

# 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 FRABIANO  
ROGER GARCIA  
SILVIO BALZANO  
PHILIP AGLIETTI  
CRAIG PAEPRER

## ZONING BOARD OF APPEAL MINUTES

July 26, 2012

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

ABSENT: SILVIO BALZANO

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<u>APPLICANT</u>	<u>TAX MAP #</u>	<u>PAGE</u>	<u>ACTION OF THE BOARD</u>
Mark Greenberg	75.8-2-5	1	Held over
Raed Makki Audah	76.5-1-12	1-2	Approved
Lisa La Forgue	75.9-1-18	3	Approved
Parimal Gomes	74.34-2-39	3-4	Approved
Illena & James Mills's	53.-1-59.-32	4-5	Held over
Beachak Brothers	75-16-1-14	5-6	Approved
Romali Realty	75.10-1-27	6-7	Approved
Pat O'Malley	65.15-1-4	7	Approved
Michael Brewster	64.16-1-3	7	Held over

The meeting was adjourned at 9:00 p.m.

Respectfully submitted,

Donna Esteves

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. Fraser stated that since the applicant did not submit the requested paperwork 7 days prior to tonight's meeting he will have to hold the application over until September since Mr. Greenberg will not be able to attend the August meeting.

Mr. Maxwell made a motion to hold the application over until September. Mr. Aglietti 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'

Dina and Raed Audah were both sworn in.

Mr. Paepreer recused himself from this application.

Dina stated that they are here in regards to the shed. She reminded the board that they were here last month but they had to come back because the sign notifying the neighbors was not posted. She has the affidavits stating that the sign had been posted and the legal notices were mailed.

Mr. Fraser asked how this building got there without a building permit.

She explained to the board that she had an extended roof coming for the house and they enclosed it. They wanted to put some tools in there because it was a shed. She further explained that there was some confusion between her and the building department with regards to the paperwork. She gave Mr. Carnazza the building permit and wrote "enclosed roof."

Mr. Carnazza stated that there was confusion between the front porch and the side porch. The applicant's claim was that they meant to build a side porch and Mr. Carnazza thought it was the front porch that they were enclosing.

Mr. Fraser stated that a shed was always there but they replaced it, making it bigger. Mr. Carnazza confirmed that a 3x3 shed was originally permitted.

Mr. Fraser commented that it is a pretty nice shed and asked if anyone would be using it as living space. Dina replied no, that there is already a wall that's dividing the shed and the house and there is piping all over it.

She said it is impossible and that it is a stone wall. The shed has machinery in there such as the water softener.

Mrs. Fabiano commented that she went through the paperwork and there appears to be other issues. Mr. Fraser stated that they can only hear about issues that pertain to the shed because that's what they are in front of the board for. If there are other violations, it will have to be taken up with the building department. Mrs. Fabiano questioned whether or not they could grant a variance if there are other violations. Mr. Fraser responded yes.

Mrs. Fabiano commented that this "shed" has become part of the house. She also noted that there is only a 5' setback to the side neighbor.

Dina stated that there are many issues with the neighbors and she is being harassed by them. She has installed surveillance cameras on the property. There are police reports with regards to one particular neighbor. She claims that this neighbor constructed a shed about 4' from their property line.

Mr. Fraser stated that he will not get involved with the civil dispute with the neighbor. The neighbor did receive a variance for the shed but Mr. Carnazza will go out and inspect to make sure there are no violations.

Mr. Maxwell asked if it is still considered a shed by code if it is attached the house. Mr. Carnazza said yes.

Mr. Garcia said he walked the property and confirmed that the only access to the shed is if you walk outside. He confirmed that the shed was being used for storage even though it looks like it is part of the house.

Pat Kilvey addressed the board and was sworn in. She claims that she never received notifications for any other prior variance requests. She questions why there are cathedral ceilings for a supposed "shed". Mr. Fraser stated that if she thinks they are using it as living space then she can report it to the building department and they will go out and inspect it.

Mr. Garcia asked if there are two different rooflines and the applicant said no that it is one roofline. Mr. Audah stated that when he bought the house the shed was already there and that the only thing he did was enclose it. Mr. Garcia asked if he moved the footing and he stated that all he did was fix the existing one.

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

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

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

Mr. Maxwell stated that the services to that house are in that demising wall so it would be stupid to remove it. Regardless, if it looks as if someone is living in that space; the neighbors will report it to the building department.

Mr. Fraser commented that once the neighbors knew that the board was only going to discuss the shed, they didn't have much to say.

Mr. Fraser repeated that they had a motion, they had a second and everyone was in favor with the exception of Mr. Paeprer who recused himself from the application.

The application of Lisa LaForgue, for a Variation of Section 156-15 seeking permission to construct a second floor. The property is located at 235 Secor Rd, Mahopac and is known by Tax Map #75.9-1-18.

Code Requires	Will Exist	Variance Required
Front Yard - 40 ft.	13'	27'

Mr. Paepre returned to the podium.

Mr. Greenberg was sworn in. He stated that the property is located on Secor Rd but does not border on Secor Rd. There is a right of way to the property. They are planning to extend the line of the house and add a second story. The setback will not change. There will be no impact to any of the neighbors because you will not see the addition to the house because of the way the property is situated. They just need the front yard variance.

Mr. Fraser asked what the front of the yard will look like. Mr. Greenberg stated it is going to be a gable end.

Mr. Fraser commented that in the future the board would like to see the elevations for what they are asking the variance for.

Mr. Garcia asked if there is one front and Mr. Carnazza answered yes.

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

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

Mr. Maxwell made a motion to grant. Mr. Aglietti seconded the motion with all in favor.

Mr. Garcia stated that he would like to see a complete set of elevations when they are talking about something as substantial as a 2<sup>nd</sup> floor addition.

Mr. Fraser noted that the law isn't written yet, but when it is, it should say "a complete set off plans"

The application of Parimal Gomes, for a Variation of Section 156.15 seeking permission to rebuild a new roof with a higher pitch. 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
15' Rear	2.91'	12.09'
25' Front (Forest)	11.5'	13.95'

Mr. Gomes was sworn in. He stated that he is back with new plans. He is going to keep the existing house and put on a new roof.

Mr. Fraser asked if Mr. Gomes was creating living space above. Mr. Gomes said no, he is just creating storage space.

Mr. Fraser asked how high it would be to the ridge. Mr. Gomes stated it would be about 7'. Mr. Fraser stated that he would have to bring that down because that could be considered living space. Mr. Carnazza stated that he is doing a single pitched roof so he will not be able to have living space.

Mr. Maxwell commented that the applicant's roof is riddled with holes.

Mr. Garcia commented that obviously something must be done however he felt that he would have liked to see something of a little more substance in order to make a more informed decision.

Mr. Maxwell commented that he will definitely have to have something with a little more pitch to it.

Mr. Carnazza asked if he is looking for living space. Mr. Gomes replied no not right now.

Julia Gomes was sworn in.

Mr. Fraser asked if she wanted to have living space up there or was she just looking for storage space. She replied that she only wanted storage space so she is ok with the height to the ridge being 6.8'.

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

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

Mrs. Fabiano moved to grant with the condition that the height of the 2<sup>nd</sup> floor will not exceed 6.8' from the finished floor to the top of the ridge. Mrs. Aglietti seconded the motion with all in favor.

Mr. Garcia stated that once again he would like to see a complete set of elevations.

**The application of Illena & James Mills, for a Variation of Section 156.15, seeking permission to close in an open deck which has a non-conforming front yard. The property is located at 51 Spring La, Mahopac and is known by Tax Map #53.-1-59.-32.**

Code Requires	Exists	Variance Required
Front Yard - 25 ft.	18.8'	6.2'

Mr. Greenberg stated that this is a piece of property located in the Ossi Sports Club off of Barrett Hill Rd. He stated the house is very small and they would like to close in the open deck to give them more space. They are seeking a front yard variance. They setback to the front property is the same as it is to the porch. This is at the end of the road so nobody will be impacted by it.

Mr. Garcia was confused because the drawing was misleading. Again he would like to have more in terms of side elevations to get a better idea of what they are looking at. Also, the pool isn't on the survey and it is only about 12 feet from the property line. Is a variance needed????

Mr. Carnazza said the pool is too close to the property line so they will need a variance for it. They will need to add it to this application.

Mr. Fraser stated that they will have to re-notify the neighbors.

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

The application of Beachak Brothers, LLC, for a Variation of Section 156.15 seeking permission to construct a deck for dining in the rear of the diner. The property is located at 493 Route 6, Mahopac and is known by Tax Map #75-16-1-14.

Code Requires	Will Exist	Variance Required
Lot Area 40,000	6,400 sf.	33,600 sf.
Lot Width 200 ft.	155'	45'
Lot Depth 200 ft.	50'	150'
Front Yard 40 ft.	2.9'	37.1'
Rear Yard 30 ft.	1.6'	28.4'
Floor Area 5,000	740'	4,260'
Parking Space Size 10x20	10x6	14' PS depth
10 Parking Space	9	1
Loading space not on property		

Steven Ferrara was sworn. He stated they are looking to construct a 14x35 wood deck to the rear of the Countryside Kitchen diner. They have also incorporated the parking plans including handicap parking and access into the restaurant through this deck. The most significant variance is for the rear setback.

Mr. Carnazza stated the parking spaces have the right depth at 6' deep but they are not on their property but have licensing from the state. But because it is not on their property they need the variance.

Mr. Fraser stated that not all the parking spaces have 6' depth. Mr. Carnazza stated that is the worst case scenario and that is how they would have to word it on the variance, "the smallest parking space". Mr. Carnazza stated that they are the full length, it's just that the other however many feet are in the right of way.

Mr. Fraser noted that they are only talking about a few spaces not all of them. He also asked Mr. Carnazza if they had enough parking for the additional seats on the deck and he answered yes.

Mr. Fraser asked if the applicant was thinking of opening for dinner. He answered no; it is just breakfast and lunch.

Mrs. Fabiano asked if they are going to remove the picnic tables in the parking lot. He answered yes.

Mr. Paepre asked how many people they are planning to seat on the deck. They responded that the seating occupancy isn't going to change.

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

## **DECISION OF THE BOARD**

Mr. Paepre made a motion to grant. Mr. Maxwell seconded the motion with all in favor.

The application of Romali Realty LLC, for a Variation of Section 156-15 seeking permission to construct a gable roof on an existing building. The property is located at 175 Myrtle Ave, Mahopac Falls and is known by Tax map #75.10-1-27.

Code Requires	Existing	Variance Required
Front Yard (Myrtle Ave) 40 ft.	15'	25'
Front Yard (Brook Ave) 40 ft.	0.6'	39.4'
Side Yard - 25 ft.	12.98'	12.02'

Mr. Greenberg reminded the board that the building has a flat roof that leaks like a sieve and they would like to construct a gable roof and the height from the roof to the peak will not exceed 6.8' and will not have any living space.

Mr. Maxwell asked if they are doing anything else to the building, what types of finishes. He said it will be stucco and similar to what is there now.

Mr. Garcia asked if there was going to be enough of a pitch to make the dormers look ok. He answered yes.

Matt Dufler was sworn in. He is the neighbor that lives behind the applicant. He likes the plans and the designs. His concerns where the water is going to drain?

Mr. Carnazza says that the law states that he will have to do something to drain the water so as not to be a nuisance to your neighbor.

***\*\*\*Power was lost at this point of the meeting. Minutes were submitted by Rose Fabiano as per below:***

*Meeting stopped at approximately 8:30 due to power outage*

*Meeting resumed at approximately 8:45 with Phil Aglietti and Diane Krebs from Euro Video, audio recording meeting and Rose Fabiano taking minutes by hand.*

ROMALI - Romali's neighbor left the meeting during the power outage. Joel Greenburg stated that he satisfied all of the neighbor's concerns during the break and Mike Carnazza was present during the discussion.

*Mark Fraser also stated that the issues the neighbor had concerning drainage would be worked out with Mike Simone?*

*John Maxwell motioned to close the public hearing.*

*Craig Paepre seconded with all in favor.*

***\*\*\*Please note that video recording was resumed prior to deliberations and all deliberations were recorded.***

### **DECISION OF THE BOARD**

Mr. Maxwell moved to grant with the condition that the height of the roof will not exceed 6.8' from the finished floor to the top of the ridge. Mrs. Fabiano seconded the motion with all in favor.

The application of Pat O'Malley for Variation of Section 156.15 seeking permission to retain the shed and Pergola. The property is located at 131 Lake Dr., Mahopac and is known by Tax Map #65.15-1-4.

Code Requires	Will Exist	Variance Required
20' Side Shed	9'	11'
20 Side Pergola	4'	16'

*Pat O'Malley was sworn in and stated she needed variances for a pergola and shed. She stated that her first husband built the two structures without the variances and was now divorced, remarried and selling the house. She said she needed the shed for storage and the pergola for shade.*

*John Maxwell stated that the shed was probably there for more than 10 years and was well screened.*

*Roger Garcia added that there was a chicken coop on the property and it will need to be removed. Roger also said that the shed is well screened and the pergola is open.*

*John Maxwell motioned to close the public hearing.*

*Philip Aglietti seconded with all in favor.*

### **DECISION OF THE BOARD**

Mr. Maxwell made a motion to grant with the condition that the chicken coop is removed prior to the issuance of the C/O. Mr. Aglietti seconded the motion with all in favor.

The application of Michael Brewster, for a Variation of Section 156.15, seeking permission to construct a greenhouse. The property is located at 269 West Lake Blvd and is known as Tax Map #64.16-1-3.

Code Requires	Will Exist	Variance Required
20 ft. from next property	15'	5'

*Mark Fraser stated that this case needed to be held over. The map did not show the improvements and the board did not get copies of what the structure would look like. Mark told Mr. Brewster that he needed to resubmit the drawing with the improvements on the map.*

*Power resumed approximately 8:50*

*John Maxwell agreed that there was no record of where it will be.*



The meeting was adjourned at 9:00 p.m.

Respectfully submitted,

Donna Esteves