

**APPROVED**

**JOHN MAXWELL**  
*Chairman*

**PHILIP AGLIETTI**  
*Vice-Chairman*

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



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*Director of Code  
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**JOHN STARACE**  
**JULIE MCKEON**  
**WILLIAM SANTINI**

**ZONING BOARD OF APPEALS MINUTES**

**DECEMBER 21, 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>
Robert Altero	53.12-1-17	1	Held Over
Bore Cotaj	76.30-1-5	1	Held Over
Michael Festo	75.16-2-1	2-10	Held Over
Jude Brower	65.9-1-9	10-12	Requested Variance Granted
Drana Vukaj	75.10-1-18	12	Held Over

The meeting was adjourned at 8:09 p.m.

Respectfully submitted,

Dawn M. Andren

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## **HOLD OVER APPLICATIONS:**

1. 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

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

No representatives were present this evening.

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

2. 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.

Code Requires/Allows	Provided	Variance Required
<b>Dock:</b>		
<b>Lake frontage 50'</b>	<b>6.25'</b>	<b>43.75'</b>
<b>Minimum Area 3,000 sf</b>	<b>280 sf</b>	<b>2,720 sf</b>

Chairman Maxwell stated that this application had requested a holdover.

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

## **NEW APPLICATIONS:**

3. Application of **MICHAEL J FESTO** for a Variation of Section 156-101 & 156-47A(1) seeking a Use Variance for permission to encroach upon front & rear setbacks with garage, and expand non-conforming Use (two-family). The property is located at 247 Buckshollow Road, Mahopac NY and is known as Tax Map #75.16-2-1.

<b>Code Requires/Allows</b>	<b>Provided</b>	<b>Variance Required</b>
Accessory front setback of 25'	23.75'	1.25'
Accessory front setback of 25'	8.83'	16.17'

➤ Mr. Michael Festo of 247 Buckshollow Road, Mahopac was sworn in.

Mr. Festo said I'm applying for a variance for a three-car storage garage.

Chairman Maxwell said you haven't built it yet – right?

Mr. Festo said it has not been built yet.

Chairman Maxwell said have you talked with your neighbors?

Mr. Festo said I have not but I've sent letters out.

Chairman Maxwell said obviously they'd be here if there was an issue. There's no property that you can purchase to bring this into conformance?

Mr. Festo said no.

Chairman Maxwell said you're pretty much land-locked there – right?

Mr. Festo said right.

Chairman Maxwell said what's the need for the garage?

Mr. Festo said dry storage.

Chairman Maxwell said that's not for business purposes – right?

Mr. Festo said no.

Chairman Maxwell said there's no existing garage now?

Mr. Festo said yes. There's a two-car attached garage.

Chairman Maxwell said it's within the house?

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Mr. Festo said yes.

Mrs. Fabiano said so why do you need 5 garage spaces?

Mr. Festo said the two that are connected to the house right now aren't available. They're rented out. There's not enough space for what I need.

Mrs. Fabiano said renting out garage space?

Mr. Festo said yes. It's my own space. The two-car garage is mine but I need three more spots.

Mrs. Fabiano said so why do you need five spots?

Mr. Festo said I have two cars right now that I store privately. I'm paying for storage. I'm looking to get another car in the near future.

Mr. Balzano said collectible cars?

Mr. Festo said you could call them that.

Chairman Maxwell said so you're an enthusiast?

Mr. Festo said yes.

Mr. Starace said looking at the plans, it looks like the garage is split? The first half is for the cars and the back half is for dry storage?

Mr. Festo said that's correct.

Mr. Starace said so you're going to have a wall right through the middle.

Mr. Festo said that's the way it's drawn up right now; yes.

Chairman Maxwell said what's meant by dry storage; for vehicles?

Mr. Festo said extra attic space.

Chairman Maxwell said for the second floor.

Mr. Festo said for the second floor; yes.

Chairman Maxwell said there's no plan for running water?

Mr. Festo said no.

Chairman Maxwell said or habitable space here?

Mr. Festo said no.

Chairman Maxwell said it's pretty big considering the size of the house.

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Mr. Balzano said it's almost as large as the house. The other question that I have is how do you get to it? You're on Buckshollow Road. Where's the curb-cut?

Mr. Festo said the other side; the other street. I think it's shown in the site plan.

Mr. Starace said that street is called what?

Chairman Maxwell said is that a paper road?

Mr. Starace said that would be the front view looking at that road?

Mr. Festo said right.

Mr. Starace said what road is that?

Mr. Festo said I don't know the name off the top of my head.

Mr. Starace said it's residential. There are houses on the road?

Mr. Festo said yes.

Mrs. Fabiano said that's at the fork.

Mr. Festo said right off of Route 6; yes.

Mrs. Fabiano said Buckshollow forks out to go to Wallauer or continues up to Buckshollow. He wants to put this across from the Bike Path.

Mr. Festo said right. So, you go past the bike path and the curb cut would be on the left.

Mrs. Fabiano said this is right near Wallauer, and I know a lot of people park there for the bike path on that side. This is a legal two-family house as it is?

Mr. Festo said yes it is.

Mrs. Fabiano said it looks like you're planning to do some kind of rental in that property.

Mr. Festo said there's no plans for that.

Mr. Balzano said are you putting plumbing in there?

Mr. Festo said no.

Mrs. Fabiano said I don't know.

Chairman Maxwell said we can condition it like we always do.

Mrs. Fabiano said but a 5-car garage? How big is the lot?

Chairman Maxwell said a 3-car garage.

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Mrs. Fabiano said a 3-car garage but he has two spots already. So, he's going to have 5 parking.....how big is the lot?

Mr. Festo said almost a ½ acre.

Mrs. Fabiano said so you're going to have two buildings where the garage is almost as big as the house – square footage wise; five spots on a half-acre.

Vice-Chairman Aglietti said one variance is minimal but the other one is.....there's nothing that you could do to minimize that other one – the 16' one?

Mr. Starace said can you shift this around a little bit?

Mr. Festo said shift the garage around?

Mr. Starace said yes. I see you've got a well out here.

Mr. Festo said I don't think so. My engineer, pretty much, put it in the best spot possible for what I wanted so, no.

Vice-Chairman Aglietti said what you want may not be what we want.

Chairman Maxwell said our goal is to minimize or grant the most minimized variance here. It seems kind of extreme for a lot this size. I appreciate that you went and did full blown drawings here but it's a little excessive.

Mr. Starace said you've got 33' wide – right and you have 40' deep. Can we shorten that up; maybe pull back. You've got 8.83' which is a large variance there.

Vice-Chairman Aglietti said that's a big structure really close to that house.

Chairman Maxwell said maybe a two-car garage to minimize.....

Mr. Balzano said that's what I was thinking. Bring it down to two bays.

Mrs. Fabiano said I'm having a hard time having space for five.

Chairman Maxwell said you come to a pie shape so you're trying to maximize here. It's not indicative of what would .....

Mr. Festo said currently it's a wooded lot and overgrown.

Mrs. Fabiano said that's because you have to clean it up.

Mr. Festo said right.

Mr. Starace said what about if it was pulled back a little?

Mr. Festo said so go something like 33' x 35'?

Mr. Starace said yes. Something like that, and then I don't know how it looks as I wasn't out there on that path. What is it going to be made out of – the exterior?

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Mr. Festo said vinyl siding.

Vice-Chairman Aglietti said this is a Use Variance?

Mrs. Fabiano said it's an expansion of a non-conforming Use.

Vice-Chairman Aglietti said if it's a Use Variance, he's got to prove a lot of stuff here.

Mr. Balzano said no; it's an Area Variance.

Vice-Chairman Aglietti said it's advertised as Use.

Mr. Balzano said really? It shouldn't be.

Mrs. Fabiano said it's an expansion of non-conforming use.

Mr. Starace said but there's nothing there now.

Mr. Festo said nothing now.

Mr. Starace said what's non-conforming; the two-story frame house?

Mr. Balzano said so the two-family is non-conforming. So, anything that happens on the lot extends the non-conforming. That's what's going on. So, the building itself isn't non-conforming. It's the fact that there's a two-family house on there that's non-conforming.

Vice-Chairman Aglietti said so if it's a Use Variance, your road got a lot harder.

Mrs. Fabiano said I'm one vote and I totally disagree with this.

Chairman Maxwell said let's read the Use Variance criteria. Must prove all of the following:

- Incapable of earning a reasonable return if used for any of the allowable uses (\$ amounts must be shown)
- Property is affected by unique or, at least, highly uncommon circumstances
- Will not alter the essential character of the neighborhood
- Not self-created

This is certainly self-created.

Vice-Chairman Aglietti said it's going to alter the character of the neighborhood.

Chairman Maxwell said it will alter the character of the neighborhood because of the (inaudible) size lot that it is.

Mrs. Fabiano said and you have to meet all of the criteria on a Use Variance so automatically, it doesn't work.

Mr. Balzano said I think with this one, we need to.....

Mr. Starace said (inaudible) fall into use though.

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Mr. Balzano said I don't think it does. It falls as a two-family. It's just extending the non-conforming use. It's not granting another one. I think it goes back to the area criteria. I don't think it goes but that's part of the weighing of the area criteria – the fact that we're extending a non-confirming use regardless.

Mrs. Fabiano said it was built prior to 1955 I'm guessing – correct?

Mr. Festo said yes.

Mrs. Fabiano said so it pre-dates the Code. So, the building itself doesn't meet Code Requirements.

Mr. Balzano said but it's about the lot. It's not about the building.

Mrs. Fabiano said you wouldn't have been able to build this.

Mr. Balzano said no; not anymore. Then you would need a Use Variance but it's there. So, it's there.

Mrs. Fabiano said so it has a pre-existing, non-conforming use; so you're expanding the non-conforming use.

Mr. Starace said I know Mike Carnazza is not here as Code Enforcer but if he had no variance with nothing on there, he would still have to come here for a Use Variance – right?

Mr. Balzano said no; not if it's pre-existing, non-conforming which is what it is. If it's built before 1955, he doesn't need anything for what's there.

Mr. Starace said if he eliminates the variance right here, now with the size of that, would he still be here?

Mr. Balzano said if the building conformed?

Mr. Starace said yes.

Mr. Balzano said that's a great question. Again; it's an expansion of a non-conforming use. I think he would.

Mr. Festo said yes; that's correct.

Mr. Balzano said the moment you do something to this lot, he has to come here but just the criteria. I think that's where we need legal to just back that. I think I just want to hold this over until we have proper recommendations from our counsel.

Vice-Chairman Aglietti said I would agree.

Mr. Festo said just for the record, there are multiple detached garages all along Buckshollow.

Mrs. Fabiano said that's fine but yours involves five spaces.

Mr. Balzano said it's also about the law here.



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Mr. Festo said it's three-car.

Mrs. Fabiano said it's three plus the two that you already have so it's five.

Mr. Balzano said that does seem a little bit excessive.

Mrs. Fabiano said how big is the lot?

Vice-Chairman Aglietti said a half-acre.

Mr. Festo said it's a little less than a half-acre.

Mrs. Fabiano said five garage spaces on a half-acre seems very excessive to me especially considering where this is. It's in a very traveled area. There's high traffic in that area. People are going down Buckshollow from both sides. You're right at the fork in the road.

Vice-Chairman Aglietti said more importantly it's the character of the neighborhood.

Mrs. Fabiano said true and it's self-created.

Vice-Chairman Aglietti said if it's a Use Variance or an Area Variance, both of those are things we need to consider. You heard Mr. Balzano's idea to put this over.

Mr. Festo said okay.

Chairman Maxwell said let me read this section [of the Town Code] 156-47A:

*Except as provided in § 156-50 hereinafter, any type of nonconforming use of buildings or land may be continued indefinitely, but shall not be:*

*(1) Enlarged or structurally altered, extended or placed on a different portion of the lot or parcel of land occupied by such use on the effective date of this chapter or of any applicable amendment thereof, nor shall any external evidence of such use be increased by any means whatsoever, except whereby, through such alteration, it is changed to a conforming use.*

*(2) Changed to another nonconforming use without approval from the Board of Appeals and then only to a use which, in the opinion of said Board, is of a more restricted nature.*

*(3) Reestablished after the physical operation thereof has ceased for a period of one year for any reason. Intent to resume active operation of nonconforming use after cessation thereof shall not confer the right to do so.*

So, because of point 1 is why it's coming through as a Use Variance.

Mr. Balzano said so if it has to come through as a Use Variance, your mission is to prove financial hardship.

Vice-Chairman Aglietti said or show that it's not altering the essential character of the neighborhood or not self-created.

Chairman Maxwell said you've heard some of the opinions here. It seems excessive. Maybe, if you cut this down to a two-bay garage, you'd be minimizing the variance that you're looking for and it might help the situation here. Am I reading the tea leaves right here?

Vice-Chairman Aglietti said if we put this through a vote tonight, it's not going to pass. So, we could hold this over and you could go talk to someone with some knowledge and some expertise in this. Then, come back next month. You need to see how you can prove all the things that

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Chairman Maxwell read to you that need to be proven and sway us to see if that's going to change anything. I don't know if it will.

Mr. Festo said I'm willing to hold it over.

Chairman Maxwell said why don't you consult with either an architect, engineer or your attorney.

Mr. Festo said these are temporary plans so I can change them however. These were produced by a professional engineer.

Vice-Chairman Aglietti said talk to him.

Mr. Festo said I'm going to talk with him.

Chairman Maxwell said you may even want him to come and represent you.

Vice-Chairman Aglietti said or speak to Mike [Carnazza].

Chairman Maxwell said definitely talk with Mike. He's on vacation right now.

Mrs. Fabiano said I'm thinking this is going to be a very difficult road for you to take. A Use Variance has very strict criteria and I don't know if you can meet it honestly. I'd hate to see you spend money on an attorney..... Hardship, financials; I don't think you're going to be able to get there.

Mr. Festo said going back to the property, I know you were concerned about the bike path and heavy traffic area. Right now, it's heavily wooded. You can't see anything. Coming down Buckshollow and going toward Route 6.

Chairman Maxwell said you're going to clear that to build this.

Mr. Festo said that's the plan.

Mrs. Fabiano said for somebody to come out of that driveway when cars are coming from both sides, I think that's even an issue. You're right at that fork.

Mr. Festo said Buckshollow has the same amount of traffic going up and down so it's the same thing.

Mrs. Fabiano said right; but if you're coming out by the bike path, you have people coming from the long end of Buckshollow and then they're coming around the corner. I think you're going to have a tough time with visibility too.

Mr. Festo said there are houses right on the corner as well that have the same situation.

Mrs. Fabiano said you're adding more problems to it.

Vice-Chairman Aglietti said more importantly the four criteria is what you need to have someone really focus on for you.

Chairman Maxwell said and all of them have to be met. This is a wish list kind of situation. You don't really have a financial hardship here. You're just looking to create extra space for yourself.

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Mr. Festo said right. I bought the property as an investment property. I plan to move into one of the units in the near future. I'm going to need storage not only for myself but for my family as well. It's not just going to be my stuff.

Vice-Chairman Aglietti said so you're going to need to speak to somebody like an accountant, or whatever, that's going to be able to show how you're going to have a financial hardship if you don't get this. That's what it's going to have to come down to.

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

4. Application of **JUDE BROWER** for a Variation of Section 156-15 seeking a Variance for permission to retain shed. The property is located at 525 North Lake Blvd., Mahopac NY and is known as Tax Map #65.9-1-9.

Code Requires/Allows	Provided	Variance Required
10'	6'	4'

- Mr. Jude Brower of 525 North Lake Blvd. was sworn in.

***(podium mic either died or was turned off)***

Mr. Brower stated we're looking for a variance of 4'. I built the shed myself in the last few months.

Chairman Maxwell said architecturally, it's beautiful; especially with the Christmas decorations.

Mr. Brower said (inaudible) where ever I put it, I'm going to need one.

Chairman Maxwell said we usually don't see sheds coming on the side of a house but each case is judged on its own merits.

Vice-Chairman Aglietti said it mirrors the other side.

Chairman Maxwell said it looks like it's almost part of the house.

Mr. Brower said (inaudible) window, the color, the roof (inaudible).

Mr. Balzano said and it's set back a little bit Mr. Chairman. I know it's not all the way in the back but it's set back enough.

Chairman Maxwell said yes. It looks like it's part of the house. What do you use it for; lawnmower & tools?

Mr. Balzano said and if you look at the lot.....

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Chairman Maxwell said you've got a tough lot. You're juxtaposed on a square lot.

Mr. Brower said yes; I don't know why.

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

Mr. Brower said no; (inaudible)

Chairman Maxwell said did you talk with your neighbors about it? There are no issues or concerns?

Mr. Brower said one neighbor had a problem with it but he's not here.

Vice-Chairman Aglietti said he didn't contact us.

Mr. Brower said two neighbors are here and I have letters from ten other people.

Chairman Maxwell said do you have them.

Mr. Brower said I do (and approached dais with documentation).

Vice-Chairman Aglietti said let the record reflect that the applicant has provided of no objection from:

Alejandro Bernabo of 510 North Lake Blvd.  
Fred Martins of 528 North Lake Blvd.  
Lisa Lavine of 497 North Lake Blvd.  
Rich & Sue Gruth of 14 Averill Drive  
Chris Ahern of 483 North Lake Blvd.  
Michael O'Kane of 520 North Lake Blvd.  
Phillip Gifford Carter of 507 North Lake Blvd.

Chairman Maxwell asked the Board Members if they had any questions of comments on this application.

Mr. Starace said it's a nice looking shed.

Chairman Maxwell said I'll open it up to the public if anyone wishes to speak on this application.

➤ Mr. John Migliaccio of 493 North Lake Blvd. was sworn in.

Mr. Migliaccio said first I want to thank you guys for all the work you do and the time you put in. I've known Jude for fifteen years. I know that he takes care of the property. He's meticulous (inaudible).....I think it fits in (inaudible) just support Jude. **(mic is replaced)** I think, aesthetically, it fits into the neighborhood. It's a good idea. Thank you very much for your time.

Mrs. Fabiano said I have to say that I am so impressed with the 1991, the original picture to today's picture. It's incredible what you can do with the house.

Mr. Brower said thank you. I designed it.

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

5. Application of **DRANA VUKAJ** for a Variation of Section 156-47A(1) seeking a Use Variance for permission to put up a pergola near the pool on lot with: two 1-family dwellings and one 1-family dwelling. The property is located at 515 Route 6N, Mahopac NY and is known as Tax Map #75.10-1-18.

Chairman Maxwell stated that this application had also requested a holdover.

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

Chairman Maxwell stated before everyone leaves, I don't know this procedure. This is a Short Environmental Assessment Form (EAF). I think for the record we probably need to do this publicly and we probably should've done it while the cases were open; I'm not sure. Again; this has to be explained to me as it's a new process.

Vice-Chairman Aglietti said according to what we were told, we only have to do this for #3 & #5 and they were both held over so we don't need to do it.

Chairman Maxwell said you're right.

Mr. Starace said doesn't the Environmental Board do that?

Chairman Maxwell said whoever claims lead agency. Nine times out of ten, it's always been the Planning Board but for some reason, I think this is a new process that unfortunately hasn't been explained to me yet. So, we'll have to figure it out for next month.

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

By Order of the Chairman,

John Maxwell