

# APPROVED

JOHN MAXWELL  
*Chairman*

PHILIP AGLIETTI  
*Vice-Chairman*

## TOWN OF CARMEL ZONING BOARD OF APPEALS



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MICHAEL CARNAZZA  
*Director of Code  
Enforcement*

### BOARD MEMBERS

ROSE FABIANO  
SILVIO BALZANO  
WILLIAM ROSSITER  
MARC DITOMASO  
MICHAEL SCHWARZ

## ZONING BOARD OF APPEALS MINUTES

JUNE 28, 2018

**PRESENT:** CHAIRMAN, JOHN MAXWELL, VICE-CHAIRMAN, PHILIP AGLIETTI,  
SILVIO BALZANO, ROSE FABIANO & MICHAEL SCHWARZ

**ABSENT:** WILLIAM ROSSITER, JR. & MARC DITOMASO

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<u>APPLICANT</u>	<u>TAX MAP #</u>	<u>PAGE</u>	<u>ACTION OF THE BOARD</u>
Nuno Reis	75.65-1-7	1 – 2	Granted with condition
Edward & Donna Geiss	55.13-1-2	2 – 3	Granted
Hinkley Holdings LLC – Harold Lepler; Alexandrion Group	55.10-1-1	3 – 9	Granted with condition
D & L Ford, Inc.	65.13-1-52	9 – 13	Granted

### MINUTES:

May 24, 2018	13	accepted as written
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The meeting was adjourned at 8:21 p.m.

Respectfully submitted,

Dawn M. Andren

## **NEW APPLICATIONS:**

1. Application of **NUNO REIS** for a Variation of Section 156-15, seeking an Area Variance to build/install in-ground concrete pool. The property is located at 11 Gleneida Blvd., Mahopac NY 10541 and is known by Tax Map 75.65-1-7.

<b>Code Requires</b>	<b>Provided</b>	<b>Variance Required</b>
40' front	10'	30'

- Mr. Nuno Reis was sworn in.

Mr. Reis indicated that he was looking for a variance for an in-ground pool. My property is on a corner so it's considered two fronts. Due to the septic tank behind the house and the leach fields across the west side of the house, the area where the pool is proposed is the only feasible area for it. The pool isn't that large; it's 12' x 16.5'. That's the variance I'm asking for.

Chairman Maxwell said I met the applicant out at the property the other night. I agree; you're tight with where your septic is and there is no other location that it could go on the property. It doesn't look like that side road is a highly travelled road. According to the photos, it looks like you're going to be well screened between fencing and evergreens.

Chairman Maxwell then polled the Board for any questions or concerns.

Mrs. Fabiano asked what is the height of the fence you're putting up.

Mr. Reis replied I haven't ordered the fence yet but whatever the Code is.

Mrs. Fabiano said the Code is only 4'.

Mr. Reis said okay; I was thinking more like 6'.

Chairman Maxwell said you'd have to seek a variance for 6' because the Code is 4'.

Mrs. Fabiano added the positive part for you is that you have that slope so if you put up a 4', it may not be an issue.

Chairman Maxwell said plus your arborvitaes are going to be aligned with that as well.

Mr. Reis replied yes; they're 8' along the side.

Mrs. Fabiano said on the outside of the fence?

Mr. Reis replied on the inside of the fence.

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

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

**DECISION OF THE BOARD:**

Mrs. Fabiano moved to grant the requested variance.....

Mr. Balzano requested to amend that and said he put it on the plans but I just want to make sure that the arborvitae screening is there as part of the motion.

Chairman Maxwell said it's probably smart to have it in the D&O.

Mrs. Fabiano moved to grant the requested variance with the condition that arborvitae are included as stipulated on the plan; seconded by Vice-Chairman Aglietti.....

Mr. Balzano interjected I want the landscaping around it.

Chairman Maxwell said they presented it in their plans but it's not written as such so it's better to have it in writing.

Mr. Balzano replied right; I'd rather have it in the D&O.

Chairman Maxwell then asked if all were in favor with the amended motion and all replied yes.

2. Application of **EDWARD & DONNA GEISS** for a Variation of Section 156-15, seeking an Area Variance to add a second story addition; bring gas line to the house; fix & repair existing deck. The property is located at 32 Lindy Drive, Carmel NY 10512 and is known by Tax Map 55.13-1-

<b>Code Requires</b>	<b>Provided</b>	<b>Variance Required</b>
20' side	18.3' & 18.9'	1.7' & 1.1'

*Vice-Chairman Aglietti recused himself for this application.*

- Mr. Edward Geiss was sworn in.

Mr. Geiss said I'm looking to build a second story addition on my house. I've been living in that house for 36 years. The house is tired and my wife wants some improvements. We're looking for a second story addition. Unfortunately, when the house was built, I don't have 20' on each side. I have over a ½ acre of property so I need 20' now. I'm looking for a variance because I need 1.7' on one side and 1.1' on the other side in order to do the project.

Chairman Maxwell said and you're basically going straight up on each side from the footprint that's existing.

Mr. Geiss responded exactly.

Chairman Maxwell asked you've checked with all your neighbors.

Mr. Geiss replied I did. I do have a few letters of endorsements from my immediate neighbors. Unfortunately, a lot of people are on vacation. I could give them to you if you want.

Chairman Maxwell said yes; you could submit those for the record.

Mr. Geiss said I also put in the request to put a gas line into the house so I could have gas heat, to be able to cook with and laundry facilities; and to also fix my deck which was assaulted by a tree during the winter storm.

Chairman Maxwell asked is your septic in the back of the property.

Mr. Geiss replied I don't have septic anymore; I have sewer and Town water.

Chairman Maxwell said it looks like a nice plan, well-done architectural renderings. I don't think there's any concern about the look.

Chairman Maxwell then polled the Board for questions/concerns regarding this application.

Mrs. Fabiano asked if both the house and the deck are staying on the existing footprint.

Mr. Geiss replied yes; it's basically just the railing on the deck that came down.

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

Mr. Schwarz 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 variances; seconded by Mr. Schwarz with all in favor.

3. Application of **HINKLEY HOLDINGS LLC – HAROLD LEPLER (ALEXANDRION GROUP)** for a Variation of Section 152-42A(7), seeking Area Variances to allow insufficient parking according to Town Code as the number of existing parking spaces will be sufficient for the property's new intended use. Utilize adjacent property's parking to provide additional space for site needs. The property is located at 39 Seminary Hill Road, Carmel NY 10512 and is known by Tax Map 55.10-1-1.

<b>Code Requires</b>	<b>Provided</b>	<b>Variance Required</b>
327 parking spaces	238 parking spaces	89 parking spaces
Spaces on parcel	Spaces on adjacent parcel	To allow a portion of spaces on adjacent parcel

- Mr. Randy Tharpe of Epstein Architects & Engineers representing the applicant was sworn in.

Mr. Tharpe stated Alexandrion Group is proposing the conversion of the property at 39 Seminary Hill Road, previously the Guidepost facility/office and currently being utilized as the Paladin Center, to a distillery operation with a visitor center. The facility will be in production approximately five days a week with 24 hour operation during those periods of time because of the way distillery operations is a continuous operation. The visitor center will be open seven days a week but most likely only during daytime operation. As calculated by the Zoning Ordinance, the building, as it sits right now, would be reconfigured as many of the current spaces used as offices would be converted to light industrial use; the warehouse area will generally remain as warehouse. By the calculations for the new use of those spaces and for the visitors' center, we're coming up with an additional 133/134,000 square feet of space which calculates out by the use of those areas to requiring 327 parking spaces. The site, in its current state, has 311 spaces but for some of the requirements by production, we need to put some exterior tanks outside of the building which for proximity to the building and the operations as well as to allow some truck maneuvering in the area, we're eliminating basically 71 of those existing spaces. We're requesting a variance for a number of 238 spaces which is a reduction of 89 from the calculated number. When we did the

calculations, many of the spaces in the building that Alexandrion is going to use, while we're calling them, "light industrial", to some degree, they're warehousing. We have an area called 'fermentation area' where we have a lot of fermentation tanks that occupy 80% of the floor area for 17,000 square feet. The ordinance requires that 17,000 sf calculates to about 35 spaces but we really wouldn't have people there at all in that area. Again; we took the conservative approach in terms of the calculation for making the request. As I mentioned, we have to reduce the 311 spaces by 73 spaces because of the construction for the tank storage. Alexandrion's operations themselves will have 60 employees – of which a portion of those will be working on second shift and third shift. Probably only 5 - 10 employees for those shifts. If you count 60 employees, the parking spaces required for those employees during the day; and we estimate for the visitor center, they would probably have operating tours and groups of no more than 20 people; probably tours would take about an hour and you may have 3 groups of 20 at any one stage getting ready to go on a tour, in the tour and finishing the tour; plus another 20 people coming and going. So; approximately around 100 people may be the maximum for the visitor center.

Chairman Maxwell interjected and that's mostly on weekends?

Mr. Tharpe replied it's all days that it will be available. Obviously, during weekdays it is less likely to have 100 people there at one time in the middle of the day. That comes up with Alexandrion's requirements for what they really require for the operations as planned; it's about 160 spaces. Additionally, there may be events held at the visitor center. Taking an example: if there were 250 people at a corporate event, a banquet or something like that, if half of those people came singly or in one car, you'd have 125 parking spaces for them; the other half – estimate at two people per car gives another 63 and then say a support staff of approximately 50 people, you come up with about 238 spaces. The 238 number, as is, that we're requesting works for all of the operations. Generally, during the normal operation of the facility, without an event, we expect there to be approximately 100 empty spaces not being utilized on the site as it sits today.

Chairman Maxwell asked so it's mostly when you have special events?

Mr. Tharpe replied it would only get 'maxed-out' and filled-up during those special events. With strict adherence to the zoning ordinance, we would be required to provide additional parking. While there is available area on the site that we can provide, from Alexandrion's & Epstein's standpoint, we've got enough parking lots in the world and we don't need any more that necessarily don't have a use or purpose. By not providing these additional spaces, we're keeping and maintaining more green space; we're maintaining most of the site in the same character as it is and if we were to create new spaces, we'd be creating storm water run-off, heat-island effect from the asphalt paving, snow removal issues in the winter and all those kinds of things that aren't necessarily a positive standpoint from a neighborly perspective as well as environmental perspective.

Chairman Maxwell said parking exists now.

Mr. Tharpe said the parking exists now; we're not creating any new spaces. We're using what's there. It's just the calculations. I would say Guidepost was probably under parked according to the Zoning Ordinance with the amount of office space that's there. Office Space requires 1 per 200 sf. We're converting an awful lot of office space to light industrial. On the total existing square footage of the building, probably they had a shortage of parking on the basis of square footage but I don't know how many employees they had.

Chairman Maxwell said I understand that you have a lease term that is in play to take that property over – correct?

Mr. Tharpe responded there is a purchase agreement for the site. It's a purchase agreement between Alexandrion and Hinkley Holdings, and there is an easement for utilizing a portion on another parcel that is owned by Hinkley Holdings.

Chairman Maxwell said but that is not finalized?

➤ Mr. Willis Stephens, Esq. for Hinkley Holdings stepped up to the podium.

Mr. Stephens stated there has been a draft perpetual easement that would be granted to Alexandrion and it would be recorded once they take title of the property. The actual document has been submitted to counsel; it has also been submitted to the Building Department and I believe they have it in their file.

Mr. Tharpe continued we actually believe that by not meeting the zoning ordinance and having the variance for the reduced amount of parking, we're actually keeping and maintaining the status quo of the site and environmental impact on any neighboring properties.

Chairman Maxwell asked are you seeking any leed status for the construction of the site.

Mr. Tharpe replied we are not at this time. It's been discussed with the owner. With production operations of a nature like this, a lot of times, it's very challenging because they use a lot of energy. While some of those things aren't necessarily counted in lead, it is difficult sometimes from an energy standpoint in overall consumption because they will have boilers heating a lot of water that are used for the fermentation as well as the distillation process. In all design these days, we do a lot of things that are as environmentally sensitive as possible.

Chairman Maxwell opened this application up to the Board for questions.

Mrs. Fabiano asked Mr. Stephen's property that he is referring to is that green section there.... Where they will have a perpetual easement?

Mr. Tharpe replied the overall property is here; it's called Lot 3. This is the portion that would have the easement which is the existing parking that's currently constructed.

Mrs. Fabiano then said he just doesn't want to sell the parcel?

Mr. Stephens replied they have an option to buy it.

Mrs. Fabiano asked how many employees do you expect to be working at any given time.

Mr. Tharpe replied the maximum total employees anticipated for the facility is 60 but I would say, given the second and third shift is probably no more than 50.

Mrs. Fabiano said I read in the paper there's about 400 employees anticipated.

Mr. Tharpe replied the 400 employees that Alexandrion will employ will include an office in the city and sales people all around the country.

Mrs. Fabiano said so it'll be just 60 employees

Mr. Tharpe responded it'll be 60 employees here and perhaps a half dozen as part of the visitor center.

Mrs. Fabiano asked how often do you expect them to have special events.

Mr. Tharpe replied that's a tough question. They're not intending to run it as a banquet hall for a business but maybe in a time like this – during the summer – maybe an event every other weekend or something like that possibly. It'll take time to ramp that up.

Mrs. Fabiano asked would that be like tastings.

Mr. Tharpe replied it could be a tasting as a promotional event. It could be a corporate event that somebody wants to bring their employees or their top sales people and say we're going to have a weekend up in Carmel, go to the distillery, and have a nice dinner there that'll be catered in.

Mrs. Fabiano interjected or it could be a tasting for everyone – so you could have tons of people.

Mr. Tharpe responded I don't know that if it would necessarily be completely open, everybody would show up. Most of the ways the distilleries operate for their tours are pre-arrangements so you're purchasing tickets in advance for people to attend at a certain time slot for a distillery tour.

Chairman Maxwell said so it's not a walk-in type of situation; it's pre-planned.

Mr. Tharpe replied not typically for a lot of the distilleries. Most of them are selling tickets on-line. The larger ones, down in Kentucky, are by appointment only.

Mrs. Fabiano said so it's different from a winery where people could go for a food and drink fest. It wouldn't be like that kind of thing. If you were to have a massive event, do you have greenspace where people could park on the grass?

Mr. Tharpe replied yes; there are areas along here, along this road. This is an access road to the site. (inaudible) We would not be looking to have an event beyond those limits.

Mrs. Fabiano said I've been to food truck at wineries. We're not talking about that type of event.

Mr. Tharpe replied no.

Chairman Maxwell then opened this application to the public for input.

➤ Mr. William Trabulsy of 20 Lindy Drive, Carmel was sworn in.

Mr. Trabulsy asked is this a meeting strictly for the parking?

Chairman Maxwell responded yes.

Mr. Trabulsy furthered so we don't want to deviate from.....

Chairman Maxwell replied it's my understanding this will be going onto a Site Planning Review as well.

Mr. Folchetti said (no microphone was available so completely inaudible).

Chairman Maxwell said so usually it goes to the Planning Board; if there's anything that needs to be cleaned up – zoning wise, they'll deny it and send it to us which is the point we're at right now. This will go back to the Planning Board.

Mr. Trabulsy asked and will there be a public hearing.

Chairman Maxwell said most certainly and it's advertised just like this meeting is.

Mr. Trabulsy said I do have a question on egress into the facility and out of the facility. Does that occur on Route 6 or does that occur on Route 52?

Chairman Maxwell said we can refer to the Consultant but just address the Board please.

Mr. Tharpe said the egress from an operational standpoint, primarily truck traffic, and everything else is coming from Route 6. There's an easement that's been granted across (inaudible). There's an easement from Route 6 through what's called Lot 3 that provides access up to.

Mr. Stephens added just so we're accurate; Lot 1 which is the lot that we're talking about here – owns half of that road that comes up from Route 6. They share the access easement with Lot 3. It actually has frontage on Route 6 and the road that is currently in existence from Route 6 would be the truck traffic entrance. Visitor entrance could very well be off of Seminary Hill Road.

Mr. Trabulsy said so if there is an event, there could be a substantial amount of people coming up Seminary Hill Road which, in fact, is an already overloaded road if you guys are familiar with it. You've got the housing at the beginning of it, the senior housing shortly after that, you will have this after that, you go up and there's a couple of more residential houses and then you've got Arms Acres. There are a number of vehicles going up that road to begin with. To include or bring this into addition....with Paladin, we already saw it. There are a number of vehicles – more vehicles than we were used to. Don't get me wrong. I think this is great. I really do. I don't think the selected spot is the best avenue but that may go back to here. My concern tonight would be do we have the capacity to handle the influx of people coming to this facility.

Chairman Maxwell replied this was once Guideposts back in the day.

Mr. Trabulsy interjected but there was half of what's on that road today. That's not apples to apples.

Chairman Maxwell responded I think your concerns are for the Planning Board. This is just about parking spaces for the facility.

Mr. Trabulsy continued so the building that you're referring to is the building that's up on top of the hill that you want to take out and that's closer to that neighbor over there.

Mr. Tharpe interjected nothing is going out.

Mr. Trabulsy said you're just going into it. I'm concerned about our residents. I don't even live on that road but I'm concerned about them and I think we're a little short-sighted in creating something like this but I will have to address the Planning Board with this. Just curious, is there going to be a light on that entrance on Route 6 for turning into the driveway?

Mr. Tharpe replied there'll only be about 5 trucks per day.

Mr. Trabulsy continued only 5 trucks per day; and that's mandatory. There'll be no other trucks coming in off Seminary?

Mr. Tharpe replied no.

Chairman Maxwell stated we've received letters today and I'll read them because they couldn't make it here:



- From Nina Walters: "I'm unable to attend the Zoning Board of Appeals scheduled for Thursday. I wanted to express my concerns regarding the planned distillery. As a 20 plus year Seminary Hill Road resident, I have some questions regarding the traffic impact of the Alexandrion Group building a distillery at 39 Seminary Hill Road. Seminary Hill Road is a high traffic road with Arms Acres & Camarda located further up and the building of the 55+ housing units on Mechanic Street. Drivers typically drive faster than the 30 mph posted speed limit and accidents occur on a regular basis. Specifically at Church Street and Seminary Hill Road which is a 4-way stop. With the addition of the distillery and the increased traffic entering and leaving the facility, what are the plans to insure fewer accidents occur and not more? Will there be a traffic light installed. In addition, Seminary Hill Road is also popular with cyclists and runners. On any sunny day, there are many cyclists and runners taking up the challenge of the hill. What precautions would be taken to ensure our cyclists and runners will continue to be able to use Seminary Hill Road and increase their fitness. Thank you for your time."

Chairman Maxwell replied to this by stating this is a Planning Board issue and she certainly can try to make it to that meeting as well.

Mrs. Fabiano said can I just ask something of Mr. Folchetti: when there is a special event that happens, don't they have to get approvals from Mike Carnazza. Don't they have to have some kind of permit?

*Mr. Folchetti replied but due to missing microphone and fans, it was totally inaudible.*

Mrs. Fabiano continued, they can't max out and say you can only have 'x amount' of people at this event?

Mr. Folchetti replied (mostly inaudible)..... the Planning Board can determine the operations..... conditions of approval.....

Chairman Maxwell said to allay this person's concerns; they can always call the Police Department for more traffic enforcement and fines, etc. from an enforcement standpoint.

Mr. Folchetti added (inaudible) .....Seminary side

Chairman Maxwell added that's something that the Planning Board can consider; maybe some kind of lit up signage, speed signage or what have you but that's not under our prevue.

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

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

Vice-Chairman Aglietti moved to grant the requested variance; seconded by Mrs. Fabiano...

Mr. Schwarz interjected I think it should be contingent upon the permanent easement and in a form acceptable to Town Counsel.

Mr. Folchetti (inaudible) the motion to grant contingent upon the perpetual easement (inaudible)

Mr. Schwarz added and that it is recorded.

Mr. Folchetti said the motion to grant contingent upon the perpetual easement for the proposed.....(inaudible).

Vice-Chairman Aglietti amended the motion as granted contingent upon the recording of a perpetual easement for parking in a form approved by Town Counsel and recorded; seconded by Mr. Schwarz with all in favor.

4. Application of **D&L FORD, INC.** for a Variation of Section 156-15, seeking an Area Variance to expand existing Day Care. The property is located at 854 Route 6, Mahopac NY 10541 and is known by Tax Map 65.13-1-52.

Code Requires	Provided	Variance Required
Side Yard – 25 ft.	3 ft.	22 ft.
ZBA D&O 7/24/03	Day Care on 2 <sup>nd</sup> flr.	Amend D&O dtd 7/24/03
No Day Care 2nd flr.		

- Mr. Joel Greenberg of Architectural Visions, representing the applicant, was sworn in.

Mr. Greenberg stated the request is for two variances. One is to expand the day care in the building and the other is a minor variance so we can have a handicap ramp which is very important. As you know Day Care has become very important for our community and Laurie Ford has done some research and found there is a need to expand her operation because the volume of requests for having children being brought to this facility is continually growing. The space which she wants to use has been vacant for approximately 8 years. The space is there; we've discussed this with the Building Department. It will be totally A.D.A. accessible and I'll show you in a moment why we have to have the area variance. *Referring to the floor plan:* The dark area is the building itself. Right now, there are exits from the second floor. As you can see that area is where there is a stair. The whole idea is to have this second floor completely A.D.A. accessible so what we have to have is a switchback coming out here, a ramp this way – a ramp this way & a ramp this way. The area over here (the property next door) is quite far from that and I have a picture which I'll show you. This is all fully landscaped and fully screened so that even though the existing staircase is about six feet from the property line, the new one would be about three feet from the property line but would not affect anyone's view or any situation with the building next door. This drawing shows the floor plan. This is the existing first floor which is used completely by the day care center. The existing second floor – this half, facing toward Route 6, is rented for various office space and this is the space that's been vacant in the back here for many, many years. This is the space where the day care will be expanded. Here you can see how the handicap ramps will be accessible. We're providing, obviously, handicap facilities regarding restrooms. It's something that the community needs. The operation has been there for many, many years and if you know the business, it's exemplary as far as it's run. The property, itself, is kept immaculate and will basically stay the same except instead of vacant space upstairs, we'll have additional daycare.

Chairman Maxwell said so the decision back a few years ago.....

Mr. Greenberg interjected basically we're asking for taking one section out of the decision (July 2003). The Board, at that time, said day care only on the first floor. Back in 2003, the upstairs was rented so there was no problem. But now again; the need for daycare between 2003 and 2018 has grown exponentially so there's a need for it.

Chairman Maxwell said we understand that but there were safety concerns while re-reading the minutes. How do you plan on alleviating those safety concerns? Egress, fires, etc.

Mr. Greenberg replied I'll show you. This is Route 6; this is the parking lot along the building over here. There will be several ways if, heaven forbid, there's an emergency. There is an entrance facing the parking lot over here. That access will be here. The requirement is for two means of egress; we're going to have three. So we have one coming out toward the front of the parking lot. We have a second set of stairs going down to the first floor exiting out toward the parking lot and most importantly, we have the A.D.A. ramp in the back. Laurie has already contacted Joe Romano who is the State Representative who comes down to check the day care facilities to make sure they meet all the codes. She has walked through the space with him and based on the drawing that we have here with the 3 means of egress, Joe said there was no problem. All that we needed to do is eliminate that section from the old D&O so we can utilize that space upstairs. As I said, the requirement is two, we have three. They're all remote. If something bad happens here, there's always a way to get out.

Chairman Maxwell asked is there an age restriction for the children that would be planned to be upstairs.

Mr. Greenberg replied the older children will be upstairs.

Chairman Maxwell asked what age group is that.

Mr. Greenberg replied there are two spaces; one for 4-5 year olds and one for after school. Babies will be downstairs.

Mrs. Fabiano asked what does the state say about the second floor day care center.

Mr. Greenberg replied if you go around Mahopac, you'll find that most of the day care centers are two stories and Mr. Romano, who is the State Representative for Day Care Centers, has to inspect every site before we come to any Boards. So that's why he came before we went to the Planning Board and then referred to this Board. We walked through the space with him and showed him the two existing means of egress and the third one which is going to be A.D.A. accessible. Based on that, you are required to have two and you have three, you're better off.

Mrs. Fabiano said he doesn't think that you need a second means of egress for handicapped?

Mr. Greenberg said no; State requires one.

Mrs. Fabiano asked and there'll be two classrooms upstairs.

Mr. Greenberg replied just two; yes.

Mrs. Fabiano asked no plans on putting an elevator in.

Mr. Greenberg replied if the State requires it, we'd do it but there is no requirement for that. Plus; in case of emergency, you're not supposed to use the elevator.

Mrs. Fabiano asked what is the ramp going to be made of; wood.

Mr. Greenberg responded it'll be steel railings and treks type flooring. It'll be both approachable and shovel friendly.

Chairman Maxwell asked that inner stairwell – is that a rated and fire enclosed stairwell.

Mr. Greenberg replied yes and inspected before C.O. was given.

Chairman Maxwell asked is it a sprinkler building.

Mr. Greenberg replied no sprinklers. Again; discussed with Mr. Romano and he said it was not a requirement.

Chairman Maxwell asked but is there a need for additional or more than the normal amount of smoke detectors alarm system.

Mr. Greenberg responded yes; he did indicate that. There's a requirement of 1 smoke detector and CO detector for every 150 sf; so we'll have more than enough.

Chairman Maxwell asked is there a central station alarm system that's always monitored.

Mr. Greenberg said yes; absolutely.

Chairman Maxwell said what kind of materials is proposed – more fire retardant type of materials?

Mr. Greenberg replied yes; they'll all be rated and the specs will be reviewed by Mr. Carnazza before....

Chairman Maxwell asked does this also get reviewed by the Childcare counsel beforehand.

Mr. Greenberg replied it gets reviewed by the State Agency. Just so you know, I've done several day care centers in the area and when Mr. Romano comes, he has a magnifying glass. He's looking at every piece of material; all the finishes; he ensures there are an adequate amount of sinks in all the classrooms for washing, restrooms, etc. He has been working there a long time and knows his stuff.

Mr. Balzano asked what's the space on the top floor going to be used for specifically because I'm reading our Town Code and I'm reading the last decision and I don't see anything changing so I'm just curious what the second floor is being used for.

Mr. Greenberg replied 4-5 year olds and after school program.

Mr. Balzano said I'm going to quote the Code here, 'play or instructional space within the building shall be located on the first floor only and contain at least 35 square feet of area for each child..... no play or instruction area shall be below grade.' Really – it's just the first sentence and that was the finding of the last Board. That's where I'm a little bit concerned and what are we doing.

Mr. Greenberg responded all that I can say is that several day care centers all have two floors.

Mr. Balzano said I'm concerned because there's a decision here that you're asking us to amend.

Mr. Greenberg said these are daycare centers of recent times and not ones that go back to the 40s, 50s, 60s & 70s.

Mr. Balzano said understood.

Mr. Greenberg said it has been done; it's been approved by the State; it's been approved by the Building Department. Building Permits and C.O.s were granted and we're going to go through the same process.

Chairman Maxwell said so the new daycare center on Lake Gleneida – Little Feet. That's a second story facility that uses the second floor for children?

Mr. Greenberg responded yes. There's PineGrove over on Myrtle Avenue and one on Route 6. Every one of them has two stories.

Chairman Maxwell asked did they obtain variances?

Mr. Greenberg replied I did not do them.

Mr. Schwarz said it might be worthwhile to go look at the Building Department records to see what they did.

Mr. Greenberg said I would assume Mr. Carnazza would not have granted if it was not approved.

Mrs. Fabiano said I don't recall hearing any of those cases, do you (to Chairman Maxwell)?

Chairman Maxwell replied no.

Mr. Balzano said you guys have the longest tenure; you would know.

Mr. Greenberg said all I can say is that they're approved by the State; they have building permits and C.O.s and we're going through the same process. We're just trying to provide a need for the community.

Chairman Maxwell said I think we all agree that Mr. Carnazza is a good Building Code Enforcement Officer; especially when it comes to children.

Mrs. Fabiano said can that be office space on the second floor of all those places?

Mr. Greenberg said there's just childcare in those places we just discussed. They're inspected by the Town, by the State. There are so many reviews and inspections to make sure the facility is totally safe.

Chairman Maxwell opened this application up to the public for input and comment.

➤ Laurie Ford, Owner & Director of Kidz Country was sworn in.

Ms. Ford said when I opened up the building and was turning it over to daycare & multipurpose in 2003, the Zoning Board didn't have any second floor daycare centers then. So they put that little catch in to the Zoning and since then, everything has blossomed. Since I've opened up, there have been 7 or 8 daycares that have also opened up. They all have two floors; they all have means of 2<sup>nd</sup> egress. We have been under the rules and regulations of the State which is much more than the Town of Carmel. Every single year we have C.O.s & they have a fire inspector that comes in, reviews C.O., and reviews every single door and means of egress. On top of it, the State comes in. I cannot be licensed without having everything fully operable as far as ramps, fire alarms, means of egress, push bars out, push bars in, everything. It's very hard to open up a daycare center and keep it going every single year with the rules that are always changing. We've always been up to date on it. There is nothing that I'm asking for that hasn't been done before through the whole area. I have the playground, I have the parking, I have the space; it's suitable space and we're only talking a few children. It's going to be 4-5 year old class which is a pre-school class in one room and then the school age; it would be 15 kids so it's not like I'm asking for 100. There's only a limited number per square footage that you're allowed to get. As far as handicap, the same space is available on the first floor that's actually available on the second floor. Therefore, I actually have two handicap accessibilities. I have the first floor that can be used for 4-5 year olds & school age; and then if there's additional, I have the second floor but my main priority is to have the entire

handicap on the first floor at all times because it is usable space for that. We are talking about 182 days per year. I'm not open for summer camp. We're talking about school days September to June. It's only an hour and a half in the morning and an hour and a half or so in the afternoon. Most of the children are picked up or delivered by 4:00. We're only open to 6:30 in the evening. There's only a small amount of times between each one. It is highly regulated and we've passed everything.

Chairman Maxwell said I can attest to the inspections. My wife does daycare out of the house and the State does come and marks you up for any little infraction that you may have missed.

Ms. Ford said they do; spot check and everything; as well as they should. I've never objected to that. This is really space that's been vacant for a long time. It's been storage space but we're looking to use it for the school age and the excess of 4-5 year olds. Nothing under 4 years old so they can walk and do everything. There is a first floor and a second floor for handicap in case anybody needs it.

Mrs. Fabiano asked the side yard variance is exclusively for the ramp itself and not for play area.

Mr. Greenberg replied correct; just for the ramp.

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

#### **DECISION OF THE BOARD:**

Vice-Chairman Aglietti moved to grant the requested variance & to amend D&O dtd 7/24/03; seconded by Mrs. Fabiano with all in favor.

### **MISCELLANEOUS**

#### **Minutes:**

May 24, 2018:

Mr. Balzano moved to accept as written; seconded by Vice-Chairman Aglietti with all in favor.

The meeting adjourned at 8:21 p.m.