

**APPROVED**

JOHN MAXWELL  
*Chairman*

PHILIP AGLIETTI  
*Vice-Chairman*

**TOWN OF CARMEL  
ZONING BOARD OF APPEALS**



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MICHAEL CARNAZZA  
*Director of Code  
Enforcement*

**BOARD MEMBERS**

ROSE FABIANO  
SILVIO BALZANO  
WILLIAM ROSSITER  
MARC DITOMASO  
MICHAEL SCHWARZ

**ZONING BOARD OF APPEALS MINUTES**

**JUNE 25, 2015**

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

**ABSENT:** CHAIRMAN, JOHN MAXWELL, ROSE FABIANO

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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>
Phantom Fireworks/ Bernad Creations LTD	86.10-1-3	1-2	Denied Without Prejudice.
Frank Roa	64.16-1-33	2-3	Approved.
Carol and Bill Weber	75.7-1-32	3	Approved.
Minutes – 5/28/2015		3	Approved.

The meeting was adjourned at 7:52 p.m.

Respectfully submitted,

Rose Trombetta

**Mr. Aglietti stated since the last meeting we received some sad news. A good friend of ours, a member of this board for many years and the Chairman of this board for many years has passed away, Mark Fraser. Mr. Fraser was passionate about this board and the work of this board. He was passionate about his community and his town and it goes without saying that he's helped a lot of us on this board, so it's with a heavy heart that we have this meeting tonight. At the end of the meeting we will have a moment of silence in his honor.**

**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. Vincent Zabo was sworn in.

Mr. Aglietti stated you are here for a use variance and just so you know a use variance has a four prong test and all four need to be proven. He then read the four criteria.

Mr. Zabo stated the venue of the neighborhood is basically retail. Next to it is a convenience store; across from it is an automotive store. Putting a tent there for a temporary amount of time is not going beyond the nature of the neighborhood. In the past it has sold seasonal merchandise and they were items that were wholesaled in nature, so the basic nature of the property is not changing. He is looking for an avenue to push this property and advertise it and one of the ways a lot of property owners do that is through seasonal sales. When a person uses the area for seasonal business they have more exposure to the public and other corporations. He has not had any so called bites on the property and this is one of the things that he's looking for. Right now the property is basically farmland and farmland is not selling. That is why he is looking to use this property as a retail seasonal venue. The tents that we use would not take away from that property; it will make it look better.

Mr. Carnazza stated the problem is right now they have a farm and the uses of the farm do not allow retail sales. In the past the Christmas trees were considered to be agricultural. This proposed use does not fit into the farm definition so that's why it's here for this use variance. It's not the question of a tent or not tent; we need to know use variance standards. They must have a reasonable return on the property. The retail is the use that is not permitted under a farm by definition.

Mr. Aglietti asked Mr. Zabo what his role is with the application.

Mr. Zabo stated I am a New York State manager for Phantom Fireworks.

Mr. Balzano stated the burden is on you to produce the financial evidence and we have nothing in front of us. I would love to help you and in the past we have been able to get away with it, but I don't see it happening.

Mr. Schwarz, Mr. Rossiter and Mr. DiTomaso all agreed with Mr. Balzano's statement.

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

### **Decision of the Board**

Mr. Schwarz moved to deny the application. The motion was seconded by Mr. DiTomaso 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 we have removed the western second floor addition from the setback. We have an eastern setback which is a non-conforming setback. We have a western setback which we were encroaching previously with a two story addition and now we're looking to encroach it with a single story addition. So we've cut back the second floor of that side yard encroachment. We were looking to put in a large pool with a patio in the rear yard and we have removed that pool completely. We also pulled back the western setback about 2 more feet from the property line.

Mr. Aglietti stated over the past few days we have received two letters from neighbors.

At which time, Mr. DiTomaso and Mr. Balzano each read aloud a letter for the record.

Mr. Piccirillo stated those are the same two neighbors that were opposed to this last month. We have tried to adjust the second floor above the garage. The second floor is actually behind the setback line now. The first story has been pulled back 2 feet as well. We believe we had addressed all the concerns of the neighbors.

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

### **Decision of the Board**

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

Mr. Balzano stated the applicant has come back in front of us and has done a lot of work to bring in into conformity. Is it still really big, yes, but it's not out of character with some of the newer houses that have been built in that area. While I understand the concern of the neighbors, there is not much we can do about the height and they've really made a lot of concessions so I'm leaning towards this being okay but I want to hear what the other board members think.

Mr. Schwarz stated I would have to agree and looking at the submitted photos there is still some view of the lake.

Mr. DiTomaso stated I like what they did, but unfortunately a large part of the argument goes to relevance. If they are going to sell their house or if they owned their house for x amount of years is quite irrelevant.

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

**Application of Carol and Bill Weber of Section 156-15, seeking permission to retain shed. The property is located at 31 Woodland Road, Mahopac and is known by Tax Map #75.7-1-32.**

Code Requires	Will Exist	Variance Required
10' Rear (opposite Kirkwood)	6'	4'
10' Rear (opposite Woodland)	6'	4'

Mr. Bill Weber was sworn in. He addressed the board and stated I have a shed that's 13 x 10, it's 7 feet off of one neighbor's property and 6 feet off of the other neighbor's property. I already built it and I realize I should've applied for a variance first. However, I really need a place to put my belongings and an 8' x 8' shed would not be big enough. I mediated any issues with my neighbors. I put up a fence to block the view of the neighbor that was opposed to this. He submitted a letter from the neighbor. I put a lot of money into it so I'm hoping I can keep it. It's only going to be used for storage.

Mr. Balzano asked where the septic system was located on the property.

Mr. Weber stated it's up near the house and it's about 8 feet off the property line.

At which time, Mr. Aglietti read aloud the letter from the neighbor for the record.

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

#### **Decision of the Board**

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

#### **MINUTES – 5/28/2015**

Mr. Schwarz moved to accept the minutes. The motion was seconded by Mr. DiTomaso with all in favor.

**There was a moment of silence in honor of Mark Fraser.**

The meeting was adjourned at 7:52 p.m.

Respectfully submitted,

Rose Trombetta