

APPROVED

MARK FRASER
Chairman

JOHN MAXWELL
Vice Chair

TOWN OF CARMEL
ZONING BOARD OF APPEALS



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

MICHAEL CARNAZZA
Director of Code Enforcement

BOARD MEMBERS

ROSE FABIANO
ROGER GARCIA
SILVIO BALZANO
PHILIP AGLIETTI
WILLIAM ROSSITER

ZONING BOARD OF APPEALS MINUTES

MAY 29, 2014

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

ABSENT: CHAIRMAN, MARK FRASER, WILLIAM ROSSITER

<u>APPLICANT</u>	<u>TAX MAP #</u>	<u>PAGE</u>	<u>ACTION OF THE BOARD</u>
Poyant Signs/ACI Carmel, LLC/CVS	55.10-1-12	1-2	Heldover.
Frank & Eileen Cammarata	43.17-1-73	3	Granted.
Gerald Shallo	86.47-1-27	4	Granted.
Edward Cooke	65.14-1-12	5	Granted.
Jaral Putnam, LLC	55.-2-24.1	6-7	Granted.
John Korsak	74.34-1-10	7-9	Granted as Amended.
Minutes – 3/27/2014 & 4/24/2014		9	Approved.

The meeting was adjourned at 8:20 p.m.

Respectfully submitted,

Rose Trombetta

Application of Poyant Signs/ACI Carmel, LLC/CVS for a Variation of Section 156-41C(3)(9) seeking permission to install signs exceeding allowed. The property is located at 1906 Route 6, Carmel and is known by Tax Map #55.10-1-12.

Code Requires	Will Exist	Variance Required
West Elevation 40 s.f. (60 s.f. allowed by variance)	76.18 s.f.	16.18 s.f.
North Elevation 40 s.f. (70 s.f. allowed by variance)	100.18 s.f.	30.18 s.f.
Pylon 32 s.f. (155 s.f. allowed by variance)	102 s.f.	0 s.f.
1 Building Sign	2 Building Signs	1 Building Sign

Mr. Neil Alexander, Esq. of Cuddy & Feder, representing the applicant appeared before the board.

Mr. Gary McCoy of Poyant Signs was sworn in.

Mr. Alexander addressed the board and stated we were here two months ago to discuss signage for what used to be the A&P shopping center on Route 6 and we received a fair amount of feedback from the board. Over the years the ZBA granted variances for this center for signage specifically to create a pylon that was 155 square feet and to allow two wall signs, one of which is 60 square feet and one of which is 70 square feet. That all adds up to about 285 square feet.

Mr. Maxwell stated so you're not increasing the pylon sign that's existing there today.

Mr. Alexander stated what we're actually looking to do is to reduce the pylon sign. At which time, Mr. Alexander points to the map to show the existing pylon sign of 155 square feet. We would like to reduce the pylon from 155 to 102 square feet. That would make it more conforming. The top of it with the pediment will go from 19 feet to 20 feet.

Mr. Carnazza asked what is the height to the bottom of the sign.

Mr. Carnazza stated our code only allows 8 feet from the bottom.

Mr. Alexander stated it's about 8 ½ feet to the bottom.

Mr. Carnazza stated its maximum 8 feet clear.

Mr. Alexander stated we can make that adjustment.

Mr. Maxwell stated so you would reduce the overall height?

Mr. Alexander stated I think we would have to reduce the overall height about 6 inches. We'd have to drop the whole thing down about 1 ½ feet. He stated what we want to do is, you've previously granted a variance for the pylon sign to 155 feet and we would like to reduce it to 102 feet. We would like to take the "extra" and apply it elsewhere in the center by making both of the CVS Pharmacy signs 75.18 s.f. He said right now one sign is 70 s.f. and the other is 60 s.f. so we are talking about an increase of approximately 25 s.f.

Mr. Carnazza asked are you amending your application?

Mr. Alexander replied yes, with regards to the pylon issue.

Mr. Garcia asked if the 102 s.f. of the pylon sign was one side only.

Mr. McCoy stated the existing sign that is there today is 115 s.f. on one side and 19 ft. high.

Mr. Garcia stated so it's 310 s.f. in total. You have to count both sides. He said you are only allowed 32 s.f.

Mr. Carnazza said that's correct, but a variance was previously granted to allow the 155 s.f.

Mr. McCoy stated the pylon sign is being reduced by 53 s.f. on one side.

Mrs. Fabiano said so it is 106 s.f. in total.

Mr. Alexander replied that's correct. He said we would like to increase the 60 and 70 s.f. wall signs up to 75.18 s.f.

Mr. Maxwell stated it is advertised as 76.18 s.f. He asked Mr. Folchetti if it would be issue since they are asking for 1 s.f. less. He said the application would have to be amended for the file.

Mr. Folchetti said that wouldn't be a problem, since it is less of a variance.

At which time, a discussion ensued regarding the other variances that were required for the property.

Mr. Carnazza clarified what was needed and asked the applicant if they were asking for a third sign.

Mr. Maxwell stated on the application it has only 2 signs and they are looking for a variance for 1 sign. He said it should be 3. It needs to be amended and re-advertised as such.

Mr. Alexander replied he didn't have a problem with re-noticing.

At which time, Mr. Maxwell asked for a quick synopsis of the all variances that will be required.

Mr. McCoy stated under the current variances allowed for the two wall signs is 60 and 70 s.f. He said we are allowed 440 s.f. counting both sides of the pylon sign. He said we are asking for 75 s.f. on the west elevation wall, 75 s.f. on the north elevation wall and a third sign on the north elevation wall is 25 s.f. The pylon sign on both sides is 204 s.f. making it a total of 279 s.f.

The board corrected Mr. McCoy and said it is 379 s.f.

Mr. McCoy that's correct, we are asking for 379 s.f. He said we are currently allowed 60 s.f. on the west, 70 s.f. on the north and 310 s.f. for the pylon.

Mr. Alexander pointed out that Hannaford's received a variance of 146.45 s.f. for the front and side building sign. He said McDonald's was given a 298.77 s.f. variance for the pylon as well as a building sign. He said our variances are substantially less and all we are doing is re-locating square footage that was allotted.

Mr. Maxwell said to clean up the application and come back to us next month and to also include the maximum 8 foot height.

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

Application of Frank & Eileen Cammarata for a Variation of Section 156-15 seeking permission to correct fireplace chimney. The property is located at 137 Dixon Road, Carmel and is known by Tax Map #43.17-1-73.

Code Requires	Will Exist	Variance Required
22' Side (Code allowance 3' Encroachment for Chimneys)	1'	21'

Mr. & Mrs. Frank Cammarata were sworn in.

Mr. Cammarata addressed the board and stated we need a certificate of occupancy for our existing fireplace. He said we have a fireplace that is not to code. We filed for a variance to modify the fireplace chimney that is not in compliance.

Mr. Carnazza stated the chimney must be 2 feet higher than any portion of the building within 10 feet. He couldn't do that in a straight line without it looking like an antenna coming out of his roof.

Mr. Maxwell said so you need a 10 foot distance off the adjacent gable roof.

Mr. Cammarata replied that's correct.

Mr. Maxwell asked what does the code read.

Mr. Carnazza said 25 feet is required, but our code allows a 3 foot encroachment for a chimney or fireplace. He could go right up against his house.

Mrs. Fabiano asked if this would present a fire danger to the neighbor.

Mr. Carnazza answered no.

Mr. Maxwell asked what is the construction of the chimney chase.

Mr. Cammarata said vinyl siding to match the house.

Mr. Aglietti asked when the fireplace was built.

Mr. Cammarata replied about four years ago. He said we were told at the time from the company that it was code compliant.

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

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

DECISION OF THE BOARD

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

Application of Gerald Shallo for a Variation of Section 156-15 seeking permission to retain two decks and shed. The property is located at 13 Hickory Drive, Mahopac and is known by Tax Map #86.47-1-27.

Code Requires	Will Exist	Variance Required
15' Rear Deck	0'	15'
10' Side Shed	4'	6'

Mr. Shallo was sworn in. He addressed the board and stated he's here to get a variance for an existing deck and shed that he had built back in the 1980's.

Mr. Maxwell stated he was there the previous night looking at the situation and the deck had been built back in 1982. He said didn't you realize you needed a permit?

Mr. Shallo replied not at all.

Mr. Maxwell stated if anyone went back there to look at this property it's nestled along the wood line. There is significant wooded area from the neighbor and it's the same situation with the shed. He asked the applicant if anyone has ever complained about it.

Mr. Shallo responded no.

Mr. Maxwell stated it looks like it's built on a natural shape to follow the rock line. It's actually beautiful the way it's been done, but I don't know if anyone got the chance to get out there and look at it.

Mr. Garcia stated I felt the same way when I saw it. The only thing that I would say and I agree with you with the decking, there is a substantial rock outcropping there. So when you're standing on the deck you can't see the neighbor that's behind you. He said you could see a little bit to the side but there's a fence there and it's very nicely landscaped so it fits in well with the geography. The only thing that I would say is that the shed is almost sitting in the middle of the yard almost. He said if the shed had to be replaced at some point in time in the future, that maybe they could put it back into that corner along the unusable part in the property, just so it doesn't interfere with the two yards.

Mr. Maxwell stated but at the same token it's not a big variance.

Mr. Garcia replied no it's not, but that's just my opinion.

Mr. Maxwell stated but there is a nice hedgerow that is behind the shed that separates it from the neighbor on the other side.

Mrs. Fabiano asked who owns the property that it butts up against.

Mr. Shallo stated I don't know what the gentleman's last name is. It's a barn about 7 yards back.

Mr. Maxwell commented that you can't see the house.

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

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

DECISION OF THE BOARD

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

Application of Edward Cooke for a Variation of Section 156-15 seeking permission to add covered front porch. The property is located at 69 Cortlandt Road, Mahopac and is known by Tax Map #65.14-1-12.

Code Requires	Will Exist	Variance Required
40' Front	27'	13'

Mr. & Mrs. Edward Cooke were sworn in. Mr. Cooke addressed the board and stated they wanted to add a farmer's porch across the front of their house to add curb appeal. He said they had some significant roof damage from Hurricane Sandy, so rather than bastardize the roof we want to do it properly.

Mr. Maxwell stated the reason why you need the front.....

Mr. Cooke responded it's a setback issue; we currently have an 8 foot concrete porch that exists. It's 8 feet by approximately 14 feet. We want come across the front of the house.

Mr. Maxwell stated so the steps coming up from either side, you will cover completely?

Mr. Cooke stated we're going to have a center walkway going up to the stairs to the front door with enough room for chairs and a table.

Mrs. Fabiano asked how much further are you going out to the street line from what exists?

Mr. Cooke replied we're not going to encroach any further than the existing concrete porch. It's going to be approximately a foot wider. Currently the front is about 7, we're looking to do about 8. And I will have a one foot overhang to protect from the weather.

Mr. Garcia stated I went out to look at it and it looks like it's going to be nice. So you're basically only going to replace the roof and change a little bit of the pitch in the front.

Mr. Cooke replied yes, we're changing the east to west gable and putting the farmer's porch.

Mr. Maxwell said and also a couple of dormers.

Mr. Cooke replied yes to add curb appeal

Mr. Garcia stated I think it's going to look very nice when it's done.

Mr. Maxwell asked if they were re-doing the siding.

Mr. Cooke replied yes the only thing that will be the same on the outside will be the address when we're done.

Mr. Maxwell asked if anyone in the audience wished to speak on the application.

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

DECISION OF THE BOARD

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

Application of Jaral Putnam, LLC. for a Variation of Section 156-42A(1) seeking permission to reduce size of parking space from 10'x20' to 9'x18'. The property is located at 2054 Route, Carmel and is known by Tax Map #55.-2-24.1.

Code Requires	Will Exist	Variance Required
Parking Space Size of 10'x20'	Parking Space Size of 9' x 8'	1' and 2'

Mr. Zac Pearson of Insite Engineering was sworn in. He addressed the board and stated they have an approved site plan for the construction of 123 rooms, 4-story hotel and banquet center along Route 6. At a recent planning board meeting for an extension of approval, it came to our attention that a variance granted by this board back in 2007 for parking space size has since expired.

Mr. Maxwell stated so basically we granted the variance as a board and there was a limitation on it at the time.

Mr. Pearson replied that's correct.

Mr. Carnazza I'd recommend that you don't put a time limit on it, if it's for a site plan you could tie it to this application if you want, this way if something else comes in and you don't want the smaller spots there then you have that option. If it ties to this application (hotel) then you don't have to put a time limit on it.

Mr. Pearson stated there was a reduction in parking space size from the 10' by 20' to the 10' by 18'.

Mr. Maxwell stated which is insignificant for the most part.

Mr. Pearson stated correct.

Mr. Garcia stated the only question I had was when you originally asked for this did you ask for the smaller spaces because you couldn't get the parking somewhere else?

Mr. Pearson stated I think it was based on a recommendation from the planner, to minimize the amount of disturbance.

Mr. Carnazza stated they showed that board that they could've fit it, but it was vast. The retention ponds were huge, there was so much more impervious surface there it ruined the site.

Mr. Balzano asked if this is starting up again and that's why you were back in front of planning board.

Mr. Pearson stated we have been asked by the applicant to keep all the applications current, we're not privy to their business dealings, but the fact that they're asking us to come back and get everything approved is a good sign in our eyes.

Mr. Maxwell asked if anyone in the audience wished to speak on the application.

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

DECISION OF THE BOARD

Mr. Agletti moved to grant the variance. The motion was seconded by Mr. Garcia.

Mr. Garcia asked Mr. Carnazza how should we qualify this?

Mr. Carnazza stated we shouldn't put a 2 year limit on it.

Mr. Maxwell said we should limit it to this application only.

Mr. Folchetti stated I don't think it needs to be qualified, but for the purposes of the clarity of future boards, you could say it's limited to this application as it may be amended or approved by the planning board. I don't have a problem with that.

Mr. Aglietti moved to grant the variance with the proviso that it applies to this **application only** as may be amended. The motion was seconded by Mr. Garcia with all in favor.

Application of John Korsak for a Variation of Section 156-15 seeking permission to erect shed. The property is located at 98 Topland Road, Mahopac and is known by Tax Map #74.34-1-10.

Code Requires	Will Exist	Variance Required
10' Side	0'	10'
10' Rear	9'	1'

Mr. and Mrs. Korsak were sworn in. Mrs. Korsak addressed the board and stated they're looking to put a 10' by 12' shed on their property.

Mr. Maxwell stated I was out there last night looking at it; it's a little tight for what you're looking to do. Luckily you haven't started constructing it yet so that helps save some time and money. He said I think it's a little tight to the property.

Mrs. Korsak stated we went over and spoke to our neighbors like you suggested. It is going to be on their property line and they gave us a letter stating they don't have a problem with it. We have the power lines behind us which Con Edison owns and there is nothing behind us. There is no property until Wood Street which is way on the other side.

Mr. Maxwell asked how big was the property.

Mrs. Korsak responded 60 by 100.

Mr. Maxwell stated that's almost a quarter acre.

Mrs. Korsak stated also we get a lot of water from behind the power lines coming into our property so we had recently spent \$10,000 to put drainage back there so it would go in and come out. At which time she showed the board members the contract.

Mr. Maxwell asked if she would like to submit it along with the letter from the neighbor.

Mrs. Korsak replied yes.

Mr. Maxwell asked if the drain is right on the property line coming perpendicular to the road.

Mrs. Korsak replied yes. She said if we pushed it over anymore it would interfere with the drainage so that's why we're trying to hug the neighbor's property right on the property line.

Mr. Maxwell stated I would still look to maybe minimize that so it's not exactly on the property line, maybe bringing it in two feet.

Mrs. Korsak asked can I just ask why you're not allowing it to be on the property line.

Mr. Maxwell stated our code states you have to be 10 feet back from the property. And every case is judged on its own merits and you have certain situations that would require that. So if we can bring this back to minimize the variance that needs to be granted that's our task to do so. So if you're willing to do that, we'll see what the board thinks.

Mr. Balzano agreed with Mr. Maxwell. If we could minimize it I think that would definitely help and it gives us some buffer room in case we have to put some vegetation back there.

Mrs. Fabiano stated I'm very uncomfortable with it. If you have to cut the shed back, make it a smaller shed. But the way surveyors are from what I understand it's very possible to say you're on zero and you could really be on somebody else's property, depending on who is surveying the land at the time.

Mr. Maxwell stated that's why I think if you came in two or three feet from where you were supposed to be it wouldn't be the end of the world for you or for us.

Mrs. Fabiano stated or make the shed smaller so you don't have that problem.

Mrs. Korsak stated one of the reasons why is because we don't have a garage and the other night we had a flood in our basement because of the drainage problem. She said we want to get the equipment out of the basement and put it in the shed since we do not have a garage.

Mrs. Fabiano stated zero is too extreme for me personally. I can't see a zero lot line it's just too close, it makes me very uncomfortable.

Mr. Aglietti asked how big is the shed?

Mrs. Korsak stated 10' by 12.'

Mr. Aglietti asked what kind of equipment do you need to put in there?

Mrs. Korsak stated a snow blower, lawn mower, weed wackers, chainsaws, and other lawn equipment.

Mr. Aglietti stated I also agree with my fellow board members regarding the tightness of it and the size of it, I think you could probably go a little smaller and you could probably move it off a little bit.

Mr. Garcia stated I guess I would say the same thing. Instead of going 10' by 12' you could go 8' by 14' and still get the size you need in terms of the volume and you give yourself a couple of feet off the line and you don't take up your entire backyard.

Mr. Maxwell stated the suggestion would be to move it two feet off the property line so it's not zero.

Mr. Garcia stated and just to make it clear the rear variance, you're only looking for a one foot variance in the back because that's right where the corner of the drain is.

Mrs. Korsak replied that's correct.

Mr. Maxwell stated so are you willing to do that? It's either that or you're going to take your chances on what the board decides and there's a chance you might get denied. You can keep the shed the same size as long as it is two feet off the property line.

Mrs. Korsak asked so it's two feet off the property line and we could keep the shed the same size.

Mr. Maxwell stated so two feet would be the side property line, you would need a variance of 8 feet instead of the full 10 feet. We understand the situation with your drainage, and actually where this is situated is very well screened with woods. If you're willing to do that we'll amend the application tonight.

Mrs. Korsak stated that's fine. At which time she initialed the application.

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

Mr. Garcia 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 the variance as **amended**. The motion was seconded by Mr. Balzano with all in favor.

MINUTES – 3/27/2014 & 4/24/2014

Mr. Aglietti moved to approve the March 27, 2014 minutes. The motion was seconded by Mr. Garcia with all in favor except Mrs. Fabiano who recused herself.

Mr. Aglietti moved to approve the April 24, 2014 minutes. The motion was seconded by Mr. Garcia with all in favor.

The meeting was adjourned at 8:20 p.m.

Respectfully submitted,

Rose Trombetta