

TOWN OF CARMEL

ZONING BOARD OF APPEALS

60 MCALPIN AVENUE, MAHOPAC, NY 10541 - 845-628-1500 - FAX 845-628-7085

ZONING BOARD OF APPEALS MINUTES

FEBRUARY 24, 2011

PRESENT: MARK FRASER, CHAIRMAN, ROSE FABIANO, LORRAINE MARIANI, ROGER GARCIA

ABSENT: JOHN LUPINACCI, JOHN MAXWELL

<u>APPLICANT</u>	<u>TAX MAP #</u>	<u>PAGE</u>	<u>ACTION OF THE BOARD</u>
282 WIXON POND ESTATES	53.20-1-21	1	HELDOVER.
CARDILLO	75.10-1-27	1	HELDOVER.
NL&M HOLDING CORP	75.44-1-47	1-3	GRANTED WITH CONDITION.
SWEENEY, JOHN & ALANA	65.9-1-14	3	GRANTED WITH CONDITION.
SCOLLAN & KUGLER (BEE & JAY PLUMBING)	76.30-1-28	4	HELDOVER.
WOODCREST GARDENS INC.	76.9-1-19	4-5	GRANTED.
DOYLE, RICK	64.13-1-1	5-6	REGRANT FOR 2 YEARS.

THE MEETING WAS ADJOURNED AT 8:20 P.M.

RESPECTFULLY SUBMITTED,

ROSE TROMBETTA

Application of **282 Wixon Pond Estates, Inc.** for a variation of Section 156-47(A1) for permission to construct a storage garage on non-conforming lot. Code requires 1 family dwelling. Exists 3 – 1 family dwellings. Property is located at 281-285 Wixon Pond Road, Mahopac, NY is known by Tax Map #53.20-1-21.

Mr. Fraser said the applicant is requesting a holdover. Mrs. Fabiano moved to hold application over. The motion was seconded by Mrs. Mariani with all in favor.

Application of **Ron Cardillo d/b/a/ Romali Realty, LLC.** for a variation of Section 156-15 and use variance (expansion of an existing non-conforming use) for permission to add 2nd story to existing building.

<u>Item</u>	<u>Required</u>	<u>Existing</u>	<u>Proposed</u>	<u>Variance Required</u>
Min. Lot Area	120,000 sf	28,750.57 sf	28,750.57 sf	91,249.43 sf
Min. Lot Width	200 ft.	112.94 ft.	112.94 ft.	87.06 ft.
Min. Lot Depth	200 ft.	197.64 ft.	197.64 ft.	2.36 ft.
Min. Setbacks:				
Principal Building:				
North Front Yard	40 ft.	0.59 ft.	0 ft.	40 ft.
East Front Yard	40 ft.	15.77 ft.	10.21 ft.	29.79 ft.
South Side Yard	20 ft.	12.98 ft.	12.98 ft.	7.02 ft.
Retaining Walls:				
North Front Yard	40 ft.	n/a	0.88 ft.	39.12 ft.
East Side Yard	25 ft.	n/a	7.79 ft.	17.21 ft.
Use	Residential	Commercial	Commercial	Use variance required for expansion of an existing non-conforming use

Property is located at 175 Myrtle Avenue, Mahopac Falls, NY and is known by Tax Map # 75.10-1-27.

Mr. Fraser said the architect is requesting a holdover due to the severe weather. Mrs. Fabiano moved to hold the application over. The motion was seconded by Mrs. Mariani with all in favor.

Application of **NL&M Holding Corp.** for Interpretation that replacing existing flat roof with a gable roof is not an expansion of the existing mixed uses and for a variation of Section 156.15. The following area variances are required:

<u>Item</u>	<u>Code Requires</u>	<u>Will Exist</u>	<u>Variance Required</u>
Area	40,000 sf	6,619.55 sf	33,380.45 sf
Lot Width	200'	50'	150'
Lot Depth	200'	132.39'	67.61'
Front Yard, North	40'	0'	40'
Front Yard, South	40'	23'	17'

Rear Yard, West	30'	0.70'	29.7'
Rear Yard, East	30'	0.20'	29.8'
Lot Coverage	30%	77.1%	47.1%

Property is located at 936-942 South Lake Blvd, Mahopac, NY is known by Tax Map #75.44-1-47.

Mr. Nick Lupinacci and Joel Greenberg were sworn in.

Mr. Fraser said before you proceed Mr. Carnazza made an interesting discovery.

Mr. Carnazza said #7 in the list of permitted principal uses in a commercial zone includes existing apartments and mixed use structures at the time of passage of this chapter, which was 2008. It obviously existed in 2008, so it's a permitted use.

Mr. Fraser said the mixed use is a permitted use in your zone. Therefore, you do not need an interpretation. You would only need an area variance. I would suggest we get verification from the town attorney first. That would give you a month to show us the two different roof lines and heights.

Mr. Greenberg asked the board if at all possible can the area variances be addressed tonight. He said we would like to get this done as soon as possible because the roof is leaking. If the town attorney agrees with Mr. Carnazza about the interpretation being correct we wouldn't have to come back and wait a month to fix the roof that's leaking. And if the attorney doesn't agree then we will come back for the interpretation only.

Mr. Fraser said he doesn't have a problem with that.

Mr. Carnazza asked what is the actual height to the peak on the front and rear.

Mr. Greenberg said the Route 6N side, which is the higher side, is exactly 32 ft. from the sidewalk to halfway up the peak. On the Route 6 side, it is approximately 16 ft.

Mr. Carnazza asked what is the height at the peak.

Mr. Greenberg said 36 ft.

Mr. Fraser said this will only be used for air conditioning equipment and mechanical.

Mr. Lupinacci said yes. There will be no occupancy.

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

Decision of the Board

Mrs. Fabiano moved to grant with the condition that the height be no higher than 8 feet from the finished floor of the attic to the peak and the area only be used for mechanicals. The motion was seconded by Mrs. Mariani with all in favor.

Application of **John & Alana Sweeny** for a variation of Section 156-15 for permission to amend variance to allow non-family member in apartment. Decision required family only in apartment; non-family will exist; variance required to change Decision and Order. Property is located at 380 East Lake Blvd, Mahopac, NY and is known by Tax Map #65.9-1-14.

Mrs. Alana Sweeny was sworn in.

Mr. Fraser said you are back here because we allowed you to build this apartment for your mom. It is not being used since your mom passed away. He said this is a tough variance for this board.

Mrs. Sweeny said the history from 1934 to 1989 is the main house had an apartment in it that was rented. Plus, there was a cottage on the property. We made the house back into a 1 family house when my family got bigger. We lost the non-conforming use for that part of the property. We had it for the cottage. I received the variance which stated family member only for my mom's apartment. It is a one bedroom apartment. Since my mom passed away, I have been paying the bills plus loans for an apartment that cannot be occupied. She said it is not going to change the character of the neighborhood. She said the fact that it's a family member or non-family member, it's an accessible apartment which is something we don't have a lot of in this town. It's basically just sitting there.

Mr. Fraser said I would like for you to accept a condition if the variance is granted that the owner must always live on the premises.

Mrs. Sweeny said I don't have a problem with that.

Mr. Garcia said maybe we could change it to say the owner has to live in the main house. It keeps the cottage and garage as accessory rentals. He said I don't have a problem with it provided the owner of the property lives in the main house.

Mrs. Sweeny said it's ok with her.

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

Decision of the Board

Mrs. Fabiano moved to grant with the condition that the owner must occupy the main house. The motion was seconded by Mr. Garcia with all in favor.

Application of **Joseph Scollan & Theodore Kugler d/b/a Hard Way, LLC. (Bee & Jay Plumbing)** for a variation of Section 156-15 and 156-42 for permission to retain use of offices on 2nd floor. The following area variances are required:

<u>Item</u>	<u>Code requires</u>	<u>Existing</u>	<u>Variance required</u>
Min. lot area	40,000 s.f.	3,833 s.f.	36,167 s.f.
Min. Lot depth	200'	75'	125'
Min. road frontage	100'	50'	50'
Min. setbacks(prin. build)			
front yard	40'	24'	16'
side yard	25'	6'	19'
rear yard	30'	0'	30'
Max. building coverage	30%	50%	20%
Number of parking spaces	9 spaces	4 spaces	5 spaces
Parking space size			
Parking space depth	20'	18'	2'
Parking space width	10'	9'	1'

Property is located at 719 Route 6, Mahopac, NY and is known by Tax Map #76.30-1-28.

Mr. Fraser said this application needs to be heldover. I would have to recuse myself and that would leave only three members. It's not enough for a quorum.

Mrs. Fabiano moved to hold the application over. The motion was seconded by Mrs. Mariani with all in favor.

Application of **Woodcrest Gardens Inc.** for a variation of Section 156.15 for permission to construct pool and cabana with bathrooms. Code requires 40 ft. front for pool; 20.6 ft. will exist; variance required 19.4 ft. Code requires 40 ft. front cabana accessory; 16.7 ft. will exist; variance required 23.3. ft. Property is located at 675 Route 6, Mahopac, NY and is known by Tax Map #76.9-1-19.

Mr. Peder Scott of P.W. Scott Engineering was sworn in. He said the project before you consists of the remodeling of an existing pool. The health department said we had to add certain amenities to the pool in compliance with code. He said it is an old pool and now that it is being remodeled you have to bring it up to code. The code remodeling consisted of a couple of things. The first thing we have to add is a cabana and the cabana has to have a men's and women's room and changing area. And also, a mechanical room and water fountain. The project is an apartment complex in a residential zone and one of the stipulations is the pool cannot be in the front yard.

Mr. Fraser asked if they were enlarging the new pool.

Mr. Scott said no, it's the same exact size, the scales are a little different on the two plans. He said the cabana is another variance that's required because it's an accessory building in the front yard setback. He said there will be heavily buffered evergreens between the

proposed cabana and bike trail. We are putting extensive buffering to mitigate our encroachment within the front yard of this property. He said we have also added a handicapped accessible parking lot and handicapped accessible aisles.

Mr. Garcia asked about the temporary trellis mentioned on the application.

Mr. Scott said there is an existing asphalt pad. We have a structure where we are able to add on temporary members that goes across the asphalt area creating an open courtyard. It's for the homeowners to have events there. It's a seasonal canopy with a canvass top.

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

Decision of the Board

Mrs. Fabiano moved to grant for discussion purposes. The motion was seconded by Mrs. Mariani.

Mrs. Fabiano said she wanted clarification that the pool use was for homeowners and their guests. That it will not be open to the public.

Mr. Carnazza said that is correct.

A roll call vote was taken on the motion as follows:

Mrs. Fabiano For the motion

Mrs. Mariani For the motion

Mr. Garcia For the motion

Mr. Fraser For the motion

Application of **Rick Doyle** for a variation of Section 156-15 for permission to grant variances which expired in 2009 on a three lot subdivision. Code requires 120,000 s.f.; lot #1-60,000 s.f. will exist; variance required 60,000 s.f. Code requires 120,000 s.f.; lot #2 - 64,759 s.f. will exist; variance required 55,241 s.f. Code requires 129,000 s.f.; lot #3 - 54,603 s.f. will exist; variance required 65,397 s.f. Property is located at 275 Austin Road, Mahopac, NY and is known by Tax Map #64.13-1-1.

Mr. Fraser said to explain what is taking so long.

Mr. Joel Greenberg, representing the applicant said we are requesting a regrant of the variance that was granted approximately 3 years ago. At the time, the variance was good for two years. Unfortunately, with the DEP situation, they required monitoring of one of lots for a year. That took us to the summer of 2010. After we did the monitoring which the

DEP seemed to be satisfied with, we had to go back to the health department. The map is waiting to be signed and that's why we are here tonight.

Mr. Fraser said the Building Department got a couple complaints about the lots being in disrepair.

Mr. Carnazza said to let them know and go out and clean up the property.

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

Decision of the Board

Mrs. Fabiano moved to regrant for additional two years pending the map being signed by the Planning Board. The motion was seconded by Mrs. Mariani with all in favor.

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

Respectfully submitted,

Rose Trombetta