

APPROVED

JOHN MAXWELL
Chairman

PHILIP AGLIETTI
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
WILLIAM ROSSITER
MARC DITOMASO
MICHAEL SCHWARZ

ZONING BOARD OF APPEALS MINUTES

AUGUST 27, 2015

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

ABESENT: WILLIAM ROSSITER

<u>APPLICANT</u>	<u>TAX MAP #</u>	<u>PAGE</u>	<u>ACTION OF THE BOARD</u>
Richard Diehl	65.19-1-43	1	Approved.
Karl and Janice Thimm	65.17-1-15	2	No Board Action.
Arkadiusz Sudol	86.8-1-61	2-3	Approved.
Brian and Jennifer Reilly	76.9-3-17	3	Approved.
John H. Knuppel	55.14-1-19	4	Approved.
Gino Barbaro	75.12-2-45	4	Heldover.
Chris Sobieski	75.42-1-36	5	Approved.
Carmel Fire Department/Sprint	44.14-1-24	5-7	Heldover.
PCSB/Mahopac Branch	86.11-1-1	7-8	Approved.
Carl Albano	55.14-1-26.31	8-10	Heldover.
Secor 78 LLC	74.43-1-11	10	Approved.
Minutes – 7/23/2015		11	Approved.

The meeting was adjourned at 9:14 p.m.

Respectfully submitted,

Rose Trombetta

Application of Richard Diehl for a Variance of Section 280A, seeking permission to construct a house having no frontage on a county, state or town road. The property is located at 250 Croton Falls Road, Mahopac and is known by Tax Map #65.19-1-43.

Code Requires	Will Exist	Variance Required
100 ft frontage on a town, county or state road	0	100ft (280A)

Mr. Michael Barile and Mr. and Mrs. Richard Diehl were sworn in.

Mr. Barile addressed the board and stated Mr. & Mrs. Diehl previously owned 3 separate pieces of property next to each other. The Diehl's would like to build a retirement home on the 30 acres of property they own. They have full board of health approval on a single family home and that's what they would like to build on the 30 acre piece. He said easements have been reviewed by the town attorney. He believes there is a zero impact on any neighbors because the closest neighbors are on Stacy Lane. He said those houses are more to the front of the property with 200 feet in the backyard. There is a 400 foot separation from anyone in the neighborhood and a 10 acre separation from Croton Falls Road.

Mr. Maxwell said basically you are landlocked with the front addition.

Mr. Barile stated that's the easement through the City of New York's property which was granted to the original farm of Ella Wright.

Mr. Maxwell asked if there is any other property that can be purchased to bring it into conformity and no further subdivision planned.

Mr. Barile said there are no future subdivision plans and no other property that can be purchased.

Mrs. Fabiano asked if they have an existing approval for the easement from NYCDEP.

Mr. Barile stated there is an existing easement accessing the property which is spelled out on the lower right hand corner surrounded by the bold highlight. DEPs easement is to all pieces of the Ella Wright farm.

Mrs. Fabiano said so you don't have to go back to DEP to get another approval.

Mr. Barile replied no. I will provide Mr. Carnazza something from the title company.

Mr. Maxwell asked if anyone in the public would like to speak on this application.

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 Karl and Janice Thimm (as contract vendee) for a Variation of Section 156-27, seeking permission to construct a dock, bath house and a parking area. The property is located at 232 East Lake Boulevard, Mahopac and is known by Tax Map #65.17-1-15.

Code Requires	Will Exist	Variance Required
5 Parking Spaces	2 Parking Spaces	3 Parking Spaces
North side yard bath house – 15’	8.15’	6.85’
South side yard bath house – 15’	9.6’	5.4’
Two way aisle – 24’	15’	9’
Lake frontage – 50’	26.2’	23.80’

Mr. Charbonneau stated 3 out of the 6 members that are present tonight will recuse themselves on this application, so board cannot take any action because it doesn’t have a quorum. He said the secretary will have to put it on the next agenda.

No board action taken.

Application of Arkadiusz Sudol for a Variation of Section 156-15, seeking permission to construct second floor addition. The property is located at 5 Pearce Place, Mahopac and is known by Tax Map #86.8-1-61.

Code Requires	Will Exist	Variance Required
40’ Front	25’	15’

Mr. Sudol was sworn in.

Mr. Sudol said he is applying for a variance to put a second floor addition to his house. This requires removing an existing roof and putting a new roof up to increase living space.

Mr. Maxwell said you are basically building your house one story up using the same footprint with no overhangs.

Mr. Sudol replied yes.

Mr. Maxwell said the issue is the two frontages which are held to standards. He asked if the shed was in conformance and had a building permit.

Mr. Sudol replied yes, when he bought the property the shed was on the map.

Mr. Maxwell asked if there is any other property he can buy to bring the project into conformance.

Mr. Sudol replied no.

Mr. Maxwell asked if anyone in the public would like to speak on this application.

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

Application of Brian and Jennifer Reilly for a Variation of Section 156-15, seeking permission to remove existing attached garage and add new garage and breezeway. The property is located at 51 Putnam Drive, Mahopac and is known by Tax Map #76.9-3-17.

Code Requires	Will Exist	Variance Required
Rear yard – 20’	10’	10’
Side yard – 15’	5’	10’

Mr. Joel Greenberg of Architectural Visions, representing the applicant was sworn in.

Mr. Greenberg stated that Mr. and Mrs. Reilly have had their house for many years now and they wish to take down their one car garage. They would like to put in a breezeway/mudroom and create a two car garage which is directly in line with their driveway. They are asking for a variance for the front and side yard, the side yard faces Lakeview Elementary School parking lot and in the rear there is a 10 foot setback opposite a garage.

Mr. Maxwell stated it is the most logical spot for a garage and asked if there is any additional property that can be purchased to bring it to conformity.

Mr. Greenberg replied no. He said the school is on the left and they will not give up their property and on the right is the septic.

Mr. Aglietti asked if there is a reason for them to have the breezeway.

Mr. Greenberg said the new breezeway will be further away from the property line then the existing garage.

Mrs. Fabiano asked if they will retain the screening on the side by the school.

Mr. Greenberg replied yes absolutely, the screening is behind it.

Mr. Maxwell asked if anyone in the public would like to speak on this application.

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

Decision of the board

Mrs. Fabiano moved to grant the variance with the condition that they retain the existing screening(tree line). The motion was seconded by Mr. Aglietti with all in favor.

Application of John H. Knuppel for a Variation of Section 156-15, seeking permission to retain cabana. The property is located at 5 Balla Road, Carmel and is known by Tax Map #55.14-1-19.

Code Requires	Will Exist	Variance Required
20'	15.6'	4.4'

Mrs. Mary Stops, applicant's power of attorney was sworn in.

Mrs. Stops said Mr. Knuppel is looking for a 4 foot 4 inch sideline variance because his cabana was built too close to the property line in 1968. They are looking to sell their house and it got picked up on the title search.

Mr. Maxwell asked if there is any other property they can purchase to bring it into conformance.

Mrs. Stops replied no.

Mr. Maxwell asked if the cabana can be relocated.

Mrs. Stops said it houses all the pool equipment so the pool equipment would also have to be relocated.

Mr. Maxwell said it is on a foundation of concrete and it is well screened and drops into a hill on either side.

Mrs. Fabiano said it is very well screened so she doesn't have an issue with it.

Mr. Maxwell asked if anyone in the public would like to speak on this application.

Mr. Aglietti 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 Mr. DiTomaso with all in favor.

Application of Gino Barbaro seeking an Interpretation that the 2000 Decision and Order be modified to permit the garage dwelling unit to continue, or in the alternative, a use variance to permit same to continue. The property is located at 303 Buckshollow Road, Mahopac and is known by Tax Map #75.12-2-45.

Code Requires	Will Exist	Variance Required
One dwelling per lot	A 4 th unit above garage is proposed	

Mr. Maxwell stated that Mr. Barbaro is looking for an adjournment to next month

Mr. Balzano moved to hold the application over. The motion was seconded by Mr. Aglietti with all in favor except Mrs. Fabiano who recused herself.

Application of Chris Sobieski for a Use Variance, seeking permission to erect a storage shed on lot without principal use. The property is located at 793 South Lake Boulevard, Mahopac and is known by Tax Map #75.42-1-36.

Mr. Christopher Sobieski was sworn in.

Mr. Sobieski said he is looking to build a shed along his lakefront parcel for boat equipment and storage. He is looking for a variance for just a shed on his lot.

Mrs. Fabiano asked the size and height of the shed.

Mr. Sobieski said it is approximately 18 feet long and 10 feet deep.

Mrs. Fabiano asked if there was a drop in the property.

Mr. Sobieski replied yes.

Mr. Maxwell asked if anyone in the public would like to speak on this application.

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

Decision of the board

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

Application of Carmel Fire Department/Sprint Corporation for an Interpretation that an amended variance is not required, or in the alternative, an amended variance. The property is located at 94 Gleneida Avenue, Carmel and is known by Tax Map #44.14-1-24.

Code Requires	Will Exist	Variance Required
30' Rear yard	30' Rear yard	Variance previously granted 8/6/04 to permit 20' rear yard
35' maximum height	120' existing monopole	Variance was previously granted 8/6/04 to permit 120' tower. Sprint is not proposing to increase the height of the tower.

Paul Pappe, Rob Pertuna and Robert Gaudioso of Synder and Synder were present before the board of which Mr. Pappe and Mr. Pertuna were sworn in.

Mr. Gaudioso, representing the applicant addressed the board and stated Sprint is looking to collocate the existing tower at the Carmel Fire Department. They are proposing to place three antennas on the outside of the tower and two equipment cabinets in related equipment at the base of the tower. The zoning board granted two variances back in 2004 for allowing the 120 foot height and the yard setback variance. The variance has to be amended because the antennas are on the outside of the tower. The antennas are at 75 feet and not in conflict with the variance.

Mr. Carnazza asked how will you get the flag down to replace the flag when you need too.

Mr. Gaudioso said they will have to take the flag down permanently.

Mr. Maxwell said so there will be no flag there permanently.

Mr. Gaudioso replied yes permanently and they would be able to remove the lighting as well.

Mr. Maxwell said the reasoning for passing the variance years ago was it was initially intended to be a flagpole.

Mr. Gaudioso stated the problem is there simply weren't as many phone carriers when the variance was granted so it was designed with only 4 slots. Sprint is trying to collocate not build a new tower.

Mr. Maxwell asked if the tower owner is its own entity to which all these carriers sub-lease.

Mr. Gaudioso said yes but the main agreement is with the fire department in which they receive benefits for that.

Mr. Carnazza asked if the planning board was told that there is not going to be a flag on the pole.

Mr. Gaudioso said he doesn't think they got to that stage with the planning board because the Zoning Board's variance had to be modified.

Mr. Charbonneau said he doesn't believe the planning board was ever advised of that because they may have had an issue.

Mr. Gaudioso stated they are not finished with the planning board yet so if they get through this process then they will have to go back to the planning board.

Mr. Charbonneau asked if in the previous variance if there was a condition for it to remain a flagpole.

Mr. Gaudioso replied no. He said they cited a case that says the Zoning Board has an obligation to clearly state any conditions imposed that the petitioners, the neighbors and town officials may be fully aware of the nature and extent of any conditions imposed, there was not a condition regarding a flagpole.

Mrs. Fabiano asked if the last Zoning Board decision that allowed the initial pole to go up.

Mr. Gaudioso said they didn't submit it as part of the application because they thought it was on file with the town but he has a copy with him tonight.

Mr. Maxwell said he believed that since it was going to remain a flagpole and not just be a simple cell tower it had more of an impact on everyone involved.

Mr. Gaudioso said they are focusing on the impact of the three antennas and removing of the flag, the point of the flagpole was made to not be a typical structure.

Mrs. Fabiano asked if there are any other poles in the area they can use.

Mr. Gaudioso said there are no other options for collocation.

Mr. Balzano asked how strong the signal is in that area.

Mr. Gaudioso replied it is actually very weak and in the report we have the coverage maps.

Mr. Maxwell asked if there was anything that could be done with the design to keep it as a flagpole.

Mr. Gaudioso said they looked at it from every angle and there is just simply not the space in there.

Mr. Maxwell stated that it is a very patriotic community and the fact that it is supposed to be a flagpole weighs very heavily on the community.

Mr. Charbonneau addressed the board and stated that the removing of the flag was not brought up at the planning board meeting and he recommended that the board discuss it further with counsel.

Mr. Maxwell asked if the applicant would re-consider the design.

Mr. Gaudioso will take it back to the tower owner.

Mr. Aglietti moved to hold the application over. The motion was seconded by Mr. Schwarz with all in favor.

Mr. Maxwell asked if anyone in the public would like to speak on this application.

Mr. John O'Leary, a resident of Mahopac was sworn in. He addressed the board and stated he approves the application because he has three sprint phones and the coverage in that area is bad.

Mr. Maxwell stated the reasoning is it was supposed to be a flagpole; Sprint would be taking away from that. Mr. Maxwell stated the application is now heldover.

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

Application of PCSB/Mahopac Branch (as lessee) for a Variation of Section 156-15, seeking permission to construct a building which does not meet the minimum floor area requirement in C/BP zone. The property is located at 150 Route 6, Mahopac and is known by Tax Map #86.11-1-1.

Code Requires	Will Exist	Variance Required
5,000 s.f. – Min. Floor Area	2,683 s.f.	2,317 s.f.

Dawn McKenzie of Insite Engineering and Robert Farey of Putnam County Savings Bank were sworn in.

Ms. McKenzie stated that she represents Putnam County Savings Bank and they are looking to put up a new bank building on a currently vacant lot on Route 6. They need a variance for a minimum floor area.

Mr. Carnazza stated they are smaller then what is required and this subdivision is in the process of creating the two lots and this will be one lot.

Ms. McKenzie said this is lot 1 in the Baldwin Subdivision; they went before the planning board last night and received a final subdivision approval. One of the issues is they are constrained to the west by New York state and town regulated wetland. There is a small triangular space left to develop, this is a prototype building that these banks use and a bigger bank would not serve purpose. There is already a huge disturbance in the wetlands because of the on-site septic system, storm water drains and they have to drill a well at the site.

Mr. Maxwell asked if they are involved in developing the other site as well.

Ms. Mckenzie replied yes and it is being developed but it is a separate site plan.

Mr. Maxwell asked if anyone in the public would like to speak on this application.

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

Decision of the board

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

Application of Carl Albano to remove a previous condition of a conservation easement from a parcel that was granted a variance in June 2012. The property is located at 24 Mechanic Street, Carmel and is known by Tax Map #55.14-1-26.31.

Carl Albano is sworn in.

Mr. Albano stated he has lived in this area for 40 years and this property has been in his family, this lot was designed with anticipating the sewers coming into the area. They applied for a variance to get a 1 acre building lot; they installed a water line and sewer easement into the property for further building. The former supervisor suggested getting a variance for any water connections anticipating future development. When he applied for a variance the neighbors next door opposed to a building lot and at the time privacy issues were discussed. He anticipated putting a raised ranch on the property but had to build a 38 foot colonial instead to fit town regulations. When he put the driveway in he had 21 feet before he hit the conservation easement and the area on the side of the driveway had pricker bushes about a foot high. They leveled that area and asked the neighbors about the extending the driveway and the neighbors agreed but wouldn't put it in writing. The neighbors wanted more privacy so a fence was put up.

Mr. Maxwell asked if he could create a turnaround in the driveway to make it easier to get in and out.

Mr. Albano states that the driveway would then be going into the back yard and it would be difficult to turn around in the driveway.

Mr. Maxwell asked if Carl could plant more trees within the edge of the easement for privacy purposes.

Mr. Albano stated that there is a 6 foot fence so the trees wouldn't be blocking anything.

Mr. Maxwell asked if he could put gravel in by the easement instead of paving the whole driveway.

Mr. Maxwell asked if anyone in the public would like to speak on this application.

Diane Jednesty and Joe Jednesty were sworn in.

Mr. Jednesy addressed the board and stated they purchased the property adjacent to the property Mr. Albano owns at that point the current zoning law on the books would prohibit any house from being erected on the property adjacent to them. A substantial variance was granted to Albano back in 2009, they wanted him to plant trees to create a buffer zone between the two houses. They were told nothing surrounding the area would be disturbed. They were not happy about the house being built but didn't mind it because of the buffer zone. Since there is no buffer zone the variance should not be granted, they did not follow the previous variance.

Mrs. Jednesty stated Mr. Albano took trees down way before the variance was even granted. He took away all the privacy of her house by taking down the brush. He said that he will plant the trees but didn't want to get the correct trees for privacy.

Mr. Maxwell said that the board is trying to come up with a compromise that will benefit both sides. If he adds more screening in the fence line and 10 more trees to add more conservation to the property.

Mrs. Jednesty asked that Mr. Albano put the brush back up for privacy because he took it down in the front of the house as well.

Mrs. Fabiano asked Mrs. Jednesty what she is looking for.

Mrs. Jednesty said she wants her buffer zone that was promised with the variance.

Mr. Maxwell asked if there was anything else that needs to be added to the application and they are going to take this application into consideration.

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 deny the application for discussion purposes. The motion was seconded by Mr. Balzano.

Mr. Aglietti stated the applicant did not adhere to the original decision and order with regards to the disturbance of natural vegetation. He said the applicant is here for a second chance when he really didn't listen to us the first time. What he is proposing now does not fit the criteria to entertain for this application. He said I'm not closing the door and he should come back with something else for us to consider.

At which time, a discussion ensued regarding the vegetation and what type of trees could be used for screening and privacy.

The board members were in agreement for the applicant to amend the application to use the language remove and/or diminish the conservation easement with particulars.

Mr. Albano stated he will amend the application.

Mr. Maxwell stated to submit a very detailed submission of the application prior to the next board meeting showing exactly what he is planning to do with the plantings, etc.

Mr. Aglietti moved to withdraw his motion. The motion was seconded by Mr. Balzano.

Mr. Balzano moved to hold the application over. The motion was seconded by Mrs. Fabiano with all in favor.

Application of Secor 78, LLC for a Variation of Section 156-15, seeking permission to construct a staircase from third floor. 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
Front yard – 40’	30’	10’
Rear yard – 40’	6’	34’
Rear yard – 40’	33’	7’

Mrs. Fabiano recused herself and left the podium.

Mr. Joel Greenberg of Architectural Visions, representing the applicant was sworn in.

Mr. Greenberg said he is looking for variances for the front yard and both rear yards to meet the building code.

Mr. Maxwell said the back of that property faces a vacant lot, asking if there is potential for someone to build on it.

Mr. Greenberg said not any time soon it would be a lot of work.

Mr. Maxwell said you need the second means of egress and the only way to do that is with a stairwell and you don’t want to do it in the front of the building. Can you put the staircase in the back of the building and instead of having a regular staircase can you make it a stacked staircase.

Mr. Greenberg said the shed contains the tanks for the sprinkler system and if we do what you ask it would be a lot more cumbersome to do that.

Mr. Maxwell said there isn’t any other property he can purchase to bring this project into conformance.

Mr. Maxwell asked if anyone in the public would like to speak on this application.

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

Mrs. Fabiano returned to the podium.

Decision of the board

Mr. Balzano moved to grant the variance. The motion was seconded by Mr. Aglietti with all in favor except Mrs. Fabiano who recused herself.

MINUTES – 7/23/2015

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

The meeting was adjourned at 9:14 p.m.

Respectfully submitted,

Rose Trombetta