

APPROVED

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Vice-Chairman

**TOWN OF CARMEL
ZONING BOARD OF APPEALS**



60 McAlpin Avenue
Mahopac, New York 10541
Tel. (845) 628-1500
www.ci.carmel.ny.us

MICHAEL CARNAZZA
*Director of Code
Enforcement*

BOARD MEMBERS

ROSE FABIANO
SILVIO BALZANO
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ZONING BOARD OF APPEALS MINUTES

MAY 28, 2015

**PRESENT: CHAIRMAN, JOHN MAXWELL, VICE-CHAIRMAN, PHILIP AGLIETTI, ROSE FABIANO,
SILVIO BALZANO, WILLIAM ROSSITER, MARC DITOMASO, MICHAEL SCHWARZ**

<u>APPLICANT</u>	<u>TAX MAP #</u>	<u>PAGE</u>	<u>ACTION OF THE BOARD</u>
David Vaughan & Debra Serio Vaughan	65.13-1-25 & 29	1-4	Granted.
Michael & Rocco Campanelli	75.11-2-25	4-6	Granted.
Donald J. Nailor	87.5-2-68	6	Granted.
Edward Morse	64.15-1-11	6-7	Granted.
Phantom Fireworks/ Bernad Creations LTD	86.10-1-3	7-9	Heldover.
Frank Roa	64.16-1-33	9-11	Heldover.
Beachak Brothers, Inc	75.16-1-15	11-12	Granted.
Katie and Thomas Helly	75.15-1-13	12	Interpreted that house is legal two family residence.
Estate of DeFrancesco	76.23-1-8	12-13	Granted.
Secor 78, LLC	74.43-1-11	13-14	Granted.
Minutes – 3/26/2015		14	Approved.

The meeting was adjourned at 9:22 p.m.

Respectfully submitted,

Rose Trombetta

Application of David Vaughan and Debra Serio-Vaughan for a Variation of Section 156-15, seeking permission to retain masonry wall with built in fireplace. The property is located at 544 North Lake Boulevard, Mahopac and is known by Tax Map #65.13-1-25 & 29.

Code Requires	Will Exist	Variance Required
Masonry Wall 10' Side	1.5'	8.5'
Height 6'	9'	3'

Mr. David Vaughan and Mrs. Debra Serio-Vaughan were sworn in.

Mr. William Shilling, attorney for the applicants addressed the board and stated we are seeking an 8.5' foot variance for the wall, which is not uncommonly found in walls, along with a height variance of 3 In support of what we're seeking we have submitted an application and a memorandum of law. The facts of the case are that my client purchased the property in 2004 and in 2013 he purchased a little strip of property from the Homeowner's Association. He then points to the map and shows the strip of property that was purchased. He stated even though we require a 3' variance for our wall, it is substantially compliant with the 6' dimension. My client purchased the property and built the wall for two primary reasons, one is to provide privacy for his pool and for recreation that the outdoor fireplace will serve as. My client believed that the wall did not require a variance. He built the wall and found out through Mr. Carnazza that a permit was required. I'd ask you to review the wall and consider that it's beautifully built and aesthetically pleasing. Most of the wall itself is less than 6 feet, the pillars go up to 7 feet and the chimney reaches 9 feet. It's important to note that fireplaces are permitted in the Town of Carmel. My client only has one neighbor that would be affected and the house that the neighbor resides in to the wall is about 80-100 feet. There is a partial screening between the wall and my client consisting of hemlocks and if the board is so inclined and would like further screening, my client would be willing to do that. He then addresses the 5 criteria of an area variance and how they relate to this application. My client has reduced the pathway of the smoke that might affect the neighbor. The smoke goes up the chimney, through a filter and streamlines out, as opposed to a big, open hearth which would create much more smoke and disturbance. My client uses this about 4-5 times a year. I'd like to add that this would be equally as bad if it were 6 feet or under. There is no causal connection between the smoke that may hinder a neighbor's use and enjoyment versus the height.

Mr. Maxwell asked if there is any property that can be purchased that can negate the variance.

Mr. Shilling stated my client did purchase property to accommodate the buffer that is now the wall.

Mr. Maxwell asked how this case came up.

Mr. Carnazza stated complaints to my department.

Mr. Maxwell stated the only immediate effect I see is the neighbor to the right. I could see the property is meticulously manicured and the wall is beautiful. There is screening along that adjacent neighbor to the right, which helps tone it down.

Mrs. Fabiano stated I remember a number of years ago when the pool went in and I remember them needing a variance for the pool, but now you've bought that extra section. It says here the year purchased is 2013 yet you said in your presentation that it was 2004. Is 2013 the year you bought the extension?

Mr. Shilling stated yes.

Mr. John Astrologo was sworn in. He addressed the board and stated my mother and I own the house to the right, number 538 and we have quite a bit of complaints. If you're standing on our yard and you're looking up the wall is over 6.5' and to the top of the chimney it's about 9.5-10.'

Mr. Maxwell asked Mr. Carnazza to confirm that the measurements are based on what's exposed.

Mr. Carnazza replied yes, it's the exposure of the wall.

Mr. Astrologo asked if the measurements are from their side or our side.

Mr. Carnazza stated the high side, whichever one is the higher of the two. I'll take a look at it and see what the numbers are.

Mr. Maxwell stated the applicant is willing to plant additional screening.

Mr. Astrologo stated I planted my own, I'm a mason contractor and it's not pleasing to my eye. There are two different styles of stone and I put in a bigger berm to try to take the eyesore off my mother.

Mr. Maxwell stated if they planted a row of evergreens would that help please the situation so it's less visible.

Mr. Astrologo stated but now I lose part of my property.

Mr. Carnazza stated that's correct, they only have about a foot.

Mr. Astrologo stated I don't think that's fair in my opinion and what about the smoke? When my mom is on the deck the smoke just billows out and blows over to her side. Along with the lights because they're higher when they're lit and it blinds the whole side yard.

Mr. Maxwell stated I don't think there's any kind of restriction on them having lights.

Mr. Aglietti asked Mr. Carnazza if the light on the wall itself does that add to the wall.

Mr. Carnazza replied no.

Mr. Maxwell stated so all I can offer is to put some screening along that wall and we can make sure that they maintain it.

Mr. Astrologo stated so that screening has to come on my property so we lose part of our property because of their mistake.

Mr. Maxwell stated ultimately it will be up to what the board thinks when we vote.

Mr. Shilling stated Mr. Vaughan intends to be a good neighbor to Mr. Astrologo. As I said he doesn't light the fire when it's windy. Last summer he only lit it 4-5 times. He will screen in a way that doesn't involve trespass, if the board is so inclined. Whether it's a 6 foot fireplace, 9 foot or 3 foot the smoke is going to be there and the town permits fireplaces.

Mr. Astrologo stated he might only use it 4-5 times a year but what happens if they sell it and those people use it every day.

Mr. Maxwell stated well they have the right to; it's permitted in the town.

Mr. Shilling stated the variance we're requiring is on a 9' basis. We're comfortable that regardless of where you measure the wall from it's under 9'. It's about 6' throughout, but at no point does it exceed 9' which is where the chimney is.

Mrs. Fabiano stated it does require an 85% on the sideline and 85% is a significant request. She asked where the ground was raised.

Mr. Carnazza stated right next to the wall, they put a dirt berm on the Astrologo side of the wall.

Mr. Shilling stated the house is about 80 feet from the structure.

Mr. Maxwell asked if the wall had to be brought down to code, what the value of the work would be.

Mr. Shilling stated it's not just the stone that would go, it would be all the inner workings of the fireplace. The fireplace, which is permitted in the town, would exist and create the same problem to this neighbor if it were 3 or 6 feet. There is no additional smoke as a result of the height. As a matter of fact it's less because it's more constant.

Mr. Aglietti asked when the fireplace was built.

Mr. Shilling responded 2010/2011.

Mr. Balzano asked if the whole structure was built at that time also.

Mr. Vaughan stated the wall was built first to screen the pool and the fireplace became an afterthought. I did call the town to ask if there are any codes for outdoor fireplaces, I just didn't know to ask if that counted as a structure. I did my best to check in advance of building it. It was an unfortunate mistake on my part that I didn't know enough to inquire if I needed a variance.

Ms. Ellen Leber was sworn in. She addressed the board and stated I live in the association and Mr. Vaughan put in his pool. It was supposed to be a physical therapy pool originally, but now it's a pool with a fireplace and a stone wall. It's not fair what they've been doing, it's wrong. I don't think they're reasonable.

Mr. Shilling stated my client built a pool, a wall and a fireplace. If he should be condemned for that then so be it. He's done nothing to hurt this neighbor or the Homeowners Association. He's developing his house beautifully.

Mr. Balzano moved to close the public hearing. The motion was seconded by Mr. Aglietti with all in favor.

Decision of the Board

Mr. Schwarz moved to grant for discussion purposes. The motion was seconded by Mr. DiTomaso.

Mr. Schwarz stated I think the neighbor would be happy with some screening, so I would recommend some kind of screening for the wall that's acceptable to the neighbor.

Mr. Carnazza said you could put up a trellis and grow an ivy on there. He said there are other ways to break up that wall.

Mr. Balzano asked how will he get the trellis up without going on the neighbor's property without trespassing.

Mrs. Fabiano stated I looked at the criteria and I have a problem with every aspect of the criteria in this situation. As far as the screening goes I don't think it's fair that screening may be on the neighbor's property. I'm usually the more difficult member, but that's the way I see it. I just don't see any of the criteria as fitting for this application.

Mr. Aglietti agreed with Mrs. Fabiano.

Mr. Carnazza stated if anything the chimney would have to be lowered to 6 feet tall which would destroy the box on his fireplace.

Mrs. Fabiano said they are still too close to the property line.

Mr. Carnazza said not if it's 6 feet tall and his fire box is within the 6'.

Mr. Maxwell said so in the grand scheme of the cost it's minimal to get it down to where it needs to be.

Mr. Carnazza said except that his fire box is probably in that 6 feet.

Mr. Balzano said the other side of this is if we deny this application and brings it down to conformity and the neighbor still sees the wall nothing changes and there is no need for landscaping.

Mrs. Fabiano said they could do their own landscaping on his side.

Mr. Carnazza said I will have to go out and verify that the numbers they gave us are correct.

Mrs. Fabiano said without increasing the berm.

Mr. Carnazza said the berm counts. You measure to the top of the berm on their property.

Mrs. Fabiano said so you will measure from both sides?

Mr. Carnazza said whatever makes it taller which will be the outside in this case.

A roll call vote was taken as follows:

Mr. DiTomaso	For the motion
Mr. Schwarz	For the motion
Mr. Rossiter	For the motion
Mr. Aglietti	Against the motion
Mrs. Fabiano	Against the motion
Mr. Balzano	Against the motion
Mr. Maxwell	For the motion

Motion carries.

Application of Michael and Rocco Campanelli for a Variation of Section 156-15, seeking variances for existing conditions on a lot with three buildings consisting of a 6 unit and two 1 unit dwellings, as required by the Planning Board. The property is located at 424 Baldwin Place Road, Mahopac and is known by Tax Map #75.11-2-25.

Code Requires	Will Exist	Variance Required
40' Front Yard (6 family)	.01'	39.99'
40' Rear Yard (single family middle dwelling)	16.9'	23.1'
40' Front Yard (single family middle dwelling)	38'	2'
40' Front Yard (single family rear dwelling)	5.1'	34.9'
40' Rear Yard (single family rear dwelling)	4.1'	35.9'

Mr. Maxwell left the podium.

Mr. Shilling addressed the board and stated Mr. Michael Campanelli and Mr. Rocco Campanelli are the owners of this property. Their property is directly across from the middle school, which was an important factor in 1986 when the previously went to the Zoning Board and it's an important factor now. My client purchased in 2002. There are three structures on the property and each one of them the property line and have existed for a long time. One of the structures is a six family and the other two are single family. At the time when this matter was in front of the board back in 1986 there was a mixed use, a commercial and a residential use. There was a hardware store, an appliance store, a garage sale venue and a storage facility. In 1986 they went to the board for an interpretation that if they converted this to 8 residential units would it be more restricted than the mixed use that existed? It was decided that the residential use was more restricted than the mixed use. The interpretation was granted that it become all residential with the condition that the commercial use immediately cease. It was pointed out they should have done setback criteria as well at the time because all three of the houses are very close to the property line. The facts are that prior to 1986 it was a mixed use and after 1986 they found that 8 residential units were more restricted than a mixed use property. They directed the applicant at the time to go to the Planning Board, which they did once or twice but never finished the job. When my client purchased in 2002 they had no notice of any violation. They are now trying to sell the property and have come to find that there is no approved site plan. Mr. Carnazza suggested they get area variances because of the side yard situation. He then addressed the 5 criteria of an area variance and how the application applies to each. We're looking to finish the job that the Zoning Board completed in 1986. After this we will go to the Planning Board to seek relief from them.

Mr. Aglietti asked Mr. Carnazza if he agreed that this is housekeeping.

Mr. Carnazza stated yes, they went to the board in 1986 and got their interpretation and it's a better use. The problem is right now if they didn't get this and they went back to commercial they could put a 7/11 right there or other things and that's not exactly what you want by the entrance to the middle school. They went to the Planning Board at the time for a waiver and were denied the waiver. That is why they are here again and also going back to the Planning Board to clean up the area, they are not adding anything.

Mrs. Fabiano asked when the buildings were erected.

Mr. Shilling stated we think over 80 years ago. They're certainly all predate code.

Mrs. Fabiano asked if they tried to buy any surrounding property to alleviate the variance.

Mr. Shilling stated there are no adjacent properties to purchase, it's very tight.

Mrs. Fabiano asked once they granted that variance they can't revert back to a commercial use, can they?

Mr. Shilling stated I would say that the job didn't get finished. So I would make the argument that since site plan never got approved as a residential or waived, that they could make it a commercial use without violating the code.

Mr. Balzano stated if we grant this variance then it's locked in.

Mr. Shilling stated that is correct.

Mrs. Fabiano moved to close the public hearing. The motion was seconded by Mr. Rossiter with all in favor.

Mr. Maxwell returned to the podium.

Decision of the Board

Mr. Balzano moved to grant the variance. The motion was seconded by Mrs. Fabiano with all in favor except for Mr. Maxwell who abstained.

Application of Donald J. Nailor for a Variation of Section 156-15, seeking permission to construct a tool shed. The property is located at 6 Birch Lane, Mahopac and is known by Tax Map #87.5-2-68.

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

Mr. Donald Nailor was sworn in. He addressed the board and stated I'm asking for a 50% variance for an erection of a toolshed on my property. I bought my home in 2004 and back then the homeowners had a tool shed on their property. They laid a concrete foundation where it is now and they never applied for their correct permits. When I purchased the home I asked them to remove the shed because it was not permitted, which they did but they left the foundation. When I went for my permit I realized I needed a variance because the foundation is about 3 feet from the property line, but the tool shed I'm looking to build would be about 5 feet from the property line. I do have the approval from my neighbor who is right next to the property line; I have a letter from him as well.

Mr. Maxwell stated it looked like it was well screened also. Is there any other property you could purchase to bring this into compliance?

Mr. Nailor replied no. My property is also completely on a hill, so that piece where the foundation is, is the only flat piece.

Mr. Aglietti moved to close the public hearing. The motion was seconded by Mrs. Fabiano with all in favor.

Decision of the Board

Mrs. Fabiano moved to grant the variance. The motion was seconded by Mr. Aglietti with all in favor.

Application of Edward Morse for a Variation of Section 156-15, seeking permission to build a storage shed. The property is located at 3 Lakeside Road, Mahopac and is known by Tax Map #64.15-1-11.

Code Requires	Will Exist	Variance Required
10' Side	1'	9'

Mr. Edward Morse was sworn in. He addressed the board and stated he bought the house last year and was looking to build a storage shed. He said unfortunately, the property is downhill and everything is on a slope, there's only one area where you could put a shed. The distance between the property line and the house is only about 20 feet, so in order to put a shed in that's 8 x 12 it has to be one foot from the neighbor's property. As part of the application there is a letter from the neighbor that resides at 5 Lakeside Road and he has no objection to the storage shed.

Mr. Maxwell stated when I was out there looking at it I felt it could be located in some better spots. He pointed to the map and suggested a different area.

Mr. Morse explained why that spot would not work, stating that it would still require a variance and he would lose the use of the stone deck.

Mr. Maxwell asked if there is any other property he could buy to bring this into compliance.

Mr. Morse stated unfortunately no.

Mrs. Fabiano asked if there was any chance he could bring the shed in one more foot.

Mr. Morse stated I couldn't even fit a table in there if I move it in another foot.

Mrs. Fabiano stated what about a smaller shed.

Mr. Morse stated you can't get much smaller than 8 feet. It's 8 x 12 and it's 8 feet wide.

Mr. Maxwell stated it's 8 feet wide and you're going to have it facing the house?

Mr. Morse replied yes because if I put it on that wall I destroy my whole view.

Mr. Balzano moved to close the public hearing. The motion was seconded by Mrs. Fabiano with all in favor.

Decision of the Board

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

Application of Phantom Fireworks/Bernad Creations LTD for a Variation of Section 156-15, seeking a "use" variance for permission to put in a temporary retail tent for the sale of safe, legal and sane fireworks. The property is located at 104 Route 6, Mahopac and is known by Tax Map #86.10-1-3.

Code Requires	Will Exist	Variance Required
		Use Variance

Mr. Donald Garafolo was sworn in. He addressed the board and stated we're applying for a use variance for Phantom Fireworks. This is the first year they've allowed safe and sane fireworks in New York State. They're sparklers and fountains; there are no explosives or black powder. These specific

fireworks were taken off the dangerous list by the Governor. It's a temporary selling period allowed by the state from June 25th to July 4th. We're looking to put up a 20 x 40 tent and an 8 x 20 storage container. We're looking for a fundraiser to run the tent for us. We've been talking to American Legion and Knights of Columbus.

Mr. Maxwell asked if the storage container would be steel.

Mr. Garafolo stated they will have wood so there's no sparks when they're transferring the products in and out.

Mr. Maxwell stated there is a granted variance here for allowing seasonal sales.

Mr. Carnazza stated this is a use variance, so when you all discuss the seasonal sales you were very firm on the fact that it was agricultural. This obviously is not agricultural that's why I didn't allow it to go through the same interpretation.

Mr. Garafolo stated the big misconception is that they're going to explode fireworks or there's black powder involved, but it's none of that. It's all water soluble and there are no projectiles.

Mr. Balzano stated my concern is with the use variance criteria. "Incapable of earning a reasonable return for any of the allowable uses," how do we prove that in this case?

Mr. Carnazza stated it's a commercial zone so he's allowed to have retail sales, services, general business, etc.

Mrs. Fabiano stated did you bring any financials with you to show that the land can't reach a reasonable return if this doesn't go through.

Mr. Garafolo stated I have never been asked that.

Mrs. Fabiano stated that's one of our criteria, it's a legal requirement.

Mr. Maxwell read aloud the criteria for a use variance.

Mr. Garafolo stated are you asking me what the potential earnings are.

Mr. Balzano responded yes.

Mr. Garafolo stated we did put a number on it of \$25,000.00 and the farm gets a percentage of that.

Mr. Carnazza stated his only use permitted there is a parking lot for the farm.

Mr. Maxwell asked do you want to come back with some sort of proof of financial burden.

Mr. Garafolo stated I can talk to my boss but we are running out of time here.

Mr. Maxwell stated the next meeting is June 25th.

Mr. Garafolo stated that wouldn't work.

Mr. Maxwell stated unfortunately it seems like most of the board members are looking for more proof.

Mr. Garafolo stated I was never asked any of this before.

Mrs. Fabiano stated my other concern is that the tents have signage on it, which you would need another variance for because the signs are enormous and the lettering on them doesn't conform to code.

Mr. Garafolo we could conform to whatever you need.

Mr. Carnazza stated he would need to go down to 40 square feet.

Mrs. Fabiano stated the only other time I've seen something like this on that lot is when they sold Christmas trees and we were very adamant that it was something very natural and organic that was being sold there.

Mr. Aglietti stated unfortunately you as the applicant have the burden here to prove four things and I'm sorry but I don't believe you've come close.

Mr. Garafolo stated if I can receive the criteria of what's required for a use variance then I can pass it along.

Mr. Maxwell stated we'll hold this over until next meeting.

Mr. Aglietti moved to holdover the application. The motion was seconded by Mr. Balzano with all in favor.

Application of Frank Roa for a Variation of Section 156-15, seeking permission to construct an addition. The property is located at 41 Averill Drive, Mahopac and is known by Tax Map #64.16-1-33.

Code Requires	Will Exist	Variance Required
15% (2,715sf)	23.5% (4,265sf)	8.5% (1,550sf)
15' East Side Yard	10.7'	4.5'
15' West Side Yard	8.7'	6.5'

Mr. Michael Piccirillo was sworn in. He addressed the board and stated my clients purchased this house last year. The existing house is a one story ranch house with a walkout. There is a non-conforming side yard setback on the east side. It has a single car garage. My clients approached me to develop this house and move in with their family; they have a large family and several cars. We're looking to build a two bay garage attached to the house. We're also looking to move the bedrooms to the second floor, which we are proposing a new second floor on top of the existing footprint. On the east side of the house we will be maintaining the non-conforming setback. We are looking to increase the non-conformity on the west side. My clients are also looking to put in a pool in the backyard so that is also pushing our non-conforming coverage area to a greater variance. We are looking to increase the non-conformity by about 2,500 square feet. We're not going to be exceeding our maximum height.

Mr. Maxwell asked if there's any additional property that can be purchased.

Mr. Piccirillo stated no there are private residences on both sides. My client has spoken to each of the neighbors on the east and west side directly affected and neither have a problem with the addition.

Mr. Maxwell stated I'm a little concerned about the amount of coverage that you have. Can we come up with a means of minimizing the amount of coverage with less patio space or something else? Especially because it's on the lake there's going to be a lot of wash off.

Mr. Piccirillo stated I spoke to my clients tonight and they are willing to cut back the amount of patio space perhaps around 200 square feet.

Mr. Aglietti stated we did get a letter from a neighbor across the street. The concern from this neighbor is that it's going to block their view of the lake. Can you speak to that?

Mr. Piccirillo stated there's an existing house there now with a pitched roof and we're proposing an addition that will be below the threshold for maximum height. I think my client would be willing to lower the ridge of the roof maybe 3 feet. Regardless of the type of roof it wouldn't change the effect it will have on the neighbor's view.

Mrs. Fabiano stated one of the criteria we have to take into consideration is if this will be detriment to surrounding properties. If you take away the view from the neighbor's house then that devalues their house, so that becomes a concern. Apparently they're okay with the garage but the extension is a bit of a problem.

Mr. Piccirillo stated in order to try to accommodate the neighbor's we'd be willing to lose the second floor portion above the garage. There would not be a need for a two story setback at that point. The neighbor approached the stand and he showed her on the map what they would be willing to change to accommodate her view.

Ms. Katherine Tierstein was sworn in. We were under the impression that they were just going to be building up, not adding a second garage as well. That would totally block the view of the lake. Right now all we have is a little area in between their existing garage and the neighbor's tree line and what we can see over their garage. By adding a second garage they will wipe out that whole view.

Mr. Maxwell suggested a larger garage door that will allow two cars but will minimize the amount of space in between.

Mr. Piccirillo stated what we're proposing isn't exactly an oversized garage. We're going into the house to create the two car garage.

Mr. Maxwell stated our job is to grant the minimal variance possible.

Mr. Piccirillo pointed to the map and explained that they are going half way in and half way out to create a new garage. They are moving closer to the side yard to create a modern two bay garage. We're going out 8 feet. My client is willing to remove a portion of the roof to get the second floor out of the setback. However, we need a two bay garage and there's no room to pull it any further into the house.

Mrs. Fabiano asked if they could submit another drawing for next month.

Mr. Maxwell stated the roof portion of the garage will not be any higher than Ms. Tierstein's house. He asked if they are willing to rethink this application and come back next month. We will need new drawings and updated coverage.

Ms. Ellen Lever addressed the board and stated my grandfather built this house and there's not much room on the right or the left. It's an incredibly well built house. She expressed concern about the septic system and the amount of bedrooms and bathrooms that are allowed.

Mr. Maxwell stated that is a Board of Health issue.

Mr. DiTomaso asked who owns the trees that are in the tree line.

Mr. Piccirillo stated the neighbors share the trees.

Mr. Maxwell stated I think we'll hold this over and you can come back with a revised drawing and minimized coverage and bringing down the numbers on the right side.

Mrs. Fabiano moved to holdover the application. The motion was seconded by Mr. Aglietti with all in favor.

Application of Beachak Brothers, Inc for a Variation of Section 156-15, seeking permission to replace motorcycle showroom with kitchen showroom with boutique and install two additional signs. The property is located at 485 Route 6, Mahopac and is known by Tax Map #75.16-1-15.

Code Requires	Will Exist	Variance Required
Lot Area = 40,000sf	35,500sf	4,500sf
Allows 1 sign/establishment	3 signs (motorcycle)	2 signs

Mr. Matthew Beachak was sworn in. He addressed the board and stated I'm looking for a lot area variance of 4,500 square feet as well as some additional signage that was recommended by the Planning Board.

Mr. Carnazza stated this applicant came before the board in 1986 and requested these variances but the board back then crossed them off and said they didn't need them because they're not changing anything. Now we're having them clean everything up.

Mr. Maxwell stated you are looking to replace the motorcycle showroom with a kitchen showroom and boutique.

Mr. Beachak stated yes.

Mr. Maxwell asked what a boutique is.

Mr. Beachak stated they sell women's clothing.

Mr. Carnazza stated the Planning Board suggested additional signs to break up the big wall that is there.

Mr. Maxwell asked what the size of the existing sign is.

Mr. Beachak stated there is no signage on the building itself at this time, there's only an existing pylon sign.

Mrs. Fabiano asked if they are changing the footprint at all.

Mr. Beachak replied no.

Mr. Aglietti moved to close the public hearing. The motion was seconded by Mrs. Fabiano with all in favor.

Decision of the Board

Mr. Aglietti moved to grant the variance. The motion was seconded by Mr. Rossiter with all in favor.

Application of Katie and Thomas Helly for an Interpretation that existing house has always been a two family house. The property is located at 14 Veschi Lane North, Mahopac and is known by Tax Map #75.15-1-13.

Mr. Thomas Helly and Mrs. Katie Helly were sworn in. Mrs. Helly addressed the board and stated we purchased this house in 2008 and at the time we thought it was a two family. We listed this past February and we looked into converting it back to a one family because we love the area and the house but the costs were just too much. We had buyers that were interested and upon their title search we found out there was a discrepancy between how the house was coded for tax and how the house was coded with the Building Department. As we move forward it appears that the house is legally one family and that was overlooked entirely when we purchased the house. Our buyers are still interested and that's why we are here for an interpretation tonight. You have a letter from the woman that grew up in the house verifying that the house was always a two family starting in 1941 when it was built.

Mr. Carnazza stated I went out and met with the realtor at the site, there are two separate units and no walk through between them. You have to walk around the back of the house and go up a staircase to get to the second floor.

Mr. Balzano read the letter from the woman who previously lived in the house.

Mr. DiTomaso asked if they have been taxed as a two family throughout.

Mrs. Helly responded yes.

Mr. Balzano moved to close the public hearing. The motion was seconded by Mr. Aglietti with all in favor.

Decision of the Board

Mr. Balzano moved to interpret that the property has always been a two family house. The motion was seconded by Mr. Aglietti with all in favor.

Application of Estate of DeFrancesco for a Variation of Section 156-15, seeking permission to legalize the enclosure of existing front porch. The property is located at 35 Wright Avenue, Mahopac and is known by Tax Map #76.23-1-8.

Code Requires	Will Exist	Variance Required
40'	15.47'	24.53'

Mr. Shilling addressed the board and stated this is a property that was owned by Mr. and Mrs. DeFrancesco and sadly they both died in December 2014. Ms. Sutliff is here, she's one of the three children. They put the property up for sale and I came across it as their attorney, about the porch we are seeking a variance for today. It was an open porch that was enclosed at some point. Unfortunately, none of the family members have much recollection of when that took place.

Mr. Carnazza stated I believe they only put the walls around it to make the difference. The roof was on it and the walls were added.

Mr. Maxwell asked if the foundation, the deck and the steps have all been in the same location and the roofline comes down from the original roofline.

Mr. Shilling stated yes.

Mr. Aglietti moved to close the public hearing. The motion was seconded by Mr. Balzano with all in favor.

Decision of the Board

Mrs. Fabiano moved to grant the variance. The motion was seconded by Mr. Aglietti with all in favor.

Application of Secor 78 LLC for a Variation of Section 156-42A1 & 156-42B, seeking permission to expand to 3rd floor for offices. The property is located at 78 Secor Road, Mahopac and is known by Tax Map #74.43-1-11

Code Requires	Will Exist	Variance Required
22 Parking Spaces	17 Parking Spaces	5 Parking Spaces
10' Wide Parking Spaces	9' Wide Parking Spaces	1' Wide Parking Spaces

Mrs. Fabiano left the podium.

Mr. Joel Greenberg was sworn in. He addressed the board and stated we have been referred by the Planning Board for two variances. The owners purchased the building 10 years ago and at that time the third floor was used as offices and because there was no bank involved there were never any title searches to indicate that wasn't permitted. They are now in the process of selling the building and that's when it came up that the third floor is being used as an office instead of storage, which is what the original site plan indicated it would be used for. We did some research to find out what we would have to do to legalize the third floor and we were told to upgrade the elevator, put in a sprinkler system and have a second means of egress from the third floor all of which we would be willing to do. We need a variance for 5 parking spaces and a variance to reduce the size of the spaces from 10 feet to 9 feet.

Mr. Maxwell stated right now there are 16 spaces.

Mr. Greenberg stated when this was originally laid out the handicapped parking did not meet the requirements, so we striped the spot to meet the code. There will be a total of 17 spots, presently 16 and we need 22.

Mr. Rossiter asked if the third floor has window space.

Mr. Greenberg replied yes and pointed to the map where the windows were. Each office has five windows. There is an existing stairwell in the building and we will provide a second means of egress.

Mr. Schwarz asked if the Planning Board is okay with these variances.

Mr. Greenberg stated their normal procedure is to deny the application and send it to the Zoning Board.

Mr. Balzano moved to close the public hearing. The motion was seconded by Mr. Aglietti with all in favor.

Mrs. Fabiano returned to the podium.

Decision of the Board

Mr. Schwarz moved to grant the variance. The motion was seconded by Mr. Balzano with all in favor except for Mrs. Fabiano who abstained.

MINUTES - 3/26/2015

Mrs. Fabiano moved to accept the minutes. The motion was seconded by Mr. Aglietti with all in favor.

The meeting was adjourned at 9:22 p.m.

Respectfully submitted,

Rose Trombetta