

TOWN OF CARMEL ZONING BOARD OF APPEALS

60 MCALPIN AVENUE, MAHOPAC, NY 10541 - 845-628-1500 – FAX 845-628-7085

ZONING BOARD OF APPEAL MINUTES

APRIL 28, 2011

PRESENT: MARK FRASER, CHAIRMAN, ROSE FABIANO, LORRAINE MARIANI, ROGER GARCIA, JOHN LUPINACCI, JOHN MAXWELL, SILVIO BALZANO

<u>APPLICANT</u>	<u>TAX MAP #</u>	<u>PAGE</u>	<u>ACTION OF THE BOARD</u>
282 Wixon Pond Estates	53.20-1-21	1	Dismissed
Cardillo, Ron	75.10-1-27	1-3	Heldover
Scollan & Kugler	76.30-1-28	3-5	Granted
Rosner, Saran	75.7-3-30	5-7	Granted
Icon Identity	86.15-1-12	7-8	Granted
Dominger, Martin	44.10-1-1	8-12	Denied
Moloney, John	44.15-1-48	12	Granted
Bryon, Brendan & Susan	55.16-1-3	13	Granted
McGinty, John	76.18-2-24	13	Granted
Fino, John & Jeannie	75.43-2-8	14	Granted
Minutes - 2/24/11		14	Heldover

The meeting was adjourned at 10:58 p.m.

Respectfully submitted,

Donna Esteves

Application of 282 Wixon Pond Estates, Inc. for a variation of Section 156-47(A1) for permission to construct a storage garage on non-conforming lot. Code requires 1 family dwelling. Exists 3 - 1 family dwellings. Property is located at 281-285 Wixon Pond Road, Mahopac, NY is known by Tax Map #53.20-1-21.

The applicant did not show. Mrs. Fabiano makes a motion to dismiss without prejudice. Mr. Garcia seconded the motion with all in favor.

Application of Ron Cardillo D/B/A Romali Realty, LLC. for a variation of Section 156-15 and use variance (expansion of an existing non-conforming use) for permission to add 2nd story to existing building. Property is located at 175 Myrtle Avenue, Mahopac Falls, NY and is known by Tax Map #75.10-1-27.

<u>Item</u>	<u>Required</u>	<u>Existing</u>	<u>Proposed</u>	<u>Variance Required</u>
Min. lot area	120,000 sf	28,750.57 sf	28,750.57 sf	91,249.43 sf
Min. lot width	200 ft.	112.94 ft.	112.94 ft.	87.06 ft.
Min. lot depth	200 ft.	197.64 ft.	197.64 ft.	2.36 ft.
Min. Setbacks:				
Principal Building:				
North Front Yard	40 ft.	0.59 ft	0 ft.	40 ft.
East Front Yard	40 ft.	15.77 ft.	10.21 ft.	29.79 ft.
South Side Yard	20 ft.	12.98 ft.	12.98 ft.	7.02 ft.
Retaining walls:				
North Front Yard	40 ft.	n/a	0.88 ft.	39.12 ft.
East Side Yard	25 ft.	n/a	7.79 ft.	17.21 ft.
Use	Residential	Commercial	Commercial	Use variance required for expansion of an existing non conforming use

Mr. Greenberg states the he is representing Ron Cardillo. They are here under a Use Variance Standards. Mr. Greenberg states that the existing property is a non-conforming use. It is a commercial building put in a residential zone prior to zoning. They are asking for an expansion of an existing non-conforming use for permission to add a 2nd story to an existing building to expand the business. With that in mind, he would like to address that the applicant has established the basic requirements for the variance per below:

Criteria #1 - The expansion is necessary to expand the business to create a reasonable return, which in turn will create more employment and provide more tax revenue for the town.

Criteria #2- Mr. Greenberg states that the hardship was not self-created since the building was here prior to zoning.

Criteria #3 - the property will not produce an undesirable change in the neighborhood because at the request of the board in the previous meeting, specifically John Maxwell, Mr. Greenberg has redesigned the original plans as such that the expansion would look more residential than commercial.

Criteria #4 - Mr. Greenberg states this is a unique situation in which the existing building on the site is a 1 story commercial building with a basement and that putting a 2nd story on a pre-existing non-conforming building is not conducive to a 1 family house. So in these criteria, the use in which this zone requires is something that could not be favorable to this particular property.

Comments from the Board:

Mr. Maxwell questioned the height of the building and Mr. Greenberg states that the total height of the building based on the grade in the front of the building is 24ft where 35 ft is allowed.

Mrs. Fabiano raises the question of adequate parking in which Mr. Greenberg states that the new plan allows for 17 additional parking spaces, which is double than what exists now.

Mr. Lupinacci states that he feels the hardship is self created in the sense that it is difficult to believe that a successful business person who buys a piece of property would not know that the property is non conforming.

He states, that the expansion will not alter the essential characteristics of the building architecturally, as opposed to the actual use, since it will require doubling the office area, as well as cars, and parking spots.

He goes on to ask if the property is kept as is, how is the business not going to realize a reasonable return and how can that be justified. He states that the applicant is allowed to keep the business, as is, since it is pre-existing non-conforming, however that Town Law does not permit expansion to a pre-existing non-conforming use. Mr. Fraser states that Mr. Greenberg needs to address and further elaborate on these particular criteria.

Mr. Lupinacci addresses the issue of the clean up on the property. Mr. Greenberg states that Mr. Cardillo accomplished the property clean up with the exception of the boxcar. Mr. Cardillo would like to put up a storage shed on the property and remove all of the equipment from the boxcar to the shed. Mr. Carnazza states that the site plan must be approved before that can happen.

Mr. Garcia asks Mr. Folchetti his opinion with regards to Criteria #1 for which Mr. Folchetti states "an applicant who is bound to demonstrate entitlement to use variance has to present dollars and cents proof to the board that a reasonable return cannot be realized at the current zoning or current permitted use."

Mr. Garcia also agrees that the applicant did not demonstrate his due diligence when purchasing the property regarding zoning so it is in fact self-created. He also feels that adding a 2nd story to the building would indeed change the character of the neighborhood since the character as it stands is residential.

Mr. Balzano agrees with the other board members that a reasonable return can be obtained if the property remains as is with no expansion.

Mr. Fraser reminds Mr. Greenberg that in order to obtain a use variance, all four criteria must be met and in his opinion and the opinion of the other board members he cannot meet Criteria #1 let alone all four. So far only one has been met in that it is a unique situation.

Matt Duftler, who resides at 7-9 Brook Ave, approached the board with concerns that were addressed at previous meetings. There are three major issues that he is upset about; flooding, the boxcar and garbage that was dumped on his property. In summary, he states that the garbage was cleaned up but the issue of flooding due to the retaining wall, which was built without permits, and the illegal boxcar still remains. Mr. Carnazza states that the retaining wall should not have been built without site plan approval.

Mr. Lupinacci moves to holdover the application. Mrs. Fabiano seconded the motion with all in favor.

Mr. Lupinaaci would like to note for the record that the applicant must come back with financials to prove the hardship.

Application of Joseph Scollan & Theodore Kugler d/b/a Hard Way, LLC. (Bee & Jay Plumbing)
for a variation of Section 156-15 and 156-42 for permission to retain use of offices on 2nd floor.
 Property is located at 719 Route 6, Mahopac, NY and is known by Tax Map #76.30-1-28.

The following area variances are required:

<u>Item</u>	<u>Code requires</u>	<u>Existing</u>	<u>Variance required</u>
Min. lot area	40,000 s.f.	3,833 s.f.	36,167 s.f.
Min. Lot depth	200'	75'	125'
Min. road frontage	100'	50'	50'
Min. setbacks (prin. build)			
Front yard	40'	24'	16'
Side yard	25'	6'	19'
Rear yard	30'	0'	30'
Max. building coverage	30%	50%	20%
Number of parking spaces	9 spaces	4 spaces	5 spaces
Parking space size			
Parking space depth	20'	18'	2'
Parking space width	10'	9'	1'

Mr. Fraser recused himself and left the podium. Mr. Maxwell took over.

Mr. Anthony Melee states he is here with Mr. Theodore Kugler and Joe Sconlan. He continues to give a brief synopsis of the application. The property is located on .09 acres; it is in a "C" zone district, it is office and storage use currently known as B&J Plumbing and Heating. They are before the boards as a result of an amended site plan application presented to the PB, which proposes to legalize the use of the second floor for other than storage.

Four parking spaces are provided on the property where nine spaces are required. A five-space parking variance is required.

A variance is required for the parking width - 10 ft required, 9 ft provided - 1 ft variance

A parking space is required for the depth - 20 ft required, 18ft provided - 2 ft variance.

All area variances that were granted in the 1987 ZBA application are being resubmitted to the board to comply with the current codes since they are submitting a new amended site plan application as well. Also it was determined that some of the measurements were inaccurate according to Jeff Contelmo's recent measurement findings.

Mr. Melee states that the office space is necessary to the needs of the business. Both the existing and proposed use is permitted within the commercial zone. The only alternate would be to move the business. The applicant has been there for over 32 year and does not want to have to move the business.

Mr. Melee also states that the parking space is the main variance that they are seeking and that the owners have been leasing 9 spots from the adjoiners per attached lease that runs through 2020.

Comments from the Board:

Mrs. Fabiano - Asks Mr. Folchetti if it is possible to condition the variance on the existence of the existing written lease and that if they no longer have the lease could the variance be null and void. Mr. Folchetti answers yes that it could be a standard condition as well as a standard condition on use. If the use changes the variance could be extinguished.

Mr. Lupinacci - Goes through the Variance Criteria

No the variance will not make an undesirable change to the neighborhood

Yes, another method can be used which is what they are doing now by virtue of the lease with the adjoiner.

Is the proposed variance substantial - yes, but again, they have the history of the long-term lease and documents for future long-term lease.

No it will not have an adverse affect on the neighborhood.

Was the difficulty self created - yes but they obtained the lease.

Roger Garcia - Asks the applicant if he is the only tenant in the building. He responds no. He has a one person nail salon downstairs that does business by appointment only so it will not affect the parking.

Mr. Lupinacci makes a motion to close the public hearing. Mr. Balzano seconded the motion with all in favor.

DECISION OF THE BOARD:

Mr. Lupinacci made a motion to grant with the condition that the 5 parking spaces variance be tied to a current long term lease or license. If the lease or license expires, the variance is null and void. Mr. Balzano seconded the motion with all in favor.

Application of Saran Rosner for variation of Sections 156-15 and 156-27 for permission to convert accessory building into a bathhouse. The property is located at 62 West Lake Blvd, Mahopac, NY and is known by Tax Map

#75.7-3-30. The following area variances are required:

<u>Item</u>	<u>Code Requires</u>	<u>Existing</u>	<u>Variance Required</u>
Area	120,000 sf	17,685 s.f.	102,315 s.f.
Lot Width	200 ft	55 ft.	145 ft.
Lot Depth	200 ft	280 ft.	

Bathhouse - Zoning - Section - 156.27

Height	10 ft.	15 ft.	5 ft.
Dock into Lake	25 ft.	30 ft.	5 ft.
Parking	1/750 s.f.	6 p.s.	18 p.s.
	17,685/750 = 24 p.s.		

Dr. Rosner is sworn in.

Mr. Greenberg states that the applicant would like to convert the existing building on the lot form storage to a bathhouse. As per the previous meetings comments by Mr. Carnazza, storage building has no height requirements other than the 35 ft required for a 1 family residence. The current

building is 14.4 ft high as it exists where 35 ft is needed. If they get the variances and they go back to the PB for site plan approval for a bathhouse, than the criteria will change, one of which is a height of 10 ft from the grade of the front of the building to half way from the eve and ridge of the building. The building is 14.4 ft while 10 ft is required. Another variance that they are looking for is a Parking variance The section of the code 156-27 requires 1 parking space for every 750 s.f. of lot area, divide that by the 17,685 s.f. It would require 24 parking spaces. There are six parking spaces now. The 3rd variance they are seeking is for a pre-existing dock, which goes out 30 ft where 25ft is required. The building as it exists right now, whether the variances are granted or not, will stay the same at 14.4 ft. There is no construction being proposed.

Dr Rosner approaches the board to summarize what Mr. Greenberg has stated. The height of the building will not be detriment to the neighbors. High pines and hedges block the views. The building's height will stay the same regardless of the decision of the board. It is a permitted use and there will be no changes. Furthermore, he reiterates that it is not fair for the board to deny a variance based on an argument of what a future owner might do with the building. He should not be penalized for something that you cannot assume will happen. He feels he is entitled to full use of the permitted use.

Mr. Fraser asked the audience if there was anyone who wished to comment on this application as well as to please come forward.

Joe Scappatura, neighbor at 64 West Lake, rose to comment on this application. He was sworn in. He is one house directly north of this house.

Mr. Scappatura was before the board last meeting and is back to comment that the bathhouse was never supposed to be for living or as high as it is. He also stated that the current building is obstructing his view of the lake.

Mr. Fraser asked if Mr. Scappatura understood that if they deny the variance request, that house can stay there, they just take the plumbing out, and so Mr. Scappatura's view is not coming back.

Mr. Scappatura understood that, but he was hoping there's something to be done to reach a common ground. He was wondering if they could reduce the height of it. They don't want another occupancy on that property.

Mr. Fraser said they couldn't make it into another residence because it's against the town code.

Mr. Scappatura continued by commenting on the upstairs of the bathhouse, a living space that may be comfortable for not people like him, but help of the house could live there.

Mr. Fraser restated that would be a violation of the town code. It's not to say that future owners wouldn't do it, but they would write a letter to the owners to inform them that they are in violation of the town code.

Mr. Fraser wished to clarify Mr. Scappatura's request and review what it was he wanted the board to take into consideration, which was to deny the variance request, so therefore if they remove the plumbing and the fireplace, the whole building would still be there. He asked Mr. Scappatura if he understood that. He replied yes. Mr. Scappatura goes on to state that he is just looking for some type of compromise and is looking to the board to help them achieve that.

Mr. Fraser if anyone else would like to speak.

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

DECISION OF THE BOARD:

Mr. Garcia moved to grant for the purpose of discussion. Mrs. Fabiano seconded the motion.

Mr. Garcia states that if this was a new application, the variance would never get granted. However since this already existed, it is not fair to make Mr. Rosner pay the price for something that was created before he purchased the property. Several board members felt that forgiveness is not an excuse for permission.

A roll call was taken on the motion as follows:

Mr. Maxwell	For the motion
Mrs. Fabiano	Against the motion
Mr. Lupinacci	Against the motion
Mrs. Mariani	For the motion
Mr. Garcia	Against the motion
Mr. Balzano	For the motion
Mr. Fraser	For the motion

Motion granted.

Application of Icon Identity Solutions/WM Phillips for variation of Section 156-41C(4) for permission to re-face 2nd building sign not permitted by code. Code requires one sign facing each street; second sign not facing street will exist; variance required allowing 2nd sign. The property is located at 8 Route 118, Mahopac, NY and is known by Tax Map # 86.15-1-2.

Ms. Emily Stackhouse is sworn in.

Mr. Carnazza states that he did some background research. In 1976 a variance was granted on the North and West side of the building. They were both allowed to be 29in x 18ft. The variance is to move sign from the north side to the south side and make it smaller. If the variance is granted the signs will be significantly smaller.

Mr. Balzano moved to close the public hearing. Mr. Maxwell seconded the motion with all in favor.

DECISION OF THE BOARD:

Mr. Lupinacci made a motion to deny. Mr. Garcia seconded that motion.

Mr. Fraser opens it to the board for discussion. A conversation ensues. He stated that previous ZBA boards granted larger variances than what is currently being requested. Mr. Lupinacci and Mr. Garcia feel that the 3 signs that are currently up are too many and 1 of the 3 is in violation. Mr. Balzano points out that even if the variance is denied, they are still going to have 3 signs so either way, the signs will still be there.

Mr. Balzano makes a motion to grant. Mr. Maxwell seconded the motion.

A roll call vote was taken on the motion as follows:

Mr. Maxwell	For the motion
Mrs. Fabiano	For the motion
Mr. Lupinacci	Against the motion
Mrs. Mariani	For the motion
Mr. Garcia	Against the motion
Mr. Balzano	For the motion
Mr. Fraser	For the motion

Motion Granted.

Application of **Martin Dominger III** for variation of Section 156-10(f) and Section 156-15 for permission to build a 3-lot subdivision. Property is located at Glenna Drive, Mahopac, NY and is known by Tax Map #44.10-1-1.

The following variances are required:

Variation of Section 156-10(f)

<u>Lot</u>	<u>Code requires</u>	<u>Will Exist</u>	<u>Variance required</u>
Lot #2	100' frontage	71.86'	28.14'
Lot #3	100' frontage	50.00'	50.00'

Variation of Section 156-15

<u>Lot</u>	<u>Code requires</u>	<u>Will Exist</u>	<u>Variance required</u>
Lot #1	200' Lot Width	122'	78'
Lot #2	200' Lot Width	52'	148'

Lot #3	200' Lot Width	52'	148'
Lot #2	Lot Depth Line Within Lot Lines	Portion of Lot Depth Line is outside lot lines	Portion of lot Depth Line is outside Lot lines
Lot #3	Lot Depth Line Within Lot Lines	Portion of Lot Depth Line is outside lot lines	Portion of lot Depth Line is outside lot lines

Mr. Melee who represents the applicant, Robert Cameron, the engineer, Mr. Martin Diminger, the applicant and Mr. Lindower, a relative, of the applicant are all sworn in.

Mr. Melee states that the applicant proposed a 3-lot subdivision to the PB. The PB granted preliminary approval of the site plan. The Town Board denied it even though they were given a positive recommendation from the PB for an open development. He states that this is why they have no choice but to come before the board to reconfigure the lots to provide actual frontage of the required 100 ft.

1 lot has the required 100 ft, the 2nd lot has 50 ft with a 50 ft variance required, and the 3rd lot has 78.86 ft with a 28 ft variance required.

The lot width is due to the calculation in code. The lots are wide enough. Numerically it looks like a large variance, practically speaking it isn't.

Also, Mr. Melee pursuant to a conversation and recommendation of Mr. Carnazza, discusses lot depth lines. The lot depth line when it's calculated is outside the lot boundaries for two of the lots. He respectfully submits to the board that it does not need a variance. The code says that the lot line depth should be measured from the front to the back in the general direction of the side lot line. It doesn't have to appear within, so he doesn't feel it is necessary for a variance unless the board feels that it does. He feels the lots are plenty deep. He provides pictures of lots that have significantly less frontage. They also have very narrow width at the entranceway.

Mr. Fraser asks why the Town Board denied the application.

Mr. Melee states that he personally feels it was denied due to political pressure.

Comments from the Board

Mr. Maxwell asks about the common driveway that crosses over a few of the lot lines.

Mr. Melee states that it is between 2 lots and it will be 18 ft wide, which is compliant with town code, which requires 15 ft. He also states that there is parking at the end of the driveway for 3 cars at the suggestion of the PB so that people can park if they wait for school buses.

Mrs. Fabiano asks the owner of the property if they have ever considered building 2 lots so they don't require all of these variances. The applicant answers that it is not economically cost efficient.

Mr. Garcia makes the comment that if the variances are denied it will not prohibit the applicant from building 1 lot with no variances required.

Members of the Audience that are sworn in for comments:

Mrs. Pam Palumbo - She states that there is already a water run-off issue for which her driveway is the benefit of. Her concern is that if the lots are developed the water will be re-directed again and the water run-off will only compound the issue. Mr. Maxwell comments that there are retention ponds on the plans as well as infiltrators, which are designed for this very concern. He also stated that the PB would not allow for anything to be under-designed with respect to water run-off.

Douglas Holly - 1) He questions whether the benefit can be achieved by some other method that is feasible - yes, build only one lot 2) Is the difficulty self created - yes, he can still build 1 lot, he doesn't have to have 3. 3) Undesirable change to the neighborhood - yes, drainage and blasting are a few that come to mind. He is doubtful that sewer and water can be trenched together. Mr. Folchetti comments that yes it can be trenched together. There are vertical and horizontal separation distances that are required.

Another discussion ensues with regards to illegal subdivision that Mr. Holley feels was done. He feels that other property owners have some ownership to the applicant's property lots. Mr. Folchetti comments that after careful research done by him and Mr. Charbonneau, there is no proof of an illegal subdivision. It has nothing to do with the variances. He does not want this board being on record that it is a consideration for the variance. It has nothing to do with the 5 factors.

Mr. Holly comments that when you talk about detriment, the board should think about when putting in private roads/driveways, nobody ever takes care of it. Also, the variances that they are asking for are extreme. He doesn't understand how the zoning board could allow that much.

Betty Aubrey - She comments flooding will be an issue and she doesn't think it is fair because many people could potentially lose their homes

Bud Hengle - He asks about wetlands for which there are non-stated on the plans. He asks about soil drainage - if it is not a concern then why are putting retention ponds? He feels that if they have to blast, will they have to blast for foundations on the proposed houses????

David Sweed - Would like to reiterate what Mr. Holly said. He would like the board to go out to look at the terrain of the property in question. He also questions why they are here if the Town Board denied the building of 3 lots. He thought it was a done deal.

Mr. Holly again approaches the board and suggests that if the board does not want to go out and look at the property than they should at least read the minutes from the Town Board meeting, for which the request was denied.

Mr. Melee addresses the board about the comments made above-

School bus - it was at the request of the PB. It is not for the homeowners to park there and walk up to their homes as Mr. Holly states.

Drainage issues - anything done in today's requirements would be done to alleviate not contribute to the drain water issues.

Driveway issues - bonds would be posted

Blasting - should not be an issue

Illegal lot lines - why has no legal action been filed if it is truly illegal

Wetlands - all plans indicate no wetlands

A lot of comments have not been supported with substantial evidence and record. He feels all comments are more appropriate for a PB public hearing. It has nothing to do with the 5 criteria necessary for the variances.

Mrs. Maxwell makes a motion to close the public hearing. Mrs. Fabiano seconded the motion with all in favor.

DECISION OF THE BOARD

Mrs. Fabiano made a motion to grant for the purpose of discussion. Mr. Balzano seconded the motion.

Mrs. Fabiano feels that this is a PB issue. She feels that the board doesn't have the right to accept or deny based on the drainage or the elevation of the property. She feels that the variances aren't substantial.

Mr. Balzano feels that the burden is self-created. The neighbors concern is legitimate with concern for the water flow. He feels that it does not have to be 3 lots; it can be 1 or 2.

Mr. Garcia comments that the board is not here to maximize the return on their investment. The board's job is to grant the minimum amount of variances as possible.

Mr. Maxwell notes that the variance is substantial.

A roll call vote was taken on the motion as follows:

Mr Balzano	Against the motion
Mr. Garcia	Against the motion
Mrs. Mariani	Against the motion
Mr. Lupinacci	Against the motion
Mrs. Fabiano	For the motion
Mr. Maxwell	Against the motion
Mr. Fraser	Against the motion

Motion Denied

Application of **John Moloney** for variation of Section 156.15 for permission to construct storage barn. Code requires 15 ft. side yard; 3 ft. exists; variance required 12 ft. Property is located at 93 Fair Street, Carmel, NY and is known by Tax Map #44.15-1-48.

Mr. Moloney is sworn in. He states that he would like to put up a storage barn to store his antique cars. He intends to make give it a traditional look to make it look as if it belongs on the property.

A discussion ensues with regards to the size of the barn and how close he proposes to put it to the property line. The board members are in agreement that he must move the storage barn further to the back of the property and he must reduce the size of the structure.

Mr. Moloney agrees to change his application so that it reflects the changes, which states that the structure will have at least a 10 ft. setback with a 5 ft. variance. He also agrees to reduce the structure to 28x30 with a maximum height of 15 ft.

Mr. Frasers asks if anyone from the audience would like to speak.

Mr. Maxwell makes a motion to close the public hearing. Mr. Lupinacci seconded the motion with all in favor

DECISION OF THE BOARD:

Mr. Lupinacci made motion to grant with the following restrictions:

The structure must be reduced to 28x30 and stay on the left side of the property. It must have at least a 10ft setback and a maximum height of 15ft.

Mrs. Fabiani seconded the motion with all in favor.

Application of Brendan & Susan Byron for variation of Section 156.15 for permission to construct an addition. Code requires 20 ft. side yard; 8 ft. exists; variance required 12 ft. Property is located at 99 Kelly Road, Carmel, NY and is know by Tax Map #55.16-1-3.

Brendan & Susan Byron are sworn in. They state that they would like to build an addition.

Mr. Fraser asks what the need is. They sate that they would like to make improvements to the house as well as make more living space and make it a two-car garage instead of a one-car garage.

Board members were concerned about the height of the building. Mr. Carnazza calculates that the height will be 28ft high based on the plans. They also questioned the scale of the home vs. the others in the neighborhood to which the applicants replied that it will actual be similar to the homes once the addition is complete. They also confirm that the attic space will be used strictly for storage.

Mr. Fraser asks is anyone would like to speak.

Mr. Maxwell makes a motion to close the public hearing. Mr. Lupinacci seconded the motion with all in favor.

DECISION OF THE BOARD

Mr. Lupinacci moved to grant. Mrs. Fabiano seconded the motion with all in favor.

Application of John McGinty for variation of Section 156.15 for permission to construct 1 car garage. Code requires 20 ft. side yard; 11.66 ft. exists; variance required 8.33 ft. Property is located at 23 Cuddy Road, Mahopac, NY and is known by Tax Map #76.18-2-24.

Mr. McGinty is sworn in. He states that he does not have a garage and would like to construct one. Mr. Fraser asks the board if they have any comments. They are all ok with it.

Mr. Fraser asks if anyone would like to speak.

Mr. Lupinacci makes a motion to close the public hearing. Mr. Maxwell seconded the motion with all in favor.

DECISION OF THE BOARD

Mr. Balzano moved to grant. Mr. Maxwell seconded with all in favor.

Application of **John & Jeannie Fino** for variation of Section 156.15 for permission to legalize above ground pool with deck. Code requires 10 ft. side yard; 6 ft exists; variance required 4 ft. Code requires 10 ft. rear yard; 1.5 ft. exists; variance required 8.5 ft. Property is located at 16 Indian Avenue, Mahopac, NY and is known by Tax Map #75.43-2-8.

Mr. & Mrs. Fino are sworn in. They state that they are selling the house and that they would like to legalize the pool and deck. They state that the pool has been there since 1998. Mr. Fraser states that since the pool has been there so long he is inclined to let it stay. However when it is time to replace it, it must comply with code. The other board members are in agreement.

Mr. Fraser asks the audience if anyone would like to speak.

Mr. Lupinnaci makes a motion to close the public hearing. Mr. Garcia seconded the motion with all in favor.

DECISION OF THE BOARD

Mr. Lupinnaci moved to grant with the condition that when either/or the pool or the deck needs to be replaced, they must both conform to the current code. Mrs. Fabiano seconded with all in favor.

Minutes - 2/24/2011 - Heldover

The meeting was adjourned at 10:58 p.m.

Respectfully submitted,

Donna Esteves