

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

September 24, 2015

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

ABSENT: SILVIO BALZANO

<u>APPLICANT</u>	<u>TAX MAP #</u>	<u>PAGE</u>	<u>ACTION OF THE BOARD</u>
Karl and Janice Thimm	65.17-1-15	1	Approved.
Gino Barbaro	75.12-2-45	2	Heldover.
Carmel Fire Department	44.14-1-24	2	Heldover.
Carl Albano	55.14-1-26.31	2-5	Approved.
Greater Mahopac VFW	76.30-1-13	5	Approved.
Lupi Plaza Condo Assn.	86.7-1-25	6-7	Heldover.
Timothy Beach	55.18-1-13	7	Approved.

The meeting was adjourned at 9:10 p.m.

Respectfully submitted,

Rose Trombetta

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	Provided	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’

Mrs. Fabiano recused herself and left the podium.

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

Mr. Greenberg stated that at the last meeting you did not have a quorum because the property had not been transferred to his client; he now has a deed dated September 15th which is submitted to the board. Mr. Greenberg continued and said this is a small piece of property on Lake Mahopac which was sold by St. John’s to Mr. and Mrs. Thimm. He went before the Planning Board but was denied because of several variances that are required. The code requires one parking space for every 750 square feet; they need a variance for 3 parking spaces because in addition to the lot they want to get small variances for a bathhouse 5.4 foot variance on one side and a 6.85 foot variance on the other side. Also they need a variance for a third parking space and since the code requires 50 feet of lake frontage and they have 26.2 feet so they will need a variance for the difference.

Mr. Maxwell stated that the code should be reviewed by the town board to be re-written on some of the smaller lots, he then asked if there is any property that can be purchased to bring it into conformance.

Mr. Greenberg said no there isn’t.

Mr. Maxwell asked if anyone in the audience wished to be heard on the application.

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

Mrs. Fabiano returned to podium.

Decision of the Board

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

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	Provided	Variance Required
One dwelling per lot	4 th unit above garage is proposed	

Mr. Maxwell stated Mr. Barbaro asked for an adjournment.

Mr. Aglietti moved to holdover the application. The motion was seconded by Mrs. Fabiano 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	Provided	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 6/04 to permit 120' tower. Sprint is not proposing to increase the height of the tower.

Mr. Maxwell stated Carmel Fire Department/Sprint Corporation asked for an adjournment.

Mr. Aglietti moved to holdover the application. The motion was seconded by Mr. Rossiter 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.

Mrs. Fabiano moved to re-open the public hearing from last month on this application. The motion was seconded by Mr. Aglietti with all in favor.

Carl Albano was sworn in.

Mr. Albano said that the 15 foot easement seemed like the easiest solution to create the privacy his neighbors wanted. Out of the 150 feet a big part of that easement is environmental wetlands that cannot be disturbed and another 20 feet of that is an easement for the sewer that he had granted to the town years ago. One area of the sewer easement is just land with no substantial growth; there was other growth in the front of this easement approximately a foot high consisting of poison ivy and vines. He said he did disturb that growth because both water taps, including his neighbors are on his property, he had to dig there in order to do the water taps. Over the course of building this house he wanted to put a driveway to the front of the house. When his surveyor came out he showed him that the grades could not work, you need certain pictures for the top middle and bottom, so he had revised the plan creating a smaller house with the driveway on the side of the house. He just wants the appropriate turn at the end of his driveway to make it easier to turn around and to drive in and out of. He also said it is unsafe backing out of his driveway onto the main road.

Mr. Maxwell stated that the issue at hand is maintaining the conservation, the idea that the area was disturbed when it was supposed to be maintained weighs on his mind. Planting something smaller up against the fence gets the area green again. He said instead of paving the whole driveway u can get some open face pavers to keep the area somewhat green and water can get through it.

Mr. Albano stated that originally the easement was a quick suggestion without going out there and looking at the property. He said his neighbors are correct in saying that he has been clearing trees since before he moved there because it was a loading area.

Mr. Maxwell said when they approved him there would be no disturbance of the natural vegetation within 15 feet of the property line from the street to the first bend of the property which is 151.78 feet. There was a condition of that variance and it was part of the plan, in attempt to appease the neighbors, planting trees along that fence line will probably make everyone happy.

Mr. Albano said it made sense when it was being discussed but if you go to the actual site to look at it and realize that the water is in that 15 feet that isn't supposed to be disturbed it doesn't make sense. For the privacy issue I made no windows on that side of my house, built my deck on the opposite side of their deck and planted a few trees. He said he has no problem planting more trees, but the turnaround for his driveway doesn't take away from their privacy at all.

Mr. DiTomaso asked if the driveway wouldn't be touching the conservation easement at all.

Mr. Albano said he could do that or his other option is he could go back further into the back of his yard. His neighbor took that as a threat but he was just trying to point out that his driveway would have to be more into both of their yards.

Mr. DiTomaso said he is not comfortable eliminating to conservation easement altogether but if your planting trees and bring the driveway down 8 feet that doesn't seem to be a problem.

Mr. Rossiter said he has stairs and a walkway in the back so the driveway would go back to the stairs. He asked if he would be planting trees at the end of the driveway.

Mr. Albano said yes that's not a problem.

Mrs. Fabiano asked why he hasn't come to the Board sooner because he had already cleared the area without consulting the Board.

Mr. Albano said he can replant what was removed, but once the fence went up there was no issue of privacy. There wasn't an issue between the neighbors, they discussed what was going on and once a problem came up he then came to the Board to resolve the issue.

Joe and Diane Jednesty were sworn in.

Mr. Jednesty said all he wants is to get the 15 foot easement that this council granted them back in 2012. Mr. Albano claimed that what he removed back in 2012 was "poison ivy, vines, weeds and pricker bushes a foot high that doesn't give any privacy". When his family moved in it was a wooded lot but when Albano was granted his variance to build on this lot it was said that he cannot disturb the natural vegetation, he then began taking down trees. A total disregard of your ruling and our privacy, he should have placed a driveway on the other side of the house and his variance would not have been warranted. He elected to have his high traffic area on the side of his house facing the neighbor that wanted to have their privacy.

Mr. Maxwell stated that there is a neighbor on the other side of his house.

Mrs. Jednesty said those neighbors didn't care that his house was being built, Mr. Albano gave them 25 feet of privacy and we don't have any.

Mr. Maxwell said that Mr. Albano is the one paying for it so it should be his choice of what type of tree he is going to plant.

At which time, Mrs. Jednesty displayed pictures from 2012 of what Mr. Albano has cleared.

Mrs. Fabiano stated that the driveway has to be safe for everyone in the community.

Mr. Maxwell said he asked Mr. Albano to plant more trees at the bottom of the driveway to make the area green again; he is the one paying for it so he is the one who can pick the type of tree.

Mr. Maxwell asked if anyone in the audience wished to be heard on the application.

Mr. Albano said he is willing to put more trees on the property line if that will make things better for his neighbors.

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 remove the previous condition of a conservation easement with the restrictions that the applicant plant evergreens as noted in his second proposal from the trees that were previously planted towards the street and stopping at the stonewall for discussion purposes. The motion was seconded by Mrs. Fabiano.

Mr. Aglietti stated it should be noted what the applicant did regarding our previous decision was not looked upon favorably. He said the applicant has come with good intentions since the last time he appeared before us. He stated the applicant said he was willing to plant additional trees alongside the stockade fence which is the entire driveway area.

Mr. Maxwell stated we should pinpoint a location and the quantity of trees to be planted.

Mr. Aglietti said he could plant five arborvitae type tree staggered from the existing trees along the strip.

Mr. Maxwell said so he will return it to soil; plant five arborvitaes in addition to the white pine.

At which time, a discussion ensued regarding deer resistant trees.

Mr. Aglietti said the point is the trees have to stay there, so if they get eaten, they need to be replaced. He said I will leave it up to the applicant to plant whatever evergreens he feels would be sustained there.

And if he needs to replace them, it's on him.

Mr. Carnazza stated so they will split the difference on the width of the driveway. It should only be 8 feet not 12 feet into the easement.

Mr. Maxwell said he will leave 7 feet off of the fence.

Mr. Carnazza said so it's 8 feet in and 7 feet not in.

Mr. Maxwell said that's correct.

Roll Call vote was taken as follows:

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

Motion carries.

Application of Greater Mahopac VFW Post 5491 for a Variation of Section 156-15 seeking permission to add to building to accommodate A.D.A. bathrooms. The property is located at 154 East Lake Blvd, Mahopac and is known by Tax Map #76.30-1-13.

Code Requires	Provided	Variance Required
40' Front	14.5'	25.5'
25' Side	3.5'	21.5'
10' x 20' P.S.	10' x 15'	5' depth

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

Mr. Greenberg stated that if you go into the VFW facility you will see that there is not a handicapped bathroom. What they want to do is provide this small addition to give them enough extra space to create two handicapped bathrooms. They are lining the bathroom up with the existing bathroom and it is not conforming. They need a 5 foot variance for the front and side yard, the problem is the bathrooms do not conform to the ADA requirements.

Mr. Maxwell stated that they are going to take the same line as the entry, which already exists and square it off. He asked if there is any other space in the building that they can create the bathroom. Also he asks if it is required to build two bathrooms, why not one handicapped bathroom.

Mr. Greenberg said they are taking out the original bathrooms and replacing them with the handicapped ones, one male and one female.

Mr. Maxwell asked if there is any property that can be purchased to bring this project into conformance.

Mr. Maxwell asked if anyone in the audience wished to be heard on the application.

Bernard Boccia was sworn in.

Mr. Boccia said he is a two year passed commander at VFW and this is a very important issue for them because our soldiers come home with no arms and no legs and we don't have a bathroom to accommodate them. The VFW is the place for the veterans to go and it is very important that we do this for them.

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

Decision of the Board

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

Application of Lupi Plaza Condo Assn./Wayne DeRosa for a Variation of Section 156-41A, seeking permission to erect sign in Right of Way. The property is located at Lupi Court and Route 6, Mahopac and is known by Tax Map #86.7-1-25.

Code Requires	Provided	Variance Required
No signs in Right of Way	Sign in Right of Way	To allow sign in Right of Way

Wayne DeRosa of Chung Ma's and Jerry Truglia of Auto Clinic were sworn in.

Mr. DeRosa addressed the board and stated Lupi Plaza and the storage unit was built back in 1992. He built both of them together with an existing sign out on Route 6 consisting of Lupi Plaza and the Self-Storage. He sold to another corporation with an easement stating that Lupi Plaza has rights to the sign. The storage unit changed hands twice in the course of 10 years; both new owners honored that sign. All they are asking for is there 11 units in the back behind the storage unit to be recognized with some road frontage to put up a 16 square foot sign.

Mr. Truglia said no one knows that there are businesses in the back.

At which time, Mr. Maxwell read a letter from Mike Simone, Highway Superintendent stating that he has no objection with Lupi Plaza Condo Association placing a sign in the highway right away on Lupi Court.

Mr. DeRosa said that he has taken into consideration putting the sign lower so they don't obstruct the storage sign. The land across the street is more of a hazard getting out of then making a right out of Lupi Court.

Mr. Maxwell stated that he sees how these businesses have no way of advertising or identifying that they exist where they are.

Mr. Maxwell asked if anyone in the audience wished to be heard on the application.

Richard Blancato, attorney representing Value Store it was sworn in.

Mr. Blancato stated that the zoning ordinance clearly states that there are no signs permitted in a street right of way. That is a proscription prohibition and if the board were to grant a variance, you are violating the intent of the zoning ordinance. He said when you have a proscription; the only way to do something about it is to have the town board amend the zoning ordinance. This is not a board to change what the town board has done. He said this would have to be referred back to the town board to look at it for an amendment to the zoning code.

Mr. Maxwell said they are seeking a relief of the code.

Mr. Blancato said this board doesn't have the power to grant a variance.

Mr. Carnazza said they grant variances every couple of months.

Mr. Maxwell said unfortunately our town council could not be here with us tonight so I'd feel more comfortable with an opinion from council so we will need to hold this meeting over.

Joan Halstead was sworn in.

Mrs. Halstead said she owns a business in Lupi Plaza and customers have a difficult time finding it. When they bought their unit in 2007 they had a sign with their name on it and then all of a sudden their sign was taken down with no regard. She said she doesn't understand why this is such a problem.

Phyllis Morrison was sworn in.

Mrs. Morrison stated that she also owns a business in Lupi Plaza and people simply cannot find the building that they own. She said she would really like to keep her business here but it is almost impossible when people can't find you.

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

Application of Timothy Beach for a Variation of Section 156-15 seeking permission to add 4' to the length of his deck. The property is located at 183 Seminary Hill Road, Carmel and is known by Tax Map #55.18-1-13.

Code Requires	Provided	Variance Required
20' Side	15'	5'
30' Rear	20'	10'

Timothy Beach is sworn in.

Mr. Beach stated that a little over a year ago he was building an addition to his house. His original deck was 15 feet wide 8 feet long, 8 feet lands right on his well. If he brings it back 6 feet he will hit the hose going around the north side to his basement of his well. He would like to add 4 inches to the length of his deck in order to miss the well completely.

Mr. Maxwell asked if there is any additional property he can buy to bring it into conformance.

Mr. Beach said no and his septic is on the other side.

Mr. Maxwell asked if he is staying within the line of the back of the house and the front of the house, off the same lines that already exist.

Mr. Beach replied yes and he also said his neighbors don't have a problem with it.

Mr. Maxwell asked if anyone in the audience wished to be heard on the application.

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

Decision of the Board

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

The meeting was adjourned at 9:10 p.m.

Respectfully submitted,

Rose Trombetta