

**APPROVED**

JOHN MAXWELL  
*Chairman*

PHILIP AGLIETTI  
*Vice-Chairman*

**TOWN OF CARMEL  
ZONING BOARD OF APPEALS**



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

ROSE FABIANO  
SILVIO BALZANO  
WILLIAM ROSSITER  
MARC DITOMASO  
MICHAEL SCHWARZ

**ZONING BOARD OF APPEALS MINUTES**

**APRIL 28<sup>th</sup>, 2016**

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

**ABSENT: MARC DITOMASO**

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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>
Freiman, Michael	75.7-2-18	1	Heldover.
NY SMSA Limited Partnership d/b/a Verizon Wireless	75.19-1-12	1-2	Approved.
Scaccianoce, Paul	87.6-2-66	2-3	Approved.
Attanasio, Gary	87.6-2-53	3	Approved.
Hudson Valley Realty Corp. (Gateway Summit Senior Housing)	55.-2-24.6 &24.7	3-14	Approved.
Par Four Realty Company, LLC (Fairways Senior Housing)	55.-2-24.8	4-14	Approved.
Keogh, Craig	74.42-1-3	14-17	Approved with Conditions.
Minutes- 3/24/2016		17	Approved.

The meeting was adjourned at 8:58 p.m.

Respectfully submitted,

Rose Trombetta

**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 this applicant is looking for another adjournment, I am going to look for a motion to hold this over but I am giving them one more month and beyond that they have to rescind their application and do away with the violations.

Mr. Balzano moved to hold this over for one more month. The motion was seconded by Mr. Schwarz with all in favor.

**Application of New York SMSA Limited Partnership D/B/A Verizon Wireless for a Variation of Section 156-37 (D), seeking permission to install public utility wireless telecommunication facility on the roof of existing building, a variance for parking is required. The property is located at 361 Route 6 Mahopac, NY 10541 and is known by Tax Map #75.19-1-12.**

Code Requires	Provided	Variance Required
2 parking spaces for unmanned public utility installations	0	2 parking spaces

Mr. Ed Tyber of Snyder and Snyder representing New York SMSA Limited Partnership d/b/a Verizon Wireless was present before the board. He stated Verizon Wireless is seeking to locate two antennas on the roof of an existing building on Route 6 in Mahopac; we were referred to this Board for a parking variance. The existing property has 16 parking spaces, under your zoning code all public utility installations require two parking spaces, this facility is unmanned and we would only have a truck come out about once a month for maintenance. The existing parking spaces at the property will suffice for the in frequent visits.

Mr. Maxwell said we had this situation come up before, he then asked if this is the same building.

Mr. Tyber said no it is a different building but it is the exact same situation.

Mr. Maxwell said ok that's what I thought, for the other application we had no problem with this so if anyone has any questions.

Mrs. Fabiano said I didn't see a sign posted in front of this building.

Mr. Tyber said I have a picture of the sign in front of the building that I sent to Mrs. Trombetta.

Mrs. Fabiano said ok as long as it was there.

Mr. Maxwell asked if he could submit it for the record.

Mr. Carnazza said it should be in there file.

Mrs. Fabiano said the sign was not there today.

Mr. Maxwell said I know the landscapers go out there to cut the grass they could have moved it.

Mr. Maxwell opened this up to the public for any questions or concerns 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 grant the variance. The motion was seconded by Mr. Rossiter with all in favor.

**Application of Paul Scaccianoce for a Variation of Section 156-15, seeking permission to retain two preexisting sheds. The property is located at 234 West Lovell Street, Mahopac, NY 10541 and is known by Tax Map #87.6-2-66.**

Code Requires	Provided	Variance Required
20' Side(12x16shed)	11'	9'
10' Side (10x14shed)	5'	5'

Mr. Scaccianoce was sworn in.

Mr. Scaccianoce said he is looking for a variance on two existing sheds on my property. I was told they are too close to the property line but I would like to keep them for storage.

Mr. Maxwell asked how long they have been there for.

Mr. Scaccianoce said one shed has been there since before I bought the house 18 years ago and the other one had been there about 5 or 6 years.

Mr. Maxwell said okay and you didn't know you needed a building permit or variance for them.

Mr. Scaccianoce said no I wasn't aware, at the time I was under the impression that as long as there is no foundation or anything I didn't need a permit for it. It's a small shed it's 10 by 14 in length and it is right up against my neighbors shed.

Mr. Maxwell said your property looks like it is pretty deep and there is nothing behind you but woods so it looks pretty well screened. It looks like they are well kept, maintained and in decent shape, is there any other property you can buy to bring this into conformance.

Mr. Scaccianoce said no.

Mr. Maxwell said one of them is a 50% variance and the other one is just under that.

Mr. Carnazza said because of the size of the shed the setback went from 20 to 10 just so you know why there is a difference in the numbers, smaller sheds are allowed to be 10 feet from the property line.

Mr. Maxwell asked if the board members have any questions.

Mrs. Fabiano asked why this is being brought up now.

Mr. Carnazza said Mr. Marousek picked it up.

Mr. Fabiano said ok that makes sense.

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

Mr. Schwarz 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. The motion was seconded by Mr. Balzano with all in favor.

**Application of Gary Attanasio for a Variation of Section 156-15, seeking permission to retain existing pool decks. The property is located at 282 West Lovell Street, Mahopac, NY 10541 and is known by Tax Map #87.6-2-53.**

Code Requires	Provided	Variance Required
25 feet	Upper deck 23 ½ feet	1 ½ feet
25 feet	Lower deck 21.7 feet	3.5 feet
25 feet pool	20'	5'

Mr. Attanasio was sworn in.

Mr. Attanasio said I am seeking a variance for a pool deck to a pool that is too close to the property line.

Mr. Maxwell said and because they are attached that becomes part of the same set back criteria. I was out there today and I noticed you have a whole wooded section between you and the next street that goes down so you are pretty well screened. These are relatively small variances and everything is well maintained and in good shape, is there any other property you can buy to bring this into conformance.

Mr. Attansio said no.

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

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

**Decision of the Board:**

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

**Application of Hudson Valley Realty Corp. (Gateway Summit Senior Housing) for a Variation of Section 156-39B(8) and 156-42A(1), seeking permission to construct three story multi-family buildings and to provide 9 feet wide parking spaces for a portion of the required parking. The property is located at Gateway Drive, Carmel NY 10512 and is known by Tax Map # 55.-2-24.6 & 24.7.**

Code Requires	Provided	Variance Required
40 feet maximum height/two stories	40 feet maximum height/three stories	1 story height for multi-family buildings
10 feet wide minimum parking stalls	9 feet wide minimum parking stalls	1 foot width of parking stalls

Mr. Maxwell said we are going to hear both of these applications together, Hudson Valley Realty Corp. (Gateway Summit Senior Housing) and Par Four Realty Company, LLC (Fairways Senior Housing). They are both the same property but are two different developers.

Mr. Jeff Contelmo of Insite engineering was sworn in.

Mr. Maxwell asked if they are two different developers.

Mr. Contelmo said they are two separate properties, two separate land owners and one common developer.

Mr. Maxwell asked him to explain the situation.

Mr. Contelmo said we submitted a letter which detailed our request from the Board. In summary we are requesting relief from two provisions of your zoning code. Number 1 we are requesting a variance from a two story building to a three story building while still maintaining the code required height of the building. Secondly we are requesting a variance from the width of our indoor parking spaces within our buildings, your code requires a 10 foot width and we are proposing a 9 foot width. As I indicated the applicant had submitted a detailed letter explaining the situation and I would like to summarize that for the public and the Board. The two variances being sought are on the Gateways and Fairways Senior Housing projects which are located off Route 6 in vicinity of the Centennial Golf Club. The subdivision was approved back in 2007, we created 7 lots and the two lots we are talking about this evening are lots 6 and 7. They were proposed for Senior Housing developments each with 150 units, the proposals remain to be 150 units on each project so the unit count does not change. The requested variance is really a byproduct of a change in the real estate market; the program that was developed in 2007 is deemed marketable at that point was unfortunately severely affected by what happened with the economy in particular the real estate market. The applicant has aggressively attempted to market the property since approvals were granted and has been advised by many different consultants that the configuration of the buildings had to change. As I said the number of units hasn't changed, the type of units hasn't changed but the multifamily buildings within the development are the ones that are subject to the variance. There are three building types proposed in the development, there is a cottage style home, town home and the multifamily building. The multifamily buildings as originally approved were two stories with parking beneath it and the current proposal is to allow for it to go to three stories with parking beneath it. One of the key drivers with the change was to reduce the footprint of the multifamily building by 30%. What we are able to achieve by doing that is we are able to get 13 units in a smaller footprint in three stories where before we had 16 units in two stories with a bigger footprint. This allows us to really create a better balance of the types of units and create a more marketable condition. In addition it creates units in the multifamily building which are now primarily corner units, we have 5 units on each floor so we have 4 corner units and one center unit. These are much more marketable units and we also have eliminated the long hallways which aren't preferable from the marketing stand point. What I would like to do is show you that the layout of the development is very much the same from the approved plan to the proposed plan.

Mr. Maxwell said you are minimizing the footprint which is a green effort as well.

Mr. Contelmo said correct, there are actually a number of green items integrated into this including the parking spaces as well.

Mr. Maxwell asked if they were taking into consideration water recharge.

Mr. Contelmo said yes before we came here this evening we did attend a planning board meeting and introduced the concept to them and went through what we considered to be a very critical step and went through what was called the environmental review threshold sheet. This particular development was quite unique in that it was subject of a very generic environmental impact statement. A generic environmental impact statement looks at broad impacts associated with usually larger more complicated types of development and in doing so establishes thresholds that future components of a project must adhere to. What we did with the planning board is we showed them that in fact our amended plan did stay within the threshold established within the SEQR thresholds. The board found that we did do that and acknowledged that in way by execution of the SEQR threshold sheets which is very important step because it shows that we have paid attention to the environmental impacts and environmental concerns that were previously expressed. We really just morphed our project as a version of the same thing, it is 300 units of senior housing it has a similar type of unit throughout and what we have done is we have taken it and made it more marketable in 2016 in effort to be able to develop it.

Mr. Maxwell said you are staying within the height restriction but do you have any cross sections to show the Board.

Mr. Balzano asked how they achieved going from two stories to three stories but staying in the height requirement.

Mr. Maxwell said so you show the tapered line in the back.

Mr. Contelmo said the special use permit associated with senior housing has a maximum height limit of 40 feet, we were within that limit with the previous proposal and we have been able to hold it in this proposal. The height defined in your code is measured from the average grade at the front of the building to the mean height of the gable roof, which is the type of roof we have. We have done the calculations to be sure we are within that height, that's why we are not requesting a variance for height. This extra story gives us great opportunity from a marketing stand point really doesn't change the height of the building; you can see that some of the roof lines are brought down over the windows in attempt to get that third story to stay within that height.

Mr. Maxwell said I just want to point out that we approved Pulte Homes with this, each case is judged on its own merits but I think you have similar reasoning here with marketing aspect.

Mr. Contelmo said with the planning board we talked a little bit about where we are deviating a bit from the code and pointed out that the mass of this building is still within height limit but it is 30% smaller in footprint so actually this is allowing us to take big multifamily buildings keeping them the same height and making them a little smaller. I think the board recognizes that this did achieve a bunch of our goals in terms of creating a better mix of units in a more marketable project while maintain all of the limitations that were places on us in terms of areas of disturbance, avoidance of steep slopes and avoidance of wetlands and critical areas. We are still committed to the same info structure you saw the road network, sewer and water improvements will all be the same and so are the traffic patterns.

Mr. Maxwell asked if he could put the site plan up for the board to see.

Mr. Maxwell asked if he is encumbering any views of any existing homes or neighbors. You are adjacent to the golf course and to the other property the Fairways so you are not disturbing any views on that side.

Mr. Contelmo said actually Mr. Kelsh in his letter pointed out that our closest multi-family building to a residential home is about 900 feet. What I want to point out is this is the approved plan with the two

story buildings, we had 10 multifamily buildings and we had them on both uphill side of the road and downhill side of the road. What we did in the proposed condition was we moved them to the down side of the road which gives us a three story front and a 4 story back in which nobody sees and puts them in a location that is more sensitive to community within itself as you drive down the road. You will see we have two multifamily buildings here and the other 7 on the downhill side over here so we have actually moved them away from the upper residential properties.

Mr. Maxwell asked if they are more susceptible to wayward golf balls.

Mr. Contelmo said actually I think we way be less susceptible then these were originally.

Mr. Carnazza said the audience can't see what he is talking about.

Mr. Maxwell said I think you touched upon the criteria for the variance in your memorandum so I won't do that unless the Board members have any questions.

Mrs. Fabiano said I know this doesn't fall under our purview but I do want it on record, one of the huge concerns we had from Pulte was the fact that they cleared all of the land and all of the beautiful trees were gone which is a huge concern. I don't know what your plans are with that type of thing but I do want it on record that the vegetation will be kept to some point.

Mr. Contelmo said that issue was reviewed by the environmental review process in quite a bit of detail but we are basically talking about almost 150 acres which surrounds the Gateways and comes all the way around back to Route 6 down to a large pond which will extend to the golf course. We are talking about a lot of land but the 150 units of Gateway sit right here and what you see in this area will be disturbed, will be regraded and the trees will be removed. The sensitive area which encumbers a very large area identified for preservation started here near the stream which came with over 400 feet from the wetland itself and we maintained all vegetation in this substantial portion of the property. There are some walking trails and some very minor lake front improvements proposed but all of the trees through here will remain and these will be remained. There were limits that have been established through the environmental review process.

Mrs. Fabiano asked if the golf club has a certain amount of vegetation among those lines.

Mr. Contelmo said there is a stone wall along here which does have some significant trees along it so there will be some vegetation maintained along that line.

Mrs. Fabiano said along the upper section there, there won't be any.

Mr. Contelmo said I believe there is also a wall here and there will be a tree line with some significant trees maintained on both sides of that property line.

Mrs. Fabiano said the white section above the sign where is says Gateway Summit, what is in that whole section.

Mr. Contelmo said this is actually County property, the old landfill is down low and this is a wooded slope that comes back up to the top of the hill.

Mrs. Fabiano asked about along the top.

Mr. Contelmo said this is where the Town water tank sits so this is Town property and the Kelly Ridge development sits on the other side of the golf course.

Mrs. Fabiano said okay.

Mr. Balzano asked if they talked to Carmel Fire Department to see if they are okay with the third floor.

Mr. Contelmo said our proposal automatically is referred to the Fire Department through the planning board referral but we have not spoken to them directly on this issue. We have reviewed the fire codes and the building codes and our project actually goes beyond that because these buildings are all required to have sprinkler systems in place which they will be.

Mr. Carnazza said the houses have sprinklers in them also which is a residential type sprinkler and this is a full sprinkler system.

Mr. Maxwell asked if they have the need for any pumps.

Mr. Contelmo said what happens by way of this project is the sewer and water info structure improvements have been committed to as part of this project. The sewer system will be a collection system with piping with a pump station and the water system proposes an improvement that will create a high pressure zone that will service the upper portions of this property and also make improvements on the highest portions of the Kelly Ridge property. This is a substantial off site improvement to benefit this project and the higher users which right now don't have adequate pressure. This has all been worked out with the Town as part of an info structure improvement which will be funded by the developer.

Mr. Maxwell said ok we are getting into planning board territory so we will leave it at that. At this point I will open it up to the public; it looks like there are some folks who wish to be heard on this application. I just want to remind everyone that if you are touching on a similar point that someone brought up let's not waste everyone's time, everyone is welcome to be heard but let's not be redundant with this.

John Butler who lives at 49 Kelly Ridge Road was sworn in.

Mr. Butler said I am one of the low water pressure users on top but I am used to it. I looked at the file and I looked and the letter and I am opposed to the variance. To give some context it should be noted that these two projects are part of a much larger project called the Gateway Summit. This was these two residential properties and this is my interpretation that we are sort of ancillary to the primary focus of this overall project. That is anchored by the construction of a hotel on the Route 6 exposure along with a series of other commercial properties on the Route 6 exposure. A portion of this site was in fact the subject of the sale of that land by the Town of Carmel back in 2001; the land was sold again with the primary understanding that a hotel would be built.

Mr. Maxwell said well sadly the hotel hasn't gained much traction, I think there is some new interest though.

Mr. Butler said the hotel site itself is actually being sold off by the original goral organization who were going to build the hotel, it has been abandoned so now that overall concept is now limited to these residential projects. I tried to get an understanding by going through the file and reading the letter but I tried to understand what a balancing test which is the criteria whether or not a variance should be granted. It is my understanding in general terms that the basic underlying reason for requesting the variance is financial marketability. Without this variance, at least in the presentation that I have read, these sites are no longer marketable. I think that it is important to note for the public that the applicant here is a turnkey developer, once these sites are sold he is gone, he doesn't build. These are sold to builders who are completely different, the Pulte project was exactly that way with the same turnkey developer sold to Pulte, Pulte then came in and wiped out all of the trees and built on that. The purpose of the variance is a financial situation and the balancing test basically consists of 5 areas. The first one is will a change in the communities character change by granting the variance and would it be detrimental to the community as a whole. In my opinion the answer to that is yes, in the letter they actually referred to the variance that was given in the Pulte project to the multifamily buildings on that



site. That variance and the allowance to make a three story multifamily buildings made something impossibly worse, I believe that I speak for the Town when I say this. My fear here is this is going to replicate Pulte Homes in its own way, I don't know what this is going to look like from Route 6 when you make then turn from 312, they have to clear cut that in order to build these things but we are now going to be looking up at yet another project sitting up on the ridge line to make the Gateway to the Hamlet even worse than it is now. The answer I think is yes it will be detrimental weather its three stories or two stories it will be detrimental to the community in general. One of the other points is that the variance is not substantial due to not exceeding the height restriction. I think anyone who looks at a two story multi-unit residential structure and then looks at a three story residential structure; my way of thinking turns a suburban multifamily unit structure into an urban structure.

Mr. Maxwell said keep in mind it is not a single family residence it is a multi-family.

Mr. Butler said yes is it a multifamily building that currently is approved for two stories and they want to add a third story which becomes an apartment style building. The next item is the project is not economically feasible with the multifamily buildings and there configurations. The letter says that there was a great marketing analysis done by CVRE but I just have this feeling that there might be a buyer out there that is saying yes I will buy this if you get this variance. I think this request for the variance is disingenuous because it has nothing to do with financials it has to do with a deal for a buyer. The marketability and making changes to make things more feasible, I don't know where the concept of business risk goes because all of a sudden it is inherent risk which is being transferred to the community in making very pretentious project that was approved 7 years ago. There is an underlying concern for the residents in the area that if these kinds of variances can be granted because of marketability then what is the next request going to be. We consider this request to be a microcosm of more requests to come so the bottom line is the overall project has little credibility and I don't think a variance should be granted just because someone says I can't make as much money as I want too without this variance. In a project like this I feel like there is more to this project then just the variances requested tonight.

Mrs. Fabiano said as it is right now he could build the existing approval and you're ok with that.

Mr. Butler said no but it is already done so that this particular point what we are talking about now is what was approved was approved, no one likes it but we have to live with it. Now we are taking an approved project that is being changed some more which doesn't belong in the Town of Carmel.

Mrs. Fabiano said when I look at this proposal versus the other proposal I feel like there is more green space.

Mr. Butler said I totally understand what you're saying but unfortunately we learned a big lesson with the Pulte project, what appears on paper and drawings is not the same as what we are living.

Mr. Balzano asked if he brought his concerns to the planning board because these arguments are for the planning board not this board.

Mr. Butler said I was at the planning board in 2005, 2006, and 2007.

Mr. Carnazza said back then there were no public hearings.

Mr. Balzano said well where he is going is more planning board than zoning board.

Mr. Carnazza said it's kind of both.

Mr. Maxwell said we appreciate your concerns and that is why we are here, the changes are real for how people design there projects and adapt to their cliental and there needs are different. He then asked if anyone else wishes to be heard on this application.

Mr. Butler said it is confusing to me that I got a notice about this application but the people in the lower portion of Kelly ridge road who are closer to the project than I am were not noticed.

Mr. Carnazza said yeah but that golf course is very wide there we only notify residents within 500 feet. The future access road is considered a piece of the project so that is why you were notified because you are right near the access road.

Mr. Butler said if that is correct, this is an easement.

Mr. Carnazza said that is the property with an easement on it.

Mr. Butler said the fact of the matter is we got a three day notice of this.

Mr. Maxwell said the cut off is usually the 15<sup>th</sup> of the month and this is the 5<sup>th</sup> Thursday so typically it would be sooner but the cutoff is the 15<sup>th</sup> from when they have to notify people.

Mrs. Fabiano asked what the elevation difference between Kelly Ridge Road is.

Mr. Carnazza said Kelly Ridge is the highest; the golf course comes down off of that and this kind of plateaus and then drops off into the pond.

Mrs. Fabiano said so Kelly Ridge is the highest point.

Mr. Carnazza said yes.

Mrs. Fabiano said so this project sits below it.

Mr. Carnazza said yes the golf course is below it slightly and the project is below the golf course.

Mr. Butler said I'm not limiting my comments to the impact of the people up on Kelly Ridge I am talking more realistically on the impact that this is going to have coming into the Town.

Mrs. Fabiano said but Kelly Ridge is above so it's not like it would be up in your face, you would have to look down into it.

Mrs. Kane was sworn in.

Mrs. Kane said it is not a hill, it does slope down a little bit but it is pretty much level, I would look out my window in the fall and see these houses.

Mrs. Fabiano said so you are suggesting that your house is almost level with the proposed.

Mrs. Kane said yes and I don't want to be looking out my window at that.

Mr. Maxwell asked if she has seen the renderings of the project.

Mrs. Kane said no I saw the site design and you know how designs change within the process.

Mr. Maxwell said yes but it is all being mandated by the planning board so they have criteria in which they need to follow.

Mrs. Fabiano said part of the problem is they could build the two stories and it can still be 40 feet.

Mrs. Kane said but there is a difference between two stories and three stories.

Mrs. Fabiano said you can be looking at the same situation whether it is two or three stories.

Mr. Maxwell said I think I would be more concerned for the amount of rain water that comes through the land and percolates. If you have a building this big compared to a building this big footprint wise the water will recharge better and dispersal will be managed better water wise. I think I would be more concerned about water quality than anything else.

Mr. Balzano asked if the access road is cutting through the golf course.

Mr. Carnazza said yes but it's not going to be a road on the plan it is an emergency road only through the course.

Mr. Contelmo said I just want to clarify topography by way of fact as opposed to general statements about flat and really steep in slope. Our plans include all grading as two foot contours, this is the Gateway project here and there is a high point in the golf course back here, this is the Towns water tank and the golf course around this line drops 10-70 feet before we get to the first line for the Fairways. Our roadway drops down anywhere from 20-30 feet below this wall line, our roadway for Fairways is actually 100 feet below the golf courses property line and that is a fact. The ring road does incline up to a high point and back down again, there was a whole visual analysis done as part of the environmental impact statement but I just wanted to clarify what is going on topographically.

Mr. Maxwell said so there is a heavy tree line between the top most effected corner of that piece but what is the yardage of footage between the next house?

Mr. Contelmo said I don't have a map that shows that but the planning board does but I would say the tank is over 100 feet off the end of the road. Don't forget there is a back property line to the residential properties and then the roadway, the roadway at this scale would sit just above the page up in here.

Mrs. Fabiano said so the high point of your buildings is going to be at what point to Kelly Ridge Road.

Mr. Contelmo said our highest unit is in the 720 elevation and the water tank is about 20 feet above that so if you go out the water tank it is fairly level out the water tank driveway to the end of Everett.

Mrs. Fabiano said so you are saying that Everett is going to be 20 feet higher than the high point of the roadway to the building.

Mr. Contelmo said correct but the representation made on the long stretch of the Fairways which goes way out here, the development of Kelly Ridge is way out here and this is set down to the South. They look out over the golf course and the slope leading down towards the pond, there development is way up here and goes back down to Fair Street. As Mr. Carnazza indicated there is quite a distance to the golf course from our Fairway property line.

Mr. Maxwell said from where the proposed roadway is, what is the grade difference?

Mr. Contelmo said by measuring it along this line, there is 100 foot in elevation change between this roadway here and the high point back over here.

Mr. Maxwell said so the point is the original design and concept which is approved right now, you will see roof tops from their backyards and with another story you will see basically the same amount of rooftop.

Mr. Contelmo said what I pointed out is we had multifamily buildings on the up side of the roadway previously which could go 40 feet up which would create more of a visual impact then putting them at the lower side and keeping them the same height as the ones on the lower side.

Mr. Balzano asked where his three story buildings are on Gateway.

Mr. Contelmo said the proposed ones are right here.

Mr. Balzano said ok and where are the proposed ones on the Fairway's property.

Mr. Contelmo said right here on the downhill side of the property.

Mrs. Fabiano said I thought the other map was the proposed map.

Mr. Contelmo said this is the proposed amended site plan and this one is the approved site plan.

Mrs. Fabiano said it looks like there are more buildings on the proposed plans.

Mr. Contelmo said by way of the distribution of units there are more of the smaller single family buildings, we gave you those breakdowns and those write ups.

Mr. Carmazza said but they are attached.

Mr. Contelmo said correct.

Mr. Balzano said on the application it doesn't say for Gateway or Fairway how many multi-family buildings are going to be there.

Mr. Carnazza said this is the map that is approved, if they wanted to change and put more they would need to come back to the board to be approved.

Mr. Maxwell said so what we decide on will be based on the new application from the planning board.

Mr. Carnazza said yes the current application is what you are deciding on; if they decided to change it they would have to come back.

Mrs. Fabiano asked how many multi-family buildings there are.

Mr. Contelmo said we gave you the breakdowns, there are 9 in the proposed conditions and there are 10 in the previous approval.

Mrs. Fabiano said so you have one less multi-family.

Mr. Contelmo said right but we have many less units because we went from a large two plate 18 unit building to a smaller foot three story 13 unit building.

Mrs. Fabiano said so 43 less units and one less main building.

Mr. Carnazza said yes but the total is the same, they are not giving up units they have one less multi-family unit.

Mr. Maxwell said are there any points that the neighbors brought up that you would like to discuss.

Mr. Contelmo said this property has been marketed aggressively and the owner would love nothing more than to have the project under construction. Also, turnkey in the construction business is you actually develop a property, build a property and get it set up then you turnkey to someone who would then walk into the building. The representation Mr. Butler made was to the contrary and I just wanted to clarify that what he said was not correct.

Mrs. Fabiano said so you are now building on the lower side of the street.

Mr. Contelmo said yes with the multi-family buildings.

Mrs. Fabiano said so since you are dropping down, what is the difference in the heights on the lower side of the street versus the upper side of the street.

Mr. Contelmo said coming off of the street is basically at the same elevation so there really isn't a market change weather you have it on one side or the other, what happens when you flip the building to the uphill side is you take what is a two story front on a downhill and move it to the uphill side becoming a three story front.

Mr. Carnazza said they have to put it on that side in order for them to meet the code.

Mr. Contelmo said within the community we are trying to be sensitive with the proposal within the neighborhood itself.

Mrs. Fabiano moved to close the public hearing. The motion was seconded by Mr. Aglietti 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 asked Mr. Maxwell about the elevations because from the way the applicant presented it, it seemed like they're not going to see much of the roofs of the buildings.

Mr. Maxwell said the way I understood it, this Fairway tapers up 70-80 feet just within that property, it then levels off where that water tank is and then it goes up again to Kelly Ridge. In my mind you will see a roof line whether it is 10 feet higher or not from the original proposal so to me it's not making much of a difference.

Mr. Carnazza said it's not necessarily 10 feet higher, it is one story more but the height of the building is allowed to be 40 feet whether it is two stories or three stories. The code says you are allowed 40 feet and two stories, they are not going above 40 feet and they are putting one more story.

Mr. Maxwell asked if they are lowering the lower floors to accommodate.

Mr. Carnazza said no they are squatting the roof but we have to be clear this is not a height variance it is a number of stories variance.

Mrs. Fabiano said which is giving more green space because you are reducing the number of buildings and the overall footprint. But you're really not gaining any more green space because you are adding more buildings.

Mr. Maxwell said let's not lose sight of the parking stalls.

Mr. Balzano said that's an easy one we grant ones like that all the time.

Mr. Maxwell said we will leave that as it is.

Mrs. Fabiano said lets go with the criteria, will an undesirable change in the character of the neighborhood bring detriment to nearby properties being created by granting the variance.

Mr. Maxwell said to what has already been approved I would say no, you are going to be looking at the same development and the same quantity of roof line.

Mrs. Fabiano said okay can any other method be used that does not require a variance but still allows for the benefit requested.

Mr. Carnazza said that's a yes.

Mrs. Fabiano said is the proposed variance substantial.

Mr. Balzano said in light of the fact that it is the same height then no.

Mrs. Fabiano said will the proposed variance have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

Mr. Maxwell said less.

Mrs. Fabiano said is the alleged difficulty self-created.

Mr. Maxwell said I think it is a victim of most builders and developers to the recession and change of times, that's the point I was trying to make earlier that they are changing all these buildings and designs to accommodate seniors.

Mr. Balzano said and the market change, they don't have control over that.

Mr. Rossiter said and more rental units as well, as far as emergency services it doesn't change anything there because it's the same amount of units.

Mr. Carnazza said Mr. Contelmo said they did refer this project to the Carmel Fire Department.

Mrs. Fabiano said they will have one less multi-family building but you will have a few more of the town houses and single family.

Mr. Maxwell asked if there is any other discussion.

**A Roll Call vote was taken as follows:**

Mr. Balzano	Motion to approve both three stories and the parking
Mrs. Fabiano	For the motion
Mr. Rossiter	For the motion
Mr. Aglietti	For the motion
Mr. Schwarz	For the motion
Mr. Maxwell	For the motion

Mr. Maxwell stated that this variance is granted.

**Application of Par Four Realty Company, LLC (Fairways Senior Housing) for a Variation of Section 156-39B(8) and 156-42A(1), seeking permission to construct three story multi-family buildings and to provide 9 feet wide parking spaces for a portion of the required parking. The property is located at Gateway Drive, Carmel NY 10512 and is known by Tax Map # 55.-2-24.8.**

Code Requires	Provided	Variance Required
40 feet maximum height/two stories	40 feet maximum height/three stories	1 story height for multi-family buildings
10 feet wide minimum parking stalls	9 feet wide minimum parking stalls	1 foot width of parking stalls

See above Hudson Valley Realty Corp. (Gateway Senior Housing).

**Decision of the Board:**

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

Mr. Balzano	For the motion
Mr. Rossiter	For the motion
Mrs. Fabiano	For the motion
Mr. Aglietti	For the motion
Mr. Schwarz	For the motion
Mr. Maxwell	For the motion

Mr. Maxwell stated that the variance was granted.

**Application of Craig Keogh for a Variation of Section 156-15, seeking permission to place pool 10 feet from property line. The property is located at 36 Secor Road, Mahopac, NY 10541 and is known by Tax Map #74.42-1-3.**

Code Requires	Provided	Variance Required
40' Front (West Way)	10'	30'
10' Rear	5'	5'

Mr. Maxwell said I was out there this afternoon and we discussed the shed, Mr. Carnazza ran it by Town Council and feels that it will be better if we hold this over until it gets picked up.

Mr. Carnazza said unless they agree to remove it, or move it to a spot where it is in conformance before they can get this variance. On the survey there was no shed shown and it appears to be close to the property line and we don't know the numbers or measurements.

Mrs. Keogh was sworn in.

Mrs. Keogh said it has been there since we bought the home; it was there when we got our first variance for the pool and now we are just asking to move the pool to the other side of the yard.

Mr. Maxwell said I went out there this afternoon I noticed there is a shed not picked up on the title search.

Mr. Carnazza said we don't grant variances when somebody has a necessity or potential for another variance. If she agrees to move it immediately before I issue a permit on the pool to comply would that be ok.

Mrs. Keogh said I need my old pool out of the way so I can put a new pool in.

Mr. Maxwell said the pool is going to go on a separate part of her house which she is trying to segregate from her business, she wants to keep one side for the family where the new pool is going to go and the other side will stay more for the daycare center.

Mr. Charbonnou said so your question is whether or not you can make it contingent.

Mr. Carnazza said if Mrs. Keogh agrees to move the shed to comply prior to granting the building permit would that be allowed.

Mr. Charbonnou said you would be going out there to re-inspect so as a condition knowing that it wasn't done then you can't give a building permit.

Mr. Maxwell said but you have to be sure that the shed can work without needing a variance so it would need to be 10 foot setback from all sides.

Mr. Carnazza said correct so each of those two sides are rears but as long as you can move it 10 feet then that would be fine, are you willing to do that.

Mrs. Keogh said yes that is fine as long as I can get the original pool out of the way, the swing set would go in that spot but my back door goes right into the pool area and I want my back door to go out into the playground area instead and fence the pool off.

Mr. Maxwell said she wants to segregate the area between her family space and the daycare area but unfortunately the shed is right off the back corner of the house which encroaches in the back and most likely to the side yard as well. The shed is probably 8 feet wide by maybe 12 feet deep and the door is on the short side so if you are pretty sure you can configure that or remove it.

Mr. Carnazza said if you condition it I can't issue the permit until it is either fixed or gone. I have no problem with that I just want to make sure the applicant understands that.

Mrs. Keogh said I will move it as long as someone explains to me where it needs to go.

Mr. Carnazza said come see me and we will show you.

Mr. Maxwell said ok so explain to me what you want to do.

Mrs. Keogh said there is an existing very small pool on the outside yard that is not in the corner so when you come out my back door the pool is right there. What I want to do is take that pool down but I don't want to take it down until the new pool is up so I can use the water from that pool because there is nowhere to drain the water. I want to put the other pool where the playground is which is out towards the corner property and fence it off from the back of the house to the back of the property line so that it is locked off coming out of my house.

Mr. Maxwell said so it will be a safer situation and you are putting a fence between the pool and the play area.

Mrs. Keogh said the pool area and the play area which will match what we already have up.

Mr. Maxwell said the property is fully fenced on the side of that shed back and around the side.

Mrs. Keogh said yes so I am kind of cornering it in.



Mr. Maxwell said unfortunately you have two front yards falling under tighter criteria.

Mrs. Keogh said I am just trying to make my kids be able to use the pool before 6:00 at night because right now they can only use it after 6 because of the daycare.

Mr. Maxwell said ok so the fact is if you can't move the shed within standard setbacks then you are willing to remove it,

Mrs. Keogh said yes.

Mr. Maxwell said the size of the pool is going to be 18 round and I know we talked about if you did have some room to bring it forward so you're not as close to the side yard we should try to pull it in if possible.

Mrs. Keogh said I have a little bit of room without it leaning towards the house.

Mr. Maxwell said ok so let's bring it in two more feet towards the house which is a little more comfortable and we have to grant the minimal possible. So in the rear your looking for 5 feet let's make it 7 feet provided so you will need a variance of 3 feet instead.

Mrs. Keogh said that will work if it can fit without it hitting the corner of the house.

Mr. Maxwell said without a tape measurer you really can't tell.

Mrs. Fabiano said do you want to come back next month.

Mrs. Keogh said not really because I'm holding up on all the digging and moving things around. I can't keep the daycare kids from not going outside; legally I have to let them outdoors.

Mr. Maxwell said well you said the existing pool is 5 feet from your neighbor's property.

Mrs. Keogh said yes that is what the original variance was for 6 years ago.

Mr. Maxwell said ok is the Board ok with that, we have to give her the benefit of the doubt in short of having someone out there to measure it. If you guys are ok with that we will just keep it as is.

Mrs. Fabiano said yes that is what exists now.

Mrs. Keogh said the original pool is actually 5 feet from the back of my neighbor's house.

Mr. Maxwell said in the picture it actually looks tighter than 5 feet, do you have another perspective.

Mrs. Keogh said yeah I have a few more.

Mr. Maxwell said just from being out there today it looks like it's even tighter than 5 feet but you said this is further away from his house directly behind yours.

Mrs. Keogh said yes.

Mr. Maxwell said ok so if we kept it at 5 feet it isn't going to be any worse then what the existing pool is now, is your neighbor ok with this.

Mrs. Keogh said he doesn't seem to have a problem.

Mr. Maxwell asked if anyone in the public have any input 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:**

Mrs. Fabiano moved to grant with the condition that the shed must comply with the zoning code or be removed prior to issuing a building permit. The motion was seconded by Mr. Balzano with all in favor.

**MINUTES - 3/24/2016**

Mr. Aglietti moved to accept the minutes of 3/24/2016. The motion was seconded by Mr. Balzano with all in favor.

The meeting was adjourned at 8:58 p.m.

Respectfully submitted,

Rose Trombetta