

APPROVED

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TOWN OF CARMEL ZONING BOARD OF APPEALS



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ZONING BOARD OF APPEALS MINUTES

JUNE 23, 2016

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

<u>APPLICANT</u>	<u>TAX MAP #</u>	<u>PAGE</u>	<u>ACTION OF THE BOARD</u>
Freiman, Michael	75.7-2-18	1-2	Variance Granted as Amended.
EMTK Realty Corp.	44.18-1-40	2	Heldover.
Audah, Raed	76.5-1-12	2-14	Variance granted for addition. Denied for fence & carport.
Temple Beth Shalom	65.17-1-42	14-15	Variance Granted.
Scerra, Stephan & Eileen	75.12-2-48	15-16	Variance Granted.
Hammel, Julia	75.7-2-43	16-17	Variance Granted
NYCDEP	54.-1-29	17-18	Variance Granted.
Barksdale, Elizabeth & David	64.12-1-1	18-19	Variance Granted.
Loewenberg, Ralph	64.16-1-30	19-20	Variance Granted.
Bucalo, Carl	64.17-1-90	20-21	Variance Granted With Conditions.
DePaul, Albert	87.6-2-56	21-22	Variance Granted.
Minutes- 5/26/2016		22	Heldover.

The meeting was adjourned at 9:28 p.m.

Respectfully submitted,

Ashley Smith

Application of Michael Freiman seeking permission for a Variation of Section 156-15 and a Use Variance permitting dairy goats on property and to retain existing shed and carport. The property is located at 55 Vista Terrace, Mahopac and is known by Tax Map # 75.7-2-18.

Code Requires	Provided	Variance Required
25' Front Shed	23'	2' Shed
10' Side Shed	4.89	5.11' Shed
25' Front Carport	0'	25' Carport
10' Side Carport	9'	1' Carport

Mr. Maxwell recused himself from this application.

Mrs. Alexis Malsbury was sworn in.

Mrs. Malsbury said I have three separate points on my application and for two of the three I would like to ask to be dismissed. We are actually going to be relocating the dairy goats so they will be moved on Tuesday and we will be taking the entire carport down. The only variance we will be looking for tonight is for the shed which was there when we purchased the property.

Mr. Carnazza said it was on the old survey there just wasn't a permit on it.

Mr. Aglietti asked if there is any other property she can purchase to bring this into conformity.

Mrs. Malsbury said no this is a really tight space.

Mr. Aglietti said based on the fact that they are withdrawing the application for the goats and the carport we can just go ahead with the shed. Does anyone from the Board have any questions?

Mr. Folchetti said that the original application needs to be fixed and initialed by the applicant to show that the application provided doesn't include the goats or the carport.

Mrs. Fabiano asked how long the shed has been up.

Mrs. Masbury said it is shown on a survey from 2003 and it also was on the title when we purchased it in 2010.

Mrs. Fabiano said you are only looking for a 2 foot variance and a 5 foot variance now, that is very simple and I have nothing else to add.

Mr. Aglietti said to Mrs. Malsbury that she is going to need to initial the changes made to the application withdrawing the goats and the carport from the original application.

Mrs. Malsbury said ok.

Mr. Aglietti asked if anyone from the audience wishes to be heard on this application.

Mr. Carl Potts was sworn in.

Mr. Potts said I share a common property line with this shed and if the shed is not going to be used for goats after Tuesday then I am perfectly fine with it. If that is not the case and the goats remain after Tuesday then I am against the shed being there because it is currently being used to house these goats. Goats are farm animals and there are zoning ordinances that prohibit that because of the smell and

noise of the goats. As long as Tuesday is the last day these goats will be on the property then I am completely fine with them keeping the shed.

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

Decision of the Board:

Mr. Balzano made the motion to grant as amended consisting of removing the use variance and removing the carport. The motion was seconded by Mr. Rossiter with all in favor.

Application of EMTK Realty Corp. for a Variation of Section 156-15, seeking permission to legalize 10 residential apartments. The property is located at 1736 Route 6, Carmel NY 10512 and is known by Tax Map #44.18-1-40.

Code Requires	Provided	Variance Required
40,000 sf area	30,990 sf	9,010 sf
200' width	72'	128'
Front yard westerly bldg. - 40'	38'	2'
Side yard westerly bldg. - 25'	4.5'	20.5'
Parking- 23 spaces	16 spaces	7 spaces
Width of parking spaces 10'	9'	1'
1 Loading space	0 Loading space	1 Loading space
Minimum width of driveway 24'	20'	4'
Side yard easterly bldg.-25'	0.4'	24.6'

Mr. Maxwell stated that EMTK Realty Corp. has asked for an adjournment until next month due to vacation scheduling.

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

Application of Raed Audah for Variation of Section 156-15, seeking permission to build an addition and carport. The property is located at 49 Sycamore Road, Mahopac NY 10541 and is known by Tax Map #76.5-1-12.

Code Requires	Provided	Variance Required
Fence no higher than 4' on side	7'	3'
Building Cover 15%	25.4%	10.4%
Carport Front Yard setback 25'	23' 6"	1' 6"
Rear Yard 20'	3' 8"	16' 4"
Side Yard 15'	2' 3" carport	12' 9"
House 15'	9' 6"	5' 6"

Mr. William Shilling, applicant's attorney was present before the board.

Mr. Shilling stated that he represents the applicant Raed Audah who is unable to make the meeting tonight but his daughter Dina is here. The architect Mr. Piccirillo unfortunately could not make it here tonight either because of a vacation schedule, but he did in fact write a letter which outlines some of his efforts in the last couple of weeks. This property is located on Sycamore Road in Mahopac Point which is a one story house with three bedrooms at approximately 1800 square feet sitting on approximately ¼ acre. Our requested relief is all area variances and specifically we wish to retain a fence that at its height is 7 feet which was there when my client purchased it in 2000. It serves as a convenient buffer between my client and the neighbor's property. The second variance we seek is for a second story addition to the property, it is approximately 700 square feet with a small balcony. The third item we are seeking is for a two-sided carport with the same setback as the current house setback to the neighbor's property which means that there is no further encroachment into the setback. He said since the application, we submitted a letter dated June 20th which clarifies further what we are trying to do. There is nothing changing with our request for the fence, we think it is a very important part of the property which is so crunched together and is necessary for privacy purposes and it existed before my client purchased the house. I was unaware that an application by my client 8 years ago for a carport came before this Board and it was denied. We made some differences between that application and the application tonight, the most significant change is in 2008 the application was for an attached carport and we are now proposing a detached carport. The Board at that time found that there are virtually no carports in the area at that time and we will show you how that has changed as well. Another significant change is at the time in 2008, the side yard setback was 25 feet and that has been reduced to 15 feet. I believe that it is a finding on these small lots it is impossible to comply with setbacks, so we were able to reduce the side yard requirements. For those reasons, I do believe it is a different application, new facts have been presented and we are clarifying the relief that we seek. The third item that we are seeking relief for is an addition, when we came here last time it was a variance for 12 feet 9 inches and we were able to reduce that variance to 5 feet 6 inches. We moved the addition more to the middle of the house by 7 feet so we are more compliant with the setback then we were last month. This was done in hopes that the Board would see it as a fair compromise for a condition that might cause concern. In support of what we seek tonight we have submitted an affidavit by my client, a memorandum of law and a letter of revision dated June 20th. Very briefly, the facts are that my client purchased the property in 2000 a single story dwelling with 1800 square feet, raised two children in this school district and when they purchased the property this fence already existed. We have photographs to show that the fence was there when they purchased the house.

Mr. Maxwell asked if the fence got picked up on a title search.

Mr. Carnazza said a fence would not show up on our search, it just shows the location of the fence and not the heights.

Mr. Shilling said I don't know the answer to that but I'm guessing if it did they would have told me. As I said the fence serves as a very important feature between my client's property and the neighbor's property. In these pictures (points to board) it shows the neighbor's property and my client's property and you can really see how close together these properties are to one another. The fence separates that and provides privacy; we also brought more photos' showing how intrusive it could be if the fence was not there. I can assure you that if you were to take a look, the properties are very close together almost to the point where you can jump from one roofline to the other. There are issues between my client and the neighbor and the fence serves as a buffer between the two of them. I believe the neighbor would agree that the fence provides significant privacy; the neighbor uses his property for activities and gatherings which causes difficulties between the neighbors. My intent is not to allow this to become a personal referendum on my client or on the neighbor because this is about personal property. With regards to the addition, the condition that I believe the neighbor in council will come to argue about is one that has been in large part created by the neighbor. On three different occasions the neighbor and his predecessor came to this Board and sought relief which is very similar to the relief that my client is seeking tonight. For example, in 2003 the neighbor's predecessor received a variance for which he built a second story

addition and I do have a copy of the certificate of occupancy for that second story addition. He said we are also a 2nd story addition. In 2006 the neighbor petitioned the Zoning Board and got a variance for a tool storage closet which resulted in a roofline becoming very close to my client's property. It was his action that created what is perhaps a cluttered appearance; however, my client's did not oppose the desires of the neighbor to create a roofline that was very close to the property line. In 2012 he came again to the Board to create a storage area and a roofline, interestingly enough the Board commented that they wanted his building to be in keeping with the fence that my client had on his property. All of these activities involved area variances that the neighbor effectively encroached in the side yard in which affected my client's property and my client did not oppose. As a result of the neighbor's actions, he has a house much higher than my client's house will be and he has roof lines that are extremely close to my client's side yard. I state respectfully without fear of contradiction that it is his actions and his relief that he requested from this Board that created the condition that he opposes too this evening. That doesn't seem to be terribly fair, the architect could not be here this evening but Mr. Piccirillo said that he has a preplanned family trip and he modified the plans to the addition. His letter states that he has decided to put the windows above eye level so it will only serve as lighting to the room but not have a view of the neighbor's property. He said we have significantly reduced the second floor addition to the north side in order to provide more room between the Audah residence and the neighboring house. In fact, they moved it 7 feet away from the setback, we have attempted to move the second floor from the side setback completely but you really couldn't get any further because of structural constraints presented by the house. This is as far as Mr. Piccirillo could move this addition and he is now 9 ½ feet from the setback.

Mr. Maxwell asked if that now changes the numbers on the application.

Mr. Shilling said yes my letter to you states that the numbers changed.

Mr. Maxwell stated that we are going to need to amend the application.

Mr. Shilling said the setback is 15 feet the distance that we provide is 9 feet 6 inches and therefore we need a variance of 5 feet 6 inches. Because part of our application involved part of a carport that encroached within 2 feet I don't think the application is changing, the addition has moved back 7 feet.

Mr. Maxwell said the addition is not even listed.

Mr. Shilling said it is not listed because the other structures that we seek are more intrusive to the setback than the addition. Obviously the addition is an important component of this but it wasn't that that violated the setback it was the carport.

Mr. Maxwell said the carport is detached from the house now so it has to be added. You're going to have a side yard of 15 feet of code requirement for the carport at 2'3" so that will remain at 12'9" for the variance.

Mr. Shilling said yes and for the house we have to add 15 feet is the setback and we provide 9 feet 6 inches away from the setback.

Mr. Maxwell stated that a 5' 6" variance is what is being sought.

Mr. Shilling said I think my client's willingness to do this shows a desire to negotiate, desire to be a good neighbor and a desire to mitigate impacts that were presented. On a ¼ acre piece with a large house there is no potential for adding out it will almost always have to be added up. As far as the carport is concerned, there is no room for a garage; the fence separates the vision of the carport from the neighbor. I wanted to show you these pictures of 4 relatively recent carports that have been built on the point and I suspect carports are the second best thing when you can't build a garage. The setback from the carport is consistent with the line of the house how it exists today. The reason my client would like an addition today is because the rooms are small, the house was built in the early 50s and there are no closets. My client has been there for 16 years and he simply wants the luxury or the idea of an addition after 16

years of being there. I have stated already that he can only build up, he blocks no views and he will put the window above eye level to protect the privacy of the neighbor. The window would be for brightening not for view. When we are done we will have a house that is still smaller than the neighbors and lower in height than the neighbors. The fence is exclusively for privacy between two properties that are crunched together. Under the law we request area variances, the setbacks are not increasing, the addition has been moved a good deal to cooperate with the neighbor and the Board. I can't help but to suggest that the neighbor created the clutter condition from all of the relief that this Board granted him over the last couple years. A review of Mahopac point shows so many two story houses with many of the additions built recently that anyone who thinks this house will change the neighborhood then they should take a look at the neighborhood as a whole. We are not increasing the setback it is the same as the house boundary line, with these small lots there is little ability to comply with such setbacks. There are no environmental conditions that will be challenged we are going to the Board of Health, we are not adding bedrooms, there are three bedrooms now and there will be three bedrooms if we are successful here. We reduced the variance substantially for the addition we had our architect roll up his sleeves and my client lost a lot of living space with this concession but he wanted to do it. The engineer said he can go no further; structurally the house won't comply moving further because of the chimney and other structural factors. I don't believe that anyone who lives in a house for over 16 years and wants to put an addition on has self-created this hardship. He has been there he is a tax payer and had his kids go through the schooling here. I don't believe that this is about the people this is about property rights and the efforts he made to put an addition on as an accommodation to the Board, to the Town and to the neighbor. I know that it is unfortunate that there is such tension between the neighbor and my client but the neighbor has sought very similar relief to what my client is seeking tonight. He has a second story addition, he has built a two sided structure very similar to a carport and my client didn't oppose him. The neighborhood consideration is by case law, the most important criteria. There are beautiful majestic houses and my clients will be beautiful as well, I have seen plans and I intend to show you the plans. If others come in to speak about this in opposition ask them how big there lot is, ask them if they have a two story house because I suspect many of them will. With regards to the memorandum of law that I submitted to you, I said that this is not about people it is about property rights and in a generalized opposition without detailed facts is not grounds to defeat an area variance. I have also submitted a case that stated you also have to consider trends in the neighborhood, there are many new additions and carports in the neighborhood and I think this Board should consider that. It strikes me as disingenuous for someone to come to try and oppose my client when they sought very similar relief, I ask for the fence because I think that it is needed. You have this situation where privacy cannot be achieved without this fence and it was there when my client purchased this house. As far as the carport is concerned it is separated by the fence the neighbor wont view it, there is no room for the garage and there are 4 others in the neighborhood so it won't change the look of the neighborhood. As far as the addition is concerned we voluntarily moved it a great deal to accommodate the interest of the Board and the neighbor. There are so many two story houses that it is the rule and not the exception and the architect says that he can go no further.

Mr. Maxwell asked why that wasn't submitted with the application.

Mr. Shilling said we just recently modified the application and the architect just got to it today.

Mr. Maxwell said typically in the past we have asked for elevations that would have been with part of the plans.

Mr. Shilling said it was done by an architect who said he could get it done in two to three weeks.

Mr. Maxwell said in the past it has been asked to have plans and elevations to help the case and the board members and public better understand. That should be a blanket statement for the building department to ensure that happens when applications come forth.

Mr. Shilling said this is the original application, this was the addition, and here is the neighbor's property (points to map). This is what we are proposing; all this room there is 10 feet here and 9 feet here away from the setback creating a much smaller addition.

Mr. Balzano asked if the heights are all the same.

Mr. Shilling said yes and I submit to you that this will beautify the neighborhood this will not denigrate the neighborhood and if anyone disagrees they are clearly mistaken.

Mr. Maxwell said the original posts are existing from the intended carport structure from the first application so the intention I am assuming is to use and match those posts.

Mr. Carnazza said they would have to move them in.

Mr. Maxwell said in that same vein I think there are two driveways on this property could the carport be relocated to the center of the property or to the other driveway to give you the same benefit of having a carport but not having it so close to the adjacent neighbor.

Mr. Shilling asked where the carport would be relocated too.

Mrs. Fabiano said where the Mercedes is parked to the right side, there is a carport on the right and there is a driving area on the left and right.

Ms. Dina Audah was sworn in.

Ms. Audah said the argument is that if we put the carport on the other side, the driveway is very small and you would have to walk through the lawn to get to the house so the idea was to make it easier if we put it on the longer driveway that is closer to the entrance to the house.

Mr. Maxwell said the driveway to the right doesn't go all the way to the house.

Ms. Audah said it does not.

Mr. Maxwell asked if anyone from the board has any questions.

Mrs. Fabiano said at first you talked about the carport that was built on the side by the neighbor's property.

Mr. Shilling said no I did not say it was a carport I said it was an open air awning.

Mrs. Fabiano said yes but that was 5 feet away from the property line; you are looking for something that is 2.3 feet away which is a big difference in space. They erected a second story addition, I am not sure how far his side of the property goes to the neighbor but I know it's not that close to the other neighbor. When we granted him those variances I'm not quite sure it affected anyone as much as this variance will. She asked what is on top of the roof?

Mr. Shilling asked if she was talking about the windows.

Mrs. Fabiano asked if they were cameras and why do you have cameras.

Ms. Audah said because of the conduct and behavior of my neighbors.

Mrs. Fabiano said well it looks like it is pointing right into his property.

Ms. Audah said yes he has cameras too that look directly into my front entrance.

Mrs. Fabiano said the carport that you are proposing; it looks like you can park a bus in there. When I am used to seeing a carport it is a single carport, this is very long it looks like it can park two or three cars in back to back.

Ms. Audah asked if it is too long.

Mrs. Fabiano said usually a carport is for one car not two or three.

Ms. Audah said I think you can park two cars in there right now.

Mr. Maxwell said even the pictures that you show of other carports on the point; they are typically one car carports.

Ms. Audah said I don't think it is that long it is not the entire extent of our driveway.

Mr. Shilling said if the Board was inclined we would agree to a limitation on the size of the carport.

Mrs. Fabiano asked if we have a code about people having outdoor showers close to the property line.

Mr. Carnazza said no, the structure would be the only thing that would have a setback.

Mrs. Fabiano said I wanted to ask about the fence and I noticed that we can grant a 6 foot variance from the rear or side from the building line, why can't they go 4 foot to the building line and then go 6 feet. Also, why it is raised a foot? It is now a 7 foot fence.

Mr. Shilling said my guess is it would be of mutual consensus to have a big fence there for the separation and privacy between the two houses.

Mrs. Fabiano said it could be 6 feet from the ground not 7 feet when you have open air underneath it.

Mr. Shilling said it is high for a reason, but we didn't build it.

Mrs. Fabiano said for us to grant a variance means that this variance lasts forever. We have a responsibility to the entire community to grant minimal variances and to be aware that these variances will last forever.

Mr. Shilling said I don't think you're doing a disservice to anybody to grant a large variance because of the proximity of the two houses.

Mrs. Fabiano said I think by us granting a variance we are granting a variance forever and I have a hard time with that.

Mr. Schwarz asked if they provided the addresses for the different houses where the carports were.

Mr. Shilling said no I didn't I can get them for you but I don't have them and they are all on the point.

Ms. Audah said 54 Sycamore road right across the street from us have a carport.

Mrs. Fabiano said but they did not need a variance to put that carport in, since 2008 nobody needed a variance for a carport on the point.

Mr. Maxwell said I don't remember but I'm pretty sure we did grant a few of them.

Mr. Carnazza said there has been a few since 2008.

At which time, Mr. Maxwell opened this application to the public and reminded the audience to not be redundant and keep everything short and sweet and to the point.

Mr. John Molloy, attorney for Andreas Kuhbier was sworn in.

Mr. Molloy said this is an unusual venue, usually when there are two lawyers and they're representing adverse parties there is a judge that is familiar with the law and if there is a jury the judge explains the law to the jury. In this case there is an application before you but there is no one from the municipality defending the code. I don't want it to look like I am up here whining about people down in the Point when I don't live down there, what I am going to do is argue the law and show you how Mr. Shilling's arguments about the law aren't quite appropriate. I agree with exactly what he said with this not about the people it is about two parcels of real estate and the two buildings that exist there today. There is one statute, Town Law 267B which controls use variances and area variances, there are 5 criteria for area variances and I know in his presentation this evening Mr. Shilling did not address those criteria. I would like to address a couple of things that have been brought up so far. He said the argument is the fence at 7 feet is needed for privacy and that privacy is needed because the building is so close together so the applicant's non-conformity with the side yard setback is his argument for allowing a fence; if his house was setback properly then he would only need a shorter fence. I also point out that a 4 foot fence is permitted and I can see over a 4 foot fence so anything over a 6 foot fence is blocking view and blocking view when you have a house on the point is very important. If you notice things that are further away, you can see over them, if you look at a house that is 15 feet away from your property line you can see over that house. Unfortunately, if you are in your backyard, you can't see over a two story building and you will miss half the sky. There is a theory in retail you mark it up to mark it down and you say it was \$20 last week now it is \$15 this week. If you propose a building that is right on the property line two feet away two stories tall and then out of the goodness of your heart you move the second story back a few feet that is not a big help, you are still blocking the sky from your neighbors view. The fence is needed for privacy, I swear to tell the truth but I don't know by personal knowledge how many cameras there are but I believe there are 5 cameras, 3 of which are facing the neighbor's yard 15 feet up high, way over the fence in which they need for privacy. He can see the neighbor's yard with these cameras; my client has one camera that faces the street. One of the pictures we have submitted shows the outdoor shower and it is the outdoor shower that has a roof on posts which is a horseshoe enclosure. It is open to the elements and it is in there side yard, they live across from the lake so an outdoor shower is not considered uncivilized in a beach community. The neighbor sent in an affidavit and he talked about my client taking a shower and the only way he would be able to see them showering is by looking at his cameras. Now as far as the carport, the applicant is letting you know that they are on a 1/4 acre so they do not have a lot of room but when asked why they have to put the carport on the property line instead of on the other driveway, there reasoning is they don't want to walk all the way to the house. How far could the house possibly be from the other driveway being that they are on a 1/4 acre lot. If they would move it that would eliminate one whole variance that this Board decided against it a few years back, the only difference this time is that it is detached instead of attached. I know that Mr. Shilling didn't mention the memorandum of law tonight but he did submit it and it is a very convenient way for me to address the criteria for 267B. There are two different variances, a use variance and an area variance, the whole first page of the memorandum of law talks about a use variance which is not applicable to what is proposed. It is completely different criteria so the whole first page is not even appropriate. The beginning of the second page about the village of Bronxville is a use variance, then you get to the third paragraph which is the exact text from 267B which Mr. Shilling does give credit to. He said as a lawyer we have a responsibility to represent the interest of our client. I am not speaking against Mr. Shilling I am speaking in favor of my client; this is not a negative thing. At the bottom of the second page it says "where the application of setback regulations limited the usable portion of the land to 11 feet". Every case depends on the facts, in the case that is cited here Richards against the Zoning Board of Appeals of Malvern, that house was on a corner so applying both front yard setback requirements left the applicant with an 11 foot wide house. This is a 1955 case and it has nothing whatsoever to do with what we have here today but in that case that was cited by Mr. Shilling they talk about why we need setbacks. The court in Richards vs Zoning Board of Appeals of Malvern says the factors that warrant imposition of setbacks, for example, attractiveness, light, air and reduction of fire hazard. So back in those days it was all wooden

structures but light and air is the one thing missing from our cities up until the early part of the 20th century. The house that the applicant is living in now in this case was actually the garage for my client's house many years ago. It was subdivided and the garage became the house. Not every building can be built on every lot and the building that they are proposing should not be built on this lot. There are lots that you could build this building very easily. He said if this is a self-created hardship it's not fatal to the application like it would be in a use variance application, but it is something that you should consider. A self-created hardship is when someone buys a piece of property that is subject to a restriction that they are not seeking to avoid. So when this family bought this house, the house was right up against the property line and all of the characteristics it has today it had when it was purchased. Not every house can be expanded and now they want to build a second floor. The way we are looking at the carports that didn't need variances are attractive and small, that is the way people are going to look at a bigger carport that does need a variance because it is up against the property line and I submit to you that that will not help the neighborhood. It is a non-conforming house now and it will increase the non-conformity when there is a place that they can put the carport where they wouldn't need a variance and that's at the other driveway. I submit that this does have an adverse impact on environmental conditions because of the ventilation, the light and air. If you take a look at the application a 4 foot fence is permitted and they have a 7 foot fence, you can see over a 4 foot fence and a 7 foot fence is substantial you can't see over it. You are allowed to cover 15% of a lot with a building and they want to cover 25.4% of their building lot. Maybe, this is the wrong lot for them. As far as the rear yard setback they are supposed to have 20 feet, they are going to have 3 feet 8 inches so they are looking to avoid 80% of the rear yard setback requirement.

Mr. Shilling said that is existing now.

Mr. Molloy said and they are looking to keep it in place and put a second floor on it.

Mr. Maxwell said so it is coming off of the footprint that exists today.

Mr. Molloy said it is the same footprint but buildings were grandfathered, they were allowed to exist when the code came in 1955. They were allowed to exist so it wouldn't be a terrible financial hardship for people to have to tear down all the houses. They figured that once those houses reached the end of their life, they will be taken down and a proper house would be built. You are not supposed to allow the improvement of a non-conforming building so that it lasts longer into the future, we are supposed to allow them to self-destruct and let a new building be built. I don't know if you can see the ridge line in the house that my client has to look at from his backyard but the ridge looks like it will fall down at any time. There are 2 PVC pipes coming up through the roof and cameras sticking out 15 feet in the air, it is unsightly as it is and the idea of making the windows higher doesn't change the fact that they can still stand on a chair and look out that window. The idea of the house being there and you can't see over it or beyond it, that's what is wrong with the proposal, not the location of the windows. The side yard setback is the same thing, there is two feet 3 inches now from the house to the side yard and there is a roof over the shower on my client's property but that is not what we are talking about with this application. This application is a house so close to the property line that they want to make higher.

Mr. Maxwell said just to be clear they did change their application and they are moving it back so it is going to be a 5 foot 6 inch variance for the house part.

Mr. Molloy said when you are looking at something 2 feet and 5 feet isn't much of a difference.

Mr. Maxwell said I am just making a point of fact.

Mr. Molloy said I know but is it really going to change the appearance. We also submitted 7 different letters from 7 different neighbors who are all in opposition of this being approved. The posts that are existing today are from a carport that they were going to build without a permit and they got caught but the posts are still there. Some people think it is easier to get forgiveness then permission.

Mr. Maxwell said I think Mr. Carnazza stated that they will have to be removed.

Mr. Carnazza said yes if they are going to move the carport they would obviously have to move the posts.

Mr. Andreas Kuhbier, applicant's neighbor was sworn in.

Mr. Kuhbier stated that this was a second story house and has always been a second story house, it was remodeled but it is the same house and there is no adjacent house two feet away from that. This house has been on the point for 40 years there is a small structure here that has been there forever. Mr. Shilling made a comment in the beginning that the fence that runs along this property line was there the entire time that the applicant has lived there, which is actually incorrect. The last 4 sections from where the fence ended to the street were added recently. He said in the documents I sent you there are photographs of the fence where the grass is shown underneath. Those show that they were built relatively recently maybe in the last two years and the remaining section of the fence has been existing prior to my moving in. Mr. Shilling also made a comment that I requested a variance back in 2003 and I purchased the house in 2003 and that addition was done back in the 1980s so when I bought the house they didn't get a certificate of occupancy for it but it was there when I purchased this house. In regards to the photograph you can see the small roofline in the front of the applicant's house, that porch was added in 2002 or 2004 by the applicant and I was unaware of building codes at that time but that was done without proper approval from the Zoning Board or Town. When I went and got my dry area, part of my application was that my dry area was going to match their area and there would be no infringement on the rooflines because I was building a roofline or a shed roof to match their existing structure where they originally wanted to add their carport too. My shed roof has a 5 foot variance which was approved. He said unlike what Mr. Shilling mentioned that the applicant did not complain when construction started on that project when in fact they called Mr. Carnazza a 2 or 3 times and he had someone come to inspect my house to look at my drawings and they found out that I was building exactly what I got approved to build. So the applicant did not disagree with my building because they were not aware of it when I submitted my paper work in regards to that. In regards to the roofline the applicant also mentioned about the cameras, there are 5 or 6 cameras around their house and you can see that it is pointed directly into my backyard. You can see it there is infrared light on it and I think there is voice recording on it but that pole you can see that the round circle of the camera is not pointing on their roof it is pointing at a 90 degree angle into my backyard. If they want to look at their roof then they should have their cameras pointing at their roof not pointing directly into my yard.

Mr. Maxwell said as far as the cameras go, that is a police matter that is not what this Board is here to discuss tonight.

Mr. Kuhbier said in the affidavit that Mr. Shilling provided there was reasoning that they want a 7 foot fence because of the outdoor shower. If there was no camera pointed into my yard they would not be able to see me showering. So in the affidavit that was submitted there are many inaccuracies.

Mr. Maxwell asked if he is personally adverse to the fence as high as it is now.

Mr. Kuhbier said from the section of the front of my house where the last 4 sections were put on I would not like that part to be 7 feet high. If you look at this picture in the back that fence might be 7 feet high on their side but it is 5 foot high on my side because there is a difference in property heights between me and them. Over here I have a 3 and a half foot stonewall and the stockade fence sticks out 3 feet and I have no objection to the fence in the back. The objection I have is to the 3 or 4 pieces in the front where there is a tremendous amount of space underneath the fence. There was a mention made about a tool shed, that tool shed is about 5 feet high and it is tucked in on my house, you couldn't even see it if you were looking for it. There was a request made by me several years ago to have a tool shed built on the side of the house and it is a tool closet.

Mr. Maxwell asked if it is something that is fixed.

Mr. Kuhbier said yes I have filed the paperwork and did everything properly with that. It is about 6 feet long by 2 feet deep and I have my air compressor in there. There was a comment made about the fact that my house has a second story and as I said earlier that was done many years ago, my house is 15.6 feet from the property line so my second story which was built in 1980 was existing prior to me purchasing the house. He said I have been to Mr. Carnazza several times about different subjects, last summer I approached the applicant about 4 or 5 times asking if we could sit down and have a beer and discuss our differences he always denied my offers. I believe I have done everything I can to be civil and yes I do have a camera in front of my house which is pointed at the street which was only done for safety, his cameras are pointed at my backyard.

Mr. Maxwell asked if anyone else wished to be heard on this application.

Mr. Shilling said the argument that my client's addition will deprive people of sunlight is silly. That is the biggest argument that was made and an addition that will only be 10 or 12 feet higher is not going to deny people sunlight. I find that difficult to understand. Mr. Molloy talked about the fence and the fact that we are somehow taken advantage of the fact that something be wrongly built. My client did not build the fence the fence existed when they purchased this property. He spoke about blocking sky light and I can't imagine that this Board would turn this down environmentally because a house is going up a small amount to accommodate a second story. There are second stories all throughout Mahopac Point and I forgot to mention that they are almost all additions, the neighborhood is comprised of two story houses weather they are additions or they are built that way. The fact that we are denying people sunlight is a new one to me; Mr. Molloy didn't understand the intent of my memo was to try to distinguish between use variance and area variance. I never suggested this was a use variance I really want the Board to know that I distinguished the difference between a use variance and an area variance and I made it clear that an area variance is easier to get then a use variance. It would have been nice for Mr. Molloy to submit a memo but he didn't, he also stated that we did not go over the 5 criteria but I covered each of the 5 criteria and they cover them properly. Mr. Molloy suggests that my clients should just tear this house down and build another one which is a ridiculous argument and is not worthy of refuting. The neighbor suggested that I said these were all add on but many of them were built this way but the point I was trying to make was that the neighborhood isn't going to change with the addition of one small addition on this property. The neighbor said that he follows the code and criticizes my client for not doing so but if you look at the variance, his application for the storage closet was to retain it which means it was there before the variance was granted. He said both parties have cameras I suggest it to you that it is unfortunate that it has to go this far but every coin has two sides. The neighbor says that he is 15 feet 6 inches from the side yard and we are 9 feet 6 inches which is not that big of a difference. Again, I am going to suggest to you that this is a man living here for 16 years looking to build a small addition on his house and did everything that he could to mitigate what is an intrusion to a neighbor. Please do your balance test and consider each side, we will absolutely abide by regulations such as the fence, I do believe the neighbor is okay with the height as is and the carport, your argument is cogent but as for the addition please take a drive around the Point this is not going to deprive anyone of any skylight.

Mrs. Fabiano said you noted that the fence was there but I am looking at two pictures here and clearly there is one section that is very weathered and one that looks new.

Mr. Shilling said well there may have been replacements on the fence.

Mrs. Fabiano asked the applicant to look at the pictures.

Ms. Audah said the section is more weathered because it wasn't painted.

Mrs. Fabiano said the other section looks brand new it is not as weathered.

Ms. Audah said well we had to replace a few sections. I also gave you a few pictures of the fences on the property from when we bought the house.

Mr. Shilling said I am not going to bring new evidence in but I have photographs from the day they purchased the property and the fence is shown.

Mrs. Fabiano asked if the fence was that high.

Ms. Audah said it was exactly the same, we can't even move in the back because there is no space.

Mrs. Fabiano asked if the front section was as high as it is today.

Ms. Audah said to be honest with you I am unsure.

Mr. Molloy said in the fourth criteria Mr. Shilling cited the Tanglewood Shopping Center case and in that case they had an irregular lot with a stream running through it. He made reference to that case but the Tanglewood Shopping Center is a commercial piece of property on Central Avenue in Yonkers and there are no facts that are consistent with the facts in this case. Do we really want to apply the rules that applied down on Central Avenue in Yonkers in Mahopac? Also my client disputes that the fence that was broken down he disputes that it was the same height because it is a higher fence that replaced the old fence.

Mr. Kuhbier said if you would like to look at the fence there is a certain part of the fence that I stained on my side and the front four pieces on my side are not stained. The parts that show you the underground 2 feet, those 3 or 4 pieces that are relatively recent are not stained on my side because I didn't stain them because there are shrubs in front of them. The parts that are right next to the house that you would see on the other photographs show you that I stained that a tan color to match my house. The front four pieces are not stained on my side.

Mrs. Fabiano asked if those are the new pieces.

Mr. Kuhbier said yes they have to be done in the last year and a half because the posts are brand new and I don't know exactly when but I do know they were not there when either of us bought the house.

Mrs. Fabiano asked if there was a smaller fence at that point.

Mr. Kuhbier said there was no fence there in the beginning; the front four pieces going to the street had absolutely no fence.

Mrs. Fabiano asked how tall is it?

Mr. Kuhbier said they are 6 or 8 feet stockade sections, I think they are 6 feet long by 6 feet high but in the photographs it shows how high above the dirt they actually are. They did this on the other side also and they piled up dirt next to it on the other side of the house.

Mrs. Fabiano asked how long that extension is.

Mr. Kuhbier said 8 24 feet of new fence and I will say new being two years the longest. The other section from the day that I bought the house there was a fence but the front 24 feet are new.

Mrs. Fabiano said so the first 24 feet didn't exist and there was nothing in its place.

Mr. Kuhbier said correct and if you see them you will see that they are not stained to match the rest.

Mr. Maxwell asked if anyone else wished to be heard on this application.

For the benefit of the public Mr. Maxwell read the area variance requirements and said that all of the following must be taken into consideration. At which time, Mr. Maxwell read the area variance requirements.

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

Decision of the Board:

Mr. Aglietti asked if it was possible to do this as piece meal.

Mr. Maxwell replied yes, but we need a motion first.

Mr. Folchetti said you could make an individual motion for each variance and vote on each variance.

Mrs. Fabiano moved to deny the fence request for discussion purposes. The motion was seconded by Mr. Balzano.

Mrs. Fabiano stated that she reviewed all of the criteria and what he is requesting, other methods could be used just by reducing it. I believe that the proposed variance is substantial and it does have an adverse impact on the physical character of the neighborhood and is self-created. For that reason, I propose it should be a denial for the fence.

Mr. Aglietti said on the fence it doesn't seem to be an issue from the front of the house to the back.

Mr. Carnazza said correct, once you reach the back of the house you are allowed to have a 6 foot fence. So at that point the neighbor said it is lower than 6 feet at that point. If that is the case, he would be okay at that point. Anything forward which the motion is to deny which would mean they would have to put it to a 4 foot fence to the ground. Not 4 feet or 7 feet in the air. It has to be 4 feet to the ground.

Mrs. Fabiano said so there would be a 4 foot fence and they would have to conform to code for the front and once you reach the back it could be 6 feet.

Mr. Carnazza said so what you are essentially doing is making a motion to deny and if you deny it they can only put up a 4 foot fence without needing a variance.

Roll call vote was taken as follows:

Mr. Balzano	For the motion
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.

Mr. Maxwell stated that this component of this application is denied. The second one is for the building coverage at 15% requirement, provided is 25.4% so a variance of 10.4 is required.

Mr. Balzano asked if this is for the carport.

Mr. Carnazza said yes it is.

Mr. Maxwell said I am going to skip down to number 5, side yard of 15 feet required carport and house provided is 2 foot 3 inches so they would need a variance of 12 foot 9 inches for the carport.

Mr. Balzano moved to deny the variances in regards to the carport which are the building cover, the front yard setback and the side yard setback. The motion was seconded by Mrs. Fabiano with all in favor.

Mr. Maxwell stated the two components the building coverage and carport have been denied.

Mr. Maxwell stated that the rear yard is 20 feet provided is 3 foot 8 inches so the variance being requested is 16.4. The side yard is 15 feet what is provided is 12 foot 6 inches as amended tonight on the application and they are looking for a variance of 5 foot 6 inches.

Mr. Aglietti moved to grant the addition as amended. The motion was seconded by Mr. Balzano with all in favor.

Mr. Balzano stated that they moved the addition in significantly and there are many two story houses in that area so we are not impacting the area.

A roll call vote was taken as follows:

Mr. Balzano	For the motion
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

Mr. Maxwell stated that those two components of this application for the addition are approved.

Application of Temple Beth Shalom for a Variation of Section 156-15, seeking permission to operate a flea market and or Farmer's market from May 15th to October 15th 2016 on weekends. The property is located at 760 Route 6, Mahopac NY 10541 and is known by Tax Map #65.17-1-42.

Code Requires	Provided	Variance Required
No Outdoor sales	Outdoor sales	Outdoor sales

Mr. Greenberg was sworn in.

Mr. Greenberg stated that the Temple has had flea markets for the last 30-35 years and for several years they also had a farmers market which usually runs from May 15th to about October 15th. The flea market itself is usually one day a year in the middle of July and we were notified by the building inspector that we had to come to the Zoning Board to get approval to run the flea and farmers markets.

Mr. Maxwell said we have approved of this in the past and I don't think there should be any opposition but I will open it to the public.

Mr. Carnazza said last time you conditioned it stating that they can only do it certain months.

Mr. Greenberg said yes May-October is what is on the application.

Mr. Maxwell said we will hold it as applied.

Mr. Greenberg asked if this is something that we have to apply for every year.

Mr. Maxwell said it's seasonal.

Mr. Carnazza said if you say that it's every year from May-October then I don't see a reason to come back every year. A variance is a variance so it will be good forever unless it is conditioned for only this year.

Mr. Maxwell said I don't see a reason too, I think it is a benefit to the neighborhood.

Mrs. Fabiano asked if it will be indoor or outdoor.

Mr. Greenberg said the reason we are here is because it is outdoor.

Mrs. Fabiano said because it is outdoor do you have enough parking.

Mr. Greenberg said if you have been by there we have had the flea market for the last 30 years and there has never been a problem.

Mr. Carnazza said and it wouldn't be done on the day of services.

Mr. Greenberg said no it would be on Sundays.

Mr. Maxwell asked if there is any input from the public 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. Balzano made the motion to grant the variance. The motion was seconded by Mr. Aglietti with all in favor.

Application of Stephen & Eileen Scerra for a Variation of Section 156-15, seeking permission to retain pool with deck. The property is located at 296 Buckshollow Road, Mahopac, NY 10541 and is known by Tax Map #75.12-2-48.

Code Requires	Provided	Variance Required
20' Rear	15'	5'

Mr. Scerra was sworn in.

Mr. Scerra stated that he is looking to obtain a variance to retain a pool and a deck.

Mr. Maxwell said the code requires 20 feet, 15 feet is provided and you are looking for a variance of 5 feet which is not very significant. I was out there on Saturday and it is a very well kept property and I commend you on your upkeep. He then asked if there is any other property that can be purchased to bring this into conformance.

Mr. Scerra said no.

Mr. Maxwell looked to the Board for any questions.

Mr. Carnazza stated that the pool met the setbacks but the deck did not.

Mr. Maxwell asked if there is any input from the public on this application.

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

Decision of the Board:

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

Application of Julia Hammel for a Variation of Section 156-15, seeking permission to retain existing shed. The property is located at 44 Vista Terrace, Mahopac NY 10541 and is known by Tax Map #75.7-2-43.

Code Requires	Provided	Variance Required
10' Side	1'	9'
10' Rear	1'	9'

Mr. Robert Hammel was sworn in.

Mr. Hammel stated that he is looking for a variance for a shed that is on the property at 44 Vista Terrace.

Mr. Maxwell asked how long the shed has been there for.

Mr. Hammel said about 12 or 13 years.

Mr. Maxwell said I was there the other day to check it out, it looks like it has been there for a while and it is nestled in the corner surrounded by trees and greenery so it's not too bad.

Mr. Hammel said the property is .23 acres.

Mr. Maxwell asked where the septic is.

Mr. Hammel stated that the septic is on the other side.

Mr. Maxwell said ok so there is no other space you can put it. He then asked if there is any other property that can be purchased to bring this into conformance.

Mr. Hammel said no.

Mrs. Fabiano said I noticed that this is for sale, is the shed part of the contingency of the sale.

Mr. Hammel said I don't have a buyer yet.

Mrs. Fabiano said one foot off the property line is pretty close, is there any way that you can move it in a few feet.

Mr. Hammel said there is a pine tree right next to it and that starts getting a little tight also because it is a small piece of property.

Mr. Maxwell asked if there is any input from the public on this application.

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

Decision of the Board:

Mr. Balzano made a motion to grant the variance. The motion was seconded by Mr. Aglietti with all in favor.

Application of NYCDEP for a Variation of Section 156-15, seeking permission to keep trailers on property. The property is located at 1286 Route 6, Carmel NY 10512 and is known by Tax Map #54.-1-29.

Mr. James Keesler was sworn in.

Mr. Keesler stated that we have some trailers at our property which we are currently using as office space. We have a variance which is scheduled to expire in June of 2017; we are looking to extend that.

Mr. Maxwell said I think this is the second or third time this has come through for an extension.

Mr. Keesler said yes they were initially used for construction at the shaft 10 building and right now we use it as a mustering area and for office staff.

Mr. Maxwell said so your operations are for maintenance of that water building.

Mr. Keesler said yes.

Mr. Maxwell asked if there is any plan for down the road to make it a permanent structure for the same purpose or will this keep coming up years after year.

Mr. Keesler said we are right now in the process of trying to find a more permanent facility; we want to consolidate other locations as well because we are spread out from Croton Lake to Wappinger's Falls. We had a presentation in front of the Town Board in March where my deputy commissioner expressed to them our desire to stay in Carmel and possibly work with the contractor to find a piece of property.

Mr. Maxwell stated that we appreciate the services that they provide but at some point this will get old, construction trailers are not the most desirable look. We understand the purpose for it but I would reach back to your superiors and make note of that and there is no opposition to consider this for another year. I will look for input from the Board members.

Mr. Keesler stated that we were looking to get another 5 year extension like the other one was.

Mr. Maxwell said I didn't realize it was 5 years.

Mr. Keesler said unfortunately it is a long process for us to find something to rent but 5 more years should give us enough time.

Mr. Maxwell said I understand and the only good benefit is there are not really a lot of residential parcels around you guys. He then looked for any input from the public on this application.

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

Decision of the Board:

Mr. Balzano made the motion to grant this variance for 5 more years. The motion was seconded by Mrs. Fabiano with all in favor.

Application of Elizabeth & David Barksdale for a Variation of Section 156-15, seeking permission to build a one story addition. The property is located at 10 Longwood Road Mahopac NY 10541 and is known by Tax Map # 64.12-1-1.

Code Requires	Provided	Variance Required
40' Front	24'	16'
20' Side	12'	8'

Mrs. Barksdale was sworn in.

Mrs. Barksdale stated that she would like to add a one story addition to her house. My house is very small and was built in 1940 and it is zoned for two bedrooms. What we have currently been using as our second bedroom is a very small space it is 7 ½ by 9 feet you can see it in the plans that it would become a hallway and potentially a future closet. You can easily overlook it and not think that it is a bedroom so again you will see it at the end of the house marked as future bathroom and closet. That is currently what we are utilizing as a second bedroom so what we would like to do is actually build a space that would be a much more viable second bedroom and as I said use that space as a closet and future bathroom. In those regards they would still be incredibly modest because the space is so small so I think you can see I am not being unreasonable when I say what I say.

Mr. Maxwell said so you guys are at the end of the road and are nestled downhill.

Mrs. Barksdale said yes you pass a dead end sign to get to us.

Mr. Maxwell said the front encroachment is not too severe, I assume you cannot go in the back of the house because of the drop off. He then asked if there is other property that can be purchased to bring this into conformance.

Mrs. Barksdale said no.

Mr. Maxwell said they are not very significant variances so I will look to the Board for any questions.

Mr. Balzano asked if they have any elevations of what it is going to look like from the outside.

Mrs. Barksdale said yes I do.

Mrs. Fabiano asked if they have thought about adding the addition on top instead of on ground level.

Mrs. Barksdale said we did but that would add more square footage in which would affect our monthly budget.

Mr. Balzano said they would still need to ask for a variance either way.

Mr. Carnazza said the foundation might not be able to hold a second floor it is an older house.

Mrs. Barksdale said yes it was built in 1940.

Mr. Maxwell stated that most of the houses up there were. He then asked if there is any input from the public on this application.

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

Decision of the Board:

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

Application of Ralph Loewenberg for a Variation of Section 156.270 seeking permission to construct bathhouse over existing boathouse with no change to the footprint. The property is located at 260 West Lake Blvd. Mahopac NY 10541 and is known by Tax Map #64.16-1-30.

Code Requires	Provided	Variance Required
15' Rear Yard	0'	15'
10' Height	11.5'	1.5'

Mr. Besheret was sworn in.

Mr. Besheret stated that we have an existing boathouse that we are adding a cabana too. It will just be an observation room with glass all around it, the owner is an artist and she wants to use it for painting. Because of the location of the addition is over the existing boathouse it sits right on the property line and that is why we are here. We were referred by the Planning Board from the last meeting to come here to get the variances we need.

Mr. Maxwell said it's a zero variance because it is on the back property line.

Mr. Besheret said it is existing we are not doing any construction on enlarging the existing space we are using the same exact footprint that exists right now we are just building right on top of it.

Mr. Maxwell said word of caution I went there the other day and there are birds flying in and out of that boathouse that looks like they might be trapped in there.

Mr. Besheret said the door is always open.

Mr. Maxwell asked if the height is an issue.

Mr. Besheret said yes there is a slight variance of 1.5 feet on the height.

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

Mr. Besheret said no.

Mr. Maxwell asked the Board for questions.

Mr. Aglietti said it is noted that it is a bathhouse so will there be any plumbing.

Mr. Besheret said no surprisingly not, we are allowed by code to have plumbing in there but the applicant doesn't wish to have any.

Mrs. Fabiano asked if they will have electrical or cooking facilities.

Mr. Besheret said no cooking or nothing just a big open room and yes there will be electric which is already in the building existing today.

Mr. Balzano said it says that there are no prior appearances in front of us but how did the boathouse get built without a variances.

Mr. Carnazza said it is many many years old.

Mr. Maxwell asked if there is any public input 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 made the motion to grant the variance. The motion was seconded by Mr. Balzano with all in favor.

Application of Carl Bucalo for a Variation of Section 156-15 and a Use Variance, seeking permission to retain cabana and shed. The property is located at 57 Jennifer Lane, Mahopac NY 10541 and is known by Tax Map #64.17-1-90.

Code Requires	Provided	Variance Required
Shed 15' Side Yard	5'	10'
15' Rear Yard	10'	5'

Mr. Maxwell stated that Mr. Besheret is already sworn in.

Mr. Besheret stated that we have been here before in 2011 for the same exact case and it was dismissed without prejudice without the Board voting on it and we were sent to the Town Board. This is a use variance because of the lack of existence in the Town Code and in 2011 we petitioned for the Town Board to change it and nothing was done. There are certain cases in the past that have had variances granted and that is why we are here. We use the word cabana for lack of a better word, it is strictly used in the summer time only and in the winter everything gets stored away and shut down.

Mr. Carnazza said if you happen to live on the Lake you can call it a bathhouse or a boathouse.

Mr. Maxwell said I was out there the other day and it is nestled in the corner it is very meticulously taking care of and a very nice piece of property. The shed is in the corner surrounded by trees and it looked like there are some evergreen trees there as well. He then asked if there is any other property that can be purchased to bring this into conformance.

Mr. Besheret said no unfortunately not.

Mrs. Fabiano asked if there are cooking facilities in there.

Mr. Besheret said no there are not.

Mrs. Fabiano said what about plumbing.

Mr. Besheret said yes the plumbing is seasonal and only used in the summer time because in the winter it gets drained out.

Mrs. Fabiano asked if there is Board of Health approval on it.

Mr. Besheret said yes there is.

Mr. Maxwell asked if there is any input from the public on this application.

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

Decision of the Board:

Mrs. Fabiano made the motion to grant with the condition that there will be no cooking facilities in the cabana. The motion was seconded by Mr. Balzano with all in favor.

Application of Albert DePaul for a Variation of Section 156-15, seeking permission to retain existing shed. The property is located at 270 W. Lovell Street, Mahopac NY 10541 and is known by Tax Map #87.6-2-56.

Code Requires	Provided	Variance Required
10'	2'	8'

Mr. Albert DePaul was sworn in.

Mr. DePaul stated that he is seeking to retain an existing shed. The code requires 10 feet from the property line and I have 2 feet so I need a variance of 8 feet. There has been a shed in that spot for 40 years but 6 years ago I had to replace the shed but I was unaware it was in violation of the code when I took the old one down. The previous owner had put the shed there and he built the house in 1949 so I'm assuming there was always a shed in that location.

Mr. Maxwell said obviously you don't want it too far back into the property because I can see your lot goes pretty far back. I see that you have a very small pool that is not connected to the deck so I don't think that would be an issue.

Mr. Carnazza asked if we knew about the pool.

Mr. DePaul said it never came up before it is a portable pool and is only 7 feet by 10 feet.

Mr. Maxwell said it looks like it is blow up in nature.

Mr. Carnazza said the only thing with that is if it holds 24 inches of water then it is considered a pool by definition. You will need to get a permit for that but as long as you comply with the setbacks you will be ok.

Mr. Maxwell said it is to the right side of the house nestled into the ditch.

Mr. Carnazza asked if it is 10 feet away from the property line.

Mr. Maxwell said yes because when I walked around to look at the shed there was about 8-10 feet of clear grass and the pool was over next to that.

Mr. DePaul said the property line on the side of my house is on the survey I gave you.

Mr. Maxwell said you should be good.

Mr. Carnazza said we will take a look at it but I think you will be ok.

Mr. Maxwell said I don't see a need to hold this over then. He then asked if there is any other property that can be purchased to bring the shed into conformance.

Mr. DePaul said no.

Mr. Maxwell said you stated that it has been there for many years. He then asked if anyone in the public wishes to be heard on this application.

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

Decision of the Board:

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

MINUTES - 5/26/2016

The minutes from May were not received by all Board members so they will be held over until the next meeting.

The meeting was adjourned at 9:28 p.m.

Respectfully submitted,

Ashley Smith