

APPROVED 5/25/17

JOHN MAXWELL
Chairman

TOWN OF CARMEL
ZONING BOARD OF APPEALS

MICHAEL CARNAZZA
Director of Code Enforcement

PHILIP AGLIETTI
Vice-Chairman



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BOARD MEMBERS
ROSE FABIANO
SILVIO BALZANO
WILLIAM ROSSITER
MARC DITOMASO
MICHAEL SCHWARZ

ZONING BOARD OF APPEALS MINUTES

APRIL 27, 2017

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

ABSENT: SILVIO BALZANO; MARC DITOMASO

<u>APPLICANT</u>	<u>TAX MAP #</u>	<u>PAGE</u>	<u>ACTION OF THE BOARD</u>
Ronald Topal	75.42-1-19	1-4	GRANTED
Sayed El Shakry	44.14-1-53	4	DISMISSED W/O PREJUDICE
Americo & Marie Serino	65.17-1-54	4 - 5	GRANTED
Lori & Thomas Infantino	64.12-1-56	5 - 10	GRANTED
Emily Santana	64.6-1-2	11 - 12	GRANTED
Sandra Gershenson	64.6-1-3	12	HELD OVER
Vincent & Rosemary Girolamo	75.73-1-17	12 - 14	GRANTED W/CONDITIONS
Thomas Vitello	64.19-1-78	14 - 15	GRANTED
Maria Lluka	74.34-2-3	15 - 16	GRANTED
John & Laura Carricato	65.14-2-50	16 - 17	GRANTED
Planet Fitness	86.11-1-22	17 - 18	GRANTED W/CONDITIONS
John Tucci	64.13-1-34	18 - 19	GRANTED
Margaret DeLuccia	63.16-1-19	20	GRANTED
Lincks/Colonial	75.42-1-46 & 47	21 - 22	GRANTED
Minutes:	January 26, 2017		APPROVED
	February 23, 2017		APPROVED
	March 23, 2017		HELD OVER

The meeting was adjourned at 8:38 p.m.

Respectfully submitted,

Dawn Andren

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HOLD OVER APPLICATIONS:

Application of RONALD TOPAL for a Variation of Section 156-15, seeking permission to construct addition to existing house. The property is located at 751 South Lake Blvd. Mahopac, NY 10541 and is known by Tax Map #75.42-1-19.

Code Requires	Provided	Variance Required
Front - 25 ft	10.80 ft	14.20 ft
Side - 10 ft	5.00 ft	5.0 ft
Rear north - 15 ft	0 ft	15.0 ft
Rear east - 15 ft	2 ft	13.0 ft

➤ Mr. Joel Greenberg, Architect for the project was sworn in.

Mr. Maxwell stated there were some issues or concerns last month and you went back and you corrected them and you have some changes here.

Mr. Greenberg replied yes. A couple of things. One of the questions that the Board had brought up is the fact that part of the addition was right on the property line facing the lake and indicated that was not too acceptable so we've changed that now and we've pulled the addition back from the property line. There is still part of the existing house that's on the property line but obviously we can't do anything about that. The additions now are off the property line and the main addition, which is the second floor in the existing house, does not get any closer to any of the property lines. The other thing that we did was to remove the deck that was facing one of the neighbor's properties and put it facing the lake, to the north of the property, so there are no encroachments on the neighbor to the East. Those are the two main things that we spoke about and if you have any questions, I'll try to answer them.

Chairman Maxwell said so you're basically going up from the existing footprint.

Mr. Greenberg replied right. In other words, the main addition is getting a second story and the addition to the east is single story but again, was originally on the property but has now been pulled back from the property line. Most of all the other variances are there because they're all pre-existing, non-conforming and, as I said, one portion of the house that is on the property line and obviously we can't move but when we say property line, it's facing the lake. It's not facing any of the neighbors' houses or beachfront property.

Mr. Carnazza asked what's the new number on the rear going to be.

Mr. Greenberg replied that's been setback 3 feet from the property line.

Mr. Carnazza so we'll adjust the file?

Chairman Maxwell stated you're right.

Mr. Greenberg said I don't think so.

Mr. Carnazza said we need to.

Mr. Greenberg replied because the closest part of the house is on the property line.

Mr. Carnazza then asked so you're still going to zero on the existing.

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Mr. Greenberg replied yes; we're still going to zero on the existing house. We don't have to change it.

Chairman Maxwell asked the numbers are good?

Mr. Greenberg replied the numbers are correct.

Mr. Carnazza stated the closest point is still zero.

Mrs. Fabiano said to Mr. Greenberg; I had the opportunity to go back there and I pulled into the parking lot, and I happened to go around 2:30 which is a heavily trafficked area because the Middle School and High School come through there. It wasn't so easy getting in and out of there. There's potential for issues there.

Mr. Greenberg replied but that has nothing to do with what we're here for. The house, whether we add the addition or don't, has the driveway still in the same location. We can't change that. Whether we put the addition on or not, it's not going to make any difference. It's still a 1 bedroom house. It's not going to make any difference at all.

Mrs. Fabiano added you have more square footage.

Mr. Greenberg asked but what does that have to do with the driveway?

Mrs. Fabiano replied you have more potential for people living in that house.

Mr. Greenberg said it's still a one bedroom house.

Mrs. Fabiano replied the bigger it is the more potential it is. I did have another question on this. We didn't get any plans on what it's actually going to look like and if there's a basement, how high it's going to be.

Mr. Greenberg replied there's no basement. It's all slab on grade.

Mrs. Fabiano asked how high is it going to be?

Mr. Greenberg replied the code allows up to 35 feet but we'll be down around 22 feet so we'll be 12/13 feet below the maximum that is allowed by code.

Mrs. Fabiano added that is a heavily trafficked area right there because of the Middle School and the High School.

Mr. Greenberg interjected again; I understand your concerns but the house has been in existence for many years; it will exist for many more years and the same driveway will be there for many, many years.

Mr. Maxwell interjected it's still a one bedroom house?

Mr. Greenberg replied yes – still a one bedroom house. I've given you the approval from the Health Department.

Mr. Maxwell then stated so it's the same use basically. If you had a party or something...

Mrs. Fabiano interjected I don't know if you saw the tape but there were a lot of complaints from neighbors about the parking and stuff.

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Mr. Greenberg interjected but that's not what we're here for.

Mrs. Fabiano replied no but we have to be concerned with the neighbors as well and if there's a detriment to the neighbors in the area.

Mr. Greenberg added but again; the driveway is not going to change whether we add the addition or not.

Mrs. Fabiano said the bigger the building the more potential to be there.

Mr. Greenberg replied a one bedroom house is a one bedroom house.

Mrs. Fabiano said I understand that. Is this a summer rental typically?

Mr. Greenberg replied no; it's year round.

- Mr. Joe McKay of 25 Pine Cone Road-Mahopac was sworn in.

Mr. McKay stated that I appreciate what you are mentioning. It has been a rental ever since I've been there – for 9 or 10 years. I've never seen the owner once and there are usually two couples or more who rent there. So; if it's a one bedroom and that is what the architect is dying on a sword for, they've continuously put more people in that house than a one bedroom can support. So my concern is the bigger it is the more people they'll put in there. That driveway is very bad. I overlook the property so I constantly see 'almost accidents'. I've helped people pull out of that driveway when late at night they're leaving so I have a real concern about making that house bigger. A very big concern.

Mr. Greenberg responded the house is rented to two people – 1 couple – that's it. There is no one else that is renting that house in its current state. I knew one of the previous tenants who was just a single guy so I don't know of any time that it was rented to more than one 'family'.

Mr. Maxwell asked and the plan is that the owner is going to inhabit.....

Mr. Greenberg responded well no; there's a rental right now. I believe this gentleman who was here at the last meeting intends to continue until his lease is up.

Mrs. Fabiano added you do have huge variances that you're looking for. Significant. Zero Lot Line, a two foot....

Mr. Greenberg interjected but you're missing the whole point. That's what the existing house is. We can't change that.

Mrs. Fabiano replied the greater the square footage the more people you can pack in there.

Mr. Greenberg said, I don't agree with you. I'm sorry but I disagree with you. A one bedroom house is still a one bedroom house and you're not going to get 10 families in there.

Vice-Chairman Aglietti moved to close the public hearing on this application; seconded by Mr. Rossiter with all in favor.

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DECISION OF THE BOARD:

Vice-Chairman Aglietti moved to grant requested variance; seconded by Mr. Rossiter.

Mrs. Fabiano stated I still believe that it's not in a good position. I think that there is a danger with the High School traffic and Middle School traffic. I believe that there's parking issues there. So I can't, in good conscience, vote in the affirmative on this one.

Chairman Maxwell ordered a roll call vote:

- Mr. Schwarz for the motion
- Mr. Rossiter for the motion
- Vice-Chairman Aglietti for the motion
- Mrs. Fabiano against the motion
- Chairman Maxwell for the motion

Chairman Maxwell stated the motion carries with four votes.

Application of SAYED EL SHAKRY for a Variation of Section 156-15, seeking permission to rebuild barn over existing foundation. The property is located at 47-51 Fair Street, Carmel, NY 10512 and is known by Tax Map #44.14-1-53.

Code Requires	Provided	Variance Required
25 ft. - side yard	1.5 ft. existing	23.5 ft.
40 ft. - rear yard	7.0 ft. existing	33 ft.

Chairman Maxwell indicated that the Board had received a letter and the applicant was looking to dismiss without prejudice.

Vice-Chairman Aglietti moved to dismiss without prejudice; seconded by Mr. Schwarz with all in favor.

Application of AMERICO & MARIE SERINO for a Variation of Section 156-15 & 156.47A(1), seeking permission to relocate existing 2 family dwelling and add porch to existing house. The property is located at 205 East Lake Blvd. Mahopac, NY 10541 and is known by Tax Map #65.17-1-54.

Code Requires	Provided	Variance Required
10 ft. side (north)	6 ft.	4 ft.

➤ Mr. Americo Serino of 23 Miller Avenue, Mahopac was sworn in.

Mr. Serino stated when he was here the last time; we went over a few things. You wanted a letter from my neighbor which I got and gave to Rose in the ZBA office. (Zoning Board members did not have it in their packages so file was checked and letter was located.) I also have a letter from my other neighbor (the one that was here the other night) just in case you want it.

Chairman Maxwell read letter from Aiden Devaney dated 4/6/17 basically citing there were no objections to the house at 205 East Lake Blvd. Mahopac, NY being moved closer to his property line.

Chairman Maxwell then read a letter from Howard Fuchs of 201 East Lake Blvd. Mahopac citing the same; that they support the Serino petition to move their home.

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Chairman Maxwell then stated from watching the tape, I think that was the only concern so does anybody have anything else from the Board?

Mrs. Fabiano stated she had a couple questions. Who owns the bushes and the fence?

Mr. Serino replied I planted the bushes; they're on the property line and they grew 1/2 and 1/2.

Mrs. Fabiano said so if you cut them back, you wouldn't have as much of a problem.

Mr. Serino replied yes but they're leaning already into my neighbor's yard. It's the fireplace that really sticks out and I don't have 10 feet on that side. All the other properties have more than 10 feet on the driveway side – on East Lake. That's the only one except in the middle.

Mrs. Fabiano stated I did drive there today and see it.

Mr. Serino said she (Mrs. Serino) doesn't want to drive there and I'm not living there if she doesn't want to drive there.

Mrs. Fabiano said I didn't drive it last time; my husband drove but I did this time. The pillars in the front I would think are a problem. The pillars in the front on the street because they're a little tough too.

Mr. Serino stated the pillars are wide enough.

Mrs. Fabiano replied they're a little tight.

Vice-Chairman Aglietti moved to close the public hearing; seconded by Mr. Rossiter with all in favor.

DECISION OF THE BOARD:

Mr. Rossiter moved to grant requested variance; seconded by Vice-Chairman Aglietti with all in favor.

Application of LORI & THOMAS INFANTINO for a Variation of Section 156-15, seeking permission to subdivide property into 2 lots. Lots width, depth and frontage variances for Lots 1 & 2 needed. The property is located at 453 North Lake Blvd., Mahopac, NY 10541 and is known by Tax Map #64.12-1-56.

Code Requires	Provided	Variance Required
Lot 1 Frontage 100'	51.92 ft.	48.18 ft.
Lot 1 Width measurement leaves site due to odd shape		
Lot 1 Depth measurement leaves site due to odd shape		
Lot 2 Depth measurement leaves site due to odd shape		

➤ Mr. William Besharat of 266 Shear Hill Road representing the applicant was sworn in.

Mr. Besharat stated that this application was held over from last meeting due to the fact that there was a little confusion with the location and the direction of the property. We have gone and re-notified the neighbors, clarified the area where the subdivision takes place and where the house location is so we made it clearer for any members of the Board that went up to the property to see where everything would be located. This property is front of the Planning Board right now for a subdivision to create one lot. During the original subdivision, they were supposed to create this lot but was held off for one reason or another. Now it's time to create it again. The lot, as it is

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proposed, meets the requirements of the Town Code from area, etc. Because the odd shape of this lot and the odd shape of the existing lot that we are taking a portion of the property from. The lot width and lot depth: Although they do have sufficient lot width and lot depth, they do depart from the property boundaries. So, when you do the measurement, it goes over one of the corners. I can probably explain it to the Board.

Mr. Carnazza interjected, can I just explain one thing. You always have to start at the midpoint of the frontage. So it has a road that comes up in a zig zag so it exits and re-enters the lot.

Chairman Maxwell said, right but you take those calculations as part of the.....

Mr. Carnazza replied that's correct. If you took a 200' x 200' box and put it inside the lot, it would fit. It's because of that long tail piece and up top. Mr. Besharat will explain the top piece.

Mr. Besharat stated for instance; let's take the existing lot. It's basically a crooked flag lot for lack of a better word. If you take the front property line and the center of it and go to the rear, the depth is 1362' but because of the odd shape of the property, it does not stay within the property. If we go inside this box, we still have plenty of lot width and lot depth and it stays within. Because of the definition within the code, it has to be measured with that format. It departs and, therefore, we will need a variance from that portion of the code only. The same thing on the lot that's being created although the width we have is 366', the depth we have is 696'. It's way more than we need but because of the odd configuration of the lots, it creates that. One of the items, road frontage, which is the existing parcel on North Lake Blvd., that frontage is really, we are not proposing to do any change to the use – increase or decrease. It's going to be still serving a single family home. The entrance to the new lot which is going to be from Split Rock Road which is a town road and has the frontage on it to comply with the code on that.

Chairman Maxwell asked now that's a shared driveway? There's two homes on the original lot – right?

Mr. Besharat replied yes. The reason why it was done here is it doesn't have its own frontage but this is an easier way with a lot less excavation.

Chairman Maxwell added no I mean on the lower piece off of North Lake Blvd.

Mr. Besharat replied no there's only one home.

Mr. Carnazza interjected that is shared. There's two houses. There's another house that accesses off the back. I can't think of the name.

Mr. Besharat said okay then I take that back.

Chairman Maxwell said, is that an easement?

Mr. Besharat said, yes; I'm sorry; this whole thing is an easement. See the dotted lines. It's the right of way for the house that I didn't remember. There's another house on the top.

Chairman Maxwell indicated they did receive some letters in opposition. They're too lengthy to read but they're posing the same things: steep slopes, mature old forest trees, major rock out croppings, minimal soil depth over ledge rock and a concern to the effect on Wixon Pond. These letters were entered into the records.

Mr. Besharat stated that he read those letters of objection. The neighbors still have a chance, this is not the final approval, and this is just part of the procedure of the Planning Board. There will be a public hearing held by the Planning Board where the Town Engineer will be involved and will be

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more capable of addressing these through the expertise of the Town Engineer. If any actions has to be taken, and the Planning Board seems fit to help the neighbors, it will be conditional or part of the Planning Board approval and part of the drainage study, etc. that has to be done.

Mrs. Fabiano asked Mr. Besharat was it originally two lots or was it one lot and now you're splitting it into two?

Mr. Besharat replied this was all one lot. Lot #1 is the lot that fronts on North Lake Blvd. It's one big lot and we're taking this section out of it and the odd shape is just to create a footpath down to Wixon Pond.

Mrs. Fabiano added so you only had one lot initially and now you're trying to break it into two.

Mr. Besharat replied well the house itself – it's existing, there's no construction proposed on the existing lot. One building lot was created.

Mrs. Fabiano said Oh, so there's a house already there.

Mr. Besharat replied yes. There's a house already there. A fairly new house too. We tried to create only one additional building lot.

Mrs. Fabiano then said width measurement leaves site due to odd shape. Can you just show me where that is again.

Mr. Besharat (at the map) the definition of the lot is that we have to go from the center line of the front property line and the center line of the rear property line. From this point to this point, there's a line that shows the depth here. The depth is 696 feet. But; if we go down to here, we still have about 400 feet plus of depth in the area that's approximately 2 acres of property where the house is going to be constructed and all the activities of construction will take place there. We'll still have the lot depth and width as it exists.

Mrs. Fabiano asked where will the road come for the second house? Can you show me how you will approach it?

Mr. Besharat asked you mean the driveway?

Mrs. Fabiano responded yes; the driveway.

Mr. Besharat replied the driveway is going to be coming from the cul-de-sac. There is an easement in place right now. There are two lots here. The one in red is owned by Mr. and Mrs. Infantino but Mr. Infantino passed away through this process. So the red color on here is the beginning of the Infantino residence. The green section is owned by the Daley's. The purple is the proposed lot. During the subdivision process, this was anticipated. They put an easement, an access easement for this lot to come from here because it's easier and creates less impact. We could come from the cul-de-sac and not have to go through the easement here but by doing so; if you've been to the lot you can see it's too steep. By going through this side over here, you go with a nice gentle slope with very minimum excavation outside of re-grading and making the grade fit nicely.

Mrs. Fabiano said so you're crossing over the Daley property?

Mr. Besharat replied yes; over the Daley property but there is an easement in place and filed at the County too. There will be an easement given from Infantino but it's going to be the same ownership so the easement will be 100% given.

Mrs. Fabiano then said, you stated there's a house that exists. Where is that house?

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Mr. Besharat replied the Daley house is right here.

Mrs. Fabiano then asked where is it on there?

Mr. Besharat responded it comes down and it goes down to this side.

Chairman Maxwell stated, while watching the tape from last month, there was some concern about the footpath going down to the Wixon Pond. I believe you met with them after the meeting.

Mr. Besharat stated yes; we met with them and explained to them that there is none. What we meant by footpath is that this is the access to Wixon Pond and if somebody feels like they want to take a walk and enjoy the pond or hang around the pond.....

Chairman Maxwell interjected so there's no tree clearing?

Mr. Besharat replied there's no tree clearing, no construction, no excavation, no equipment, nothing will be allowed in this area. If you've been there, you'd know it's nice, beautiful area and scenic to be there.

Chairman Maxwell stated I'll just alert the Board too; that their concerns about the steep slope and septic, etc. will be under the review of the Board of Health. So, without their approval, they wouldn't be able to build the house.

Mr. Besharat interjected if I may add, about the Board of Health, we had the Board of Health there; the testing was done on the soil, the deep hole test and the percolation test and the area that's designated for the septic system has been approved by the Health Department. In the letter of the neighbor's concern, they mentioned something about the Board of Health approval and if we've received it already. We don't have the approval for the septic system but the area where the septic will be constructed is approved. That means the slope is okay on it, the soil is okay from both a percolation rate and depth of soil to rock.

Chairman Maxwell interjected do you need to bring in more material for the septic?

Mr. Besharat replied that I cannot answer at this point. Let me see if the Engineer has put a note or not.

❖ *various talk – mostly inaudible*

Chairman Maxwell stated well again, that's under the purview of the Board of Health.

Vice-Chairman Aglietti directed a question to Mr. Carnazza: did you see the two letters that came in?

Mr. Carnazza replied I did.

Vice-Chairman Aglietti then asked is it safe to say that their concerns are Board of Health and Planning concerns more than this Board?

Mr. Carnazza replied yes according to what I read.

Chairman Maxwell then said the bottom line is their houses are in the same kind of rolling hill, steep slopes and I'm sure their septic systems were designed with less stringent controls back when they were built.

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- Mr. Charles Banks of Shapiro, Gettinger & Waldinger Law Firm, Mt. Kisco NY was sworn in.

Mr. Banks stated he was there to represent three of the neighbors.

Chairman Maxwell stated “you’re an attorney so I don’t have to swear you in”?

Mr. Banks stated two of the neighbors you’ve already received letters from. I also now have a letter from Mr. Daley which I’d like to hang up. I have multiple copies (passed out to Board members). Let me make it clear that I’m here to address Zoning Board issues – not Planning Board issues. This application is very troubling to our clients’. I’ll show exactly where they live. The Daleys live here. The Pounds live here and Mr. Slaker lives here. They are the closest neighbors to this proposed subdivision. I’m appearing in opposition to the application that all of these houses have access from Split Rock Road and they’re the immediate neighbors. The Pound and Slaker houses delivered the letters earlier this week. The Daley letter was just delivered to me tonight and that’s why I delivered it to you by hand. The application form says a lot about why we’re here. The lot frontage requires a substantial variance – almost 50%. The dimensional variances all represent “measurement leaves site due to odd shape”. An odd shape is what defines this proposed subdivision. In a neighborhood of more or less neighborly irregularly shaped lots. At the threshold, we have a proposal that’s not in keeping with the character of the neighborhood in the words of Town Law section 267-B. The configuration of proposed lot 2 is so bizarre as to distort the very meaning of section 131.24 of the subdivision regulations which seeks to promote arrangements in compliance with the code, with dimensions that comply with the codes (inaudible) of standards. Instead, the application proposes a lot configuration that violates not just one or two of the required standards but almost all of them. Lot 2, especially, is a grotesque mockery of those standards. Keep also in mind that the application difficulties are entirely self-created. The entire 15.58 acre parcel was part of a larger 1989 subdivision known as “High Ridge”. When that subdivision carved out the applicant’s property, if any further subdivision was contemplated at that time, applicant was supposed to file a sketch plan with the Planning Board showing the possible future subdivision at that time so that the Planning Board could consider the future implications and adjust the design accordingly. No such sketch plan was filed that I can find in the file. As far as I can tell, this wasn’t done so that the lot configuration difficulties, the applicant now faces, were entirely preventable. In summary, section 267-B of the Town Law issues which are facing your Board, Zoning Board issues not Planning Board issues, all are requested variances are substantial. None are de minimus. The awkward lot configuration of Lot 1 is out of character with the neighbors, will provide an undesirable change in the neighborhood and, finally, is clearly a self-created hardship. I know that doesn’t disqualify the application under 256-B but it is a factor for you to consider and it’s certainly one of the main reasons for you this application is before you.

Mrs. Fabiano asked Mr. Besharat to take his finger and draw along the lines of the second lot so she could see what it physically looks like.

Mr. Besharat indicated on map; this is the area, this is the footpath that we are creating for access to Wixon Pond; this area here, it meets the lot width and the lot depth and it is very much in compliance with the neighborhood because it’s a very large area. This area that makes it odd shaped is to access Wixon Pond. It’s right on the water and it should have access.

Mrs. Fabiano asked where will the house be?

Mr. Besharat indicated the house would be all the way up, about 500 feet if not more from Wixon Pond. In this box here. If you get to that area, you’ll see a nice gentle slope, beautiful views and plenty of area to build the house and build a septic system. Like I said, the septic area has been approved by the Putnam County Board of Health Department. It is my understanding that it was a joint review with NYC DEP and they have no problem with where the septic system is going to be located.

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Chairman Maxwell asked if Mr. Besharat had any response to Mr. Banks' presentation.

Mr. Besharat replied the issue brought up regarding the size of variance we are asking for on the road... this lot existed. We are not creating that inadequacy of frontage for Lot #1. That is in existence. So it's really a hardship for us because we're not creating it. We are not introducing any additional traffic or use to that access there that could be impaired by the inadequacy of compliance with the code. The lot width and lot depth – yes. If we look at the lot depth, we have 696 feet where we need 200'. If I stay within the box, which is designated for construction of this house which is fairly compliant, we have at least 300 to 350 feet of depth and the width 366'.

Mrs. Fabiano asked what does that translate to in acreage – that section?

Mr. Besharat responded this section is approximately 2 acres – maybe a little bit over.

Mrs. Fabiano said two acres. And the third acre comes from the path?

Mr. Besharat said maybe like ½ an acre or ¾ of an acre make up the footpath to Wixon Pond.

Mrs. Fabiano said so you have 2 ½ acres on the top?

Mr. Besharat said a little bit less than that but definitely over 2 acres.

Mrs. Fabiano stated over 2 acres but you have a 3 acre lot though.

Mr. Besharat replied yes; a little bit over 3 acres. So we comply with the lot area. Like I said, the neighbors are more than welcome to be at the Planning Board Public Hearing where there is a lot more expertise of Town Engineer and everybody. There's an environmental study prepared, drain water report and storm management, etc.

➤ Mr. Richard Dudyshyn (co-applicant) of 703 South Lake Blvd. was sworn in.

Mr. Dudyshyn stated that Tom Infantino was my partner. He was a great guy, my best friend and mentor. He did a lot of things for a lot of people and he taught me a lot. His wife and daughter are right over there. We lost him a few months ago and his wife just lost her mother all within the same month and I lost my father a month afterwards. Where this house is going, I've been there with the Town Engineer, Richard Franzetti. He walked it with me. There's a relatively slight slope going up. Where the house is 500 feet away from the cul-de-sac. All these houses going up this road are almost on top of each other. The only houses that are not are the houses going down the common driveway. Mr. Franzetti didn't seem to have a problem with it. I marked the house location out there for anybody to go see it. It's dead flat. We're not going down the steep slopes. We're not going anywhere near the steep slopes. But that is something for the Board of Health to handle and the Engineering Department which is very difficult to deal with as you know.

Vice-Chairman Aglietti moved to close the public hearing on this application; seconded by Mrs. Fabiano with all in favor.

DECISION OF THE BOARD:

Vice-Chairman Aglietti moved to grant requested variance; seconded by Mr. Rossiter with all in favor.

Mrs. Fabiano stated I believe that any of the issues that have been brought before us from any of the neighbors are Planning Board issues and Board of Health issues. So, I don't think what we have here is under our purview regarding any of the issues that have been brought up so far.

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NEW APPLICATIONS:

Application of DAVID & EVELYN SANTANA for a Variation of Section 156-15, seeking permission to retain existing shed. The property is located at 467 Bullet Hole Road, Mahopac, NY 10541 and is known by Tax Map #64.6-1-2.

Code Requires	Provided	Variance Required
15 ft.- side	5 ft.	10 ft.

➤ Mr. David and Mrs. Evelyn Santana were both sworn in.

Mrs. Santana stated that they were there seeking permission to retain an existing shed and we need a 10 foot variance. Our neighbor, Sandra Gershenson, does not have any opposition so we just wanted to see if we can get this approved so we can retain the shed that we have there now.

Chairman Maxwell asked and this got picked up on a search from the Town?

Mr. Carnazza replied Dennis went out there.

Chairman Maxwell asked how long has the shed been there for?

Mrs. Santana replied about two years.

Chairman Maxwell then stated you didn't know you needed a permit and variance - obviously. Is there any property you can buy to bring this into conformance?

Mrs. Santana replied no. I took pictures. I don't know if you have them.

Chairman Maxwell replied we have them as part of the record.

Mr. Santana stated we also have a letter from the neighbor.

Chairman Maxwell asked was there another shed there previously?

Mrs. Santana replied no. We just have more patio furniture, etc. so we had to buy another shed.

Mr. Santana stated it's hard because there's no room in the house to be putting all that furniture and stuff.

Mrs. Fabiano stated the lot next to you seems to be vacant.

Mr. Santana replied it's private property.

Mrs. Fabiano asked is that all part of the house that's behind it?

Mrs. Santana replied it's all wetlands. We have wetlands on this side and behind us. Our only neighbor is Sandra Gershenson.

Chairman Maxwell asked for public input to this application for which there was none.

Vice-Chairman Aglietti moved to close the public hearing on this application; seconded by Mr. Rossiter with all in favor.

APPROVED

DECISION OF THE BOARD:

Mrs. Fabiano moved to grant requested variance; seconded by Vice-Chairman Aglietti with all in favor.

Application of SANDRA GERSHENSON for a Variation of Section 156-15, seeking permission to retain existing shed. The property is located at 471 Bullet Hole Road, Mahopac NY 10541 and is known by Tax Map #64.6-1-3.

Code Requires	Provided	Variance Required
10 ft.	3 ft.	7 ft.

Chairman Maxwell read applicant's letter requesting to be held over to the May 25, 2017 meeting.

Mrs. Fabiano moved to holdover the application; seconded by Vice-Chairman Aglietti with all in favor.

Application of VINCENT & ROSEMARY GIROLAMO for a Variation of Section 156-15, seeking permission to retain existing shed. The property is located at 25 West Branch Road, Mahopac NY 10541 and is known by Tax Map #75.73-1-17.

Code Requires	Provided	Variance Required
25 ft. - front	0 ft.	25 ft.

➤ Mrs. Rosemary Girolamo was sworn in.

Mrs. Giralamo stated that she was trying to retain an existing shed that's been up over 20 years. We have no attic; we have no basement and are in dire need of some outside storage.

Chairman Maxwell asked this same shed has been there for that long?
Mrs. Giralamo replied yes.

Chairman Maxwell stated because I saw it the other night. It looks fairly.....

Mrs. Giralamo interjected we started to repair it and when we got notice that we were in violation, we stopped. So we just repaired the doors, the tops. I could look for the receipt; I may have it but it's been there since before 1987 at least.

Chairman Maxwell asked if any of the neighbors had an issue with it?

Mrs. Giralamo responded no. I actually have a letter that my neighbor was kind enough to write. Her back yard faces it and she said she has no opposition to it.

Chairman Maxwell asked do you want to submit that for the record?

Mrs. Giralamo replied sure.

Chairman Maxwell reviewed letter from Mrs. Margaret Ricci basically citing no objection to granting permission to Mr. and Mrs. Giralamo to retain their existing shed which faces the back of her property on West Branch Road.

APPROVED

Chairman Maxwell then asked there's no other property you can buy to bring it into conformance?

Mrs. Giralamo responded no; it's actually on the Town's property according to the variance.

Chairman Maxwell agreed; part of it. It's very uncommon to have a shed in the front of a house.

Mrs. Giralamo stated initially, it was a motorcycle house and then it became storage.

Chairman Maxwell stated it's in nice shape, it's well screened on two sides but it's pretty uncommon for a shed in the front of a house.

Mrs. Fabiano reiterated it is uncommon. It seems to me that there are several places that it could go; it seems that on the side of your garage would be a spot; on the other side of the fence would be a spot; places that it wouldn't be so obvious to the world that you have a shed in your front yard. I would love to see it moved if possible.

Mrs. Giralamo replied to move it.... I don't think it would pay because of the age of it. As I said, we started to repair it. It isn't on a permanent foundation. It's just on cinder blocks. I just think if they tried to move it, it would fall apart.

Chairman Maxwell asked what would be the cost to remove it in your assessment?

Mrs. Giralamo replied whatever a dumpster would cost.

Chairman Maxwell interjected no, I meant to relocate it.

Mrs. Giralamo replied oh, I have no idea. I didn't even consider that.

Chairman Maxwell asked if there was any other property that could be bought to bring it into conformance.

Mrs. Giralamo replied we have a ½ acre so I don't think that's an issue. We have an existing shed on the property but as I said, it was initially a motorcycle house and later on became storage for the snow blower and other accessories.

Mrs. Fabiano stated I'm not sure we can even grant a variance for something that isn't even on her property. Do you have a letter from Mr. Simone agreeing to it?

Mrs. Giralamo replied he okayed it; it's on my survey. He signed the bottom of my survey.

Mrs. Fabiano again asked how do we grant a variance for something that isn't even on her property? I don't think we can even do that.

Mr. Folchetti replied give a zero line.

Mrs. Fabiano said we can give a zero line but we can't approve somebody else's.....

Chairman Maxwell interjected well it's partially on the easement. It's not fully. The majority of it is on her property.

Mrs. Giralamo then asked well my other question is: when we moved there it was a one lane road and then they came off and took off about two feet or so from our property – part of the easement – to make it a two lane road. Initially, 30 years ago, there was a little more room there.

Vice-Chairman Aglietti asked other than the doors, what other repairs do you have to make?

APPROVED

Mrs. Giralamo responded it's a little bit of the trim. The doors are fine. It's just a couple inches of trim that started to rot. The rest of it is in decent shape.

Chairman Maxwell stated we could condition it that when/if the time comes to be replaced, to bring it into conformance. We've done that in the past.

Mr. Folchetti asked, what's the proposed condition? I missed it.

Chairman Maxwell responded if/when the time comes for the shed to be replaced, that it be brought into conformance.

Chairman Maxwell then opened it up to the public to speak on this application of which there was none.

Mrs. Fabiano moved to close the public hearing on this application; seconded by Mr. Rossiter with all in favor.

DECISION OF THE BOARD:

Mrs. Fabiano moved to grant requested variance with the condition that when the shed needs to be replaced, it must be brought into conformance; seconded by Vice-Chairman Aglietti with all in favor.

Application of THOMAS M VITELLO for a Variation of Section 156-15, seeking permission to construct shed on lot without principal use. The property is located at 192 West Lake Blvd. Mahopac, NY 10541 and is known by Tax Map #64.19-1-78.

Code Requires	Provided	Variance Required
20 ft. side	10 ft.	10 ft.

➤ Mr. Thomas Vitello was sworn in.

Mr. Vitello stated that he's just trying to put up a 10' x 14' shed on a lake property.

Chairman Maxwell said and this is on the lake side and is part of your main house property?

Mr. Vitello replied correct.

Chairman Maxwell said it looks like you're going right in the middle; looking at the plan, that whole side slopes up so that's the most natural spot for your shed. This is mostly for what?

Mr. Vitello replied storing stuff for the winter.

Chairman Maxwell then said swimming stuff?

Mr. Vitello replied right; just to store stuff; maybe a changing area, etc.

Chairman Maxwell stated this is without a principal use because it's just a lakeside property - right?

Mr. Vitello responded yes.

Vice-Chairman Aglietti asked if there would be any electric.

APPROVED

Mr. Vitello responded yes.

Vice-Chairman Aglietti then asked about plumbing?

Mr. Vitello replied no plumbing.

Vice-Chairman Aglietti asked what kind of electric are you going to have?

Mr. Vitello responded 110.

Vice-Chairman Aglietti asked what's it going to be used for; just lights?

Mr. Vitello replied for lights and outlets.

Chairman Maxwell asked if there was any input from the public on this application with none.

Vice-Chairman Aglietti moved to close the public hearing on this application; seconded by Mr. Rossiter with all in favor.

DECISION OF THE BOARD:

Vice-Chairman Aglietti moved to grant requested variance; seconded by Mr. Rossiter with all in favor.

Application of MARIA LLUKA for a Variation of Section 156-15, seeking permission to retain existing shed and pool with deck. The property is located at 263 Rockledge Road, Mahopac NY 10541 and is known by Tax Map #74.34-2-3.

Code Requires	Provided	Variance Required
Shed: 10 ft. - side	5 ft.	5 ft.
Shed: 10 ft. - rear	6 ft.	4 ft.
Pool Deck: 10 ft.	3 ft.	7 ft.

➤ Mrs. Maria Lluka was sworn in.

Chairman Maxwell noted that Mrs. Lluka was before the ZBA in October of 2017 for an above-ground pool. He then directed to Mr. Carnazza, what happened?

Mr. Carnazza replied they put a deck in and a shed.

Chairman Maxwell then asked you didn't realize you needed a permit for that?

Mrs. Lluka replied no; I thought I'm coming here today and tomorrow so.....

Chairman Maxwell cited the variances requested (above table) and asked, so the shed was new?

Mr. Carnazza replied no, it was there but it wasn't picked up last time.

Chairman Maxwell said I was going to say.... I think that was there – the pool and the deck was around the pool.

Chairman Maxwell asked if there was any property that can be purchased to bring it into conformance.

APPROVED

Mrs. Lluka replied it's small. In Secor, the houses are very small.

Chairman Maxwell asked if the neighbors on that side had any issues.

Mrs. Lluka responded yes; we have very nice neighbors.

Vice-Chairman Aglietti asked how long has the deck been there?

Mrs. Lluka replied about two years.

Vice-Chairman Aglietti then stated so, at the time you were last here getting the variance for the pool, the deck was already there?

Mrs. Lluka replied yes.

Chairman Maxwell then opened it up to the public for any input on this application with no response.

Vice-Chairman Aglietti moved to close the public hearing on this application; seconded by Mr. Rossiter with all in favor.

DECISION OF THE BOARD:

Mrs. Fabiano moved to grant requested variance; seconded by Vice-Chairman Aglietti with all in favor.

Application of JOSEPH CARRICATO for a Variation of Section 156-15, seeking permission to retain existing shed. The property is located at 97 Lake Drive, Mahopac NY 10541 and is known by Tax Map #65.14-2-50.

Code Requires	Provided	Variance Required
10 ft.	4.95 ft.	5.05 ft.

➤ Mr. Joseph Carricato and Mrs. Laura Carricato were sworn in.

Mr. Carricato stated we're looking for a variance on a shed that is 5 feet from my neighbor's property. The reason why it's 5 feet from my neighbor's property are several. First; esthetically I didn't want a shed in the front of my property to keep my property looking nice. Second; I need something that was accessible to my driveway so right now that shed is about 15' from my driveway. I did not want to dig a path 50 or 60 feet to get to a snow blower. Thirdly; my neighbor has a detached garage which is about 20 feet from the shed so they're parallel to each other and it wouldn't be intrusive to my neighbor.

Chairman Maxwell asked how long has it been there?

Mr. Carricato replied 23 years.

Chairman Maxwell stated you didn't realize you needed a permit?

Mr. Carricato replied absolutely. I called, at that time, the building department and I was questioned about it whether it was going to be a permanent, fastened structure and I told them no, it's going to be sitting on a bed of gravel. I was told I wouldn't need a permit.

APPROVED

Chairman Maxwell asked there's no property you can purchase to bring it into conformance?

Mr. Carricato replied no; if I put it anywhere else, it will just *deduct* from the appearance of my property if I do that. If I move the shed, it may just collapse. It's been there 23 years.

Mrs. Carricato added we are a corner property. We're on Lake Drive and Sun Street in Lake Casse and the house is set way back. We have no back yard at all. So, we really don't have any other place to put it. Unfortunately, the way the house is set on the lot. Everything would be in the front so we had no other choice.

Chairman Maxwell stated it's just over a 50% variance – not too bad and then asked for input from the Board Members.

Mrs. Fabiano stated I was out there. It's a very narrow lot. I can't imagine anywhere else you could put it and the garage next door backs up right to it. It's the perfect spot.

Mrs. Carricato added it's behind the house and we do have a large Japanese Maple that's adjacent to the back of the house that pretty much covers the shed.

Mrs. Fabiano concurred it was well screened.

Chairman Maxwell offered the public input on this application with none being noted.

Vice-Chairman Aglietti moved to close the public hearing; seconded by Mr. Rossiter with all in favor.

DECISION OF THE BOARD:

Vice-Chairman Aglietti moved to grant requested variance; seconded by Mrs. Fabiano with all in favor.

Application of PLANET FITNESS (Mahopac Improvements Owner LLC) for a Variation of Section 156-41(8)(b), seeking permission to install pylon sign. The property is located at 135-183 Route 6, Mahopac NY 10541 and is known by Tax Map #86.11-1-22.

Code Requires	Provided	Variance Required
75 sq. ft.	91 sq. ft.	16 sq. ft. (17%)

➤ Mario Conteros, architect for Planet Fitness was sworn in.

Mr. Conteros indicated that they were in front of the Board before for a signage over the main entrance a couple of months ago and then our client went back and realized that there's another pylon on Miller Road behind the diner that didn't have identification for Planet Fitness at the bottom of the pylon. So we went ahead and filed this application just to add the additional signage at the bottom of the pylon on Miller Road. The maximum allowed is 75 square feet – both sides together. By us putting the sign, it would be increased by 17% to 91 square feet so we're seeking a relief for the 17% increase just to put those signs.

Mr. Carnazza directed to Chairman Maxwell, I went out there the other day. The left side of the store front still has a grand opening sign on it. Is that going to stay there much longer? That should come down I think. Maybe put that as one of your conditions.

Mr. Conteros replied I'll speak to the client about that. How long has it been there?

APPROVED

Mr. Carnazza replied as soon as they opened, two months. That’s a long time. We let it go for two weeks or so but now it’s been well over a month so let’s get it.....

Mr. Conteros said he’d let the client know.

Chairman Maxwell asked is there a reason why it has to be that big?

Mr. Conteros replied actually it’s small. It’s at the bottom. If you can see there, it’s 12.5” wide and the it’s width of the pylon. If you make it any smaller, everyone will try to focus in at the bottom.

Chairman Maxwell added based on the color scheme too; it does seem to stand out more.

Mr. Conteros replied we tried to use the color scheme to make it stand out more. I was just going through the numbers and 16/17% is minimal.

Mrs. Fabiano stated I think part of the issue is the posts are so far apart. If you look at the other signs.....

Mr. Conteros said, yes, they’re far apart from the other – the one on route 6 to this one.

Chairman Maxwell asked you have the okay from the landlord?

Mr. Conteros replied yes. We would not have submitted without the approval from the landlord.

Chairman Maxwell said to make it smaller, you’d have to make it about 10 inches.

Mr. Conteros added yes; 10 inches – then you start getting – see that little PF sign - would just totally be....

Chairman Maxwell asked if there was any input from the public on this application with none being presented.

Vice-Chairman Aglietti moved to close the public hearing on this application; seconded by Mr. Rossiter with all in favor.

DECISION OF THE BOARD:

Mrs. Fabiano moved to grant requested variance with the condition that the Grand Opening sign must be removed prior to giving approval; seconded by Vice-Chairman Aglietti with all in favor.

Application of JOHN TUCCI for a Variation of Section 156-15, seeking permission to retain existing shed. The property is located at 268 Austin Road, Mahopac NY 10541 and is known by Tax Map #64.13-1-34.

Code Requires	Provided	Variance Required
10 ft. - side	7.4 ft.	2.6 ft.
10 ft. - rear	5.0 ft.	5.0 ft.

➤ Mr. John Tucci was sworn in.

Mr. Tucci stated that he was applying for a variance for a shed.

Chairman Maxwell said okay; you’ve got a 10 foot side requirement and need a 2.6 foot variance and a 10 foot rear requirement and need a 5 foot variance.

APPROVED

Mr. Tucci confirmed correct.

Chairman Maxwell asked how long has the shed been there for?

Mr. Tucci replied six years roughly.

Chairman Maxwell said you didn't realize you needed a permit?

Mr. Tucci said to be honest; I thought 10 x 10 didn't need a variance so I just put it up since it wasn't permanent.

Chairman Maxwell responded 'we get that a lot'.

Mr. Tucci reiterated that's what I've always been told so we just put it up.

Chairman Maxwell stated it looks like you're doing a lot of renovation out there. The pool is all conforming and has permits and all that?

Mr. Tucci replied yes.

Chairman Maxwell stated, you're surrounded in the corner, there's fence on either side and the nearest structure – on all three sides is pretty far away. It doesn't seem like it's too bad. There's no property you can buy to bring it into conformance?

Mr. Tucci replied no.

Chairman Maxwell asked can you bring it out? What would the cost involved be?

Mr. Tucci replied the service for the pool is in the shed so it would be costly.

Chairman Maxwell said okay; what would be an approximately value to do all that?

Mr. Tucci replied a couple thousand dollars cause I'd have to pick up all the lines, plumbing – everything.

Mrs. Fabiano asked why it was coming up now. Did you get a notice from Town?

Mr. Tucci replied yes; I got a notice and I just want to make it right.

Chairman Maxwell asked for public input on this application with no response.

Vice-Chairman Aglietti moved to close the public hearing on this application; seconded by Mr. Rossiter with all in favor.

DECISION OF THE BOARD:

Vice-Chairman Aglietti moved to grant requested variance; seconded by Mr. Schwarz with all in favor.

APPROVED

Application of MARGARET DeLUCCIA for a Variation of Section 156-15, seeking permission to construct addition. The property is located at 21 Crescent Road, Mahopac NY 10541 and is known by Tax Map #63.16-1-19.

Code Requires	Provided	Variance Required
40 ft.	9.7 ft.	30.3 ft.

➤ Mr. Raoul Matos of NEMERJ Design representing applicant was sworn in.

Mr. Matos stated the existing house is 9.7 feet from the property line and this is why we are applying for the variance; to go up a second floor and renovate the house. (Refers to map) This is the property line here at 9.7 feet (inaudible). This is an existing house. We're going to go up with a second floor.

Chairman Maxwell asked so you're standing on the same footprint? You're not encroaching beyond what's there now.

Mr. Matos replied absolutely. Exactly where the house is, we're going to go up a second floor.

Chairman Maxwell stated okay. There's no property you can buy to bring it into conformance? You're on a cul-de-sac – right?

Mr. Matos replied it's not a cul-de-sac. The road kind of swivels over there and then goes down. There's another house down the road. That's what we have.

Chairman Maxwell did you talk with the neighbors on both sides?

Mr. Matos replied Mrs. DeLuccia has been living there forever. When Mr. DeLuccia died, she's been living there now several years by herself. Now; she's bringing back the grandkids to live with her and they are all in unison with the idea of letting her do this. It's the Spaccarellis. I don't know if you know them. Mike, Victor and John Spaccarelli.

Chairman Maxwell indicated the name sounded familiar, noted that it was a beautiful design and asked if there was any input from the public on this application (to which there was none).

Vice-Chairman Aglietti moved to close the public hearing on this application; seconded by Mr. Rossiter with all in favor.

DECISION OF THE BOARD:

Vice-Chairman Aglietti moved to grant requested variance; seconded by Mrs. Fabiano with all in favor.

APPROVED

Application of LYNDA & JOE LINCKS and COLONIAL PARK ASSOC. for a Variation of Section 156-15, seeking permission for a Lot Line Adjustment affecting over 20% lot area and necessary area variances. The property is located at 771 South Lake Blvd., Mahopac NY 10541 and is known by Tax Map #75.42-1-46 & 47.

CODE REQUIRES	PROVIDED		VARIANCE REQUIRED	
	Lot 1	Lot 2	Lot 1	Lot2
3000 sf Area	340 sf	2503 sf	2660 sf	497 sf
50' width	18.59'	93.25'	31.41'	None
30' depth	27.5'	27.7'	2.5'	2.3'
1 - 4 parking spaces	0	0	1 space	4 spaces
25' dock (max.)	27'	115'	2'	90'
20% max increase in lot area	29%	n/a	9%	n/a

➤ Mr. Joel Greenberg representing the client was reminded he was still under oath.

Mr. Greenberg stated this is a simple but complicated application at the same time. The Lincks own (refers to map) this dark area over here. Colonial Park owns the rest. When the Lincks bought the property, they had a survey and they discovered that part of the deck, which was there already, was a few feet onto the Colonial Park Association. To make a long story short; they got together with Colonial Park and they both agreed that if the Lincks pursued a lot line change, Colonial Park Association would not have any objection to it. We've gone to the Planning Board. Because of the odd shape of these lots, there's eleven variances but again; there's nothing being built, nothing being changed. What you see is what's going to be there for who knows how many more years. Basically, these variances are required because we're moving the lot line (refers to map) here to here. It's only being moved about 4 feet but we started going through the requirements for this particular section of the code and all these variances are required.

Chairman Maxwell stated so the original lot line went through one of the docks?

Mr. Greenberg said one of the decks, yes.

Chairman Maxwell then said so it's just a simple lot line change.

Mr. Greenberg replied yes; nothing is being built, nothing being changed.

Chairman Maxwell said and it was denied by the Planning Board because of that.

Mr. Greenberg replied yes; it's been referred to your Board and if we get the variance, it'll go back before the Planning Board for a public hearing for a final lot line adjustment plot.

Mr. Carnazza added the lot line adjustment law doesn't allow you to change 20% of any lot and being that lot is small, it's 26.xx something percent. It's just because the lot is so small. They're not doing a lot – meaning a large amount – they're doing a very small amount but the percentage....

Mr. Greenberg interjected the amount is small but as Mr. Carnazza said, the percentage is large.

Mrs. Fabiano stated I assume the homeowners' association is completely on board with this?

Mr. Greenberg replied exactly.

Chairman Maxwell asked if there was any input from the public on this application and none was evident.

APPROVED

Vice-Chairman Aglietti moved to close the public hearing on this application; seconded by Mr. Rossiter with all in favor.

DECISION OF THE BOARD:

Vice-Chairman Aglietti moved to grant requested variance; seconded by Mr. Schwarz with all in favor.

MISCELLANEOUS:

Minutes:

January 26, 2017:

Mrs. Fabiano moved to accept the minutes of January 26, 2017; seconded by Mr. Rossiter with all in favor but abstained by Vice-Chairman Aglietti.

February 23, 2017:

Mr. Schwarz moved to accept the minutes of February 23, 2017; seconded by Mr. Rossiter with all in favor but abstained by Mrs. Fabiano.

March 23, 2017:

Unavailable so Held Over

The meeting was adjourned at 8:22 p.m.

Respectfully submitted,

Dawn Andren