

**APPROVED**

MARK FRASER  
*Chairman*

JOHN MAXWELL  
*Vice Chair*

**TOWN OF CARMEL**  
**ZONING BOARD OF APPEALS**



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MIKE CARNAZZA  
*Director of Codes  
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**BOARD MEMBERS**

ROSE FABIANO  
ROGER GARCIA  
SILVIO BALZANO  
PHILIP AGLIETTI  
CRAIG PAEPRER

**ZONING BOARD OF APPEAL MINUTES**

**June 28, 2012**

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

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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>
Mike Barile	75.12-2-24	1-2	Granted
Parimal Alexius Gomes	74.34-2-39	2-3	Denied
Carl Albano	55.14-1-26,31	3-5	Granted
Mark Greenberg	75.8-2-5	5-7	Held over
Raed Makki Audah	76.5-1-12	7-8	Held over
Lillian Matej	64.18-2-70	8-9	Granted
Rickie Groth	64.12-2-6	9-10	Granted
Bavarian Corp	75.44-1-70	10-11	Granted
Brixen Inc	75.44-1-54	10-11	Granted
Minutes: 4/26/2012 & 5/24/2012		12	Approved

The meeting was adjourned at 10:03 p.m.

Respectfully submitted,

Donna Esteves

Application Michael Barile, Tommy Boniello and Nicole Stern, for a Variation of Section 156.15 seeking permission to use the 2<sup>nd</sup> floor for a gym (which is presently used for storage). The property is located at 571 Route 6, Mahopac and is known by Tax Map #75.12-2-24.

CODE REQUIRES	WILL EXIST	VARIANCE REQUIRED
32 parking spaces	23 spaces	9 spaces
10' specs	9' wide	1' width of parking spaces

Mr. Barile was sworn in.

Mr. Fraser asked Mr. Barile to explain the changes that he made to his application with regards to the parking spaces. Mr. Barile stated that he took the boards advice and made some changes to the original plans. He reduced the spots to 9' however he did not agree with it. He was able to pick up more spots and reduce the variance request to 9 spaces because of this change.

Mr. Barile further stated that he would like to address some concerns that the board raised last month. In particular, he would like to address the comments by Mrs. Fabiano in which she stated that the board is worried about setting precedents. It was mentioned that a dentist came in looking for a similar type of variance. Mr. Barile was under the impression that it was the job of the Zoning board to look at each piece of property individually, not like any other property. And when you set a decision on a particular property, if a similar variance request comes in on a different piece of property, the board would have to base its decision on the assumption that the properties are similar. Mr. Barile feels that every piece of property in this town is unique and should be treated as such.

Mr. Fraser responded that every applicant that comes in does stand on its own two legs but every variance that is granted does set a precedent.

Mr. Barile agrees within reason in a court of law, but is asking the board to please keep in mind that all the neighboring businesses will not need to use the available parking spaces in front of his building because they have adequate parking.

Mr. Barile stated that the neighboring businesses have more than adequate parking so he is asking that this application be judged on its location, the availability of street parking, and the lack of use of the street parking from all the neighbors who have adequate parking.

Mr. Fraser asked that if you look at the parking to the right when you are looking at the building, will the people have to back out onto Route 6. He said no the people will be able to back out on the property.

Mrs. Fabiano asked Mr. Barile if he has entered into an agreement with the glass shop to use their parking. He responded yes they have a verbal agreement. As a matter of fact, Mr. Barile is in the process of providing insurance for that parking. She also asked if he owns any other pieces of property in the area that the tenants can use.

Mr. Garcia questioned if it is even legal to park on Route 6. Mr. Carnazza stated that he believes that it is, with exceptions that apply in the winter. However, he cannot comment on the official rules because he does not have that information available in front of him. Mr. Carnazza commented that even though there is available parking in front of the building, you cannot count on that parking nor can you put it in the site plan.

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

### **DECISION OF THE BOARD**

Mr. Paeprer made a motion to grant. Mr. Maxwell seconded the motion.

Mr. Paeprer commented that he has some concerns about the potential change of "use". A discussion between the board members ensued with regards to the use of property.

Mr. Fraser stated that they have a motion to grant, subject to the lease of the tenant on the second floor being submitted. Once that lease is null and void, or there is a change of use or change of tenants, the applicant must return to the zoning board.

Mr. Fraser asked if Mr. Paeprer accepted the changes to his motion and he answered yes. Mr. Fraser asked if Mr. Maxwell, who seconded the original motion, accepts the changes, and he answered yes as well.

A roll call was taken as follows:

Mr. Garcia	For the motion
Mr. Maxwell	For the motion
Mr. Aglietti	For the motion
Mr. Paeprer	Against the motion
Mrs. Fabiano	Against the motion
Mr. Balzano	For the motion
Mr. Fraser	Against the motion

The motion carries 4-3.

**Application of Parimal Alexius Gomes, for a Variation of Section 156.15 seeking permission to remove the existing house and shed, extend the foundation and add new 1 family modular home. The property is located at 204 Forest Rd, Mahopac and is known by Tax Map #74.34-2-39.**

CODE REQUIRES	WILL EXIST	VARIANCE REQUIRED
25' Front	17.5 ft.	7.5 ft.
20' Rear	8 ft.	12 ft.

Mr. Gomes was sworn in.

Mr. Fraser stated that since last month, the applicant has repositioned the house to further comply with code.

Mr. Gomes stated that he took the boards advice and moved it away from the side and the back.

Mr. Fraser asked why they didn't move the house closer to Lake Shore Dr. and Mr. Gomes answered that he wants to preserve the yard. That is the primary reason for buying the house.

Mr. Fraser feels that it is still too close to the property line. The board members all agree that they would prefer to see the house moved closer to Lake Shore Dr.

Mr. Balzano feels that it is a tight piece of property.

Mrs. Fabiano agrees with Mr. Fraser and would like to see it moved closer to the garage. Her concern is that the yard can become very messy.

Mr. Paepre asked about the shed. Mr. Gomes stated that he is removing the shed and that there will only be a garage.

Mr. Aglietti asked if there was any other reason why he won't move it closer to Lake Shore other than him trying to keep the front yard. Mr. Gomes stated that the property is a little wet where the shed is plus he spent a lot of money to remove the trees to get that yard space.

Mr. Maxwell asked if he is moving the house further back. Mr. Gomes said yes.

Mrs. Fabiano asked if he considered attaching the garage to the house. He said no because he would like to build a deck in the future for a barbeque area. He was told he would need a variance when he does that.

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 made a motion to deny. Mr. Garcia seconded the motion with all in favor.

The board members felt that even though he moved the house forward somewhat, it should have been moved closer to Lake Shore Rd.

**Application of Carl L. Albano for a Variation of Section 156-15 seeking permission for a 2 lot subdivision. The property is located at 18 Mechanic St, Carmel and is known by Tax Map #55.14-1-26,31.**

Code Requires	Will Exist	Variance Required
Lot 1 Area 120,000'	43,561	76,439
Lot 1 Width 200'	190	10
Lot 2 Area 120,000'	43,560	76,440
Lot 2 Width 200'	169	31
Lot 2 Side Yard 25'	20.1	4.9
Lot 2 Frontage 100'	98.19	1.81

Mr. Albano was sworn in.

Mr. Fraser stated that Mr. Albano was here last month and went through his whole application but decided to hold it over because the board was short two members. He asked Mr. Albano to give a brief summary of what he is proposing for the benefit of the absent board members last month.

Mr. Albano stated that he would like to sub-divide the property which would be in character with the rest of the neighborhood. The neighborhood consists of .5, .75 & 1 acre lots. Mr. Albano is asking for two (2) one acre lots. This was designed at the time in consideration of new zoning. He had spoken to previous Town Supervisors that stated sewers would be a big benefit, so he gave sewer easements through the properties with the intention that there would be some benefits someday. He also pointed out that with the easements he also gave them a pumping station. All of this was done at no cost to the town. Mr. Albano felt it was a benefit, because it could be an advantage to the property someday in the future, and it would better match other properties in the neighborhood. The parcel that they are subdividing, in order to make it usable, you would have to walk out on the road and walk up the street to have use of the property. The configuration that he is proposing would make the property conform more to the character of the neighborhood.

Mr. Balzano asked "why now". Mr. Albano explained that his father purchased property in the 1980's and he bought the property next to him. Across the street from them it was zoned light industrial. It was out of character of the neighborhood. He bought the property and changed it to residential. The zoning on the street was 20/40. Effectively you could build on a  $\frac{1}{2}$  acre lot with sewer and water. The land behind them came up for sale so he bought it. It was zoned R60 1  $\frac{1}{2}$  acre lots. Mr. Albano came to the Town Board and discussed it with two administrations and offered to make both sides of the street 1 acre with the condition that he would get the same amount of lots or less. He never intended to build out the neighborhood especially since this is where he lives. Unfortunately now, over the years, senior housing has been built across the street from him. Another house across the street is a group home. This was the trend in the neighborhood. When he spoke to the town, they said they were going to run the sewers down his street and when that day comes, they were going to look at the zoning and make it make sense. Now they have 3 acres. It backfired. The lot that he is planning to subdivide has a sewer tap and a water tap on it.

Mrs. Fabiano asked Mr. Albano when the lots were drawn for the 3 acre lots behind him. Was it was done before or at the same time as this plan? He stated that he thinks these were drawn first and the property in the back was then subdivided. She was wondering why he didn't extend the lots further. Mr. Albano stated that if you look at the configuration, if it was extended further, it would be even more out of the ordinary. They would get irregularly shaped. All of the property behind him is wetlands. Even if it was made 3 acres you would still have the same number of houses because you can't build on the wetlands.

Mr. Maxwell asked if Mr. Albano would need any variances on the existing house if this gets approved. Mr. Carnazza stated that the applicant would need a lot area variance.

Mr. Garcia asked Mr. Carnazza if zoning exists in this town for lots that have sewer access. Mr. Carnazza said no there is no benefit to that.

Joe Ginesti, from 28 Mechanic St, approached the podium and was sworn in to speak on this application. He stated he lives adjacent to the property of the proposed subdivision. He moved into the neighborhood 2 years ago. He moved into the neighborhood because his daughter was the victim of a home invasion and this neighborhood allowed the privacy for which they were seeking. He is against the proposal and feels that it isn't fair if the board changes the rules for Mr. Albano because it will open a Pandora's Box.

Mr. Fraser responded that the Zoning Board is there to alter rules if certain criteria are met. It is there job to weigh whether or not certain criteria has been met for this particular application.

Mrs. Fabiano asked Mr. Albano if he would consider contributing to the cost of shrubbery to allow for Mr. Ginesti's privacy as a good will gesture. He replied that he doesn't think it is necessary since there are dense woods all the way around the house.

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

#### **DECISION OF THE BOARD:**

Mrs. Fabiano made a motion to grant for discussion purposes. Mr. Maxwell seconded the motion.

Mr. Fraser stated (for the benefit of the new board members) that the board has denied applications in the past and the courts have said to them on more than one occasion that the one factor they look at in these instances is if it is out of character for the neighborhood. He stated this is not and that that tells him all he needs to know. Mrs. Fabiano stated that because the other homes are on 1 acre lots, it would be very difficult for the board to prove that it would be out of character to do this. However, she would like to see some type of screening implemented to protect the neighbor. The board discussed keeping the first 5 or 10 ft. of the property line left in its natural state. Mr. Fraser doesn't feel that it would be a hardship.

Mrs. Fabiano moved to grant with the condition that there will be no disturbance of the natural vegetation within 15 ft. of the property line from the street to the 1<sup>st</sup> bend of the property which is 151.78 ft. Mr. Aglietti seconded the motion.

Mr. Garcia asked Mr. Carnazza if the code had the ability to have smaller than 3 acre lots if there was sewer on the lot for which Mr. Carnazza answered no, there is nothing in the code that states that. Mr. Garcia's concerned that if the board approves this, it changes the code in his eyes, and gives people the ability to come in and say you did it for Mr. Albano; you should do the same for me.

Mr. Maxwell reminded him that this issue isn't the only criteria. Each case is judged on its own merit.

A roll call was taken as follows:

Mr. Balzano	For the motion
Mrs. Fabiano	For the motion
Mr. Paepre	For the motion
Mr. Aglietti	For the motion
Mr. Maxwell	For the motion
Mr. Garcia	Against the motion
Mr. Fraser	For the motion

The motion carries 6-1.

Application of Martin Greenberg, for a Variation of Section 156.20 seeking permission to build a 12' high concrete fence along the south side of the property. The property is located at 5 Tamarack Rd, Mahopac and is known by Tax Map #75.8-2-5.

Code Requires	Will Exist	Variance Required
6' fence	12'	6'

Mr. Greenberg was sworn in. He stated that when he purchased the property in 1987 the fence was already there and it was very old (at least 50 or 60 yrs. old). The property abuts Mahopac Plaza. He further explained that back in the day, Mahopac Plaza was a very quiet plaza. However, when Mr. Lansky purchased the building, the planning board approved dumpster placement and property development which borders his property line without a buffer, where there once was one. Currently, there is no privacy between him and the commercial establishments that now exist. They have to deal with the noise level from Southside Bar and the lights from the buildings that shine right onto his property, not to mention the obnoxious odor from the dumpsters that they have to live with. They must also deal with delivery trucks and garbage trucks as well as the traffic from the patrons. He is looking to construct a barrier to eliminate all of the above mentioned nuisances as well as add security to his property. He stated that he has the support of all of his neighbors and noted that letters have been written to the board offering their support. Mr. Greenberg also stated that Mr. Lansky supports his proposal as well, and has offered to contribute anywhere between 25%-50% of the financial burden to construct the barrier. They would like to put up a concrete wall that will have stucco on both sides and topped with a pyramid shaped capping to keep water out of the system.

Mr. Fraser asked if he had a drawing or picture of the proposed wall as he has concerns that it will look like a prison wall.

Mr. Greenberg stated that they are planning to put a permanent synthetic finish with a pastel color on it as well. He also mentioned that they had considered a wood fence, but it would do little to minimize noise so that is why they decided to go with concrete. He would like to run it all across the property line but will lower the wall height as it gets closer to the water. He showed the board pictures of the property as it exists currently. Mr. Greenberg stated that he is asking for a 12 ft. wall however, his plan is to bring it to 10ft. first and see how it works before putting a finish on it but would like the ability to go up 2 more feet if the 10ft doesn't accomplish their goal.

Mr. Fraser stated that he is asking for a substantial variance and asked members of the board if they had any comments.

Mr. Balzano asked Mr. Greenberg if he would consider putting natural shrubbery there instead, as he is concerned that the wall will be an open invitation for graffiti. Mr. Greenberg answered that he already spoke to Mr. Lansky and he plans to put shrubs up on his side for landscaping purposes.

Mrs. Fabiano and the other board members agreed that the applicant needs some type of protection however 12 ft. is significant. They would also like to see a visual of what the finished wall would look like before they make a decision. They just want to make sure that it doesn't become an eyesore to the community.

Mr. Garcia stated that he walked the property to get a feel of the impact the wall would create to the community. He stated that because of how the buildings in the plaza are situated, it will not create a negative impact.

Mr. Fraser suggested that Mr. Greenberg hold the application over and come back next month with an artist's rendering of the wall as well as color samples of the "stowe" finish that they will be using. He also asked Mr. Greenberg if he would be willing to amend the application to 10ft. so that if they don't like the wall

they don't have to worry about him adding the 2 additional feet, but if they do like the wall and Mr. Greenberg wants to add the 2 ft. they could come back to the board and they will grant the additional variance.

Mrs. Greenberg was sworn in. She just wanted to reiterate the fact that they do have a big piece of property and it does border a commercial property but she feels that Mr. Lansky is willing to work with them to get this done in a manner that is acceptable to everyone. Her major concern is the noise factor. She mentioned how she has to call the police department all the time. Her other concern is the security issue. As a parent she is not comfortable with strangers viewing her yard with such easy access.

John Ryan was sworn in. He is the neighbor and is a licensed engineer.

Mr. Maxwell asked him about the spacing of the columns and what would be appropriate for this type of project. Mr. Ryan answered that it is usually 20 ft. spacing. Mr. Maxwell asked about what depth off the wall that it would have to be to which he replied usually 4-6 inches.

Mr. Garcia asked if footing would be an issue down by the lake. Mr. Ryan said he does not know what the soil conditions are so he cannot speak on that.

Mr. Greenberg re-addressed the board. He respectfully stated that he would like to stick with the 12 ft. wall height so that he would not have to come back to the board another time to get the 2 ft. if needed. He stated that he will bring in drawings as well as samples to the next meeting.

Mr. Fraser stated that since the applicant is coming back he will need to draw on his survey exactly where he is asking to install a 12' fence to start and stop, and as he goes toward the lake what height increments he's going to step down to and where the fence is actually going to end. Right now it is an open ended application but if he provides a drawing than they can impose "conditions as per the drawings submitted" where needed if necessary. Mr. Fraser also stated that Mr. Greenberg will need to submit 8 copies to the board at least one week prior to the next meeting on July 26<sup>th</sup>. They would also like to see detail of what the step down by the lake would look like.

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

**Application of Raed Makki Audah, for a Variation of Section 156.15 seeking permission to retain attached storage area. The property is located at 49 Sycamore Rd, Mahopac and is known by Tax Map #76.5-1-12.**

Code Requires	Will Exist	Variance Required
30' Rear	5'	25'

Mr. Aglietti recused himself from this application.

Mr. Monteleone was sworn in and stated he is representing the applicant who is seeking to retain a variance for a storage shed that is already in place on the property. He stated that there is a fence between the applicant's property and the neighbor's property which is higher than code. They attempted to reduce it but

there was some disagreement with the neighbor so they stopped. He further stated that if they could put that in as a condition they will be happy to reduce it so they could show the neighbor they had no choice.

Mr. Carnazza confirmed that it is a storage shed on the property and is not part of the house.

Mr. Monteleone stated that the character of the neighborhood is one in such that the houses on the street are on top of one another so the shed would not be out of the ordinary.

Mr. Fraser asked the board members if they had any comments. Mr. Balzano stated that he did not see the public notification sign posted on the property. All of the other members said the same thing. Mr. Fraser stated that it is the new Town law that if the sign is not posted the application must be held over. Mr. Fraser advised the applicant that he will have to put the sign back up and come back next month.

Mrs Fabiano asked how long the storage area has been there.

Deana Audah was sworn in. She stated that it was an extended roof that had already been there and that they just closed it up about a year ago. They actually just filled in the space between the roof and the shed and closed it in with stone. Mr. Carnazza stated that the only reason why they are here is because it is larger than what was previously there.

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

**Application of Lillian Matej, for a Variation of Section 156-15 seeking permission to enlarge an existing house and alter the roof. The property is located at 63 Lakeside Rd, Mahopac and is known by Tax Map #64.18-2-70.**

Code Requires	Will Exist	Variance Required
Side Yard 10'	5.7'	4.3'

Mr. Aglietti returned to the podium.

Mr. Basharat was sworn in and stated that he is representing the applicant. Mr. Fraser noted that he is being sworn in for the next three applicants as well since he is representing them.

Mr. Besharat stated that the applicant is proposing an addition to the existing house which is very small and needs a lot of work. They are proposing to enlarge the house within the limits of the existing deck. They would also like to add a little area to maximize the view of the lake. They will not raise the height of the house, but will go sideways so as to not block the view of the lake for the neighbors. They will also be fixing the basement so that there are bedrooms downstairs. It will be a reverse type of living space so that they do not raise the height. He stated that the addition is a necessity. It will be a big open area to have a view of the lake. The house is a 3 bedroom and will remain a 3 bedroom. They will also be adding a deck but it is within the setbacks and will not require a variance. They also plan to re-landscape the property.

Mr. Maxwell asked if they are knocking down or just expanding off the existing foundation and walls. Mr. Besharat explained that the walls are staying the same.

Mr. Garcia confirmed that the only reason why they are here for the variance is because of the bump out. Mr. Besharat responded yes.

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

### **DECISION OF THE BOARD**

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

**Application of Rickie Groth, for a Variation of Section 156.15 seeking a side yard variance to extend the existing family room. The property is located at 14 Averill Dr., Mahopac and is known as Tax Map #64.12-2-6.**

Code Requires	Will Exist	Variance Required
Side Yard 15'	10'	5'

Mr. Basharat stated that they currently have a building permit to expand to this house. They would like to expand the existing family room by approximately 2  $\frac{1}{2}$  feet. It has the best view of the lake. They want to square it off. Because the property line is on angle, the addition takes them closer to the property line which requires the variance.

Mr. Garcia stated that this was very difficult to go out and visualize because there were no elevations on the plans. In the past the board has spoken about the importance of having the elevations so you can see where a house is going to sit on a lot. Particularly when you are talking about a variance in which you are trying to figure out if someone's site lines are going to be impacted. Mr. Garcia requested that the hearing be held over since he had no idea how this is situated on the property because he had no elevations on the drawings. Mr. Fraser asked if he really wanted to hold it over being that the applicant is asking for a minimal variance. Mr. Garcia said he would rescind his request if no other board members thought it was a big deal.

Mr. Besharat requested that it not be held over. They are only making the room wider by 30 inches. He further stated that the reason why this even came up is because the room itself is 8" lower than the existing house and the foundation on that side is questionable. The applicant figured they would fix the foundation and square it off.

Mr. Maxwell asked how they plan to utilize the garage in the rear of the property. Are they bringing a driveway around the house? Mr. Besharat answered yes. Mr. Maxwell was concerned about the pitch. He feels it is very steep. He thinks it should be built up considerably to make it safe. Mr. Besharat explained that the way they are cutting it and re-grading it, the pitch will be about 12% overall.

Mr. Carnazza asked where the septic was going. He wanted to make sure it wasn't going where the driveway was going. Mr. Besharat said absolutely not.

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

## DECISION OF THE BOARD

Mrs. Fabiano made a motion to grant. Mr. Maxwell seconded the motion.

Mr. Garcia commented that he would like to go on the record once again about the elevations. He apologized to the board members but he stated that they had spoken in the past about the elevations being an important part of the submission and he feels that if that was the agreement then they should do that going forward.

A roll call was taken as follows:

Mr. Balzano	For the motion
Mrs. Fabiano	For the motion
Mr. Paepre	For the motion
Mr. Aglietti	For the motion
Mr. Maxwell	For the motion
Mr. Garcia	Against the motion
Mr. Fraser	For the motion

Motion carries 6-1.

\*\*\*\*\**Mr. Fraser stated that Mr. Besharat can treat the following two applications as one*\*\*\*\*\*

Application of Bavarian Corp. for a Variation of Section 156.15 seeking 13 variances per below. The property is located at 18 Clark Place, Mahopac and is known by Tax Map #75.44-1-70.

District Regulation	Code Requires	Will Exist	Variance Required
Minimum Lot Area	40,000 sf.	8,254 sf	31,746 sf.
Lot Width	200'	106'	94'
Lot Depth	200'	118'	82'
Front Setback (Senior Ave)	40'	24.6'	15.4'
Front Setback (Clark Pl)	40'	13.8'	26.2'
Building Setback - Rear	30'	26'	4'
Building Setback - Rear	30'	4.1'	25.9'
Rear Yard For Accessory Bldg	30'	7.6'	22.4'
Rear Yard For Accessory Bldg	30'	7.4'	22.6'
Loading Dock	1	1	none
Parking Spaces	30 spaces	8 spaces	22 spaces
Back up Area Behind Pkg Spaces	24'	0' and 14'	24' and 10'
Size of Parking Spaces	10' x 18'	10' x 11'	9' depth
Size of Loading Dock	12' x 35'	15' x 26'	9' depth

Application of Brixen Inc. for a Variation of Section 156.42(A)-(7), seeking permission to allow existing parking to be shared by another business (Ariano's - located at 18 Clark Pl.). The property is located at 572 Route 6, Mahopac and is known by Tax Map #75.44-1.54.

Code Requires	Will Exist	Variance Required
45 Parking Spaces	47 Exist - 25 P.S. will be shared spaces not shared)	23 Parking Spaces

Mr. Besharat stated that this is an application for Ariano's restaurant. It lacks everything in compliance but has been in existence for over 35 years. There is parking in the front of the building as well as the stone building across the street which people use and walk over. Ariano's and the business owner have a verbal agreement which allows patrons to use that site for parking. Unfortunately, there is no parking on the side of the building to adequately support this type of business. The question is whether there is another method that could be used to minimize the variance request. The answer is yes. Ariano's owns the medical office building across the street and they have entered into a perpetual lease to share the parking between the two properties. It makes sense since the medical building uses the parking mainly during the week and during the day, whereas, the restaurant would utilize the parking during its busy times at night and on the weekends. This would alleviate the existing hardship that the restaurant faces as it stands today. Also, because they are in front of the Planning Board for site plan approval, they are required to clean up everything such as lot width, lot depth, parking etc.

Mr. Fraser questioned why this is coming up after all this time. Mr. Carnazza responded that Ariano's was given a violation for expanding beyond what was originally permitted. Therefore they have come before the board to make everything legal.

Mr. Fraser stated that if the applicant files a perpetual easement with the County Clerk's office then he is okay with it because it means it will never go away even if ownership changes hands in the future.

Mr. Garcia commented that this is a short term solution to the problem. He feels that there is potential for conflict if the "ownership and use" of the property changes in the future. Mr. Carnazza stated that if the "use" changes, then the owner would have to go back to the Planning Board for approval.

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

#### **DECISION OF THE BOARD AS FOLLOWS:**

##### **BAVARIAN CORP**

Mr. Balzano made a motion to grant, subject to the perpetual parking easement being filed with the County Clerk's office and approved by the town attorney before the Decision & Order is granted. Mr. Maxwell seconded the motion with all in favor.

##### **BRIXEN inc**

Mr. Balzano made a motion to grant subject to the perpetual parking easement being filed with the County Clerk's office and approved by the town attorney, and the Ariano's sign being removed from Route 6 that is in the Medical Office building. Mr. Maxwell seconded the motion with all in favor.

**Minutes: 4/26/2012 & 5/24/2012**

Mrs. Fabiano moved to accept the minutes of 4/26/2012. Mr. Maxwell seconded the motion with all in favor.

Mrs. Fabiano moved to accept the minutes of 5/24/2012. Mr. Maxwell seconded the motion with all in favor except Mr. Balzano and Mr. Aglietti who abstained from the vote because they were absent from the meeting.

The meeting was adjourned at 10:03 p.m.

Respectfully submitted,

Donna Esteves