

# TOWN OF CARMEL

## ZONING BOARD OF APPEALS

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

### ZONING BOARD OF APPEALS MINUTES - JANUARY 27, 2011

**PRESENT:** MARK FRASER, CHAIRMAN, JOHN MAXWELL, JOHN LUPINACCI, ROSE FABIANO,  
LORRAINE MARIANI, ROGER GARCIA

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<u>APPLICANT</u>	<u>TAX MAP #</u>	<u>PAGE</u>	<u>ACTION OF THE BOARD</u>
NL&M HOLDING CORP	75.44-1-47	1	DISMISSED WITHOUT PREJUDICE
CARDILLO	75.10-1-27	1-2	HELDOVER
282 WIXON POND ESTATES	53.20-1-21	2	HELDOVER
PUTNAM COUNTY NATIONAL BANK	44.18-1-3	3	GRANTED (2YEAR TERM)
MASSARO, DONNA (FREIGHT HOUSE CAFÉ)	76.9-1-11	3-5	GRANTED

THE MEETING WAS ADJOURNED AT 7:50 P.M.

RESPECTFULLY SUBMITTED,

ROSE TROMBETTA

APPLICATION OF NL & M HOLDING CORP. FOR A VARIATION OF 156.15 AND USE VARIANCE FOR PERMISSION TO COMPLETE SECOND FLOOR. CODE DOES NOT PERMIT MIXED USE; TWO APARTMENTS EXIST; 3 PROPOSED PLUS COMMERCIAL UNITS; USE VARIANCE REQUIRED. THE FOLLOWING AREA VARIANCES ARE REQUIRED:

LOT AREA - CODE REQUIRES 40,000 SQ. FT; 6619.55 SQ. FT. PROVIDED; VARIANCE REQUIRED OF 33,380.45 SQ. FT.. LOT WIDTH; CODE REQUIRES 200 FT.; 50 FT. EXISTS; VARIANCE REQUIRED OF 150 FT. LOT DEPTH; CODE REQUIRES 200 FT.; 132.39 FT. EXISTS; VARIANCE REQUIRED OF 67.61 FT. FRONT YARD NORTH; 40 FT. REQUIRED; ZERO FT. EXISTS; VARIANCE REQUIRED OF 40 FT. FRONT YARD SOUTH; 40 FT. REQUIRED; 23 FT. EXISTS; VARIANCE REQUIRED OF 17 FT. REAR YARD WEST; 30 FT. REQUIRED; 0.70 FT. EXISTS; VARIANCE REQUIRED OF 29.7 FT. REAR YARD EAST; 30 FT. REQUIRED; 0.20 FT. EXISTS; VARIANCE REQUIRED OF 29.8 FT. LOT COVERAGE; 30% PERMITTED; 77.1 % EXISTS; VARIANCE REQUIRED OF 47.1 FT. PARKING; CODE REQUIRES 29 PARKING SPACES; ZERO EXISTS; VARIANCE REQUIRED OF 29 SPACES. PROPERTY IS LOCATED AT 936-942 SOUTH LAKE BLVD, NY AND IS KNOWN BY TAX MAP 75.44-1-47.

MR. LUPINACCI RECUSED HIMSELF AND LEFT THE PODIUM.

MR. MAXWELL MOVED TO DISMISS WITHOUT PREJUDICE. THE MOTION WAS SECONDED BY MRS. FABIANO WITH ALL IN FAVOR.

MR. FRASER SAID THIS APPLICANT WILL BE BACK NEXT MONTH BECAUSE THEY WANT TO BUILD STORAGE ABOVE THE STORES TO FIX THE ROOF.

MR. LUPINACCI CAME BACK TO THE PODIUM.

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 2<sup>ND</sup> STORY TO EXISTING BUILDING.

<u>ITEM</u>	<u>REQUIRED</u>	<u>EXISTING</u>	<u>PROPOSED</u>	<u>VARIANCE REQUIRED</u>
MINIMUM LOT AREA	120,000 SF	28,750.57 SF	28,750.57 SF	91,249.43 SF
MINIMUM LOT WIDTH	200 FT.	112.94 FT.	112.94 FT.	87.06 FT.
MINIMUM LOT DEPTH	200 FT.	197.64 FT.	197.64 FT.	2.36 FT.
MINIMUM 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 AVE., MAHOPAC FALLS, NY AND IS KNOWN BY TAX MAP #75.10-1-27.

MR. FRASER SAID THE ARCHITECT HAS REQUESTED A HOLDOVER. THEY ARE STILL WORKING OUT THE PROBLEMS WITH THE NEIGHBOR.

MR. MAXWELL MOVED TO HOLD THE APPLICATION OVER. THE MOTION WAS SECONDED BY MRS. FABIANO WITH ALL IN FAVOR.

APPLICATION OF (282 WIXON POND ESTATES, INC.) FOR A VARIATION OF SECTION 156-47(A1) FOR PERMISSION TO ADD GARAGE (QUONSET HUT) 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 AND KNOWN BY TAX MAP #53.20-1-21.

MR. BESARAT AND LOUIS PANNY WERE SWORN IN.

MR. FRASER SAID THIS APPLICATION HAS CAUSED A LOT DIALOG BETWEEN THIS BOARD AND OUR ATTORNEY. HE SAID A PRE-EXISTING NON-CONFORMING APPLICATION COULD DO TWO THINGS. THEY COULD TRY AND EXPAND WHICH THEY NEED USE VARIANCES FOR OR IT WOULD BE AN EXTENSION OF THE EXISTING USE. HE SAID IN MY OPINION, SINCE THE SIZE OF THIS IS SO LARGE, THIS WOULD BE AN EXPANSION OF THE PRE-EXISTING, NON-CONFORMING AND THEREFORE, IT HAS TO MEET USE VARIANCE STANDARDS.

MR. BESARAT SAID MY UNDERSTANDING FOR A USE VARIANCE IS IF YOU EXPAND THE USE ITSELF. WE ARE NOT. THIS IS AN ACCESSORY BUILDING GARAGE. HE SAID WE HAVE REDUCED IT SUBSTANTIALLY.

MR. FRASER SAID DUE TO THE SIZE, I DISAGREE WITH YOU. IF THE APPLICANT WAS PUTTING A SHED BEHIND EACH HOUSE, I WOULD AGREE WITH YOU. HE SAID I DON'T KNOW IF THE REST OF THE BOARD FEELS THIS WAY, THOSE ARE MY FEELINGS.

THE BOARD AGREED WITH MR. FRASER.

MR. BESARAT SAID AT THIS STAGE IF THE SIZE WAS REDUCED WOULD IT MAKE A DIFFERENCE.

MR. FRASER SAID IF YOU WANT TO BREAK IT UP AND PUT SHEDS BEHIND EACH OF THE HOMES, YOU WOULDN'T HAVE TO ASK US FOR AN INTERPRETATION, IF WE SAID IT WAS FOR AN EXTENSION. THEN YOU FALL UNDER AREA VARIANCE CRITERIA AND IF YOU MET THE SETBACKS YOU WOULD BE DONE.

MR. BESHARAT ASKED WHAT WAS THE INTERPRETATION OF THE TOWN ATTORNEY ON THIS?

MR. FRASER SAID HE DID NOT GIVE A SPECIFIC INTERPRETATION ON THIS APPLICATION. HE ONLY GAVE UP CASE LAW. HE LET US DRAW OUR OWN CONCLUSION.

MR. BESHARAT SAID CAN WE HOLD IT OVER TO GET OUR PAPERWORK TOGETHER FOR A USE VARIANCE.

MR. FRASER SAID YES. HE SAID TAKE A LOOK AT THE USE VARIANCE CRITERIA. IF YOU FEEL YOU MAKE A CASE TO THIS BOARD NEXT MONTH COME ON IN.

MR. LUPINACCI MOVED TO HOLD THE APPLICATION OVER. THE MOTION WAS SECONDED BY MRS. FABIANO WITH ALL IN FAVOR.

APPLICATION OF PUTNAM COUNTY NATIONAL BANK FOR A VARIATION OF SECTION 63.11A(3)(1I) FOR PERMISSION TO CONSTRUCT A FREESTANDING SIGN. CODE REQUIRES ALL BUILDINGS BE SET BACK 20 FT. FOR FREESTANDING SIGN; WILL EXIST 10' X 2"; VARIANCE REQUIRED TO ALLOW SIGN ON PROPERTY WHERE BUILDING DOES NOT MEET 20 FT. SETBACK. PROPERTY IS LOCATED AT 43 GLENEIDA AVENUE, CARMEL, NY AND IS KNOWN BY TAX MAP #44.18-1-3.

MS. EMILY WEISBERG OF DANIELS AND PORCO WAS PRESENT TO REPRESENT THE APPLICANT.

MR. FRASER SAID YOU ARE HERE FOR A RENEWAL OF A VARIANCE THAT WAS GRANTED OVER TWO YEARS AGO WHICH EXPIRED.

MS. WEISBERG SAID THAT'S CORRECT.

MR. FRASER ASKED WHY HAVEN'T THEY GOT IT DONE BY NOW?

MS. WEISBERG SAID THEY HAD A NUMBER OF APPEARANCES BEFORE THE ARCHITECTURAL REVIEW BOARD, DURING THOSE APPEARANCES IT JUST LAPSED.

MR. MAXWELL MOVED TO CLOSE THE PUBLIC HEARING. THE MOTION WAS SECONDED BY MR. LUPINACCI WITH ALL IN FAVOR.

#### DECISION OF THE BOARD

MR. LUPINACCI MOVED TO GRANT UNDER A TWO YEAR VARIANCE TERM. THE MOTION WAS SECONDED BY MR. MAXWELL.

A ROLL CALL VOTE WAS TAKEN ON THE MOTION AS FOLLOWS:

MR. MAXWELL	FOR THE MOTION
MRS. FABIANO	FOR THE MOTION
MR. LUPINACCI	FOR THE MOTION
MRS. MARIANI	FOR THE MOTION
MR. GARCIA	FOR THE MOTION
MR. FRASER	FOR THE MOTION

APPLICATION OF DONNA MASSARO (FREIGHT HOUSE CAFÉ) FOR A VARIATION OF SECTION 156.41C(9)(A) FOR PERMISSION TO CONSTRUCT A FREESTANDING SIGN. CODE REQUIRES ALL BUILDINGS BE SET BACK 20 FT. FOR FREESTANDING SIGN; WILL EXIST BUILDING 1 ONLY SETBACK 2 FT; VARIANCE REQUIRED - TO ALLOW SIGN ON PROPERTY WHERE BUILDING DOES NOT MEET 20 FT. SETBACK. PROPERTY IS LOCATED AT 609 ROUTE 6, MAHOPAC, NY AND IS KNOWN BY TAX MAP #76.9-1-11.

MS. DONNA MASSARO WAS SWORN IN.

MR. FRASER SAID THAT'S THE BUILDING IN THE BACK OF THIS LOT THAT'S VERY HIDDEN.

MS. MASSARO SAID YES.

MR. FRASER SAID THIS PROPERTY WOULD QUALIFY FOR A FREESTANDING SIGN EXCEPT FOR BUILDING (A) IS TOO CLOSE TO THE ROAD, SO THEREFORE, THE TOWN DEEMS IT IS NOT NECESSARY TO ALLOW A FREESTANDING SIGN. HOWEVER, THE APPLICANT'S BUILDING IS ALL THE WAY IN THE BACK AND VERY HIDDEN FROM THE TRAFFIC. SO SHE IS REQUESTING TO PUT A FREESTANDING SIGN UP TO NOTIFY PEOPLE WHERE TO FIND HER. I SUGGEST WE TIE THIS TO EITHER HER BUSINESS OR TO THE BACK BUILDING, OR ONE OR THE OTHER.

THE BOARD AGREED WITH MR. FRASER.

MR. CARNAZZA SAID THE ONLY NAME THAT COULD GO ON THE SIGN WOULD BE HERS.

MR. FRASER SAID YES. IT WOULD BE HER SIGN, WHEN SHE GOES SHE COULD TAKE IT WITH HER. NO OTHER BUSINESS COULD GO ON THE SIGN. JUST FREIGHT HOUSE CAFÉ.

MR. CARNAZZA ASKED HOW BIG? TO COMPLY WITH CODE?

MR. FRASER SAID MAXIMUM ALLOWED WITH CODE.

MRS. FABIANO SAID THERE IS NO MAIN SIGN FOR THE STORES ON THE PROPERTY.

MS. MASSARO SAID NO. THEIR SIGNS ARE RIGHT ON THE BUILDING.

MR. GARCIA ASKED HAVE YOU SPOKEN TO THE LANDLORD? DID YOU GET THE LANDLORD'S PERMISSION? WE DON'T GET LETTERS TO THAT EXTENT.

MS. MASSARO SAID ABSOLUTELY, I THINK HE SIGNED ONE OF THE PAPERS.

MR. FRASER SAID WE DON'T HAVE A PICTURE OF THE SIGN.

MS. MASSARO SAID I COULD DRAW IT. IT'S SO SIMPLE. SHE SAID THEY ARE JUST 2 POSTS WITH A COUPLE OF SIGNS. SHE SAID IT WILL ONLY SAY FREIGHT HOUSE CAFÉ. NO TELEPHONE NUMBER. AND AT THE TOP IT WILL HAVE 609 SO PEOPLE KNOW THE ADDRESS.

MR. MAXWELL SAID IS THERE ANY CONCERN FOR LOCATION TO NOT HAMPER ANY EGRESS.

MR. CARNAZZA SAID THE SIGN WILL BE ON THE GRASS AREA BETWEEN THE GAS STATION AND THE MUSIC STORE.

MR. LUPINACCI MOVED TO CLOSE THE PUBLIC HEARING. THE MOTION WAS SECONDED BY MRS. FABIANO WITH ALL IN FAVOR.

#### DECISION OF THE BOARD

MR. LUPINACCI MOVED TO GRANT BEING THAT IT'S ONE SIGN AND IT IS TIED TO THE BUSINESS, FREIGHT HOUSE CAFÉ AND IT CANNOT EXCEED CODE. THE MOTION WAS SECONDED BY MRS. FABIANO.

A ROLL CALL VOTE WAS TAKEN ON THE MOTION AS FOLLOWS:

MR. MAXWELL FOR THE MOTION

MRS. FABIANO FOR THE MOTION

MR. LUPINACCI FOR THE MOTION

MRS. MARIANI FOR THE MOTION

MR. GARCIA FOR THE MOTION

MR. FRASER FOR THE MOTION

MR. LUPINACCI MOVED TO CLOSE THE MEETING. THE MOTION WAS SECONDED BY MR. MAXWELL WITH ALL IN FAVOR.

THE MEETING WAS ADJOURNED AT 7:50 P.M.

RESPECTFULLY SUBMITTED,

ROSE TROMBETTA