

APPROVED

MARK FRASER
Chairman

JOHN MAXWELL
Vice Chair

**TOWN OF CARMEL
ZONING BOARD OF APPEALS**



60 McAlpin Avenue
Mahopac, New York 10541
Tel. (845) 628-1500
www.carmelny.org

MICHAEL CARNAZZA
*Director of Code
Enforcement*

BOARD MEMBERS
ROSE FABIANO
ROGER GARCIA
SILVIO BALZANO
PHILIP AGLIETTI

ZONING BOARD OF APPEALS MINUTES

January 23, 2014

**PRESENT: CHAIRMAN, MARK FRASER, VICE-CHAIR, JOHN MAXWELL, ROSE FABIANO,
ROGER GARCIA, SILVIO BALZANO, PHILIP AGLIETTI,**

<u>APPLICANT</u>	<u>TAX MAP #</u>	<u>PAGE</u>	<u>ACTION OF THE BOARD</u>
Joao & Filomena Gomes	86.47-1-29	1-2	Denied.
Stoneleigh Woods at Carmel	55.15-1-36	3-4	Granted.
Robert Frenkel	75.8-2-21	4-5	Heldover.
Minutes – 12/12/2013		5	Approved.

The meeting was adjourned at 8:00 p.m.

Respectfully submitted,

Rose Trombetta

Application of Joao and Filomena Gomes for a Variation of Section 156-15 seeking permission to construct addition. The property is located at 23 Hickory Drive, Mahopac and is known by Tax Map #86.47-1-29.

Code Requires	Will Exist	Variance Required
15' Rear Garage	10'	5'
15' Rear Addition	10'	5'

Mr. Gomes and Mr. Thomas Nugent, applicant's architect, were sworn in.

Mr. Nugent addressed the board and stated the house is located across the street from Lake Baldwin on the corner of Hickory Drive and Shore Road. He said it is a very small 864 square foot house and the applicant would like to add a dining room and a bedroom.

Mr. Fraser asked why the proposed addition is where it is and not somewhere else on the property.

Mr. Nugent said on the Hickory Road side is the driveway and there is no room and the septic system is on the Shore Drive side.

Mr. Fraser commented if you expand the house on both sides as opposed to one side only, you wouldn't need a variance.

Mr. Nugent said we are going as far as we can to the west. He said we would need a variance if we go towards the south, because we can't get a workable floor plan.

Mr. Fraser suggested cutting the addition to the south and adding it to the north toward Hickory Road and you wouldn't need a variance.

Mr. Nugent stated that's where the driveway is and we would then need a variance going towards the north.

Mr. Fraser stated the reason why I'm pursuing this is because we received a letter from one of your neighbors who couldn't be here tonight and are extremely concerned that this addition would take away their view of the lake. He said I am also extremely concerned about the views.

Mr. Gomes stated the neighbor is behind us and their house sits higher than our house which is lower.

Mr. Fraser said if you come up with your addition equal to the height of your existing roof, their lake view would be gone. He asked the applicant if they would like a month to re-configure the plans or to proceed with the application tonight.

Mr. Gomes said if there is nothing I could do, I will do nothing. He would like to proceed.

Mr. Fraser asked Mr. Gomes if you were losing your lake views, how would you feel?

Mr. Gomes said they have trees in front of their home that blocks their views in the summer.

Mr. Fraser said we will proceed.

Mr. Garcia had the same concerns as the Chairman and in addition he was concerned with the two sheds on the property. He asked if they have variances for the sheds.

Mr. Fraser asked the applicant if he has permits for the sheds.

Mr. Gomes said one shed was there when we bought the house.

Mr. Fraser stated that doesn't mean it's legal. What about the shed you put up?

Mr. Gomes said it is not legal. He said he got a violation and was waiting for the building department to tell him to take it down.

Mr. Fraser said no matter what happens with your application, you need to clean up the two sheds. One is definitely a violation and the other could be a violation.

Mr. Gomes said no problem.

Mr. Maxwell said he was also concerned about the sheds. He recommended to the applicant to re-think the application and come up with something else that could be done without impeding on the neighbor.

Mr. Aglietti, Mrs. Fabiano and Mr. Balzano were all in agreement.

Mr. Balzano moved to close the public hearing. The motion was seconded by Mrs. Fabiano with all in favor.

DECISION OF THE BOARD

Mr. Garcia moved to deny the application. The motion was seconded by Mr. Aglietti.

Mrs. Fabiano went over the criteria for area variances.

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the variance?

Yes

2. Whether the benefit sought by the applicant be achieved by some other method feasible for the applicant to pursue other than the variance?

Possibly

3. Whether the request is substantial?

Yes

4. Whether the alleged difficulty was self-created?

Yes, because this was a summer community when they bought their home.

A roll call vote was taken as follows:

Mr. Garcia	For the motion
Mr. Maxwell	For the motion
Mr. Aglietti	For the motion
Mrs. Fabiano	For the motion
Mr. Balzano	For the motion
Mr. Fraser	For the motion

Application of Stoneleigh Woods At Carmel for a Variation of Section 156-39 and 156-15 seeking permission to allow deck and sprinkler closet into 40' setback. The property is located at Terrace Drive and Egrets Landing, Carmel and is known by Tax Map #55.15-1-36.

Code Requires	Will Exist	Variance Required
40 Feet	35'	5'

Mr. Robert Cameron, of Putnam Engineering and Brian Fullerton, applicant were sworn in.

Mr. Anthony Molé, applicant’s attorney addressed the board and stated this property is a senior housing development and has already received planning board approval. Part of the development has been built. The applicant is looking to build buildings 5 and 6 as shown on the plan. There are 18 units between the two buildings, nine of which are affected by these variances with regard to the decks. The lower units in the development have decks and a fire sprinkler closet. We need two fire sprinkler closets between the two buildings and nine decks. He said the reason why we are here is because the decks would encroach 5 feet into the 40 feet setback for the rear of the property. The application meets the criteria under the town law for an area variance.

At which time Mr. Molé went over each criteria for area variances.

1. Will there be an undesirable change to the neighborhood.

He stated it is a permitted use; the development has already been approved. All the units have the decks and fire sprinkler closet, but they were neglected to be added to buildings 5 and 6. Adding the decks and sprinkler closets would render this units conforming to the other units on the plan.

2. Will there be an adverse impact on environmental conditions.

He stated there would be no adverse impact on environmental conditions. The planning process encompassed all of the environmental review as required.

3. Is the variance substantial?

He stated the variance is not substantial.

4. Could the variance be obviated?

He stated the need cannot be obviated. There is no way to change things around at this point, such as moving the building to regain the 5 feet.

Mr. Fraser asked how was this mistake made on a project of this size?

Mr. Molé stated the architectural renderings initially had the decks and fire sprinkler closet on them, but it didn’t make its way to the engineering plans for whatever reason. They were done at different points and times, so the final approval didn’t include it. They realized there was a problem when they started to build.

Mr. Fraser asked if the mistake wasn’t made originally, would all of the units been approved? Or would they have needed a variance from the beginning?

Mr. Molé stated they most likely would have come to this board for the variances before final approval.

Mr. Fraser stated so without the variances this project would not have been as big as it is now?

Mr. Carnazza replied no, they could have shifted things around to make it work based on the space they had.

Mr. Fraser said I want to make sure the mistake wasn't purposely made to enlarge the project and since Mr. Carnazza said it would have been without the mistake, I'm good with that.

Mr. Molé continued with the last criteria.

5. Is it self-created?

He said the self-created hardship issue is not a factor. He said if the board considers this to be a self-created hardship due to the circumstances, we ask the board to take into consideration the balancing test to be weighed by the board. He said the other four factors are clearly met.

Mr. Balzano stated for the record it is self-created, but given the circumstances, I'm okay with it.

Mrs. Fabiano asked if they have broken ground on this section yet.

Mr. Molé said not yet.

At which time Mr. Cameron pointed to buildings 5 and 6 on the drawing that was displayed before the board members the location of the decks and sprinkler closets.

A discussion ensued regarding the possibility of moving the fire sprinkler closet inside or moving it to another area outside.

Mr. Fraser commented that the applicant would still need a variance for the decks.

Mrs. Fabiano moved to close the public hearing. The motion was seconded by Mr. Aglietti with all in favor.

DECISION OF THE BOARD

Mr. Balzano moved to grant the variance. The motion was seconded by Mr. Aglietti with all in favor.

Application of Robert Frenkel for a Variation of Section 156-15 seeking permission to construct 2nd story addition and 2 car attached garage. The property is located at 45 Tamarack Road, Mahopac and is known by Tax Map #75.8-2-21.

Code Requires	Will Exist	Variance Required
Building Coverage 15% Max	26%	11%
Front Yard 25'	15'5"	9'7"
Side (East) 15"	13'6"	1'6"
Side (West) 15"	6'7"	8'5"

Mr. Fraser stated the application needs to be heldover because the application had the wrong address.

Mrs. Fabiano moved to holdover the application. The motion was seconded by Mr. Aglietti with all in favor.

MINUTES - 12/12/2013

Mr. Maxwell moved to approve the December 12, 2013 minutes. The motion was seconded by Mr. Aglietti with all in favor except for Mr. Balzano who abstained.

The meeting was adjourned at 8:00 p.m.

Respectfully submitted,

Rose Trombetta