

**APPROVED**

MARK FRASER  
*Chairman*

JOHN MAXWELL  
*Vice Chair*

**TOWN OF CARMEL  
ZONING BOARD OF APPEALS**



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MICHAEL CARNAZZA  
*Director of Code  
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**BOARD MEMBERS**

ROSE FABIANO  
ROGER GARCIA  
SILVIO BALZANO  
PHILIP AGLIETTI  
WILLIAM ROSSITER

**ZONING BOARD OF APPEALS MINUTES**

**DECEMBER 11, 2014**

**PRESENT: VICE-CHAIR, JOHN MAXWELL, ROSE FABIANO, ROGER GARCIA, SILVIO BALZANO,  
WILLIAM ROSSITER**

**ABSENT: CHAIRMAN, MARK FRASER, PHILIP AGLIETTI**

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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>
Richard Pavone	85.15-1-43	1-2	Granted.
Beatrice DeAngelis	44.13-2-12	2-3	Granted.
Dorene Seymour	65.18-1-37	4	Heldover.
Regina Guss	65.9-1-32	4-5	Granted.
Eva Coviello	43.-1-49	5-6	Granted with Condition.
Jennifer Fischer	65.11-2-27	6-7	Granted.
Ronan Fagan	55.11-1-15	7-9	Negative Interpretation.
Michael Montgomery	86.8-1-2	9-11	Granted.
Minutes – 10/23/2014		11	Approved.

The meeting was adjourned at 8:51 p.m.

Respectfully submitted,

Rose Trombetta

**Application of Richard Pavone for a Variation of Section 156-20 seeking permission to retain fence. The property is located at 17 Pike Place, Mahopac and is known by Tax Map #85.15-1-43.**

Code Requires	Will Exist	Variance Required
4' Fence	6'	2'

Mr. Pavone was sworn in. He addressed the board and stated the fence has been there for over 20 years. It adds to the value of the house and it gives me the privacy I am looking for on one side. It also conceals my SUVs in my driveway and when my grandchildren come over it helps to contain them and their pets. I have 12 letters from my surrounding neighbors that are in favor of it. It's a nice, vinyl white fence in great shape; in fact most of it is surrounded by foliage so it's hard to even tell that it's there.

Mr. Maxwell asked what the reason was for needing such a big fence in front of the house.

Mr. Pavone responded the reasons I just stated, privacy for one thing and I do have some high profile SUVs which the fence conceals.

Mr. Maxwell stated we did receive 10-12 letters from neighbors, so at this point I will open it up to the board members. He asked if one of the letters was from his neighbor immediately to the right.

Mr. Pavone responded yes, the one on the right and on the left and the surrounding area. He presented a map that shows where each neighbor is located compared to his house.

Mr. Maxwell stated it looks like you have a lot of support, but is there any willingness to have this fence reduced down to 5 feet, at least from the front portion of the house.

Mr. Pavone responded it would be most difficult because the posts are cemented in and the columns have cement filling.

Mr. Maxwell asked if anyone in the audience wished to be heard on this application.

Mrs. Fabiano 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 for discussion purposes. The motion was seconded by Mr. Balzano.

Mrs. Fabiano stated I'm not comfortable with that one section in front of the house. I would love to see it gone maybe when new owners come about or when it needs to be replaced.

Mr. Carnazza stated it's a difficult enforcement because there is no building permit or C.O. on a fence.

Mr. Garcia stated I feel very similar to the way Mrs. Fabiano feels. You're driving down the street and you see this huge fence. I drove in from Pike and I didn't see another neighbor that had a fence in front of their house. However, the fact that we had as many neighbors we had say there wasn't an issue with it and the fact that it does screen. Once again, I'm not particularly thrilled with it and I would love to see it bumped down but neighbors didn't have an issue with it and it doesn't block sight lines.

Mrs. Fabiano asked Mr. Carnazza when there is a municipal search if they want to sell, if a condition like this exists, will that be picked up?

Mr. Carnazza responded no because there is no permit or C.O. for it.

Mr. Maxwell stated I'm not arguing for it but it's been there for 20 years and no one has ever had an issue with it.

**A roll call vote was taken as follows:**

Mr. Balzano	For the motion
Mrs. Fabiano	Against the motion
Mr. Rossiter	For the motion
Mr. Garcia	For the motion
Mr. Maxwell	For the motion

Motion carries.

**Application of Beatrice DeAngelis for an Interpretation of Section 156-47, nonconforming use, seeking permission to interpret that the structure is a legal two family residence. The property is located at 41 Fowler Avenue, Carmel and is known by Tax Map #44.13-2-12.**

Mr. Lou DeAngelis, son of Ms. DeAngelis and Mr. Anthony Sclafani were sworn in.

Mr. Michael Caruso, applicant's attorney addressed the board and stated this is an application for an interpretation, that this be considered a pre-existing, non-conforming and legal two family residence. The configuration of this building is that it has two residential components. There is a 3 bedroom space upstairs, downstairs there is a 1 bedroom studio, both of which have been continuously occupied by two families dating back as early as the 1940's. Significantly the residence has and always has had since it was purchased, two entrances, two electric meters and two kitchens. I have with me here tonight Mr. Sclafani who has also submitted an affidavit and provided some background facts based on his personal knowledge. He's lived here since the 1940's and he has knowledge of the fact that when the DeAngelis' moved up here from Brooklyn, on the bases for buying this home was that it was a two family in the same configuration that it is today. The DeAngelis family purchased the home in 1957; two years after Carmel zoning ordinance and their code came into being. We maintain today that use as a two family dates back to the 1940's and Mr. Sclafani has been generous enough to provide me some documents that I believe are in the building file. Mr. Caruso then presented these documents to the board.

Mr. Maxwell stated we did see that in the file, the memorandum of law and he provided the initial closing papers, but that was dated a couple years beyond when zoning was adopted.

Mr. Caruso stated the submission of the deed appears to have with it an old title report and there is a portion of that shows it's subject to tenancies month to month and the DeAngelis family has always had tenants. They mortgaged their property and it's been income producing since they have owned it. They have always maintained tenants initially in the studio downstairs and family lived upstairs in the three bedroom spaces. In 2009 that reversed, now primarily Beatrice and Ralph live in the studio with the tenants occupying the three bedroom space. The affidavit that you're looking at of Ralph DeAngelis will show that the continuity is there. Just because of the passage of time, nearly 60-70 years we don't necessarily have those written leases. However, as Mr. DeAngelis and Mr. Sclafani can attest and they're sworn in, there have been tenants for over 60 years and indeed prior to when they purchased the property and before the code was enacted in 1955.

Mr. Maxwell state the house didn't seem to be out of character with the neighborhood. It looked like most of the houses on that road are multi family.

Mrs. Fabiano asked why this issue is being presented now.

Mr. Caruso stated Mrs. DeAngelis is interested in selling the property as a legal two family residence and as I was speaking with Mr. Carnazza before the meeting I think there was a C.O. issue with one of the kitchens that was never obtained.

Mr. Carnazza stated that's partially true. I went out for one of the inspections of the C.O. and when I came back the building permit says addition to a one family dwelling. That's the only reason there was confusion because they said it was always two and it could've been somebody miswrote something but I don't know if that's the case. If you look at the old assessor's card it says one family and in 1988 they added the second family.

Mr. Garcia stated looking at the information here, the house was built in 1940 and it was built with two kitchens and two baths, but as Mr. Carnazza stated it's listed here as a one family. It says in 1988 that it's a two family and was remodeled. I don't know when this was originally done.

Mr. Carnazza stated the old cards were generally done 1967-1969 and the new card was 1995.

Mr. Caruso stated I think Mr. Sclafani can also illuminate why that discrepancy came up as a one bedroom. He believes the contractor who probably was not on the site put one family on the old permit application.

Mr. Sclafani stated they had someone do the job, the contractor just filled out the paperwork.

Mr. Garcia asked if there are permits filed for the shed on the property.

Mr. Sclafani replied I don't know.

Mr. Garcia asked if this was something we could discuss at this point.

Mr. Carnazza said they are here for an interpretation right now not to discuss the shed. It's a separate issue. He said the shed would come up in a title search if they are selling the house.

Mr. Maxwell asked if anyone wished to be heard on this application.

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

Mr. Caruso made a closing statement recapping the interpretation that is being requested.

Mr. Maxwell said we closed the hearing, but we will open it up for your statement.

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

### **Decision of the Board**

Mr. Balzano moved to interpret that the structure is a legal two family residence. The motion was seconded by Mrs. Fabiano with all in favor.

**Application of Dorene Seymour for a Variation of Section 156-20 seeking permission to retain 6' fence. The property is located at 16 Baxter Court, Mahopac and is known by Tax Map #65.18-1-37.**

Code Requires	Will Exist	Variance Required
4' Fence Front	6'	2'

Mr. Balzano recused himself.

Mr. Maxwell stated before we start the meeting you must realize there are 4 board members, so you have the option to hold this over. The reason being is because you need 4 votes to be approved, so I leave the decision up to you.

Ms. Seymour asked to holdover the application until next month.

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

Mr. Balzano returned to the podium.

**Application of Regina Guss for a Variation of Section 156-15 seeking permission to add a sunroom. The property is located at 30 Wixon Pond Road, Mahopac and is known by Tax Map #65.9-1-32.**

Code Requires	Will Exist	Variance Required
30' Rear	17'	13'

Ms. Guss was sworn in. She addressed the board and stated I am looking to put an addition of a sunroom onto the back of my house. The size would be 12 x 10 feet and I'm looking for a 13 foot variance.

Mr. Maxwell asked if there were any other properties she could purchase to make this into conformance.

Ms. Guss replied no.

Mr. Maxwell stated I was out there on Saturday and it looks like it's well screened in the back, there are a couple nice pine trees that are evergreen. It's a nice and well maintained property.

Mr. Garcia asked why the sunroom has to be located where Ms. Guss is proposing it. He asked if it can be located between the free standing garage and the deck.

Ms. Guss stated the deck is attached to my daughter's bedroom so it would be very inconvenient.

Mr. Garcia replied okay.

Ms. Guss stated the sunroom would be off of the dining room.

Mr. Rossiter asked if it would be on top of the entrance to her cellar.

Ms. Guss replied yes.

Mr. Rossiter asked how she will get in and out.

Ms. Guss replied a trap door.

Mr. Maxwell asked if anyone in the audience wished to be heard on this application.

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

**Decision of the Board**

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

**Application of Eva Coviello for a Variation of Section 156-15 seeking permission to build an accessory storage building. The property is located at 5 Causeway Park, Carmel and is known by Tax Max #43.-1-49.**

Code Requires	Will Exist	Variance Required
40' Front	20'	20'

Ms. Coviello and Mr. Charles Steeber were sworn in. Ms. Coviello stated my fiancé I moved in together this past August and Mr. Steeber moved out of a 5 bedroom house in Yorktown into an 850 square foot house in Carmel. We need to build a shed because he has a wood working shop and a lot of hobbies and I do not have the room to store all his property. I think the only consideration to put the building is where the stone wall to the reservoir is, but we do not have the clearance.

Mr. Steeber stated if we moved it back 40 feet it would be sitting on the front lawn.

Ms. Coviello stated we have all the clearance on every side except for the front.

Mr. Maxwell stated it looked like the most level part of the property which would make the most sense to put it there.

Mr. Steeber stated that place was the most cost effective place we found to put it.

Mr. Maxwell asked if there was septic in that area.

Ms. Coviello responded no.

Mr. Steeber approached the board and pointed out exactly where the shed would be located.

Mr. Maxwell asked if there is any plan for running water in the shed.

Ms. Coviello stated no, this is just for storage purposes.

Mr. Balzano asked if this is still the existing lot line.

Mr. Steeber responded yes.

At which time a discussion ensued regarding the division of the lots and the lot line locations.

Mr. Garcia stated the only thing I noticed is that there are a lot of smaller sheds on the property.

Ms. Coviello stated that's exactly why we are doing this because we want to consolidate.

Mr. Garcia stated so once the garage is built the other sheds will be gone.

Ms. Coviello replied yes.

Mr. Steeber replied the little wooden shed will probably stay. He then approached the board and pointed out which shed he is referring to.

Mrs. Fabiano stated we can condition this so the tents will disappear.

Mr. Carnazza suggested that no C.O. be issued until the tents are removed.

Mr. Garcia stated just so I understand correctly, lot one currently has two sheds on it and you acquired a variance for the shed on the other side of the road.

Mr. Steeber replied that's correct.

Mr. Maxwell asked if anyone in the audience wished to be heard on this application.

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

**Decision of the Board**

Mrs. Fabiano moved to grant with the condition that no C.O. will be issued until the tents are removed. The motion was seconded by Mr. Rossiter with all in favor.

**Application of Jennifer Fischer for a Variation of Section 156-15 seeking permission to retain above ground pool with deck. The property is located at 9 Logan Road, Mahopac and is known by Tax Map #65.11-2-27.**

Code Requires	Will Exist	Variance Required
5' Side	2.3'	2.7'

Ms. Fischer was sworn in. She addressed the board and stated I'm looking to obtain a variance for the side of my deck; it's just not the correct measurements.

Mr. Maxwell stated from what I understand you bought the adjacent lot to bring this into conformance.

Mr. Carnazza stated they bought the property with a C.O. on the pool. The pool got a variance back in the 1992. The variance was to be 5 feet from the side and the rear. They got the variance, building permit and C.O. They purchased a property after all this happened, they got a survey, which shows the pool is over the property line and closer to the property line than what they were originally told. They have the property adjacent; they changed the lot line so they would comply with the code in the rear. The side yard they don't own the adjacent property so they can't take the additional 2.7 feet that she would need. They can't obtain anymore property there on the left side. They purchased the property with the title and everything else and this happened as a mistake.

Mr. Maxwell asked if there were any complaints or issues from neighbors.

Ms. Fischer responded no, there are no issues or complaints from neighbors. The lot is vacant and I believe it's not a buildable lot. We originally tried to buy that lot, but it was in the family and they didn't want to give it up.

Mr. Garcia asked if there is a home on the other piece.

Ms. Fischer responded no.

Mr. Garcia asked if she is trying to sell that lot.

Ms. Fischer responded no.

Mr. Carnazza stated she is trying to sell the house with the pool.

Mr. Garcia stated you want to sell the house with the pool, but you want to retain the other lot. Is that correct?

Ms. Fischer stated yes, that is correct. The house is in contract and the lot we are holding onto. She said I own the lot with my parents.

Mr. Carnazza stated they are doing the lot line change as we speak, that is why they are here. It was referred to the ZBA from the Planning Board.

Mrs. Fabiano asked if the lot adjacent to the house was vacant.

Mrs. Fischer stated yes, to my belief it's not even big enough to build on. They would need approval from the Board of Health before building on that lot.

Mr. Garcia asked if the shed is legal.

Mrs. Fischer stated yes, there is a variance for the shed.

Mr. Maxwell asked if anyone in the audience wished to be heard on this application.

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

**Decision of the Board**

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

**Application of Ronan Fagan is seeking permission to interpret if crushing and screening is recycling by code. The property is located at 60 Old Route 6, Carmel and is known by Tax Map #55.11-1-15.**

Code Requires	Will Exist	Variance Required
Variance allows recycling on property	Crushing and Screening	



Mr. Joe Fernandez, applicant's architect was sworn in. He addressed the board and stated the applicant is in the excavating business and is looking to do recycling on the property. He is looking to crush down the rock and potentially sell it or reuse for himself.

Mr. Maxwell asked you are not mining from the actual site; you are looking to bring rock from other sites and just have the operation there.

Mr. Fernandez replied that's correct.

Mr. Maxwell said in his opinion when I think of recycling that means something that is of household use or some kind of use that needs to be broken down further. He said I don't see stone as recycled use.

Mr. Fernandez said it is a product that is widely used. He said builders are constantly looking for gravel.....

Mr. Balzano said that's not the argument. He said when you recycle something such as a cup and you make it into paper, it was a cup first. He said you are taking a piece of rock, that was excavated from another site and then you grinding it down to something that is saleable, to me that is not recycling.

Mrs. Fabiano said it wasn't processed once before.

Mr. Maxwell said the intent with this lot was approved for a recycling plant.

Mr. Carnazza asked if they would do the crushing inside a building.

Mr. Fernandez said there would not be a building.

Mr. Carnazza said generally our code; all the commercial uses are fully enclosed. He said the only thing you are allowed to do outside is pump gas.

Mr. Maxwell also said there are environmental concerns also, such as dust and noise.

Mr. Garcia said you are basically talking about putting in a screening machine to load material and grind it up and stockpile it as they need it.

Mr. Fernandez said that's correct.

Mrs. Fabiano said the term recycle means that it was "cycled" before. She said I don't see the stone as being recycled before so I don't see a recycling happening.

Mr. Maxwell asked if anyone in the audience wished to be heard on this application.

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

### **Decision of the Board**

Mr. Balzano moved to interpret that crushing and screening is **not** recycling. The motion was seconded by Mr. Garcia for discussion purposes.

Mr. Garcia stated I would like to go on record to say that the Tompkins application was specific for the recycling of goods such as bottles, cans, paper, cardboard and things of that nature. He said it's not loud and dissipating particles into the air.

Mr. Carnazza said the pre-existing use of this property was auto. They would take cars, take them apart and scrap them or use the parts for other things, which is recycling. He said this would be a stretch to go from where it was before to this. He said bricks, block, blacktop would be more in character with recycling.

Mr. Maxwell said it seems the nature of what they are looking to do is a mix and a blend, which is not recycling.

**A roll call vote was taken as follows:**

Mr. Balzano	For the motion
Mrs. Fabiano	For the motion
Mr. Garcia	For the motion
Mr. Rossiter	For the motion
Mr. Maxwell	For the motion

Negative Interpretation.

**Application of Michael Montgomery for a Variation of Section 156-15, 156-47A(1) seeking permission to construct a freestanding garage. The property is located at 50 Union Valley Road, Mahopac and is known by Tax Map #86.8-1-2.**

Code Requires	Will Exist	Variance Required
15' Side Yard	7.5'	7.5'
15' Rear Yard	10'	5'

Mr. Joel Greenberg of Architectural Visions, representing the applicant was sworn in. He addressed the board and stated we are looking to put up a freestanding garage. The code requires a 15' rear and side yard. He said we want the garage to fit in up against the two stone walls. He said the rear stone wall is approximately 10 feet from the property line. At which time, Mr. Greenberg points to the drawing indicating where the stonewalls and septic system is. He said the architecture will fit in nicely with the existing house and both neighbors from the side and rear of the property are present tonight.

Mr. Maxwell asked Mr. Greenberg if he had an as-built survey of the septic fields.

Mr. Greenberg said we do not have an as-built survey, but we can check with the health department. He said on a building that has no basement, the fields should be at least 10 feet away. He said we can maintain that ten feet, because obviously we do not want to encroach upon the septic system.

Mr. Carnazza stated make sure everyone is aware that this is a 2 family house.

Mr. Greenberg said it's a pre-existing, legal 2 family house.

Mr. Maxwell asked if there will be plumbing.

Mr. Greenberg replied no, just electric.

Mrs. Fabiano asked Mr. Carnazza what is the standard depth of a garage.

Mr. Carnazza replied 12 x 24 per car.

Mrs. Fabiano said the depth for this garage is 32 feet.

Mr. Greenberg said it is a 3 car garage so it's 34 x 32.

Mrs. Fabiano said we are here to grant minimal variances. She said you could pull it off the rear property line. She said you would not need any variances if you cut out 1 garage and pulled it forward.

Mr. Greenberg said you are absolutely correct, but he is trying to get all his vehicles and equipment all in one building.

Mr. Maxwell said you are looking for a 75% variance for the side yard; can you come in a couple feet in both directions?

Mr. Greenberg replied okay.

Mr. Maxwell stated how about 7.5' variance instead of 10'. It's somewhere in the middle.

Mr. Greenberg replied that's fine.

Mr. Garcia stated he was concerned with the scale of the garage. I'm sure it would look very nice. His home is kept very well and I have no doubt this would look the same, but you will be able to see it from the street. He said the neighbor that is behind him will be looking at a big structure as well as the neighbor to the side of him.

Mr. Greenberg said it meets all the codes; it meets the height requirements so I don't understand what the problem is if it meets all the requirements.

Mr. Garcia stated I didn't necessarily say there was a problem; my concern is the scale for the lot size.

Mr. Greenberg said I think it fits in very well. The property and the house is kept immaculate and the two neighbors who are most affected are okay with it.

Mr. Maxwell asked if there is any other property you could purchase to conform.

Mr. Greenberg replied no.

Mr. Maxwell asked if anyone in the audience wished to be heard on this application.

Mr. Thomas Longhitano of 56 Union Valley Road was sworn in. He addressed the board and stated he is to the right of the property and has absolutely no issue with the construction of the garage.

Mr. James Crowley of 51 Horton Drive was sworn in. He addressed the board and stated he is behind the property and has no problem with the construction of the garage.

Mr. Garcia asked Mr. Greenberg to explain what will be stored in the garage other than the cars.

Mr. Greenberg stated he builds movie sets, so a lot of the materials will be stored in the garage.

Mr. Garcia asked about the shed on the property.

Mr. Greenberg said it will be removed.

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

Mr. Maxwell asked Mr. Greenberg to initial the application.

**Decision of the Board**

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

**MINUTES - 10/23/2014**

Mrs. Fabiano moved to approve the minutes. The motion was seconded by Mr. Rossiter with all in favor.

The meeting was adjourned at 8:51 p.m.

Respectfully submitted,

Rose Trombetta