. It is an undeveloped lot that is roughly 6.25 feet wide and roughly 45 feet long. The relief requested this evening – first is for the Board to use its interpretive powers to interpret section 156-27 of the Town Code. That Code section states that “a private dock, when not located on a parcel improved by at least one residential dwelling unit, shall require a minimum lake frontage of at least 50’, a minimum mean depth of at least 30’ and a minimum area of at least 3,000 square feet. In this case, the parcel in question, although not improved, is bound by deed to a parcel that is improved and merely separated by East Lake Blvd. This is not a standalone lot and the single deed includes four tax parcels. Therefore, I am asking the Board to interpret that, in this instance, the parcel is improved for purposes of the statute. Should the Board reject this interpretation, I will seek area variances for the Lake frontage – now not depth and the minimum area. So, again, frontage required is 50’. The applicant provides 6.25’ requiring a variance of 43.75’. As previously mentioned, lot depth is greater than 30’ and, therefore, a variance is not required. Lastly, the Code requires minimum area to be 3,000 square feet. The applicant provides 280 square feet seeking a variance of 2,720 square feet. Prior to the hearing, in support of the application, my office submitted a completed ZBA application, a survey of the parcel, photographs, an affidavit from realtor Gary Margolis who states that the loss of the dock would result in an \$80K-\$100K devaluation, and a letter of no objection from Mr. Benjamin Jung of Lake Mahopac Condominiums. A brief history: the parcel in question is one of four parcels contained in one deed. The two lakefront parcels are known as 76.30-1-5 & 76.30-1-7. The third parcel is known as 76.30-1-20 and the fourth parcel, which is improved by a residence, is known as 143 East Lake Blvd., The parcel has been in the family since 2010 but has been owned by the applicant and her husband since 2017. I'm joined by their son this evening. Since then, the subject parcel has been used as a dock without interruption. Obviously it was interrupted during the pendency of this application and presentation. The purpose in acquiring the property was to ensure access to the Lake and use of the dock. The applicant believed that since there was a single-family residence across the street, the dock use would be permitted. Again, the lakefront lots were conveyed together with the residential home in one single deed. The Interpretation is section 156-27. As previously mentioned, and as the Code states, a private dock, when not located on a parcel improved by at least one residential dwelling unit, shall require minimum lake frontage of at least 50’, a minimum mean depth of 30’ and a minimum area of at least 3,000 square feet. It appears clear that the spirit of the statute was to impose minimum dimensional requirements for standalone lake front lots that are unimproved. This is not the situation here. In this instance, the lakefront lot in question is deeded with a single-family residence located at 143 East Lake Blvd. If the road did not intersect, the dock lots and improved lots would be contiguous. The Town has a valid concern in regulating the standalone lots. The applicant and I recognize and fully appreciate that. As such, the applicant would propose a condition to the approval that the lakefront lots never be separated and always conveyed with the single-family residence located on East Lake Blvd. For the proceeding reasons, I respectfully request that this Interpretation be granted. If the Board rejects the argument for Interpretation, I respectfully request that area variances be granted related to the lake frontage and minimum area. As the Board is aware, there are five criteria when considering an area variance. First, and most important, is whether granting the variance would result in a negative impact to the

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neighborhood. Second; whether the need for variance can be obviated. Third; whether the variance is substantial. Fourth; whether granting the variance would result in an adverse environmental impact to the neighborhood. Lastly; whether the difficulty was self-created. For the following reasons, I argue that the applicant meets the criteria and the variances should be granted in all respects. First, is whether there would be an adverse change to the neighborhood. In this case, there would not. This area of the Lake is home to a number of small lots that provide lakefront access. Additionally, neighbors to the north include the local VFW Post and a commercial establishment that provides for the docking of boats to utilize a restaurant. In addition, the lot has been used for a dock and a boat since, at least, 2017. Should the Board grant the variance, there would be no adverse change to the neighborhood. Second is whether the need for variance can be obviated. In this case, it cannot. This is a unique series of parcels if you've taken a peek at the survey, tax maps and gone to the site. The applicant owns the parcel in question which is contiguous to a parcel owned by the Lake Mahopac Condominiums. There is then a stockade fence and on the other side of the fence, is a similar lot owned by the applicant which is contiguous to another similar lot owned by the Condominium. The applicant has tried, on numerous occasions, to swap the lots, so that the applicant's lots would be next to each other with two and the condominium would have two next to each other instead of it being back and forth. Unfortunately, that request was denied. That is also the letter that was submitted by Mr. Benjamin Jung with no opposition to the proposed use. Due to this, there is no other way to achieve the desired outcome other than the variance. Therefore, it cannot be obviated. Third is whether the variance is substantial. In this instance, the variances requested are large. However, they seek to legalize what has been in existence for nearly 10 years. For this reason, I argue that they are not substantial. In addition, the lots are deeded with the single-family residence. Much like in our request for Interpretation, the applicant would commit to a condition of approval that the lots never be separated and always be conveyed with the single-family residence on East Lake Blvd. Fourth is whether granting the variance would cause an adverse change to the surrounding environment. In this case, I argue it would not. As previously mentioned, the lot has been utilized for the proposed use for a number of years. It's also located next to a commercial establishment. I respectfully argue that if granted, there would be no adverse impact to the environment. Lastly, is whether the hardship is self-created. In this case, it wasn't. The lot has been family ownership since 2010, and at that time, the lakefront lots were the current size. The applicant did not create the lots. He merely purchased them and is seeking to legalize them through this Board tonight. For this reason, I argue that the hardship was not self-created. In conclusion, I respectfully request that the Board utilize its interpretive powers to determine that the lot in question is improved for purposes for the statute. If the Board does not reach this conclusion, then based upon the foregoing, I contend that the applicant meets the area variance requirements and respectfully request that the variances be granted in all respects. Thank you for the opportunity to present. We are available for any questions.

Chairman Maxwell said how long has the dock that was there, there – 10 years?

Mr. Smith said the dock has been there since at least 2017.

Chairman Maxwell said is there any reason why it can't be located on the other side of the property? Is it because of the two different ownerships?

Mr. Smith said I'm sure you're looking at a photograph which shows a residence to the left and then a stockade fence to the right?

Chairman Maxwell said yes. That's my main concern looking at this right now. It's right up against the residence which there should be some space in between.

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Mr. Smith said the residence is up against the property line as well.

Chairman Maxwell said as far as I know, that house has been there much longer than 10 years.

Mr. Smith said I'm sure that's the case.

Chairman Maxwell said roughly, where would the property line be between the two lots?

Mr. Smith said right about where you are pointing. There's actually a better photograph that should be in there. It shows the fence.....that's the one.....right there. From the residence on the left, to that fence are the two lots that are roughly 6.25' across.

Mr. Starace said so that's 12.5' feet from here to here.

Mr. Smith said approximately; yes. You can see on the survey and the site plan that Paul Lynch had prepared that the fence does waver a little bit. It does not adhere strictly to that lot line but that is the width – from the residence on the left to the stockade on the right. On the other side of the stockade, it's the same situation. The applicant owns the first roughly 6' wide lot and the Condo owns the next. Then it's the VFW and then it's the restaurant.

Mr. Carnazza said is there a reason why you can't come to an agreement to swap lots and get two together?

Mr. Smith said that's what I had mentioned earlier. We've requested, a number of times. We've worked with Mr. Jung for a long time. We've asked him. I think it makes a heck of a lot of sense to put the two lots together as opposed to the checkerboard but that request has been denied.

Mr. Carnazza said do they own more land further on?

Mr. Smith said no. It's just those four lots in between the residence and the VFW. It's Cotaj, Condo, Cotaj, Condo. I have a small photo. I don't mind passing it to the Board. This just shows where the residential lot is and then it shows the pattern here. I think it's illustrative if you want to pass it.

Chairman Maxwell said so it's four lots; two are owned by one owner and two are owned by the other owner.

Mr. Smith said correct.

Mr. Carnazza said and checkerboarded.

Chairman Maxwell said did he give a reason for not wanting to swap?

Mr. Smith said no. We've asked and I wish I had a better answer.

Chairman Maxwell said how did this come up? Were you guys cited?

Mr. Carnazza said yes. Denis (Marousek) wrote a N.O.V. for building the dock I believe – right?

Mr. Smith said yes. This goes back many years.

Chairman Maxwell said there's no property that you can buy?

## **APPROVED**

Mr. Smith said no. You'll see in Mr. Jung's letter that he talks about not interfering with the Condo's beachfront lot. Just for purposes of full clarity, that lot is to the north of the restaurant. I know it gets confusing because you have the water club on the corner which has their beach across the street but then further up is Lake Mahopac Condominiums which is more so adjacent to the restaurant and then if you're looking at the restaurant, to the right of that is where their beach and boat access is located.

Mr. Starace said I was out there. I was looking at it and your dock that's existing is how wide?

Mr. Smith said it's 4'. A lot of this came about because my client wanted to put a brand-new dock in that's obviously in much better condition than the one that's there. That new dock is going to be a 4' flat dock.

Mr. Starace said so he wants to keep a boat there too – right?

Mr. Smith said only the applicant wants to keep a boat there.

Chairman Maxwell said so right now, the dock is on the further, south most, closer to Town side?

Mr. Smith said correct.

Chairman Maxwell said so could the dock not be located on the middle section further away from the residence that's there?

Mr. Smith said meaning what would be the third lot?

Mr. Starace said you'd put it right here. Your boat would be between the house and the dock.

Chairman Maxwell said so here's the Lake. The lot where the dock is now is connected to the southern most piece. The next piece, going north, is owned by the Condo Association. The next piece, the 3<sup>rd</sup> piece of the 4 which is highlighted here, is owned by them – correct? So, why could you not put the dock finger off of that component getting you away from the residence and getting you away from the VFW?

Mr. Cotaj said I just want to add that we should have taken a picture in the summer. On the right side, the VFW usually puts their jet skis and boats on the corner so it's blocking access if we had a boat to come in there.

Chairman Maxwell said it's far enough away. I know the Lake very well. You can still get boat access into there. I've been boating this Lake my whole life. You could pull a boat in there with no problem.

Mr. Carnazza said how wide is the boat?

Mr. Cotaj said it's a pontoon.

Mr. Smith said I don't know if there are any structural reasons. I've seen instances where there is shallower water and things like that but I don't know that.

Chairman Maxwell said it's not going to be a problem there. There's not going to be any jutting out structures. You would know it and it would be obvious.

## **APPROVED**

Mrs. Fabiano said do they already have a dock on lot 3?

Mr. Smith said no. The dock has been existing on that first lot since the applicant purchased.

Mrs. Fabiano said but what about that third lot? Is there already a dock there?

Mr. Smith said there's no dock on the third lot.

Chairman Maxwell said these pictures are from this summer. There's nothing there. We had some bad rains when the application came through and this dock was floating so he just stated that there's nothing there now currently – correct?

Mr. Starace said that's in the water. I just took that yesterday.

Chairman Maxwell said that wasn't there when this application first came out. There was a dock floating loose.

Mr. Cotaj said it was one of the panels – the walkway – the top part of it. It was floating.

Mr. Starace said so the panels go on top of the structure. That's what was floating around.

Chairman Maxwell said this was trapped here when this application first came through. It was about a 5' x 4' piece of dock that was floating there. Again; we had some high waters and rains that flooded the whole lakeside itself. So, this must be new – since that point. When was that picture taken John (Starace)?

Mr. Starace said yesterday.

Mr. Smith said my understanding is that same dock has been in existence this entire time. Is that correct (to Mr. Cotaj)?

Mr. Cotaj said yes. I'm trying to find a picture of it.

Mr. Starace said that's the dock that I just took the picture of.

Mr. Smith said the difference is the photo that Mr. Starace has shows no paneling onto the top.

Chairman Maxwell said I see that but I'm telling you what I saw when I was there.

Mrs. Fabiano said prior to 2010, I know your family didn't own it but was there a dock there?

Mr. Smith said I don't know prior to 2010.

Mrs. Fabiano said when your parents bought the house, was there a dock already existing?

Mr. Smith said when they bought the house, yes. (To Mr. Cotaj) In 2010, your Dad and your uncle owned the property. So, 2010, I was a senior in high school and I don't want to guess at how old my friend standing next to me was. I know that since, at least, 2017, that dock has been there? I can find out.

Mr. Balzano said I think that goes a long way. That was the same question that I had in my mind. They bought it with that dock there and that sort of changes the math up here a little bit.

**APPROVED**

Mrs. Fabiano said and the reason why this is coming up is because he wants to make it wider. If he keeps it at the 3' wide, do we have to deal with this at all or deal with it regardless.

Mr. Smith said I think, regardless, if it's 3' or 4' and if it's this lot or the other lot, I think I'm seeking the same relief.

Mrs. Fabiano said if you're just replacing something with the same exact thing.....

Mr. Balzano said provided it's pre-existing.

Mr. Smith said providing it would be a pre-existing, non-conforming structure.

Mrs. Fabiano said if it was 1980 and you're just replacing it. Is there just one boat being docked?

Mr. Cotaj said yes.

Mrs. Fabiano said the house across the street. Is that an investment property or does someone in the family live there?

Mr. Cotaj said right now, we're renting out but we did live there.

Mrs. Fabiano said it is a rental property.

Mr. Cotaj said yes.

*Discussions ensued about the size of the pontoon, VFW boats and enough room to maneuver.*

Chairman Maxwell said it's hard to tell from this picture but this fence line - these boats cannot be in the property line if you extended out into the Lake. Those boats cannot be in that way. So, knowing the VFW, they wouldn't do that and you can't tell from this picture but go out and look at it.

Mr. Smith said I agree. I think it's tough from that angle to see exactly, when looking at the line itself.....

Chairman Maxwell said don't let the picture fool you. Good questions Rose.

Vice-Chairman Aglietti said (to Mike C or Greg F) is there a distinction between lot and parcel? I'm looking at the definition of lot and it says a parcel of land but this application, section 156-27, says but not located on a parcel improved.....

Mr. Carnazza said not every parcel is a lot but every lot is a parcel. So, a lot on a subdivision is a lot. A parcel of land is all other pieces of land that have not been chopped or were chopped back in the deed days. It depends on how it was done.

Mrs. Fabiano said that dock that you have now - that's only been in existence since 2017? When was that dock built; the current one?

Mr. Cotaj said I guess in 2017.

Vice-Chairman Aglietti said are you objecting to moving it over?

## **APPROVED**

Mr. Smith said I don't think that we object. I think we need to determine feasibility.

Vice-Chairman Aglietti said do you want to hold this over so that you can figure it out?

Mr. Smith said I was going to request so. There's a number of questions that the Board has asked. I think better photographs would help; maybe aerial photos showing the lines. Even when you go on Google Maps on your phone versus the computer, it's two different times of the year. One shows all of the boats in the area. I think that would be helpful.

Vice-Chairman Aglietti said that'd be great.

Chairman Maxwell opened this application up to the public for comments, questions and/or input.

- Mr. Michael Barile of 336 West Lake Blvd. was sworn in.
- Ms. Nicole Stern of 55 Averill Drive was sworn in.

Mr. Barile said regarding the presentation, you're missing two very big things with this. There are people on this Board that know this Lake very, very well. I've been on the Lake for over 45 years. There are numerous, probably 40-50 which the Building Department can attest to, lots of this size: 4', 5', 6', 7' etc. These lots were created for swimming access for homes across the street. If you grant this variance to this particular lot, you're granting it to every sub-standard lot on the Lake of 6' which could increase the Lake usage quite a bit. Getting back to the presentation, the house across the street is a multi-family; not a single-family which is very important. The dock and a boat next to it would not only infringe on the lot next door but would actually touch his other lot over that 6'. So, if the person next door wanted to get to the Lake.....

Chairman Maxwell said there's four different lots, two different owners.

Mr. Barile said right. If the person on the next lot wanted to walk into the Lake, he couldn't because there's a pontoon boat in front of him stretching over 2' to the next lot.

Chairman Maxwell said there is a letter from the other owner, Benjamin Jung. I'll read it out loud for the public. "our telephone call regarding your client, Bore Cotaj's application for a variance". Dear Bill, as requested, I'm providing this letter to confirm that no objection to the application for a variance will be made provided such usage does not block LM Realty or LM Condos use of their respective beach access plots or access to the Lake. If a license or easement is granted or implied by this arrangement, such shall be reciprocal and cancellable by either party upon notice. Neither party shall be responsible for the actions of the other party."

Mr. Barile said you're blocking the neighbor's lot and access to the Lake. Now, Mr. Gary Margolis' comments that it's \$100K loss is true if it was a 25' or 30' lot with a parking spot on it. I think I sold the last lot on Lake Mahopac down by Baldwin Road. It was 20' wide, had parking on it and an existing dock and sold for \$135K. This is a swimming lot. It's not a lot where you could park a car on and enjoy. The dock is still there. You're all welcome to go right around the corner, after this meeting, and see it. It's still there. The fact that they state it's not substantial, I don't know when ten times the area is not substantial. It provides 280 square feet and wants a variance for 2,720 square feet. In my mind, that's substantial. He said the dock is there since 2017. The dock was built two years ago because one day, after the dock was built, we went to that gentleman right there with a complaint and he could look it up.

Chairman Maxwell said I'm sorry; what year was that?

## **APPROVED**

Mr. Barile said two to three years ago.

Mrs. Fabiano said so there was no dock there before that; never?

Mr. Barile said never. I bought that house over 35 years ago from a dentist. He had his office and his house there.

Chairman Maxwell said just to clarify, you own this house?

Mr. Barile said she does (points to Nicole Stern).

Ms. Stern said my father sold it to me and I lived there until 2012. Now, I rent it.

Mr. Barile said the dock is still there. It's a multi-family across the street. It's not a single-family home. I bought over 35 years ago. I have pictures from back then and during all the renovations, a stack like this, with no docks. I sold it to my daughter over 15 years ago. The dock is less than two feet from the house and windows. When they utilize the dock, they actually utilize the house and windows to balance themselves on the dock. So, the tenant will attest to cleaning the windows. It's made of a cheap metal but he said he was going to change it. There's absolutely no hardship here; none whatsoever. It's self-created. The applicant lives on Kayla Lane – a subdivision I built 20-some odd years ago where the homes are the highest priced homes in Mahopac going anywhere from \$900K - \$1.5MM, maybe more. The house across the street that has these lots was an investment property. Going back to what I said previously, if you grant this, you're giving 40-50 strip owners the ability to sell their lot and say you can put a boat on it. There's the variance. Anybody can use it. You can post any condition you want. If I have a 6' lot and, I actually have one next to my other daughter's house on West Lake, I'll buy that lot from the neighbor that's selling the house. They would sell it to me. I would put a dock there if you grant this because whatever condition he puts would be thrown out in a court of law. You know, as Lake users, there are three legal marinas: their boat has been kept in a marina for the last couple of years before they built this dock. There is 3-4-5 illegal marinas that have already popped up on this Lake. Granting this variance, is going to put 25-50 more boats on the Lake. The Town Board does nothing. You have the power to do something here. I've watched this Board. I've been in front of this Board for 40 years. I've never seen anything this crazy. It's insane. Mr. Shilling's office emailed me two or three times because they've constantly had this held over until you had a full Board. We had VFW guys three times that wanted to speak and if we can get their testimony to include into the record.....

Chairman Maxwell said are they here tonight?

Mr. Barile said they couldn't be here tonight. They had something going on. It's nonsense. It's insane. Like I'd said, Mr. Shilling's office contacted me two or three times saying what can we do to make this work. I responded with one word: nothing. I've been here 3 or 4 times to speak. My daughter has been here 3 or 4 times to speak. The tenant's been here 3 or 4 times. The VFW couldn't come tonight. Please do the right thing. That Lake is dangerous enough as it is. I did leave out one thing. When I said the dock is 2' from the house and windows, the tax bill on that house is almost \$24K. I've argued with Glenn (Droese) for 15 years saying this is not your typical house on the Lake that should be assessed the same way. You have a VFW next to it, a bar next to it and a beach of 40-50 people on the other side. He insists that it is so the taxes are \$24K. Thank you for your time.

➤ Ms. Wendy Wulken of 144 East Lake Blvd., Mahopac was sworn in.

## **APPROVED**

Ms. Wulken said I am the tenant and it is uncomfortable during the summertime when they are coming and getting on this boat on this dock. My kitchen table is right there in the window and they're all on their dock. The bigger issue is that I have stepchildren, ages 5 & 6, and the metal dock, with the movement of the water, is a constant ding but multiple times it had woken up my children. It's a very uncomfortable feeling when you're sitting at breakfast and have 8-10 people standing on a dock staring at you through a window; not that they're staring at me but if I opened my window, I could poke them.

Chairman Maxwell said your privacy is invaded.

Ms. Wulken said completely.

Chairman Maxwell said how long have you been living there?

Ms. Wulken said I've been there, full-time, the last two years.

Chairman Maxwell said so the dock was there before you moved in?

Ms. Wulken said absolutely not.

Chairman Maxwell said it was not there.

Ms. Wulken said it was not there. My partner, in business, was the tenant previous to me. I, obviously, was over there quite often with business and such. I'd never seen the dock and the barricade fence wasn't there either.

Chairman Maxwell said okay; that's good testimony.

Mr. Smith said I think that Ms. Wulken raises very valid concerns. The proximity is very tight. I know that the Board has an issue with the condition of the dock. My client was seeking to replace the dock and that's how we got into this situation. I also appreciate Mr. Barile's honesty because he did reply with one-word answers when we were trying to come to some kind of middle ground of how we can work this out and be good neighbors as well as find a solution that would work for everybody. I would respectfully request that the matter be held over to next month. The Board had very valid questions related to the history of the dock. I think that other photographs are important. I do think that a history of the timeline is important because there are some thing that I heard in the testimony today that I wouldn't necessarily refute but I do think need to be clarified.

Chairman Maxwell said I'm going to give this to you too; this picture that the public just gave us. It shows the boats across the street are just wave-runner ramps so there are no boats impeding on your waterway.

Mr. Smith said I think this is also deceptive as it relates to the angle but there's a lot to see out of that window, a bar, jet skis and my client's dock.

Mr. Starace said the Board would be curious as to the exact width of that existing dock structure; the length and the pontoon boat that you normally park there and the beam.

Chairman Maxwell said in addition to that, I would show a better.....this is a plot plan that shows the whole lot in itself; not the separate ownership and the dimensions those pieces. There's four pieces to one lot.

**APPROVED**

Mr. Smith said yes. There were a number of documents put together by Putnam Engineering that I can certainly provide. There's a few different ones that show just the parcel and then the neighboring parcels, the stockade fence. I can make a note to get that to you guys as well.

Mr. Balzano said Mike (Carnazza), if we hold this over, there can still be public testimony the next time because we haven't closed it?

Mr. Carnazza said yes.

Mr. Balzano said I just wanted to make sure in case the VFW wants to come back.

Mr. Smith said one last item that I do want to put on the record is that our office did communicate with the VFW. We spoke with a guy named Chris. I did not get a last name. I would love it if Chris would be here for the next meeting because the conversations were generally positive. We did not get any indication that the VFW would be opposing what it is that we want to do.

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

**NEW APPLICATIONS:**

- 5. Application of **CHRISTOPHER MCBRIDE** for a Variation of Section 156-15 seeking a Variance for permission to retain existing shed. The property is located at 83 Fair Street, Carmel NY and is known as Tax Map #44.14-1-85.

<b>Code Requires/Allows</b>	<b>Provided</b>	<b>Variance Required</b>
40' front	31.8'	8.2'

➤ Mr. Christopher McBride of 83 Fair Street, Carmel (owner) was sworn in.

Mr. McBride stated so I received a violation notice about two years ago regarding a shed that was on my property. We acquired the property about six years ago. So, the shed was an already existing structure there.

Chairman Maxwell said so it never got picked up?

Mr. McBride said it never got picked up when we acquired the property. We received the violation notice, came to the Town to get the Building Permit.....

Chairman Maxwell said do you know how long the shed has been there?

Mr. McBride said I don't. I know at least six years when we acquired the property.

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

**APPROVED**

Mr. McBride said there is not.

Chairman Maxwell said you're a corner lot so you're held by two larger setbacks.

Mr. McBride said correct.

Mr. Balzano said this is a corner lot?

Mr. McBride said this is a corner lot on Fair Street and DeColores Drive.

Chairman Maxwell said there's a letter in the submission that's in favor of this. It looks like it's a neighbor who's been there. It's the President of the Homeowner's Association and he's had a property there since '89. He writes "I'm fully aware of the shed structure and have no problem at all with its location. It's never been an issue for us and I'm not sure why it would become one today." I'm sure if there were some issues, you might have some people in opposition that we'll afford the opportunity to speak but before that, I'll poll the Board Members (no questions from Board).

Chairman Maxwell then asked if there was anyone from the public wishing 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:**

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

- 6. Application of **RICHARD & PAMELA STANLEY** for a Variation of Section 156-15 & 156-47A(1) seeking a Variance for permission to construct 2<sup>nd</sup> floor addition. The property is located at 22 Frederick Street, Mahopac NY and is known as Tax Map #64.19-1-60.

<b>Code Requires/Allows</b>	<b>Provided</b>	<b>Variance Required</b>
30' Rear	25.35'	4.65'

- Ms. Grace McGuiness, architect representing Richard & Pamela Stanley of 22 Frederick Street was sworn in.

Ms. McGuiness stated we are looking to expand the existing second floor on this residence. Right now, it has a small second floor. It's a Cape Cod [style], and we're basically just looking to expand the second floor to the full footprint of the home which is non-conforming. For that reason, we're seeking the 4.65' variance on the rear of the property from the 30' setback to bring it to 25.35' which is the existing setback.

Chairman Maxwell said it's a pretty minimal variance and it's in the same property line.

Mr. Carnazza said they also have two one-family dwellings on the lot so that's the other reason they're here. There's two houses on this lot.

**APPROVED**

Ms. McGuinness said yes but I don't think that our application is concerned with that as far as I know.

Mr. Carnazza said the 156-47A(1) is the expansion of a non-conforming.

Chairman Maxwell said so both houses have always existed on this lot?

Ms. McGuinness said I don't know the history of the second house.

Chairman Maxwell said Mike [Carnazza], do we know that?

Mr. Carnazza said yes. It's pre-existing, non-conforming. It's legal.

Mr. Balzano said it's built in '52 according to the last deed.

Mrs. Fabiano said I believe that this house is way down so it won't affect the views of anybody else?

Ms. McGuinness said you are correct. In fact, the second single-family home on the property is what's further up the hill. It's all belonging to the same owner.

Mrs. Fabiano said so if you put a second floor on, it won't affect [views]?

Ms. McGuinness said no it won't and there is already a second floor.

Mr. Starace said they're just expanding the second floor of the Cape.

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

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 grant the requested variance; seconded by Ms. McKeon with all in favor.***

- 7. Application of **PATRICK KOHLMAN** for a Variation of Section 156-15 seeking a Variance for permission to add steps to deck & shed. The property is located at 26 Summit Circle Drive, Mahopac NY and is known as Tax Map #87.9-1-33.

<b>Code Requires/Allows</b>	<b>Provided</b>	<b>Variance Required</b>
30' Rear – deck	1.1'	28.9'

➤ Mr. Patrick Kohlman of 26 Summit Circle Drive was sworn in.

## **APPROVED**

Mr. Kohlman stated my wife and I are looking to redo our rear deck this spring and in the process, the deck company wants to redo the entire deck. It's a very high deck off the back of our house. It's been there. The set of stairs that are currently there, on the east side of the house, they're very long and narrow. On one side of the house, they're almost 15'-20' off the ground. Mr. Carnazza actually knows the property well. He grew up in that neighborhood he said. They're very high up and not safe. So, in the course of redoing the deck, we want to put the stairs on the western side of the house which will only be about 4' off the ground and go down to a little patio we have there in our side yard. Right in that corner of the house is where our property backs up to NYSEG's power lines back there.

Chairman Maxwell said it's a vacant lot.

Mr. Kohlman said yes.

Chairman Maxwell said the house was built so close to the property line.

Mr. Kohlman said there already is a variance there for the existing deck and house because it is less than 30'. I think it's roughly around 6' right now. That's how close it is. So, we're only going another 5' to expand and put that 4' wide stairs to make it safer to get on and off the deck from the property. In the course of one of Mr. Carnazza's team coming out to take a look at it with me, because there were some issues there with the current variance and needing a new one, he asked me about the shed but I didn't realize a plastic 6' x 6' Rubbermaid shed needed a permit so we added that as well to make sure it was legal.

Chairman Maxwell said the only problem is that it's not advertised on this. It's in your packet but it's not advertised as such.

Mrs. Fabiano said the shed isn't listed on your application. Also, I think you have another problem too. The 6' fence along the front property line.

Mr. Kohlman said that's on the side of the house.

Mrs. Fabiano said there's one on the front isn't there?

Mr. Kohlman said but it's on the side of the house.

Mrs. Fabiano said but it's in front of the house.

Mr. Kohlman said that's on the side of the property.

Mr. Balzano said but if it goes in front of the footprint of your house, it has to go down to 4'. It's the way our Code is written.

Mrs. Fabiano said yes. If it's in front of your house.....

Mr. Carnazza said the way we do it is we draw a line across the front of the house. From there forward can be 4' [high]; there back can be 6' [high]. Where's the 6' fence?

Mr. Kohlman said the entire side of the house.

Chairman Maxwell said can you indicate it on here; your site plan?

**APPROVED**

*Mr. Kohlman (without mic) approached dais and pointed out on map where fence was and answered questions.*

Mrs. Fabiano said it's along the road, isn't it?

Mr. Carnazza said he has a 280A variance also on this lot so it's a little.....

Mrs. Fabiano said so there's no frontage.

Mr. Carnazza said Summit Circle is not a road at that point I guess.

Mr. Kohlman said (with mic) if I need to add the fence for a variance as well, I'd be more than happy to do so.

Chairman Maxwell said Mike [Carnazza] just clarify he doesn't need to because it's not.....

Mr. Carnazza said yes. Come see me and we'll get everything on there.

Mrs. Fabiano said and the shed has to be added.

Chairman Maxwell said we're going to have to hold it over because it was mis-advertised unfortunately. There's no rush here – right?

Mr. Kohlman said at this point, I've been waiting since May/June, so I think we're okay.

Mr. Folchetti said if you're holding it over, you're holding it over pending a complete application – right? You can dismiss it without prejudice or you can just close the public hearing and not act on it but it's got to be re-noticed for all the relief that the applicant is seeking.

Chairman Maxwell said so go see Mr. Carnazza as soon as you can to discuss the fence and make sure that's covered but the shed was not captured on this.

Mr. Kohlman said after I spoke with Mike's guy that came and saw the property, we kind of added it in but I guess.....

Mr. Balzano said it didn't get where it needed to go.

Mr. Carnazza said I think we added it on a different sheet and it's not on this sheet.

Mr. Kohlman said the application says the deck and shed but I guess we're missing the variance portion for that. I can tell you the same 1.1' is being sought on the shed too because that's how far back it is but.....

Chairman Maxwell said we're going to hold this over so he doesn't have to pay for a second application.

Mr. Carnazza said we're going to amend the application, re-notice it and he won't pay another fee then.

Chairman Maxwell asked the Board Members and public if there were any other comments on this application of which there were none.

**APPROVED**

**Mr. Balzano moved to hold this application over to amend it; seconded by Ms. McKeon with all in favor.**

- 8. Application of **ALEX MALICHEK** for a Variation of Sections 156-15 seeking a Variance for permission to build a deck attached to rear of garage. The property is located at 13 Maple Lane East, Mahopac NY and is known as Tax Map #53.-1-50

Code Requires/Allows	Provided	Variance Required
15' side	7'	8'

➤ Mr. Alex Malichek of 13 Maple Lane East was sworn in.

Mr. Malichek stated last year, this Board approved a variance to build the garage. I think we asked for 10'; 5' was given from the same property line. I went to go see Mike [Carnazza]. After, we decided it'd be a better idea to build a deck because I don't want to backfill that area. It turns out that I have to get another variance, so here I am. Had I known, I probably would have put it with the plans.

Chairman Maxwell said I didn't get a chance to get up there but that's waterproofing?

Mr. Malichek said yes. That's waterproofing. I spent a lot of money getting rid of the ledge and with the amount of gravel that I'd have to put over there, it's better to just build a deck. It's wet back there. I have a lot of water coming down. The old garage's back wall fell in because of the water and the pressure.

Chairman Maxwell said looking at the plans, do you have anything to prevent a child or somebody falling underneath this deck? Is there any lattice?

Mr. Malichek said if you're looking at it from the back, on the left-hand side, it goes out to grade. Then you've got the rock ledge coming up and then there will be your posts and for everything on the right side, there's a railing.

Chairman Maxwell said so you'll be building flush to the ledge but what about the sides?

Mr. Malichek said if you're looking at the back, on the right side, there'll be a railing. The left side goes out to grade.

Chairman Maxwell said but I'm saying from the land side, someone falling into below the deck.

Mr. Starace said we see it on your plan but on this rendition, the deck is coming off this door – right?

Mr. Malichek said yes; it's coming back but you don't see.....

Mr. Starace said over that ledge.

Mr. Malichek said the ledge comes up. On the right side of that, where your pen is, you'll have a railing.

**APPROVED**

Chairman Maxwell said I'm concerned about the land side – not the deck side. So, from the land side, without that being filled.....

Mr. Malichek said that's going to be filled; that corner. You're talking about the left side?

Chairman Maxwell said both sides.

Mr. Malichek said the right side is going to be railing. There's not going to be fill there.

Chairman Maxwell said the deck is going to be flush to the left and right side of the house – correct? And; it's going to go back to the ledge. You have a hollow on this side and you have a hollow from that side.

Mr. Malichek said where your pen is right there, that's going to be filled. That's not filled right now because ..... that'll be grade up to the deck.

Chairman Maxwell said okay and the opposite side; the left side as you're facing the garage?

Mr. Malichek said will be railing all the way across.

Chairman Maxwell said on the land?

Mr. Malichek said yes.

Chairman Maxwell said okay. It's the 'safety manager' in me. I have to make sure. There's no other land that you can buy to bring this into conformance?

Mr. Malichek said no.

Mrs. Fabiano said when you came in '22 for the variance, we conditioned it so there's no plumbing in there. Is that correct?

Mr. Malichek said yes.

Mrs. Fabiano said and we will condition it so that there will be no living quarters?

Mr. Malichek said correct.

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:**

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

**APPROVED**

9. Application of **JASON SHOTT** for a Variation of Section 156-15 seeking a Variance for permission to retain 10' X 18' shed. The property is located at 33 Angela Drive, Carmel NY and is known as Tax Map #54.9-1-29.

<b>Code Requires/Allows</b>	<b>Provided</b>	<b>Variance Required</b>
10'x18' shed: 20' side	7'	13'

➤ Mr. Jason Shott of 33 Angela Drive, Carmel was sworn in.

Mr. Shott stated I'd purchased this house last November. There were violations on the house for the shed that was not disclosed and didn't show up in the title search. So now, I'm trying to deal with it. I got quotes to move the shed but it would cost about \$3,000 to do that. It butts up to Jimmy McDoogle-[McDonough] park so you can't see the shed from the park. There are trees that block it.

Chairman Maxwell said it looks very well screened.

Mr. Shott said it's very well screened and the driveway goes down pretty low so you can't see it very well from the road.

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

Mr. Shott said no.

Chairman Maxwell said did you talk with your neighbors? Does anybody have any issues?

Mr. Shott said I sent out the notifications but I haven't heard anything.

Chairman Maxwell asked the Board Members if there were any questions on this application of which there were none, and then asked if there were any questions from the public on this application of which there were also 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.***

10. Application of **JOSEPH CARUSO** for a Variation of Section 156-15 seeking a Variance for permission to retain 2nd shed. The property is located at 18 Cheryl Court, Mahopac NY and is known as Tax Map #75.17-1-16

**APPROVED**

<b>Code Requires/Allows</b>	<b>Provided</b>	<b>Variance Required</b>
10' side	1'	9'
10' rear	1'	9'

➤ Mr. Joseph Caruso of 18 Cheryl Court, Mahopac was sworn in.

Mr. Caruso stated about two years ago, I received a violation in the mail for a shed that I had on my property. It was a small Rubbermaid shed and it was there about six years. So, I'm just seeking a variance for that.

Chairman Maxwell said this was two years ago that you received the notice?

Mr. Caruso said yes; about two years ago.

Chairman Maxwell said why so long to come in front of us?

Mr. Caruso said I was pretty ill for about a year and half.

Chairman Maxwell said I'm sorry to hear that. So how long has the shed been there?

Mr. Caruso said about six years.

Chairman Maxwell said you've talked with your neighbors about it?

Mr. Caruso said yes and I'd submitted three letters from my adjoining neighbors.

Chairman Maxwell said for the record:

- Jessie Hoellger of 18 Cheryl Court in support
- Dick Beyrer of 14 Cheryl Court in support
- Matthew Burlenski of 22 Cheryl Court in support

There's no property that you can buy to bring this into conformance?

Mr. Caruso said no.

Chairman Maxwell said from the pictures, you're pretty much screened with the fence on two sides so it's almost natural that it goes there. Any questions from the Board Members? (of which there were none.)

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.

**APPROVED**

**Decision of the Board:**

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

11. Application of **ANTONIO & BETH REALE** for a Variation of Section 156-15 seeking a Variance for permission to retain gazebo & pergola. The property is located at 117 Breckenridge Road, Mahopac NY and is known as Tax Map #74.12-1-3.

<b>Code Requires/Allows</b>	<b>Provided</b>	<b>Variance Required</b>
15' (20' x 12')	2' side	13'
15' (24' x 12')	2' rear	13'

➤ Ms. Beth Reale of 117 Breckenridge Rd., Mahopac was sworn in.

Ms. Reale stated I started off with a pop-up tent on my property and graduated to a pergola and then a gazebo and had no idea that I needed a permit. So, then I was cited with a violation and then learned I actually needed a variance.

Chairman Maxwell said how long have they both been there?

Ms. Reale said a few years.

Chairman Maxwell said at the same time?

Ms. Reale said no. I had the gazebo first. It was on the east side and then I moved it for design reasons, it was too dark.

Chairman Maxwell said and that's the brown structure – correct?

Ms. Reale said yes; the brown one. I have letters from both neighbors affected.

Chairman Maxwell said yes. There's a letter from Mariola Brzozowski of 7 Marion Drive in support of this.

Ms. Reale said yes. She's directly in back of me affected by the pergola. And then, Trevor Southlea (111 Breckenridge Road) is on the gazebo side. I also have the neighbors all in front of me.

Chairman Maxwell said yes. Kyle Mintzer of 120 Breckenridge Road; Robert Lex of 313 Archer Road and Julius Cefaloni of 98 Breckenridge Road all in support. There's no other property you can purchase to bring this into conformance?

Ms. Reale said no.

Chairman Maxwell polled the Board Members and public for any input, questions or concerns on this application of which there was none.

**APPROVED**

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.***

12. Application of **ALISON & DANIEL BROWN-Contract Vendee (DeSanctis-Owner)** for a Variation of Section 156-15 seeking a Variance for permission to construct a second floor on an existing, non-conforming, first floor. The property is located at 18 Frederick Street, Mahopac NY and is known as Tax Map #64.19-1-62.

<b>Code Requires/Allows</b>	<b>Provided</b>	<b>Variance Required</b>
15'	8.79'	6.21'

- Ms. Mary Scott, architect at 33 Fairways Drive, Mt. Kisco, NY representing the applicant was sworn in.

Ms. Scott said just to let you know, the Browns have closed on the property so they are no longer Contract Vendees but the owners.

Chairman Maxwell said (to Mike Carnazza & Greg Folchetti) does this change this application since it was noticed as being a contract vendee?

Mr. Carnazza said not at all.

Mr. Folchetti said (mic not on) relief (inaudible) scope.

Mr. Carnazza said it doesn't even matter. We have a deed from the previous owner.

Mr. Balzano said it's all about the land; not about anything else.

Ms. Scott said the Browns bought this property. It's a one-story, built in 1945. They desire to build a second story over it. I did this google map with the outline so you can see the house was built cock-eyed to the property line. It's 8.79' from the line here and 12.76' here. You can see the property next door which is most affected. It's a much larger house and set back. They don't really look into each other. We desire to put a second story on it so we can put the living spaces on the first floor and the bedroom on the second floor.

Chairman Maxwell said so you're not encumbering anybody's view by going up?

Ms. Scott said no. As a matter of fact, with this driveway, you're (motions straight down). It's like going down a ski slope.

Chairman Maxwell said and you're pretty much following the same footprint as the existing house and that's why you're here?

**APPROVED**

Ms. Scott said correct.

Chairman Maxwell said it's a nice little design. There's no property that you can purchase to bring it into conformance?

Ms. Scott said as you can see, there's a well-developed house next door. There's nothing they can buy.

Chairman Maxwell said their neighbors have been notified?

Ms. Scott said yes.

Chairman Maxwell said do the Board Members have any comments or concerns (of which there were none). Anyone from the public have any comments or concerns regarding this application (also of which there were 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 Mr. Balzano with all in favor.***

13. Application of **BRIAN KELLY** for a Variation of Section 156-15 seeking a Variance for permission to retain two sheds. The property is located at 33 Well Road, Mahopac NY and is known as Tax Map #53.-1-59.-13.

<b>Code Requires/Allows</b>	<b>Provided</b>	<b>Variance Required</b>
Shed 1; 10' side	2'	8'
Shed 2; 10' side	2'	8'

➤ Mr. Brian Kelly of 33 Well Road, Mahopac was sworn in.

Mr. Kelly stated said the one shed was there when I purchased the property. The other one, I added about two years ago.

Chairman Maxwell said so it didn't get picked up on a title search.

Mr. Kelly said no. It was on the original site plan when we closed but that paperwork is gone. I had a flood in the garage and all the paperwork from my closing is gone.

Chairman Maxwell said so the existing one was the red one?

Mr. Kelly said yes.

**APPROVED**

Chairman Maxwell said and the Rubbermaid, it looks like, is the newer one.

Mr. Kelly said yes. If I get the variance, can I take the Rubbermaid one down and put the exact same size but made of wood so it's better looking?

Mr. Balzano said yes.

Chairman Maxwell said yes; if you get the variance. So, there's a pergola but Mike [Carnazza], does that conform? He supplied pictures of a gazebo in the back?

Mr. Balzano said he's conforming; it's fine.

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

Mr. Kelly said no. The neighbor has one back to back to the initial one I had but everybody is pretty happy because I keep the yard.....

Chairman Maxwell said these are all letters in support [of this application]:

- Deborah Havir of 34 Well Road
- Laura Schmidt of 42 Birch Blvd.
- Eugene Boesch, President of Ossi Sports Club at 35 Ossi Lane
- Stephanie Rossi (neighbor directly across street)

Chairman Maxwell asked Board Members and the public if there was any input on this application (of which there was none).

Mrs. Fabiano moved to close the public hearing on this application; seconded by Mr. Balzano 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.***

14. Application of **WARREN & ANGELA MESSNER** for a Variation of Section 156-15 seeking a Variance for permission to add dormers to finish space over garage for music studio/practice space; not commercial. The property is located at 44 Sycamore Road, Mahopac NY and is known as Tax Map #76.5-1-28.

<b>Code Requires/Allows</b>	<b>Provided</b>	<b>Variance Required</b>
25' front	14'	11'
10' side	.9'	9.1'

- Mr. Warren Messner of 44 Sycamore Road, Mahopac was sworn in.
- Mrs. Angela Messner of 44 Sycamore Road, Mahopac was sworn in.

Chairman Maxwell said you had an existing garage?

## **APPROVED**

Mr. Messner stated yes. We bought the property about a year ago. It was in dire need of repair. Every piece of structure on the property was falling apart.

Mrs. Messner said it hadn't been lived in for seven years.

Chairman Maxwell said so it went to rot.

Mrs. Messner said yes.

Mr. Messner said so we wanted to improve the property and we asked for a building permit which we received and started the work on it. So, we're asking this Board to give us permission to complete our project.

Chairman Maxwell said so why did it get stopped?

Mr. Carnazza said the plans that were submitted said finish second floor above the garage implying that it was already there. It was brought to my attention afterwards, by one of the neighbors, that it wasn't already there. We went out, checked it and that's how it all came out.

Chairman Maxwell said okay; so it was a terminology kind of faux pas.

Mr. Carnazza said correct. If you look further into the plans, you can see there were details on the floor and the walls and things but it wasn't like we usually get.

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

Mr. Messner said no.

Chairman Maxwell said how long was the garage there?

Mr. Messner said when I submitted the application, Dawn [Andren] looked at it and it appeared like it'd been there since 1930 or something. It's been there forever.

Chairman Maxwell said the zoning wasn't adopted until '55 so it predates zoning.

Mr. Balzano said the D&O from the Board is '87.

Mr. Starace said March '87; retain existing deck.

Mr. Balzano said oh; that's just the deck.

Vice-Chairman Aglietti said it's been on the property since '61.

Chairman Maxwell said so we don't know if the garage has been there that long but.....

Mr. Messner said the house was built in 1922.

Mr. Carnazza said the point is that the actual peak of the roof was raised above what it was before – correct?

Mr. Messner said yes.

## **APPROVED**

Mr. Carnazza said so the original peak was down lower; the whole thing came up on the same footprint.

Chairman Maxwell said so the gables were existing; they're just popping out the dormers?

Mr. Carnazza said I'm told that they were actually raised meaning that it was here and now it's here.

Mr. Messner said we raised it up about 2'.

Mr. Starace said you removed the old roof?

Mrs. Messner said correct.

Chairman Maxwell said it's a beautiful design. It's tough that it's close to the property line.

Mr. Carnazza said they dormered it also.

Chairman Maxwell said any questions from the Board?

Mr. Starace said is there anything else we need to look at Mike [Carnazza] with that because it's higher?

Mr. Carnazza said that's why it's here. If it was the exact same as it was before, they wouldn't need a variance. When it said on the application finish space, I thought the space was already there. It turned out it wasn't.

Chairman Maxwell said as far as any height restriction if that's what you're asking, there's not.

Mr. Starace said yes. That's what I was asking?

Mrs. Fabiano said but is it blocking views of the Lake?

Mr. Starace said we're looking at a front and a side variance.

Mrs. Fabiano said you're not putting any plumbing in there?

Mr. Messner said there is plumbing in there; yes.

Mrs. Fabiano said there is plumbing.

Mr. Messner said it was permitted for plumbing.

Mr. Carnazza said you're allowed to finish things. I want to make sure that you guys interpret these, not dwelling units, accessory uses above garages; people are allowed to have bathrooms above garages. If you want to condition it that you can't, you're allowed to but they already got a permit to allow it.

Mrs. Fabiano said they got a permit because.....

## **APPROVED**

Mr. Carnazza said to allow a bathroom in there; just a bathroom; no kitchen – nothing else – just a bathroom.

Mrs. Fabiano said no kitchen in there.

Mr. Messner said no kitchen.

Chairman Maxwell said do they have Board of Health approval for that?

Mrs. Messner said yes.

Mr. Carnazza said yes. They're tying into the existing septic. It's not an additional bedroom so that's why.....

Chairman Maxwell said it's a powder room.

Mr. Balzano said right.

Chairman Maxwell said if it's a music studio, it makes sense if you're jamming up there and you have to go. Board Members: any questions down here?

Mr. Balzano said insulation. Are we making sure, because it is so close to your property line, that your neighbors aren't jamming with you?

Mr. Messner said I'm not sure if they're musicians or not.

Mr. Balzano said exactly. I'm just curious. Are you going to soundproof the space?

Vice-Chairman Aglietti said it's no different than a house.

Mr. Messner said the idea is so that we can store musical equipment up there and play. I'm a bad bass player but.....

Chairman Maxwell said apparently there are some people looking to speak on this application so is there any more input from the Board?

Chairman Maxwell said I'll open this up to the public for any input on this application.

➤ Mr. Charles Langlitz of 41 Sycamore Road was sworn in.

Mr. Langlitz stated I'm the one who called on this. The height of it – I just want to present the photographs of before and after (gave Board pictures for submission). You could see the height. It does block views.

Chairman Maxwell said in fairness though, this picture is not taken from the same place.

Mr. Langlitz said yes; it's not the same unfortunately.

Chairman Maxwell said this one is closer and makes it seem bigger.

Mr. Langlitz said there's plumbing being put in there. Some of the concern is in the deed restrictions. I'll read it to you. "The party of the second part, its successors and assigned agree not

## **APPROVED**

to erect a house having what is known as a flat roof, nor/or erect a building of the character known as a two-family flat or apartment.” (Mr. Langlitz gave paper to Board for submission as well and the by-laws that go with it.)

Mr. Balzano said just from past experience, this Board hasn't acted on deed restrictions. It's not the prevue of this Board. This Board really needs to just interpret what the law is.

Chairman Maxwell said and the Town's Code.

Mr. Carnazza said to have a dwelling unit, you need to have facilities for eating, sleeping and sanitary. So, without a kitchen, there's not a.....

Mr. Langlitz said how are we going to prevent something like this to be turned into an apartment is my concern. One of my biggest concerns here because whether they commit and say they won't turn it into an apartment, doesn't stop the next person that takes that property over and do so.

Vice-Chairman Aglietti said there's no kitchen and no full bath.

Mr. Langlitz said there's no full bath?

Chairman Maxwell said no; just a toilet and sink.

Mrs. Fabiano said so just a powder room.

Chairman Maxwell said with all due respect, that would have to be managed from the homeowners' association.

Mr. Balzano said if it got to that point, you would complain to the Town and the Code Enforcement Officer would.....

Mr. Carnazza said I was going to say that you could make a complaint to me if there is a dwelling unit in there or if you get word of it. If you see an ad somewhere, let me know and we'll go out there and take care of it.

Mr. Langlitz said so that's it. I know my neighbors had an issue with the view as well but clearly you can't do much about that.

Vice-Chairman Aglietti said are they here?

Mr. Langlitz said no; they couldn't make it. The fact that they've already got that erected, it's not like people are going to ask them to take it down anyway.

Chairman Maxwell said it's happened before but.....

Mr. Langlitz said the whole thing is that no variation came in and it just went up real fast. By the time I got contacted, the dormers were up already.

➤ Mr. Andreas Kuhbier of 47 Sycamore Road was sworn in.

Mr. Kuhbier stated the past resident of that house was the longest living resident on Mahopac Point, Dody Ryan. She passed a while ago and the house has been vacant and in disrepair. Sycamore [Road] has twenty houses on it that are on the water side. Of the twenty houses, there

## **APPROVED**

are eight structures that are garages that are touching the road, touching the neighbor's property, that have all, at one point in time, been varianced in. Several of those structures are the garages on the property line.

Chairman Maxwell said it's tight.

Mr. Kuhbier said yes. The back property of the structure that they're adding the second story to is what we call, on the point, a finger which is a boat access property. So, it's a 12' section. It's not even a house. The next structure over, after that finger, is a garage. The property, in general, has been drastically improved. Just for the record, we're going to go down 34 Sycamore, 38 Sycamore, 14 Sycamore, 52 Sycamore, 42 Sycamore, 26 Sycamore, 28 Sycamore and 30 Sycamore all have garages that are either on the property line, three feet from the road, on the road. The roof is being raised by two feet. I live diagonally across. It does not affect my view. The gentleman to my right here – it does not affect his view because he can't see that way either. It's an improvement to our neighborhood and I am in support of the project.

Chairman Maxwell asked if there was anybody else that wish to be heard on this application of which there was none.

- Mrs. Messner said I have received texts and verbal support so if you'd like us to provide those.....

Chairman Maxwell said unless it's on paper, we can't really take it. It's got to be in writing. You can email Dawn [Andren] and Mike's [Carnazza] office but at this point, it's moot because you're here now.

Mrs. Fabiano said I have a question for the gentleman back there that spoke. Would you come here for a second?

*Mr. Kuhbier returned to the podium.*

Mrs. Fabiano said you had talked about there are many garages along that road.

Mr. Kuhbier said there are eight of them.

Mrs. Fabiano said and they're sitting right on the road. Do we have the potential, by granting this, that all of these people are going to come in and start raising their garages?

Mr. Starace said they have already.

Mrs. Fabiano said they all have?

Chairman Maxwell said some are carports?

Mr. Kuhbier said no. There are no carports. There is one garage that is actually taller than this building. I don't have the number in front of me. They all have dormers or have roofs that are like this (motions a gable roof). This garage is set further back from the road. There are several garages that are much closer to the road. (Mr. Kuhbier went to retrieve his notes.)

Mr. Starace said number 38 is right on the road; number 42 is right on the road. I'm looking right at the satellite.

## **APPROVED**

Mr. Carnazza said every one is a case by case though.

Mrs. Fabiano said but all of these other garages – are these roofs new or are they older roofs?

Mr. Kuhbier said The Point is a very old neighborhood. #34 [Sycamore] – that garage is literally on the road. If you open the door, you're stepping on the road. I don't know how old that roof is. It has a very steep pitch.

Mrs. Fabiano said would you say it's older or something.....

Mr. Kuhbier said my house is 1923. A lot of the homes are very old. #38 Sycamore is on the road.

Chairman Maxwell said how long have you lived there?

Mr. Kuhbier said twenty years.

Mrs. Fabiano said I guess my question is were they all improved recently or they all have been existing for years and years?

Mr. Kuhbier said some of them have been improved. #30 has just been improved. They just put a brand-new roof on that.

Mrs. Fabiano said and is the pitch higher?

Mr. Kuhbier said no. They just re-roofed it.

Mrs. Fabiano said new pitches?

Mr. Kuhbier said no; not on #30 there isn't.

Chairman Maxwell said every case is based on its own merit.

Mrs. Fabiano said I understand that.

Mr. Kuhbier said so the roof went up two feet in height.

Mrs. Fabiano said right.

Mr. Kuhbier said the dormers. They didn't change anything. Compared to the dilapidated building that I've been looking at for the last eight years, it's a drastic improvement to our neighborhood. My point was that there's twenty houses on that side of the road, that have garages that are either on the road, touching the neighbors' property or on the property line. I don't live on that side. I live on the other side. It's a tight neighborhood. The only thing that the new residents did was make it two feet higher. They didn't change the footprint.

Mrs. Fabiano said my concern was that all of a sudden, we're going to get a lot of these.

Chairman Maxwell said the bottom line is, if you look at this picture, there's a tree that's going to be there eight months of the year that is in the same view. If it was such a big concern of this neighbor across the street, they'd be here tonight.

**APPROVED**

Mr. Kuhbier said I know that neighbor directly across the street and that neighbor is not coming in here.

Chairman Maxwell said is there any other input from the Board Members or public?

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

**Decision of the Board:**

***Vice-Chairman Aglietti moved to grant the requested variance;***

***Mrs. Fabiano said do we want to condition it with no kitchen and only a powder room?***

***Chairman Maxwell said I think it's understood. Right Mike [Carnazza]?***

***Mr. Carnazza said if he tries to do a kitchen, he would need to get a variance from the Board because the building is no longer existing in 1998. So, they'd be back for an accessory apartment.***

***Mr. Balzano said and doesn't that also invalidate his septic as well because all of a sudden he's adding a bedroom.***

***Mr. Carnazza said agreed but you could take one out of the main house. There are ways to do it but yes. I don't see a need to put it in there. If he does, he's in violation.***

***Mrs. Fabiano said and powder room? That's also standard?***

***Mr. Starace said that's allowed.***

***Mr. Carnazza said if he wants to put a shower in, not that he would, but why can't he? There's no reason that he can't.***

***Chairman Maxwell said as long as the Board of Health is okay with it. Any further discussion? All in favor?***

***All Board Members responded aye.***

15. Application of **WILLIAM WEIZENECKER** for a Variation of Section 156-15 seeking a Variance for permission to retain shed. The property is located at 225 Daisy Lane, Carmel NY and is known as Tax Map #77.19-1-11.

<b>Code Requires/Allows</b>	<b>Provided</b>	<b>Variance Required</b>
10'	7.5'	2.5'

➤ Mr. Weizenecker of 225 Daisy Lane, Carmel was sworn in.

## **APPROVED**

Mr. Weizenecker stated my neighbor got a violation and Denis [Marousek] happened to look over the fence and said there's another one.

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

Mr. Weizenecker said I wish I could buy the left and right side (north and south).....

Chairman Maxwell said can't afford it.

Mr. Weizenecker said right; so, I'm here for my 2.5'.

Chairman Maxwell said there's no issues with your neighbors or obviously they'd be here. How long has the shed been there?

Mr. Weizenecker said it started off in 1940 as a sheep shed; knocked it down in early 2000 and put up a 3-sided 10' x 10' shed.

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

Mr. Weizenecker said not really. I knocked down the existing that was bigger. It was about 25' x 12'. It was my grandfather's.

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

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

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

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

## **MISCELLANEOUS:**

### **MINUTES:**

- August 31, 2023
- September 28, 2023

***Vice-Chairman Aglietti moved to accept both August 31<sup>st</sup> and September 28<sup>th</sup> minutes as written; seconded by Mr. Balzano with all in favor.***

**Chairman Maxwell stated let the record reflect that Mrs. Fabiano and Mr. Santini have recused themselves from the next action.**

Chairman Maxwell said we have to consider negative declaration and approval of stipulation and settlement of consent order New York SMSA Partnership et al. v. Town of Carmel 19-cv-10793.

**APPROVED**

Mr. Balzano said I have to make two motions:

***Mr. Balzano moved that the Board has reviewed the short Environmental Assessment Form. It is an unlisted action. There are no significant adverse impacts from approving the stipulation and the facility shall be reviewed and there will be a separate but no less protective of the environmental SEQR at this time of the full review; seconded by Vice-Chairman Aglietti with all in favor.***

***Mr. Balzano moved that the Board approves the stipulation of settlement and consent order in the matter of New York SMSA Limited Partnership d/b/a Verizon Wireless and Homeland Towers, LLC versus the Town of Carmel, et al; The United States District Court, Southern District of New York, Docket #19-cv-10793; seconded by Vice-Chairman Aglietti with all in favor.***

*Vice-Chairman Aglietti moved to close the meeting; seconded by Ms. McKeon with all in favor.*

By Order of the Chairman,

John Maxwell