

APPROVED

MARK FRASER
Chairman

JOHN MAXWELL
Vice Chair

TOWN OF CARMEL
ZONING BOARD OF APPEALS



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MICHAEL CARNAZZA
*Director of Codes
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BOARD MEMBERS

ROSE FABIANO
ROGER GARCIA
SILVIO BALZANO
PHILIP AGLIETTI
CRAIG PAEPRER

ZONING BOARD OF APPEALS MINUTES

March 28, 2013

PRESENT: CHAIRMAN MARK FRASER, VICE CHAIR JOHN MAXWELL, ROSE FABIANO, ROGER GARCIA, SILVIO BALZANO, PHILIP AGLIETTI, AND CRAIG PAEPRER

ABSENT:

<u>APPLICANT</u>	<u>TAX MAP #</u>	<u>PAGE</u>	<u>ACTION OF THE BOARD</u>
Christopher DeRuzza	88.7-1-1.1	1	Dismissed
Shell NY Fuel Distributors	55.11-1-40	1	Dismissed
Frank Maloney	86.55-1-2	1	Granted
Daniel Ferretti	74.11-1-11	2	Held over
DPL Realty	44.14-1-22	3	Granted
Stanislaw Babiarz	75.59-1-19	3	Granted
112 Crossroads Corp.	55.06-1-42	3-4	Granted
Minutes: January & February			Approved

The meeting was adjourned at 8:01 p.m.

Respectfully submitted,

Donna Esteves

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Application of Christopher DeRuzza for a Variation of Section 156.15. The applicant is seeking to add a commercial BBQ Smoker to restaurant located in a residential zone. The property is located at 166 Stoneleigh Ave, Carmel and is known by Tax Map #88.7-1-1.1.

Mr. Fraser stated that the applicant has requested to be dismissed.

Mr. Balzano made a motion to dismiss without prejudice. Mr. Maxwell seconded the motion with all in favor.

Application of Shell – NY Fuel Distributors, for a Variation of Section 156.15. The applicant is seeking permission to construct a new over island canopy. The property is located at 1923 Route 6, Carmel and is known by Tax Map #55.11-1-40.

Code Requires	Will Exist	Variance Required
40' Front Yard	13'	27'
1 Canopy Sign	2 Provided	1 Sign

Mr. Fraser stated that the TOC sent two emails requesting the applicant to move on this application and there was no response. He would like to dismiss the application without prejudice.

Mrs. Fabiano made a motion to dismiss. Mr. Balzano seconded the motion with all in favor.

Application of Frank Maloney for a Variation of Section 156-15 seeking a rear yard variance for an above ground pool. The property is located at 8 County Line Rd, Mahopac and is known by Tax Map #86.55-1-2.

Code Requires	Will Exist	Variance Required
Rear Yard 20'	10'	10'

Mr. Greenberg was sworn in. He stated that his client would like to extend his deck and install an in ground pool. The pool would go up against the existing deck. The property has a 6 ft. fence so the pool will not interfere with anyone's views.

Mr. Fraser asked why it needs to be located in that particular place. Mr. Greenberg stated that because of where the septic is, that is the only place it can go.

Mr. Maxwell stated that he didn't think that it was a significant variance since the pool will be attached to the existing deck.

Mr. Maxwell made a motion to close the public hearing. Mrs. Fabiano seconded the motion with all in favor.

DECISION OF THE BOARD:

Mr. Balzano moved to grant the variance. Mrs. Fabiano seconded the motion with all in favor.

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Application of Daniel Ferretti, for a Variation of Section 156.15. The applicant is seeking permission to retain (2) additional apartments which was once (1) apartment and (1) store. The property is located at 65 Secor Rd and is known by Tax Map #74.11-1-11.

Mr. Ferretti was sworn in.

Mr. Fraser asked Mr. Ferretti if he understood the criteria that he needed to present to the Board in order to obtain a "use" variance. Mr. Ferretti answered yes.

Mr. Ferretti stated that the building had 2 apartments and a pizzeria when he bought the building. Apparently one of the apartments was illegal. He then added another apartment and he is looking to make it all legal.

Mr. Fraser stated that unfortunately it is not that simple to meet the criteria for a use variance. He will have to prove that it is not self-created, he will have to prove financial hardship and that it is unique and will not change the characteristic of the neighborhood.

Mr. Ferretti stated that he cannot pay the mortgage if he doesn't have the income of the apartments.

Mr. Fraser asked why he didn't rent the downstairs to another restaurant. He stated that he tried to rent it as office space and it was vacant for a year. He decided it would be easier to rent it as an apartment. He further explained that it does not change the character of the neighborhood and the sewers have less usage because you don't have the flow of customers.

Mr. Fraser commented that it sounded to him as if this is self-created which means that they can't give him the variance. He stated that the applicant must meet all 4 of the criteria.

Mr. Fraser suggested that he look it over more and decide if he wants to come back to the Board. He thinks that he should do some more research and perhaps consult with someone who is more familiar with this.

Mr. Balzano stated that the applicant will have to show financials.

Mr. Fraser commented that this is a mixed use.

Mr. Carnazza commented that it is a mixed use but is zoned commercial. However the mixed use has changed. It was a restaurant and apartments and now it is a business, 3 apartments and an office.

Mr. Ferretti stated that he would like to legalize the existing apartments and his office. He received a letter of violation and would just like to make everything right.

Mr. Garcia asked where the apartments are located.

He answered that there is apartment in the front on the left hand side, one in the back and another one in the way back.

Mr. Fraser felt that the applicant should seek legal counsel and return next month with the proper documents necessary to obtain a use variance.

Mr. Maxwell made a motion to hold the application over. Mr. Balzano seconded the motion with all in favor.

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Application of DPL Realty, LLC for a Variation of Section 156-52(C)(9)(b) seeking a variance for an existing sign. The property is located at 102 Gleneida Ave, Carmel and is known by Tax Map #44.14-1-22.

Code Requires	Will Exist	Variance Required
Maximum Area of 32 ^{sq ft} for both side	49.3 ^{sq ft}	17.3 ^{sq ft}

Mr. Lusardi stated he is representing DPL Realty and he is here for a sign variance. It's a sign that was put up when the building was built in 1987. Apparently, there was never a building permit for the sign. The sign is bigger than the ordinance allows. The sign measures 53'x67' which is mostly the black face of the board itself. It is not all lettering. The sign is in character with the rest of the neighborhood; therefore they are requesting the variance.

Mrs. Fabiano questioned why the sign doesn't match the drawing. He stated that it was the original sign.

Mr. Maxwell made a motion to close the public hearing. Mrs. Fabiano seconded the motion with all in favor.

Decision of the Board:

Mr. Balzano moved to grant. Mr. Maxwell seconded the motion with all in favor.

Application of Stanislaw Babiarz for a Variation of Section 156.15, seeking permission to retain an existing carport. The property is located at 96 Ellen Ave, Mahopac and is known by Tax Map #75.59-1-19.

Code Requires	Will Exist	Variance Required
10' Rear	1.8'	8.2'

Mr. Stanislaw was sworn in.

Mr. Fraser stated that Mr. Stanislaw was before the Board a while ago. He was in for other variances but the Board couldn't grant the one for the carport because it was in the right of way. The Board told him he could either take it down or buy the right of way, which he did.

Mr. Balzano made a motion to close the public hearing. Mrs. Fabiano seconded the motion with all in favor.

DECISION OF THE BOARD:

Mrs. Fabiano moved to grant. Mr. Aglietti seconded the motion with all in favor.

Application of 112 Cross Roads Corporation, for a Variation of Section 156-15. The applicant is seeking permission to renew a variance for lot width. The property is located at 1828 Route 6, Carmel and is known by Tax Map #55.06-1-42.

APPROVED

Code Requires	Will Exist	Variance Required
Lot Width – 200 ‘	123.42’	76.6’

Mr. Caruso and Mr. Greenberg are representing the applicant. They are here for a re-grant of the variance that was given a few years ago but has expired.

Mr. Fraser stated that the important thing is that the applicant showed through a submitted Memorandum of Law that they could not keep to the time limit because of financial hardship.

Mr. Fraser asked if anything has changed regarding Town Code. Mr. Greenberg replied no.

Mr. Balzano asked why they received 2 different drawings.

Mr. Greenberg stated the reason for the second drawing was because of an error in parking on the first drawing.

Mr. Garcia questioned the timing of the filing for the renewal of the previous variance. Mr. Folchetti stated that if the applicant submitted the application prior to the previous variance lapsing and the meeting is not until after the variance expired, it's just a "timely" application for the width variance.

Mr. Garcia asked if there are any changes with the broker and Mr. Greenberg replied yes. Mr. Greenberg further stated that they are waiting to secure a bond and get the financing in order to start the development.

Mrs. Fabiano made a motion to close the public hearing. Mr. Maxwell seconded the motion with all in favor.

DECISION OF THE BOARD:

Mr. Paepre moved to grant. Mrs. Fabiano seconded the motion.

Mr. Garcia suggested they put a time limit on this variance as a means to encourage the applicant to move the project along before the variance lapses again.

Mrs. Fabiano moved to grant with a 2 year expiration date. Mr. Paepre seconded the motion with all in favor.

Minutes: January 24, 2013 & February 28, 2013

Mr. Maxwell moved to accept the minutes with submitted corrections. Mrs. Fabiano seconded the motion with all in favor.

The meeting was adjourned at 8:01 p.m.

Respectfully submitted,

Donna Esteves