

APPROVED

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Vice-Chairman

**TOWN OF CARMEL
ZONING BOARD OF APPEALS**



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ZONING BOARD OF APPEALS MINUTES

JANUARY 28TH, 2016

**PRESENT: CHAIRMAN, JOHN MAXWELL, VICE-CHAIRMAN, PHILIP AGLIETTI, ROSE FABIANO,
SILVIO BALZANO, WILLIAM ROSSITER, MARC DITOMASO, MICHAEL SCHWARZ,**

<u>APPLICANT</u>	<u>TAX MAP #</u>	<u>PAGE</u>	<u>ACTION OF THE BOARD</u>
Moloney, Daniel & Rose	86.5-1-23	1	Heldover.
Freiman, Michael	75.7-2-18	1	Heldover.
Estate of Kollar	64.14-1-10	1-2	Granted
Ahrens, William & Diana	75.51-1-17	2-3	Granted.
Rebelo, Maria & Raimundo	64.15-1-43	3-6	Granted with Conditions.
Forger, Matthew	77.13-2-10	7-8	Granted.
Faugno, Richard	53.12-1-6	8-9	Granted.
Minutes- 12/17/2015		9	Approved.

The meeting was adjourned at 8:05 p.m.

Respectfully submitted,

Rose Trombetta

Application of Daniel & Rose Moloney for a Variation of Section 156-41C9, seeking permission to retain a free standing sign. The property is located at 121-125 Stillwater Road, Mahopac and is known by Tax Map #86.5-1-23.

Code Permits	Provided	Variance Required
Free Standing Sign of 32 square feet	187 square feet	155 square feet
Sign Height of 12'	14'-3"	2'-3"

Mr. Maxwell said Mr. Moloney is looking for an adjournment until next month.

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

Application of Michael Freiman seeking permission for a Use Variance permitting dairy goats on property. The property is located at 55 Vista Terrace, Mahopac and is known by Tax Map # 75.7-2-18.

Mr. Maxwell said Mr. Frieman is also looking for an adjournment until next month due to violations found on the property.

Mr. Aglietti moved to adjourn the application until next month. The motion was seconded by Mr. Rossiter with all in favor.

Application of Estate of Kollar for a Variation of Section 156-15, seeking permission to retain shed. The property is located at 193 Hill Street, Mahopac and is known by Tax Map # 64.14-1-10.

Code Requires	Provided	Variance Required
20' side	6'	14'

Mr. Joseph Kollar was sworn in. Mr. Kollar said he is looking to retain the shed at 193 Hill Street.

Mr. Maxwell asked how long has the shed been there?

Mr. Kollar said since the late 60's.

Mr. Maxwell asked if there is any other property that he can purchase to bring this into conformance.

Mr. Kollar said no.

Mr. Maxwell said it looks like you're looking for a 14' variance, I was out there on Saturday and they have a fence that screens it pretty well from the golf course. I did note that it is old in nature but it does look pretty sturdy.

Mr. Kollar said it needs a paint job but the structure is good. I do have letters from my neighbors that surround me in support of my application.

Mr. Maxwell asked if there was any input from the public.

Mr. Aglietti moved to close the hearing. The motion was seconded by Mr. Rossiter will all in favor.

Decision of the Board

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

Application of William & Diana Ahrens for a Variation of Section 156-15, seeking permission to construct a deck in the front setback. The property is located at 23 Ellen Ave, Mahopac NY 10541 and is known by Tax Map # 75.51-1-17.

Code Requires	Provided	Variance Required
25' Front Yard	12.2'	12.8'

Mr. and Mrs. Ahrens were sworn in.

Mr. Maxwell asked them what they are looking to do. He then asked how long the deck has been there for.

Mr. Ahrens said we were speaking to our neighbors and we couldn't actually get an exact date but according to our neighbor it is dated before the owners before us.

Mr. Maxwell said it never got picked up during change of ownership.

Mr. Ahrens said no it's been there for a number of years.

Mr. Maxwell said you're looking to follow the same footprint; the existing deck is just in disrepair and dilapidated.

Mr. Ahrens said yes basically the hardware is starting to wear out and it needs to be replaced.

Mr. Maxwell asked if there is any other property they can purchase to bring this into conformance.

Mr. Ahrens said no.

Mr. Maxwell asked if there are any questions from the board members. He then asked if anyone in the audience wished to be heard on this application.

Mrs. Fabiano moved to close the public hearing on this application. 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 Maria & Raimundo Rebelo for a Variation of Section 156-15, seeking permission to retain two existing sheds. The property is located at 21 Jackson Road, Mahopac NY 10541 and is known by Tax Map #64.15-1-43.

Code Requires	Provided	Variance Required
Shed 1 on east (side) property line 15'	5.6'	9.4'
Shed 2 on north (rear) property line 15'	5.2'	9.8'

Mr. Raymond Cote, attorney for the applicant was present. He addressed the board and stated the applicant has two sheds, one is a traditional shed and the other is a wood shed. The wood shed is basically open on one side and has a roof and they store wood in it that has been split. The other shed is used to store equipment and other things they use around the house. That shed is 5.2 feet from the edge of the property so they are looking for a variance on that and the wood shed is 5.6 feet from the property line so they also need a variance for that. Beyond the property line is nothing, you can't even see a neighbor's house from there but the wood shed you can see the neighbor's house but it is a good distance away.

Mr. Maxwell said the shed in the back of the property is shed #2.

Mr. Cote replied yes, that's the framed shed.

Mr. Carnazza asked if that was the one used for tools.

Mr. Cote said yes he has a lot of stuff in there and it would be a real hardship to move everything.

Mr. Maxwell said it seems like it is in disrepair so if it came down to it I would recommend we put a condition on it that when it needs to be replaced they have to come back before the board. He said there is an issue with the brick pile that appears to be on the neighbor's property.

Mr. Cote said he is moving that.

Mr. Maxwell said depending on what this board decides to do tonight I would want to make that a condition as part of this application as well.

Mr. Cote said when I went over to take another look he has already moved more than half of the bricks off the neighbor's property and onto his property.

Mr. Carnazza said there is a for sale sign on the property. He said you can't sell bricks from your house that is not a permitted use.

Mr. Cote said I didn't see the sign.

Mr. Carnazza said we might need to condition it that the permit be issued after the brick pile is removed from the property.

Mr. Maxwell said so it is apparent that he is selling the bricks.

Mr. Carnazza said there was a sign on the bricks that said for sale.

Mr. Cote said he is a mason those are bricks that he has brought home from work; if you walk around his property he uses bricks everywhere. He has made retaining walls, he did his back patio and I don't believe he has those for sale to the public. If he moves them back onto his property and piles them and isn't selling them would that be acceptable.

Mr. Carnazza said if he is going to use them on the property then he can leave them there but he can't just leave them there forever.

Mr. Cote said no I will work that out with him but I don't believe he is selling them as a business or anything.

Mr. Carnazza said yes but there is a sign on them that says for sale.

Mr. Maxwell asked where the sign was.

Mr. Carnazza said it is on the pile of bricks.

Mrs. Fabiano said it was right on the front of the property near the street line, not on the bricks.

Mr. Carnazza said that's correct.

Mr. Maxwell said so if it comes down to it that would be a condition.

Mr. Cote said honestly I did not even see it, I was there like a week ago I could have just walked right passed it.

Mr. Maxwell said I don't know who owns that property down to the lake but it looks vacant so there is no other property that can be purchased to bring this into conformance.

Mr. Cote said no.

At which time, a discussion ensued regarding an easement.

Mr. Balzano asked if they got some sort of easement.

Mrs. Rebelo said I worked out something with a neighbor and I had signed something.

Mr. Cote said I haven't had the chance to look at it yet, I don't know what the document is I am not sure if it's an easement.

Mr. Carnazza said it sounds like they were worried she was going to take the property so she signed the paper saying that she acknowledges that someone else owns the property that she is using.

Mr. Cote said she had told me about it but I am not sure, I can look into it.

Mr. Schwarz said maybe it's a boundary line agreement.

Mr. Maxwell asked the board if they had any questions.

Mr. Schwarz said the wood shed on the eastern property line is not much of a shed, cant it just be moved.

Mr. Cote said they are willing to move it the only favor we would ask is if they can move it once they start burning some of the wood off.

Mr. Maxwell said I don't know what kind of time line because the winter time is when you burn the wood.

Mr. Carnazza said this came through my office; this is a violation that they are trying to clear up.

Mr. Maxwell said so if you put a 3 month time limit on it by the end of March or April, I think that would be acceptable.

Mr. Rossiter asked how big the #2 shed is.

Mr. Cote said the surveyor didn't write the size on there but off the top of my head I would say it is probably about 15' x 10'.

Mr. Maxwell said it's about the size of a one car garage.

Mr. Carnazza said once it becomes 10' x 20' be prepared that you will need to get plans with a stamp on it from an architect or an engineer but if it is less you wouldn't need it.

Mr. Cote said I don't believe that it is quite that big.

Mr. Maxwell asked Mr. Carnazza if that is the case would this have to be held over so you can investigate the size.

Mr. Carnazza said no the setback doesn't change we went with the stricter setback because it is bigger than what is allowed.

Mrs. Fabiano asked Mr. Carnazza if a pile of bricks at a certain height and width becomes a building or a structure on the property.

Mr. Carnazza said no that would be a pile of materials and you can do that if you are intending to use them on your property and I think there is a time limit on construction materials.

Mrs. Fabiano said oh so these bricks can only stay there for a certain period of time.

Mr. Carnazza said yes unless he uses them first or gets rid of them.

Mrs. Fabiano asked how that differs from a retaining wall.

Mr. Carnazza said a retaining wall is a structure, bricks are not and a retaining wall is only a structure when it becomes a certain size.

Mrs. Fabiano asked how big this pile of bricks is now.

Mr. Cote said he piled them a lot neater than they were so I know one pile of regular sized bricks is as tall as me.

Mrs. Fabiano said yes it's about 6 feet high that's a lot of bricks that need to be removed.

Mr. Cote said I can work with Mr. Rebelo and get it taken care of to see if he is intending to use these bricks on his property.

Mrs. Fabiano asked if we could get a time frame on when the job will be completed.

Mr. Cote said yes we can do that.

Mr. Maxwell said I impose we use the same time line for the wood.

Mr. Cote said the only thought I have is I know masons don't usually work as much in the winter because working with concrete is difficult so if he would build something on his property it wouldn't get done until the spring. I haven't spoken to him about it but I am assuming.

Mr. Aglietti asked what the code requires regarding construction materials.

Mr. Maxwell said you have to understand that we have to put a time frame on it.

Mr. Cote said yes we will do whatever we have to do to be compliant.

Mr. Rossiter stated if he is asking for a time line, can he at least submit plans for what he intends to do?

Mrs. Fabiano said maybe we should hold it over.

Mr. Maxwell said when you're doing retaining walls and pavers and walkways you typically don't need a plan for that. If it was a structure it would be a different story.

Mr. Cote said what do you mean exactly, should I get back to you with what his intention is?

Mr. Maxwell said we can do that, or he can decide what he wants to keep for him, move it within his property line and then get rid of what he is not going to use. If he is not working as much this time of year then he might have the time to spend to make that happen.

Mr. Carnazza said the code states that construction material does not have a time frame, it just says reserved and stored on the premises for future use upon the premises. The material must be stacked in an orderly fashion and be free from debris.

Mrs. Fabiano said it has basically become a brick wall for the neighbors to have to look at.

Mr. Maxwell said I'm surprised no one is here to complain about it.

Mr. Cote said he will take care of that.

Mr. Maxwell said at least get the stacks in a safe organized manner 15 feet off the property line. We would impose it by May and we would put the same time line with the wood. He then asked if anyone in the public wished to be heard on this application.

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

Decision of the Board

Mrs. Fabiano moved to grant the variance with the following conditions, when the rear shed needs to be replaced they need to come back to the Zoning Board for approval or move it into compliance. The wood shed needs to be moved by May 1st and the brick pile must be brought back to the 15 foot setback to be stacked safely, neatly and stored pursuant to code by May 1st. The motion was seconded by Mr. Balzano with all in favor.

Application of Matthew Forger for a Variation of Section 156-15, seeking permission to add second floor with 2' overhang in rear. The property is located at 25 Timber Trail, Mahopac NY 10541 and is known by Tax Map #77.13-2-10.

Code Requires	Provided	Variance Required
30' Rear Yard	16'	14'

Mr. Willie Besharat of Rayex Design, representing the applicant was sworn in.

Mr. Besharat said this is a situation where the family is growing and they have a need for additional space and the only way for them to really expand is to add a second floor. The house is single floor consisting of 3 bedrooms and we want to move the bedrooms to the second floor. We are basically staying in the same footprint of the existing house with the exception of a slight overhang in the rear to make it a little bit more comfortable. Because of that, we end up encroaching on the existing setbacks by an additional 2 feet, right now it is existing slightly over 18 feet and the overhang will put us at 16 feet. He said the existing property, there is a right of way servicing the home next to it. He said the addition is within the existing footprint of the house; in the rear is a house right next door so there is no available property or anything for us to expand. There is no other place to locate this addition to where it does not need a variance regardless of what type of addition we make; we will still need the same amount of variance.

Mr. Maxwell said you want to use the same foundation.

Mr. Besharat said we are using the same foundation and the same walls, we are not changing the kitchen or anything the downstairs is having minimal renovation except removing a few walls. Downstairs we are removing the wall to make it a bigger eating area, there will be a dining room and a family room, and we are also taking an existing bedroom to make it an entry way to create the staircase to go upstairs. Upstairs will be a master bedroom, master bathroom, two bedrooms, walk in closet, family bathroom and a small laundry room.

Mr. Maxwell asked if he has Board of Health approval.

Mr. Besharat said it is the same number of bedrooms; I have a verbal from the Board of Health because we are keeping the same number of rooms.

Mr. Maxwell said you are pretty screened in the back, I noticed a nice tree line.

Mr. Besharat said yes and also the neighborhood is in the back so the house is further away from it.

Mr. Maxwell said he has one concern with safety, if and when you do construction the powerlines are right behind the house.

Mr. Besharet said yes we are aware of it and we have enough clearance between 10 to 15 feet from those wires, they are not high voltage wires they are service wires.

Mr. Maxwell asked if anyone in the public has any input on this application.

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

Decision of the Board

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

Application of Richard Faugno for a Variation of Section 156-15, seeking permission to construct addition to rear of existing house. The property is located at 19 Curry Road, Mahopac NY 10541 and is known by Tax Map #53.12-1-6.

Code Requires	Provided	Variance Required
15' Rear Yard	10'	5'
15' Rear Yard	11'	4'

Mr. DiTomaso recused himself and left the podium.

Mr. Willie Besharat, representing the applicant addressed the board and stated that this is basically a tiny lot; the existing house is in an old development on Curry Road, the whole area consists of small houses and they are trying to expand it to make the house a little bit more livable. They have a baby and a need for a second bedroom, the house is approved for two bedrooms so we are maintaining the same number of bedrooms on it and this is in front of the Health Department. As it exists, the property Curry Spur is a right of way to service two houses which is basically a common driveway. But because of the configuration, it became a corner lot and gave us more of 2 front yards and 2 rear yards there are no side yards here. The size of the lot is the smallest in the code requirement; if this was a straight forward run we most likely wouldn't have needed a variance. The conditions of the right of way in the code dictates side yards and front yards so now we have 2 rear yards and 2 front yards so because of that we need the variances. One side we will be 10 feet from the property line and the other one will be 11 feet which gives us a 5 and 4 foot variance required.

Mr. Maxwell said you are kind of landlocked there.

Mr. Besharat said as it exists, the property is very tight with houses right next to it which have all gone through the same thing. There is no other way for us to locate this addition without needing a variance for it. This is basically the only location we would be able to do it.

Mr. Maxwell asked if he spoke to the neighbors to make sure there are no issues.

Mr. Besharat said yes we spoke to the people behind them and on the side and they have absolutely no problem or objection to it.

Mr. Maxwell asked if there is any other property that can be purchased to bring this into conformance.

Mr. Besharat said no.

Mrs. Fabiano asked if they considered just building up instead of moved outwards.

Mr. Besharat said we can consider that but the lot is so small, by the time we figure out a hallway and a staircase, there just isn't any room for that. If we do go that route we would probably need to cantilever somewhere and I would most likely still need a variance.

Mr. Maxwell asked if there was any input from the public on this application.

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

Mr. DiTomaso returned to the podium.

Decision of the Board

Mr. Balzano moved to grant the variance. The motion was seconded by Mrs. Fabiano with all in favor except Mr. DiTomaso who abstained.

MINUTES - 12/17/2015

Mr. Balzano moved to accept the minutes of 12/17/2015. The motion was seconded by Mr. Aglietti with all in favor except Mrs. Fabiano who was absent for that meeting.

The meeting was adjourned at 8:05 p.m.

Respectfully submitted,

Rose Trombetta