

APPROVED

JOHN MAXWELL
Chairman

**TOWN OF CARMEL
ZONING BOARD OF APPEALS**

MICHAEL CARNAZZA
*Director of Code
Enforcement*

PHILIP AGLIETTI
Vice-Chairman



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BOARD MEMBERS

ROSE FABIANO
SILVIO BALZANO
WILLIAM ROSSITER
MARC DITOMASO
MICHAEL SCHWARZ

ZONING BOARD OF APPEALS MINUTES

DECEMBER 14, 2017

PRESENT: CHAIRMAN, JOHN MAXWELL; VICE-CHAIRMAN, PHILIP AGLIETTI; ROSE FABIANO;
WILLIAM ROSSITER JR.; MICHAEL SCHWARZ & MARC DITOMASO

ABSENT: SILVIO BALZANO

<u>APPLICANT</u>	<u>TAX MAP #</u>	<u>PAGE</u>	<u>ACTION OF THE BOARD</u>
Lena Smajlaj	65.17-1-22	1 - 3	Granted
ShopRite-Carmel	44.9-1-9	3 - 5	Granted with conditions
Thomas Morris	44.13-1-33	5 - 7	Granted as amended
Long Guo & Li Chi Wong	85.12-1-20	8 - 20	Held Over
Minutes:	October 26, 2017	20	Approved

The meeting was adjourned at 8:26 p.m.

Respectfully submitted,

Dawn M. Andren

HOLD OVER APPLICATIONS:

1. Application of **LENA SMAJLAJ** for a Variation of Section 156-15 & 156-10, seeking an area variance and use variance to retain existing shed on lot without principal dwelling. The property is located at 256 East Lake Blvd., Mahopac NY 10541 and is known by Tax Map 65.17-1-22.

Code Requires	Provided	Variance Required
Shed: 10' - side	1.8 ft.	8.2 ft.

➤ Lena Smajlaj was sworn in

Chairman Maxwell said please tell us why you're here again. This was a holdover case. Actually, I'll read it. It's a variation of section 156-15 & 156-10 seeking an area variance and use variance to retain existing shed on lot without principal dwelling. It's located at 256 East Lake Blvd. in Mahopac, NY.

Mrs. Smajlaj replied correct.

Chairman Maxwell said tell us what you're seeking relief on.

Mrs. Smajlaj replied when we bought the property, the shed was there. It was just on the other side by the other neighbor; so we got permission to bring the shed on the other side of the dock driveway.

Chairman Maxwell said you got permission from whom?

Mrs. Smajlaj replied from Mrs. Rose Moloney.

Chairman Maxwell said okay but not from the Town. Obviously; that's why you're here.

Mrs. Smajlaj said the shed was there; it was just changed to the other side.

Chairman Maxwell said so you need a variance of 8.2 feet. I think last time there were concerns because you had power going to it already. What can be done to bring that into conformance a little better? Can we move this thing closer – away from the property line?

Mrs. Smajlaj said well there's an electric pole there where the power comes from.

Chairman Maxwell said I don't remember but did you submit a letter from Moloney?

Mrs. Smajlaj replied yes. I think it's in your possession somewhere in there.

Chairman Maxwell said I actually don't have a copy as I received it electronically.

Mrs. Fabiano said it was emailed to us.

Chairman Maxwell said but it was basically in support of the shed being where it was. They had no issue with it.

Mrs. Smajlaj replied she had none; they have no issues with it.

Chairman Maxwell then said and the neighbors on the other side?

Mrs. Smajlaj replied the neighbor on the other side is far away and there's no issue with the other neighbor.

Chairman Maxwell said okay; now there were some issues with the fence but I think that was rectified (to Mike Carnazza)?

Mr. Carnazza replied yes; Dennis Marousek went out; he said it is 4 feet now. Some fill was brought in and some cutting was done so he was satisfied.

Mrs. Fabiano said I have a question (to Mike Carnazza) on that. If the posts above the 4 feet and any scalloped edging.....

Mr. Carnazza replied we don't go by the posts. We just go by the fence itself.

Mrs. Fabiano replied okay.

Chairman Maxwell looked for input from the Board.

Mrs. Fabiano said I noticed that on our September 28th minutes, Mrs. Smajlaj said it's on top of concrete and then you had said theoretically it could be moved to conform much closer to what Code is. So the potential is there to move it. Initially it was on the other side of the driveway?

Mrs. Smajlaj replied yes. The driveway is in the middle of the property so you have choices: either on one side or the other side because you can't place it on the driveway.

Mrs. Fabiano said because 1.8' is very close. It's very close to the property line.

Chairman Maxwell said well it's prior to having a letter from Moloney next door. If they don't have a problem with it, that helps.

Mrs. Fabiano well I wonder – Moloney also has one very close to the fence. Have they come in for their variance as well?

Mr. Carnazza replied yes; they came in with a site plan a few years ago and re-did the boathouse and everything. I'm pretty sure everything was on there. I could check.

Mrs. Smajlaj said they had no issues with us.

Mrs. Fabiano said because they're right on the line too.

Mr. Carnazza replied I'll check on it.

Mrs. Fabiano said okay, thanks.

Chairman Maxwell said it's not out of character along the lake *that* we've done this in many situations because there's no prime – basically an accessory building without a prime.

Chairman Maxwell then looked to the public for input on this application for which there was none.

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 requested variance; seconded by Mr. Rossiter with all in favor.

2. Application of **SHOPRITE CARMEL** for a Variation of Section 156-42B, 156-41C(2) & 156-41C(4) seeking to construct additions to the existing ShopRite Supermarket associated with site improvements. The property is located at 184 Route 52, Carmel NY 10512 and is known by Tax Map 44.9-1-9.

Code Requires	Provided	Variance Required
885 Parking Stalls	680 Parking Stalls	205 Stalls (23.2%)
10' x 20' Parking Stalls	9' x 18' Parking Stalls	38 sq. ft. reduction in parking stall area
1 Wall Sign per Tenant	8 Wall Signs	Additional 7 Wall Signs
40 sq. ft. maximum Sign Face area	473.6 sq. ft. Total Wall Sign Face Area	Additional 433.6 sq. ft. of Wall Sign Area

- Anthony Mole', Esq. for the applicant appeared before the Board.

Mr. Mole' stated the Board may recall the last meeting we had two categories of variances: Parking and Signage. The Board was prepared to vote on the parking last time but decided to vote on everything at once. We had to address a number of concerns that the Board had regarding the amount of signage on the building. What we did was submit to the Board modified plans and a sign plan. However, looking at that today, it looks like it's a little bit inaccurate so I'm going to hand to you an updated sign plan and run through it with you quickly for each of the signs.

Chairman Maxwell said I think we received this. Is it the same?

Mr. Mole' replied its' not; it's less square footage. So the Board may recall the main sign is the ShopRite script sign, and that's really the most important to the applicant. The Board wanted the applicant to reduce that down to 280 square feet. The applicant was actually able to reduce it down to 150 square feet - significantly less than the Board was requesting. The logo medallions: the logo medallion on the front of the building, the Board wanted the applicant to bring it down to 7' in diameter; the applicant proposes 8' in diameter. The logo medallion on the side of the building, the Board wanted 4' diameter, the applicant is proposing 6' in diameter. The remainder of the signs - the pharmacy sign: The Board was okay with. The third welcome sign the Board was okay with - that's the welcome sign on the side of the building and the other two welcome signs and the bottle return - the Board is requesting the applicant place on the glass windows which the applicant is now agreeing to do. Overall, this brings, and part of the reason for the correction was the 8' and 6' diameter was not measured how your code requires. You required a measure of square *feet*; they actually measured the circle so we changed that on your updated sign plan. The calculation initially included the three signs that were on the glass but our understanding is that the Town Code does not require that to be included in the calculation. So the overall calculation ends up being 267.8 square feet which the Board, again, was requesting us to bring the scripted sign down to 280 square feet; we were able to reduce everything, including all the signs, to less than that figure. So the applicant was originally requesting a variance of 433.6 square feet and is now requesting a variance of 227.8 square feet. Although the medallions are 1 square foot bigger than what the Board required, it was really an aesthetic thing. We did the 4'

which was just a little too small on the side so they're asking for 6'. In anticipation of the Boards concern, they agreed to reduce that big script sign down significantly.

Chairman Maxwell said I think it was just a matter of opinion, but I think I can live with a little bit bigger. We're making some negotiations here. So; we'll see what the Board thinks.

Mr. DiTomaso said no issue with that.

Mr. Rossiter said no.

Vice-Chairman Aglietti replied no issue; thank you for working with us.

Chairman Maxwell added yes; we appreciate that.

Mrs. Fabiano said just a couple of quick clarifications on this. So the 227 is what you're requesting plus they were given 148 many years ago – is that correct?

Mr. Mole' replied correct.

Mrs. Fabiano continued so we're looking at 375 total. Am I reading that right?

Mr. Carnazza asked what's the total number?

Chairman Maxwell said 267.8

Mrs. Fabiano said no; you reduced it to 227, didn't you? Just now?

Mr. Mole' replied there's a 130 sf variance and an 80 sf variance granted in the past.

Mrs. Fabiano said 80 and 130 and then we're going to do 267.8.

Mr. Carnazza said so instead of doing another addition to the others, why don't you just drop the other ones (if you're going to grant it), make it this is the variance that's granted; all previous variances for signs are now null and void. Instead of going to have to add 80 and 110 and 62 or whatever it comes to; make it one variance for the total and then you can put a note that previous variances granted for signs are now null and void.

Chairman Maxwell said okay; I don't have a problem with that.

Mrs. Fabiano said it would be 80, 130 and 267.8?

Chairman Maxwell said no; it'll be a total of 267.8.

Mr. Mole' said no; it'll be a total of 267.8 sf.

Mrs. Fabiano said a total of 267.8.

Mr. Mole said I think what Mr. Carnazza is saying is that part of the Board's consideration may be the fact that we were granted some variances in the past in that respect but the total overall, at this point now, would be the 267.8.

Mrs. Fabiano said and that includes all those prior?

Mr. Carnazza replied correct; that way we're not trying to add up all those previous ones.

Mrs. Fabiano said okay and which ones are going to be on the glass now?

Mr. Mole' responded numbers 5, 6 & 7.

Mrs. Fabiano said numbers 5, 6 & 7 are going to be on the glass. The welcome? One welcome and not the other?

Mr. Mole' said there are three welcome signs in total. There's one on each end of the front and one on the side. The side is actually on the building because you can't really put it on the glass but the fronts are on the glass.

Mrs. Fabiano said okay; so bottle return, welcome 1 & 2 are on glass.

Mr. Mole' responded yes. And those are actually shown on the plan with an arrow showing exactly where they are. They're labeled welcome1, welcome2 and welcome3.

Mrs. Fabiano replied okay great. Thanks.

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

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

DECISION OF THE BOARD:

Vice-Chairman Aglietti moved to grant requested variance with all prior variances regarding signage are now null and void and as submitted – a total square footage of 267.8 shall be the new number of signage for this variance/tenant; seconded by Mrs. Fabiano with all in favor.

NEW APPLICATIONS:

3. Application of **THOMAS MORRIS** for a Variation of Section 156-15, seeking an area variance to construct new garage within side lot setback. The property is located at 18 Collier Drive W., Carmel NY 10512 and is known by Tax Map 44.13-1-33.

Code Requires	Provided	Variance Required
15 ft. – side	10 ft.	5 ft.

- Mr. W. Toscano, the architect for the client was sworn in.

Mr. Toscano stated we're looking for a 5' variance. The site plan which is on the construction documents, page 1, lower left hand corner shows the location of the proposed garage. You can see the plans and elevations for it. It's a one story building – two cars. My client prefers to be able to drive straight in so he's thinking that a 5 foot variance solves his problem in terms of being able to easily park his car and bringing it out and in. Part of the driveway is existing; the driveway in front of the garage, which is stippled, which you can see, would be the new part of the blacktop. That's essentially it.

Chairman Maxwell said alright; this thing isn't built yet, obviously. There is some room to work with us a little bit. I don't think you need to come straight in. There's some play there. I think we are going to look to negotiate with you here a little bit. When I was out there, it was hard to see where the property line was because of the snow and all that.

Mr. Toscano replied yes; that's right.

Chairman Maxwell continued but I was out there on Sunday and it looked like there was plenty of room to bring this thing over. There making some nice improvements to the house. Are they living there at the same time?

Mr. Toscano replied yes; they are. I think so, yes.

Chairman Maxwell continued a lot of stuff is under construction.

Mr. Toscano said he had just gotten married or about to.

Chairman Maxwell said okay; you're asking for 5'; I think if we split hairs, maybe we go 7 ½', it's still comfortable enough to drive straight into it and it gets you away from the property line a little more.

Mr. Toscano replied alright.

Mr. Carnazza asked how close will that push that to the existing building.

Mr. Toscano replied the existing building is far off to the (makes a motion).

Mr. Carnazza added okay; I just want to make sure.

Mr. Toscano replied we're talking about moving it in the opposite direction away from the house.

Chairman Maxwell said away from the other property line.

Mr. Rossiter said toward the house.

Mr. Carnazza said you're moving it toward the house.

Mr. Toscano said no; oh yes. I'm sorry – yes.

Chairman Maxwell then said away from the property line. More in.....

Mr. Carnazza interjected how far will it be from the existing house at the end of the day?

Chairman Maxwell said well right now it's still 20' back and forth – from the back of the house to the front of the garage. We're going to slide it in the same line but over.

Vice-Chairman Aglietti said 2 ½ feet over.

Mr. Carnazza said I just want to make sure because the Code requires different type of construction if you're in a certain foot circumference.

Chairman Maxwell said I understand you want to come straight down into it but it is coming in askew but still gives you enough angle to get a car in there. No running water planned – correct?

Mr. Toscano replied no; none at all.

Chairman Maxwell said I would assume electric; they have a stairwell going up. Is that just for storage?

Mr. Toscano replied yes; that's just an attic space.

Chairman Maxwell then polled the Board for input on this application.

Vice-Chairman Aglietti said just so I'm clear – you're agreeing to....instead of the 5' variance, you'll do a 2 ½'?

Mr. Toscano nodded yes.

Mrs. Fabiano asked is there any reason why they don't want to just attach it instead of having a detached garage?

Mr. Toscano said we never even thought about it. He's had it in his mind to build a free-standing garage for years. He's got the property for it. I suppose there's a way of designing it so you could do that but I think it would be disruptive to the plan. It doesn't quite work as well as it could.

Mrs. Fabiano continued I assume that the size of the garage doors are going to be a standard size?

Mr. Toscano replied yes.

Mrs. Fabiano continued it's not going to be oversized.

Mr. Toscano replied no; standard – 9' x 7'; a pair of them.

Mrs. Fabiano said okay. And; I'm going to ask the construction guys on this application, can there be another floor on there from the pitch of the roof? Can there be living space?

Mr. Toscano replied no; the ceiling wouldn't qualify as habitable space. It wouldn't have a consistent 7' ceiling which is part of the Code. It wouldn't have windows or egress windows; on & on it goes.

Mrs. Fabiano said okay. Thank you.

Chairman Maxwell then looked for public input on this application for which there was none.

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

DECISION OF THE BOARD:

Mrs. Fabiano moved to grant requested variance with the condition that there be no plumbing in the garage and as amended: 12.5 feet provided & 2.5 feet variance; seconded by Vice-Chairman Aglietti with all in favor.

4. Application of **LONG GUO & LI CHI** seeking an Interpretation that a 3 family dwelling has existed prior to 1955, contrary to Town of Carmel records. The property is located at 133 Route 6N, Mahopac NY 10541 and is known by Tax Map 85.12-1-20.

➤ Mr. Long Guo (aka Mike) was sworn in.

Chairman Maxwell said give us some facts here. This property has been existing since.....how old is the building.

Mr. Guo replied this building is maybe 70-80 years old.

Chairman Maxwell said okay; so it's been existing that long.

Mr. Guo added yes; it's been existing for a long time.

Chairman Maxwell said you have to try to prove to us that this was existing as a 3 family. Right now it was existing as such?

Mr. Guo replied right now, it exists as a 3 family.

Chairman Maxwell said alright; do you have any paperwork or records to show us what's existing.

Mr. Carnazza interjected it's on the plans – did you get a set of plans? There's existing conditions on that plan.

Chairman Maxwell said to Mr. Carnazza: all that I saw was new construction. Was there supposed to be a.....oh – on the bottom. So the bedroom count and the bathroom count is pretty much the same?

Mr. Carnazza said the bedroom count would remain the same in his proposal and as existing. But; my records said it was a 2 *family*; the assessor's records said it was a 2 *family*. We went out and looked at the house and it is set up as a 3 *family*. It's old. I don't know how old it is but it's been set up as a 3 family for a while. If you look at the appliances inside, it's.....

Chairman Maxwell interjected and the records that you have are dated prior to....

Mr. Carnazza replied post 1955.

Chairman Maxwell repeated post 55. And; there's nothing in the record for this property prior to that.

Mr. Carnazza replied correct. We didn't keep records before that. The Building Department started in 1955. The Assessor's card from 1968 said it was a 2 *family*. The Assessor's card from 1995 said it was a 2 *family*.

Chairman Maxwell then said so somewhere along the line, it was created.

Mr. Carnazza added somebody either didn't go there and look at it orthat's what I mean. I can't interpret it. That's why it's here. I can't make a determination because my file says 2 *family* but when you look at the house, you can see....

Chairman Maxwell interjected you said 95 was the last?

Mr. Carnazza replied that was the last one I checked. The re-eval from 1995 said 2 *family*.

Chairman Maxwell said so for almost 25 years it's been a 3 family.

Mr. Carnazza said if you look inside the building, you would say the same but that's why he's here.

Chairman Maxwell said I didn't want to go any closer than the back porch.

Mr. Carnazza said we walked through the whole thing; there are some spots that are rotten but it wasn't dangerous. It is locked up so nobody can get in there.

Chairman Maxwell I have to say that any improvement that's going to occur here would be a blessing because the building should be condemned in my opinion. It basically is uninhabitable right now.

Mr. Carnazza agreed it's uninhabitable right now.

Chairman Maxwell said if it's been a 3 family for that long, I don't if that's going to.....

Mrs. Fabiano interjected is it a use variance now because it goes from a residential 2 family to a multi-family so then it becomes a use variance.

Mr. Carnazza said if you interpret that it was not a 3 prior, then yes; he would have to go for a use variance to get it to 3 *family*. But; if you interpret that it's been a 3 *family*, then he wouldn't have to get the use variance. That's up to the Board and why it's here.

Mrs. Fabiano stated typically when we do these kinds of things, we ask the applicant to bring in letters from neighbors saying it was a 3 family – correct?

Mr. Carnazza replied that's usually when somebody owns it though. If somebody owned it and continued to own it and we caught them doing something, they would try and get neighbors to say I had my second birthday there in 1950, etc. and it was a 2 family or whatever. He just purchased the property a few months ago.

Mrs. Fabiano said so you purchased it with the paperwork saying it was a 2 family dwelling.

Mr. Guo replied 3 family I think; I got it from the bank.

Mrs. Fabiano said the bank says what?

Mr. Carnazza replied 3.

Mrs. Fabiano said the bank says 3.

Mr. Guo said the bank says 3 families.

Mr. Carnazza said that's the problem.

Mr. Schwarz asked did you do a municipal search – a search of the Town records to tell you....

Mr. Carnazza replied he did not get a municipal search.

Mr. Guo said I looked at the house – it's a 3 family.

Vice-Chairman Aglietti (directed to Mr. Carnazza) when you walk through and you saw the set-up the way it was, can you tell by looking at the plumbing and everything, approximately when that was all put in?

Mr. Carnazza said I can tell you it's old. Can I tell you a year? No.

Vice-Chairman Aglietti responded older than me.

Mr. Carnazza added older than me; there were 3 old kitchens, there was an obvious unit on the right, staircase you walk in to go right and then up. It's obviously broken up. That was the lobby – I think that was the front of the building. We walked in the back. It's like you walk in and it splits off to the two different..... could it have possibly been one that they split – yes. That's the problem I have. I can't say for sure what's there. It's older than me. And; it's been that way for quite a while but again; I don't know which way to go.

Vice-Chairman Aglietti asked what other records can be out there that the applicant can get that could help him.

Mr. Carnazza replied contact neighbors? That's probably the first house because everything around him I think is newer. That sub-division road there....Friendly Road I think it is. Once you go in off of Friendly, I think they're all newer – 1960s & 70s houses so finding somebody with that kind of knowledge would probably be very difficult to find at this time. That's where we are now – with our pre-date; people are starting to not be around. It's getting more and more difficult to get these letters. I couldn't say which it was because I have the file telling me one thing and have my vision telling me another thing and the assessor's card saying another thing so it's very confusing for me.

Mrs. Fabiano asked was it a foreclosure?

Mr. Guo replied yes; I got it as a foreclosure from the bank.

Mrs. Fabiano said but you were able to do a walk-through?

Mr. Guo replied yes; I walked through the building.

Chairman Maxwell said there's no C.O. for a two family correct?

Mr. Carnazza replied no C.O.; pre-existing house. Mr. Guo came to my office to find out what the process was to make it better. That's the plans that you have there. At that point, that's when we found out that it was not..... My file said two and he thought it was three so we went out to look at it and that's why we're here. Again; I'm not able to make that determination.

Chairman Maxwell said if it's been a 3 family for over – what 25 years, 27 years...?

Mr. Carnazza said I would guess more than that. I would guess as long as I've been around but I can't..... it's a guess. I don't have any dates to go by exactly.

Mrs. Fabiano asked when was the last time someone lived in there?

Mr. Guo responded I don't know.

Chairman Maxwell said it looks like a long time. There's a tarp on the roof; it's leaking; the whole back porch is rotted. It's uninhabitable.

Mr. Carnazza said it is.

Chairman Maxwell said this is asking for dynamite.

Vice-Chairman Aglietti said what about other things in the area. Boniello was built in 1960 if I'm not mistaken. What about other..... can you tell by other structures, other houses.....

Mr. Carnazza replied I can tell that the structure is pre; that I know. But, I don't know whether it's pre-existing two family or pre-existing three family. That's the hard part. We would need to have an older person be able to tell us what it was. We don't and it's so hard to get somebody today that would know that because.....

Chairman Maxwell interjected either not around or moved away.

Mrs. Fabiano asked are you looking to knock it down completely and start from scratch or are you planning to use the existing building and repair it.

Chairman Maxwell said this is all new construction.

Mr. Carnazza replied yes.

Chairman Maxwell added excavation; foundation; all new construction – correct?

Mr. Carnazza said (to Mr. Guo) are you staying in the same footprint but rebuilding the whole thing?

Mr. Guo replied either way. I want to check out everything inside & if everything is good – we're just remodeling it.

Mr. Carnazza said he's probably, at least, going to have to do very much structural work to do anything there. There's rot; you can see as you walk in that back door, the plate is gone. So; there's going to be a lot of structural work.

Chairman Maxwell said that's what I saw. If this does get approved as such, you're wasting money trying to repair what's there. It's almost as if you have to build this thing from scratch.

Mr. Carnazza said there's people in the audience that may know something too – may have some knowledge.

Chairman Maxwell said okay. Does the Board have any more questions?

Mr. DiTomaso said a municipal search wouldn't have shown a C.O.; there's no C.O. for the property at all; tax assessors' cards don't determine legal use of the property – just how it's taxed. If we interpret it to be a 3 family or if he even goes for a use variance for 3 family, the tax assessor's card would eventually catch up. Then the taxes would be increased accordingly; as long as it's not out of character for the neighborhood, I don't have any objection to it.

Mr. Carnazza asked how big is the lot; do you know?

Mr. Guo responded it's almost an acre I think.

Chairman Maxwell said at least $\frac{3}{4}$ of an acre.

Other Board members commented that there appeared to be a lot of room there.

Mr. Carnazza said I saw it; I just can't remember. Does it go all the way back to Archer Road?

Mr. Guo replied I don't know. Almost 300 from one side and the other is 260-something?

Chairman Maxwell said I don't think it connects back to Archer.

Mr. Carnazza replied it doesn't – okay. It's just a swamp behind there – cattails? Wetlands – okay.

Chairman Maxwell then opened it up to the public for their input on this application.

- James Hartling of 21 Friendly Road was sworn in.
- Phyllis Hartling of 21 Friendly Road was sworn in.

Mr. Hartling stated we moved in there in 1979 and it was a two family house that we know of.

Mrs. Hartling said as far as we know, it's always been a two family house. We knew the previous owners.

Mr. Hartling continued we knew the previous owners; it was sort of a mother-daughter type deal. And; as far as I know, our water supply fed that house.

Mrs. Hartling said that's why we're here. We're only concerned about the water.

Mr. Hartling continued we'd like to see the house knocked down and rebuilt. It's an eyesore.

Mrs. Hartling echoed it's an eyesore.

Chairman Maxwell asked did you guys see the plans at all?

Mr. & Mrs. Hartling responded no we didn't.

Chairman Maxwell asked do you want to peruse them? Whatever he's doing is going to be a welcomed enhancement.

Mr. & Mrs. Hartling both agreed.

Mr. Hartling said yes; but it's our well system that they're on.

Mrs. Hartling said we're just concerned about the water usage and stuff.

Mr. & Mrs. Hartling both spoke – inaudible.

Chairman Maxwell said what Mr. Carnazza is saying is that it's set-up as a 3 family now; so the use isn't going to increase as it's going to be the same bathroom and bedroom count. It's not going to be any worse than use in the last 27 years.

Vice-Chairman Aglietti said you recall it being a 2 family. Do you ever recall it being a 3 family?

Mrs. Hartling responded no.

Mr. Hartling said it's a 2 family but there's also..... you were out there; you saw how big the driveway is?

Mr. Carnazza replied absolutely.

Mr. Hartling continued as it is, we've had to call the Town numerous times to get out of Friendly Road because of all the traffic on 6N now. Moved up here in 1979, you could fly right out of there. To make a left hand turn – flew right out of there. Now, sometimes, I'm waiting 2, 3, or 4 minutes.

Mrs. Hartling added I'm very surprised some of our neighbors weren't here tonight because most of them have the same concerns.

Mr. Hartling said we want to see it built. It's beautiful but I don't know if we'd have a 3 family house.

Mrs. Hartling reiterated yes; it's an eyesore now.

Mr. Hartling said that's all.

Chairman Maxwell said your concerns with the parking – he's expanding the parking system toward the back of the house. How many spots – six.

Mr. Hartling said well – 3 family house; how many bedrooms are going to be in there?

Chairman Maxwell said it's basically the same bedroom and bathroom count that's there now. That's how the County Board of Health will have to give them approval for the septic.

Mrs. Hartling asked how many bedrooms will be in this?

Vice-Chairman Aglietti replied two, two & three.

Mr. Hartling repeated two, two & three and then asked how large is the septic system?

Mr. Carnazza interjected before he can do anything the Board of Health has to see this. We don't do the septic part. We defer it right to the Board of Health. We don't do it.

Chairman Maxwell said and if it's not passed by the Board of Health, he can't get a permit and he can't build the house.

Mrs. Hartling said he has to downscale.

Mr. Carnazza said that's correct.

Mr. Hartling said I'd love to see a house built – beautifully; it hurts us.

Mr. Guo said there's a terrible house there now.

Chairman Maxwell said if you look at the elevations, it gives some indication of new construction.

Mr. Hartling said new construction? He said he's going to use the old foundation and everything else.

Mr. Guo interjected no; no; no. I didn't check it out yet but we're probably going to knock it down and build new.

Mr. Carnazza said in my opinion, just by looking at it, he's not going to use it; if he could use the foundation – maybe but the rest of it is so poor.

Chairman Maxwell said judging the age of the house

Several interjections – inaudible.

Mr. Hartling said my other question is the water.

Mr. Carnazza replied Board of Health also.

Mr. Hartling continued the septic and the parking.

Mrs. Hartling said mostly it's the water I think.

Mr. Hartling said we have a community well. Friendly Road is all single houses. We all pay a water bill. Three family house – 1 water bill?

Mr. Carnazza replied you'll have three units..... is it a Town water system?

Mr. Hartling replied no; community well.

Mr. Carnazza replied then I don't know the answer.

Mr. Hartling then said electric – 3 separate electric meters?

Chairman Maxwell said most likely.

Mr. Hartling said are there 3 electric meters no it now?

Mr. Carnazza replied don't know what's there; I did not see them.

Mr. Guo replied right now I think there are two meters there.

Mr. Hartling said again; I don't want to give you a hard time. I want to see a nice house but we have concerns. I've turned people in because I've seen cars parked in the driveway and they say: you see something, say something. I've called the Towns once or twice about something going on there.

Mrs. Hartling added there's been a lot of break-ins there because the house has been empty for a very long time; there's a lot of vandalism.

Mr. Hartling then added somebody took all the pipes out of there.

Chairman Maxwell then said look at the drawings; look at what he plans to do; it's going to increase tenfold. It's going to increase the value of your home and your neighbors' homes.

Mrs. Hartling interjected I have no problem with this; I'm just concerned about the water.

Chairman Maxwell said I think your concerns are addressed. Like Mr. Carnazza said.....

Mr. Guo said I want to know what concerns you have about the water in there.

Chairman Maxwell asked *the group to talk consecutively rather than simultaneously.*

Mrs. Hartling said we don't have any problems with this but our concern is we're on a community well. It's all single family homes and what kind of impact is this going to have on our community well – being a 3 family house. As far as we've ever known, it's been 2 family. Our water guy just said, two years ago I think, that we had a tremendous problem with our well. Our well was being drawn down/drained and they couldn't figure out why until they went down to the house and somebody had taken out all the pipes and the water was just flooding all over the place and running for whomever knows for how long. So; that's the biggest thing I think – what kind of an impact a 3 family house has. I guess that's something our community has to be concerned about?

Chairman Maxwell said I'm not sure how that works. Is it a private water district in that area?

Mrs. Hartling responded yes; it's York View water estates – all the way up at the end of Friendly Road.

Mr. Carnazza said I know where the structure is. I just don't know who maintains it.

Mrs. Hartling said our homeowners maintain it. I think B&G Plumbing goes and does the water testing.

Mr. Carnazza replied so they would be part of your H.O.A.?

Mrs. Hartling said they would have to be I assume.

Mr. Hartling again said our concern is water, septic and visibility of getting out of our street.

Chairman Maxwell said again; he's got to go to the Board of Health for both of those items, and like Mr. Carnazza said – if it's not doable or passes, he either has to enhance the septic system to make it work for that type of structure; so he won't get approval without.

Mrs. Hartling said well let it go through the channels then. That's the best thing to do – right?

Mr. & Mrs. Hartling both continued that it should've been knocked down a long time ago and what Mr. Guo plans to do would be nothing but improvement and they're happy to see somebody do something with it.

Mrs. Fabiano said this application asks for an Interpretation that this was a 3 family dwelling. We have someone coming here saying it wasn't a 3 family dwelling.

Mr. Carnazza said what they're saying is it was a 2 family and one of the 2 families had a mother/daughter I believe.

Mrs. Fabiano said so there was 3 families in there.

Mr. Carnazza said 3 units is what they're saying I believe. Again; I'm not speaking for you.

Mrs. Hartling came back up said this was prior to when the Friendly Road development, York View estates, was built. So that was the original farmhouse to York View Estates. Just like on the corner of Archer Road and Route 6N, that big white house..... that's the original farmhouse to Archer Estates.

Vice Chairman Aglietti asked when was your development built?

Mrs. Hartling replied '62 I believe. But that was the original house for our farmland.

Mrs. Fabiano said right but the question is was it a 3 family?

Mrs. Hartling said not as far as I know.

Mrs. Fabiano continued or was it a 2 family plus an accessory apartment?

Mrs. Hartling said I don't know.

Chairman Maxwell said you're speculating. You don't know for sure.

Mr. Hartling said we never saw more than 4 or 5 cars there.

Mrs. Hartling continued when the Barrett's owned it; He is the one that walked away from this property. He owned it.

Mr. Hartling said I think he sold it to somebody else.

Mrs. Hartling continued his family owned it for many, many years. When his parents died, he bought his brothers out and he owned it for many years and he used it as a rental property.

Mr. Hartling said and we're only getting this second-hand.

Mrs. Hartling said I worked with his wife. I only knew that there was two apartments that they rented. I don't know if they had a third one in there somehow. I don't know and don't want to speculate.

Vice-Chairman Aglietti asked did they live there?

Mrs. Hartling replied no; it was not their primary residence. They lived off the property but he maintained the property.

Mrs. Fabiano asked are the Barrett's still around to ask?

Mrs. Hartling replied she died and I don't know where his siblings are. He's moved south somewhere. But he sold it to someone else and they're the ones that abandoned it. Maybe they abandoned it. I'm not sure.

Mr. Carnazza said that could be. Absolutely. That's why I said I'm not sure. It's too much for me to figure out.....

Chairman Maxwell interjected from '95, it's been 3 - right?

Mr. Carnazza replied at least.

Chairman Maxwell added that's the last recorded paperwork on it. It's 40 years too late.

Mr. Carnazza said '95 was the second re-val.

Mr. Hartling said but I thought you (inaudible) by the number of electric meters. Two electric meters and then you stick a mother/daughter in there.

Chairman Maxwell said there could have been a one studio apartment in there and whatever their electric usage was it was.

Mrs. Hartling said we have a couple of mother/daughters on our road but one electric meter. Okay; let's just go through the channels. We were just concerned about the water line.

Mrs. Fabiano said (to Mr. Carnazza) the 3 kitchens..... are all old?

Mr. Carnazza replied old.

Mrs. Fabiano repeated old.

Mr. Carnazza said older than me – honestly. Some of the kitchens – you wouldn't want to walk near the sink – worried that you were going to break through.

Mrs. Fabiano asked metal cabinets?

Mr. Carnazza replied the cabinet doors were ripped off of one of the units. There were no cabinets – right?

Mr. Guo replied no; all three have cabinets. They're old.

Mr. Carnazza asked were they metal or wood?

Mr. Guo replied very old wood.

Mr. Carnazza said there's no electric so it's not bright and...

Chairman Maxwell interjected musty, wet and damp.

Mr. Carnazza replied not terribly wet but it's just nasty.

Chairman Maxwell asked Mr. Guo if he had anything else to add; questions, concerns.

Mr. Guo replied no; I just want to get this approved.

Chairman Maxwell then asked if there was any more input from the public on this application.

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

DECISION OF THE BOARD:

Vice-Chairman Aglietti made a motion for discussion; seconded by Mr. Schwarz.

Vice-Chairman Aglietti stated I think the burden here is on the applicant and I don't believe he's met that burden. I understand we don't have any real proof. I don't know if there's anything out there. I just don't think there's enough for us to say that it was prior to 1955. We all agree it's old but there's really nothing there that says it. I feel sorry that he doesn't have the evidence to show it. It's a legal 2 family (directed to Mr. Carnazza)?

Mr. Carnazza replied that's what my record says.

Vice-Chairman Aglietti continued so my feeling is not to grant that interpretation because we have a nice existing floor plan but that's about it. We don't have anything other than that. The Applicant admitted to having two electrical meters. I think that also works against him at this

point. I would not be adverse to having this be held over and come back with new information and new evidence that he could submit. That's where I'm leaning right now.

Mr. Schwarz stated yes; I'm with Vice-Chairman Aglietti on this one. I would deny without prejudice to allow him time to try to find new information or we can hold it over.

Mr. DiTomaso stated it's impossible to interpret how long it's been a 3 or a 2. So; to be asked to interpret it as a 3, we can't do that. Perhaps he has another avenue, in addition to try and find evidence, another avenue to get to a 3 family. I think maybe he could ask for a use variance.

Mr. Carnazza said he would need a use variance and a site plan approval if he goes that way.

Mr. DiTomaso continued maybe that's the way to go.

Vice-Chairman Aglietti added the site plan approval would also help with some of the parking issues and things like that that have been raised today as well.

Mr. DiTomaso added again; I'm not personally against it being a 3 family, I just don't think we can interpret it that way.

Vice-Chairman Aglietti said I love that this is happening. I just don't think I can do it.

Mrs. Fabiano said I would agree with Vice-Chairman Aglietti. It's either a holdover until next month or submit paperwork for a use variance. At this point, given the neighbor's comments, given the two meters, the tax records.....everything points in the direction that it was a 2 family. Other than the fact that some cabinets are old but we can't even date the cabinets, there's no indication that it was prior to 1955 which is old but a 1960s kitchen is old too so we can't prove anything right now. So we have the two options: come back again next month with some more evidence or go for a use variance.

Mr. Rossiter said I'll agree with them.

Mr. Carnazza said what about a site inspection?

Chairman Maxwell said I trust your opinion that there were 3.

Mr. Carnazza replied that's okay; I just didn't know if you guys wanted to see it and see what you thought when you got there.

Chairman Maxwell said you know – you walked the space – you know there's 3 family dwellings in there and it's obviously been that way for a long time.

Mr. Carnazza interjected yes; again I can't date it.

Vice-Chairman Aglietti said if you could tell me that you could go in and see a date on a pipe or something like that.....

Chairman Maxwell interjected points are valid so do you (to Vice-Chairman Aglietti) want to change your interpretation – negatively of what he's seeking.

Mr. Carnazza said or agree to hold it over.

Chairman Maxwell said so you can make a motion to hold this over and you (to Mr. Guo) have to agree to want this held over so that you can try to get more evidence of it being a 3 family home.

You've got to try to get some proof. Get some testimony of some neighbors or people or are from the area that know that it's always been a 3 family dwelling.

Vice-Chairman Aglietti (to Mr. Carnazza) can he hold it over and then come back seeking a variance.

Mr. Carnazza replied if he holds it over and doesn't get any information, he can then fill out an application for the variance – sure.

Chairman Maxwell said but he'd be referred to the Planning Board.

Mr. Carnazza said yes; he'd have to go to the Planning Board first and then come over but he can at least try to talk to somebody and see if anybody around knows it.

Chairman Maxwell asked (to Mr. Guo) do you understand that?

Mr. Guo indicated no.

Chairman Maxwell said the burden of proof is on you to find out or get some testimony or affidavits of someone who has knowledge of this being a 3 family home.

Mr. Guo said I think the Tax Department says it's a 3 family there.

Chairman Maxwell said it can't be your testimony.

Mr. Carnazza interjected he's saying the Tax Department meaning the Assessor's office.

Mr. Guo said no; no; Town Hall.

Mr. Schwarz said but that's from 1995. We need something that says it's from 1955 – that this was a 3 family home as of 1955.

Mr. Carnazza said the 1968 one says 2 family and the newest one said 3 – on the '95 one.

Mr. Guo said yes; 3.

Chairman Maxwell said you have to bring that proof with you – if you have something that says it's 3 family from the Tax Office. You have to prove it to us that it's always been a 3 family dwelling.

Mr. Carnazza said you can go to the Assessor and get the cards.

Mr. Guo said the Engineering Department says it's a 3 family there.

Vice-Chairman Aglietti said if you could get someone to write something up – something that shows that it's prior to 1955, please do.

Chairman Maxwell asked Mr. Guo do you understand that? You have to do a little historical legwork to find out if this was a 3 family home by means of the Tax Department but also some kind of letter from someone who's been around long enough to know that this has always been a 3 family home because they are aware or had been living there or what have you. Alternatively, if you can't get that, then you are going to have to go the route of site plan and approval from the Planning Board. Mr. Carnazza can probably explain it to you better tomorrow.

Mr. Carnazza said come see me tomorrow afternoon or early morning and I'll go through everything with you.

Chairman Maxwell said so that might be your only route if you can't get that proof. So right now, we're going to make a motion to hold this over to give you that time to do some legwork.

Vice-Chairman Aglietti moved to hold over this application; seconded by Mr. Rossiter with all in favor.

MISCELLANEOUS:

Minutes:

October 26, 2017: Vice-Chairman Aglietti moved to accept the minutes; seconded by Mr. Schwarz with all in favor.

The meeting was adjourned at 8:26 p.m.

Respectfully submitted,

Dawn M. Andren