

**APPROVED**

**MARK FRASER**  
*Chairman*

**JOHN MAXWELL**  
*Vice Chair*

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



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**MICHAEL CARNAZZA**  
*Director of Codes  
Enforcement*

**BOARD MEMBERS**

**ROSE FABIANO**  
**ROGER GARCIA**  
**SILVIO BALZANO**  
**PHILIP AGLIETTI**  
**CRAIG PAEPRER**

**ZONING BOARD OF APPEALS MINUTES**

**July 25, 2013**

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

**ABSENT:**

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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>
St James the Apostle	44.18-1-35.1	1-4	Denied
Eric Massimi	76.9-3-37	4	Held over
Louis Ettere	86.13-1-32	5	Granted
Schillio	53.-2-19	5-6	Granted w/Conditions
John Mallon	75.16-1-58	6	Granted
Robert Engle	64.19-1-68	7	Held over
Deborah Alix	74.43-1-65	7	Held over
Minutes – April 2013		8	Approved

The meeting was adjourned at 9:01 p.m.

Respectfully submitted,

Donna Esteves

## APPROVED

**Application of St. James the Apostle Church for a Variation of Section 156.41(c)9, 156.41(c)9b and 156.41(a)4d. The applicant is seeking permission to retain an illuminated sign. The property is located at 14 Gleneida Ave, Carmel and is known by Tax Map #44.18-1-35.1.**

Code Requires	Will Exist	Variance Required
1 Sign on 1 Lot	3 signs	2 signs
32 <sup>sqft</sup> /sign	64 <sup>sqft</sup>	32 <sup>sqft</sup>
No illuminated sign	Illuminated sign	156.41a-4d

Father Sorgie approached the Board. He stated that the property extends from 16, 14 and 12 Gleneida Ave. In the front of the rectory, there has been an illuminated double sided sign since 1985. It malfunctioned 2 years ago so they replaced it with a double sided illuminated led sign. They have since learned that the sign requires a variance which is why they are before the board. He further stated that, like the fire department, George Fisher Middle School and the nearby Temple, they must learn and adhere to the rules of having such a sign.

He stated that the reason for the sign is to advertise events, but also to be of use to the county, most especially since they became a designated area for emergencies such as Hurricane Sandy, etc. Its basic use is church and county service/information.

Mr. Fraser stated that the code allows one sign on a lot and they have three. He said he understands why there are three signs. The church has a lot of different things going on and technically it's all on one deed. He does not feel that the 3 signs is such a big issue. He asked the applicant if the illuminated sign that they replaced is the same size as the old one. Father Sorgie responded no, the old one in 1985 is standard but the one that they have now is within a foot of the old one. The old sign was roughly 30<sup>sq ft.</sup> per side whereas the new sign is 32<sup>sq ft.</sup> per side. He stated that most of the sign is just the name of the church and that the actual illuminated area is exactly the same as the previous sign. The sign is also "hurricane wind" safe.

Mr. Fraser asked if it is possible that the sign could have had a previous variance. Mr. Carnazza stated that it's possible but he couldn't find any.

Mr. Fraser stated that the old sign was in violation of town code. He asked the applicant what the need is for the big sign. He answered that the sign is a standard Stewart sign.

Mr. Maxwell asked if they used the same footings. The applicant responded yes.

Mr. Fraser asked if the sign company told them about the size requirements/limitations in the Town of Carmel. He responded no. He also reiterated that the "illumination" part of the sign is the same size as most other illuminated signs in the area. The rest of the sign is for the name of the church.

Mr. Garcia stated that he went and measured the size of the Temple's sign. He commented that you basically draw a box around the whole sign to measure. The fact that the bottom half is illuminated and the top half is not is irrelevant to the conversation. The Temple's sign is a Stewart sign as well, and measures 4x6. It's also one-side so it makes a substantial difference in the square footage.

Mr. Garcia asked the applicant if he knew when the other two signs were put up. Was it before or after the previous illuminated sign was erected? Father Sorgie stated that the illuminated sign was there before the two wood signs. He would be willing to take those signs down if they had to.

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Mr. Garcia asked if the previous illuminated sign was boxed in with plexi glass. Father Sorgie responded yes. He said the whole inside rotted out.

Mr. Maxwell asked again if he would be willing to remove the wooden school sign to minimize the variance. Father Sorgie answered yes.

Mr. Maxwell asked if the illuminated part of the sign will be a bright background. Father Sorgie answered that it will not be neon and it will not flash. They have tested the sign in black and white.

Mr. Aglietti asked if they could condition the variance if approved, that the sign is one color, there is no flashing, scrolling and one message per day.

Mr. Paepre asked what times of the day would the sign be lit. Father Sorgie responded that they would be willing to have a time restriction.

Mrs. Fabiano asked if there is another location for the Church. Father Sorgie answered yes and gave a brief history of all of the other locations. Mrs. Fabiano asked if the advertising would be for the many different locations that the Church is affiliated with. He answered yes.

Mrs. Fabiano asked how many official lots are in Carmel. Mr. Carnazza answered that there was one lot but Father Sorgie stated that when they looked it up there was 2 lots. Mrs. Fabiano stated that if they removed the one wooden sign, then they would not need a variance for the 3 signs per lot. They would have one lot for each property.

Mr. Fraser asked if anyone in the audience would like to speak on this application.

Rosemary Gephardt was sworn in. She stated she is a resident of Carmel and has been here for 51 years. She is against the sign. She feels that the Town has worked very hard over the years to procure grants for the beautification and revitalization of the hamlet of Carmel. This is a historical district and they are trying to preserve it. This illuminated sign, if granted, would allow the opportunity for other illuminated signs to be posted in the area. It will start to look like a Vegas strip.

Drew Howland was sworn in. He stated that once the illuminated sign at the firehouse was allowed, the Town let the cat out of the bag. At what point does it end. This allows the opportunity for all other businesses to put up the same thing, therefore losing the historical feel of the community. He feels it is extremely unattractive and does not fit in.

Peter Gephardt was sworn in. He stated that he is the Chairman of the Lake Gleneida Citizens Committee. They are recognized by the Town of Carmel for doing things to preserve the integrity of the Hamlet of Carmel. None of the members are in favor of this sign, including members that are part of St. James Church. They have gone through a tremendous effort to change it from run-down buildings to a nice historic scene. He feels that this sign is just not fitting for the hamlet. He has also submitted pictures that show that over time, if permitted will make the hamlet look like an arcade. He feels that the board should seriously consider not permitting this variance. He feels that the sign is very ugly.

Lori Kemp was sworn in. She stated that the sign cheapens the architecture of the hamlet. She understands a great expense went into installing the sign however; it sets a precedent allowing applicants to seek forgiveness after the fact.

Mr. Carnazza stated that the property is 2 lots. The site plan shows it as 1 lot, but the Tax Map shows it as 2. The church (with the rectory) all the way to the left is one parcel and the school is the other. Therefore, if they remove the 1 wooden sign they can remove the variance request for the number of signs.

## **APPROVED**

A lengthy discussion ensued regarding the signs. In summary, there is one sign on the parcel for the school and 2 signs on the parcel with the church and the rectory. Since the code only allows 1 sign per parcel, the applicant would still need a variance for the 2 signs on the one parcel.

Mr. Fraser stated that the real issue is the illuminated sign.

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

### **DECISION OF THE BOARD**

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

Mr. Maxwell stated that he feels it provides a service that not every business needs to such as for emergency purposes. Yes the firehouse already does this but it is a positive thing. He feels comfortable that it's not going to be illuminated like a Vegas strip.

The Board members do agree that this is a tough decision because this is a historical district.

Mr. Paepre does feel like they would be setting a precedent if the sign were allowed. The firehouse already puts up emergency announcements.

Mrs. Fabiano stated that the only problem with the firehouse sign is that not everyone sees that sign. You have to go to a certain point to pass it. The church would be at a more advantageous point.

The Board also discussed the capability of putting conditions on the sign if the variance is granted.

Mr. Fraser stated that he will run through the criteria and the board members can make their own decision.

- 1) Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the variance?

Yes, this is a historical district

- 2) Whether the benefit sought by the applicant be achieved by some other method feasible for the applicant to pursue, other than the variance?

No

- 3) Whether the request is substantial?

Yes

- 4) Whether the proposed variance will have an adverse impact on the physical or environmental conditions in the neighborhood or district?

No

- 5) Whether the alleged difficulty was self-created?

Yes

Mr. Fraser commented that it is 3-2 but it's a balancing test and each Board member must decide individually.

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Mr. Garcia stated that there is another method that could be used. They could put up a box sign like last time. It was his understanding that the Board is trying to differentiate between back-lit and led signs (which are not allowed because of its bare bulbs.

Mr. Fraser stated that they would still have to be back because of the size of the sign, which is where the “substantial” criteria falls into play.

Mr. Garcia stated that he is very much against the LED sign that was put up at the Temple but it did fall within the size. You also have the sign at the firehouse in Carmel that is bright, flashes and scrolls. He strongly feels that we are setting a bad precedent and it is opening the doors for other businesses to put up the same types of signs.

Mrs. Fabiano commented to Mr. Folchetti that she thought businesses were allowed to specify hours of operation for anything. Mr. Folchetti commented that if there is a site plan it is usually up to the Planning Board. However, the Zoning Board is entitled to put any type of reasonable conditions when granting a variance.

Mr. Maxwell stated at some point you have to be willing to advance with technology.

Mr. Garcia stated that if this is what the people want than perhaps the Town should look into possibly changing the Town Code to allow for this.

Mr. Garcia feels that this is a “want to have”, not a “need to have”.

Mr. Fraser commented that you have to remember that when you follow the criteria, it does not meet all of them.

Mr. Maxwell rescinded his motion to grant. Mrs. Fabiano rescinded her second to the motion.

Mr. Garcia made a motion to deny. Mr. Aglietti seconded the motion.

A roll call vote was taken as follows:

Mr. Garcia	for the motion
Mr. Maxwell	for the motion
Mr. Aglietti	for the motion
Mr. Paepre	for the motion
Mrs. Fabiano	against the motion
Mr. Balzano	for the motion
Mr. Fraser	for the motion

The motion carries 6-1.

The variance request is denied.

**Application of Erica Massimi seeking an Interpretation whether dog sitting is permitted in the R-Zoning District or if not allowed the applicant would like to seek a variance to allow the use. The property is located at 30 Mayfair Lane, Mahopac and is known by Tax Map #76.9-3-37.**

Mr. Fraser stated that the applicant has requested to hold the application over.

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

## APPROVED

**Application of Louis Ettere for a Variation of Section 156.15 seeking permission to retain a shed and swimming pool. The property is located at 25 Hilltop Rd, Mahopac and is known by Tax Map #86.13-1-32.**

Code Requires	Will Exist	Variance Required
Swimming Pool 15'	5.8'	9.2'
Shed – 10'	1'	9'

Mr. Aglietti recused himself from this application

Mr. Ettere was sworn in. He stated that he is here to get a variance for his pool and shed.

Mr. Fraser asked if he was in front of this board before.

Mr. Ettere answered yes but the building permit expired. He stated that he put the shed up many years ago and did not realize that it needed a variance. He also stated that he needed to put the pool in where it was because at one time the property sloped and his septic fields are in the back so that was not an option.

Mrs. Fabiano asked if he could move the shed over when it needs to be replaced. Mr. Ettere said he could do that.

Mr. Paepre as well as the other Board members agreed that they would like to see the shed moved when it is replaced.

Mr. Carnazza stated that he would not like it right up against the house. He suggested that the Board condition the variance for the existing shed only.

Mr. Fraser commented that they are ok with the location of the pool because there really is no other place to put it but if he replaces the existing shed, it must be 10' back from the property line to comply with code or the applicant must come back for a variance.

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

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

Mr. Paepre moved to grant the variance for the pool and for this shed only. If the existing shed is ever replaced the applicant must move the location to conform to code or come back for a new variance.

Mr. Maxwell seconded the motion with all in favor except Mr. Aglietti who recused himself from this application.

Motion carries.

**Application of Schilio for a Variation of Section 156-20 seeking permission to construct a 6ft fence in the front yard. The property is located at 25 Winding Wood Ct, Mahopac and is known by Tax Map #53.-2-19.**

## APPROVED

Code Requires	Will Exist	Variance Required
4'	6'	2'

Mr. Schilio was sworn in. He stated that he would like to put up a 6' fence for privacy. He would like to run the fence approximately 100 ft. along the side of the house but his side of the house is considered a front as well. According to code the front can only have 4' so he is seeking a variance for the additional 2'.

Mr. Garcia asked if the stone wall separated the 2 properties and if that is where he intended to put the fence. The applicant answered yes. The fence will begin approximately 20' back from the road.

Mr. Fraser asked the applicant why he doesn't plant trees instead. He stated that he would prefer the fence. He explained that he wanted to do it years ago but he was very friendly with the neighbors and felt uncomfortable because of the impression it would create. The neighbors have since passed on and the house is up for sale so now would be the time to do it.

Mrs. Fabiano suggested putting a condition that the fence begins a certain amount of feet back from the road so as not to obstruct the view when they are pulling in and out of the driveway.

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

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

Mrs. Fabiano moved to grant with the condition that the fence starts 20' off the road. Mr. Aglietti seconded the motion with all in favor.

Motion carries.

**Application of Mary Beth and John Mallon for a Variation of Section 156.15 seeking permission to retain a shed. The property is located at 23 Astor Drive, Mahopac and is known by Tax Map #75.16-1-58.**

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

Mr. Mallon was sworn in. He stated he is before the board to retain a shed that he built on his property back in 2002.

Mr. Fraser asked why he put the shed where he did. He stated he put it there so it was less visible.

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

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

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

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Motion carries.

**Application of Robert Engle for a Variation of Section 156.15 seeking permission to enlarge a boat dock and build a gazebo. The property is located at 8 Frederick St, Mahopac and is known by Tax Map #64.19-1-68.**

Code Requires	Will Exist	Variance Required
Rear 20'	13.29'	6.71'
Rear Side 20'	6.75'	13.25'

Mr. Fraser stated that the applicant requested to hold the application over.

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

**Application of Deborah Alix for a Variation of Section 156.20 seeking permission to construct a 5ft fence in the front yard. The property is located at 74 Lake Shore Drive, Mahopac and is known by Tax Map #74.43-1-65.**

Code Requires	Will Exist	Variance Required
Front Yard Fence 4'	5'	1'

Mrs. Alix was sworn in.

Mr. Fraser stated that the Board understands why she wants to put the 5' fence up. He also commented that the applicant removed the overgrown brush and trees to enhance the property. This left the property exposed and she would like to put the fence up for some privacy.

The applicant stated that she has no back property.

Mr. Garcia stated that he spoke to Mr. Carnazza regarding the shed being so close to the property line. Mr. Carnazza confirmed that the shed is in violation of code and will require a variance.

Mr. Fraser commented that the shed is illegal. The applicant has 3 choices; remove the shed, keep the shed and come back next month with a new application or the Board can vote on this application separately and she will need to come back next month with a separate application to retain the shed (which would require an additional fee).

He reminded the applicant if she holds this application until next month and adds the shed she will need to re-notify the neighbors and re-advertise.

Mrs. Alix requested to hold the application over until next month to make the appropriate changes.

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

## **APPROVED**

Minutes: April & May 2013:

Mr. Garcia made a motion to approve the minutes as corrected. Mr. Maxwell seconded the motion with all in favor.

The meeting was adjourned at 9:01 p.m.

Respectfully submitted,

Donna Esteves