

APPROVED

JOHN MAXWELL
Chairman

PHILIP AGLIETTI
Vice-Chairman

TOWN OF CARMEL ZONING BOARD OF APPEALS



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MICHAEL CARNAZZA
*Director of Code
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BOARD MEMBERS

ROSE FABIANO
SILVIO BALZANO
WILLIAM ROSSITER
MARC DITOMASO
JOHN STARACE

ZONING BOARD OF APPEALS MINUTES

MAY 23, 2019

PRESENT: CHAIRMAN: JOHN MAXWELL, VICE-CHAIRMAN: PHILIP AGLIETTI
SILVIO BALZANO, MARC DITOMASO, ROSE FABIANO, WILLIAM ROSSITER, JR.
& JOHN STARACE

<u>APPLICANT</u>	<u>TAX MAP #</u>	<u>PAGE</u>	<u>ACTION OF THE BOARD</u>
James & Tina Millicker	64.7-1-19	1 – 2	Granted requested variance
Kara Hubertus	55.15-1-2	2 – 3	Granted requested variance
Gaetano Balzo	75.12-2-57	3 – 4	Granted requested variance
Eric & Kimberly Horowitz	64.19-1-84	4 – 6	Granted requested variance
Roni Beshears	64.12-1-11	6 – 8	Granted requested variance

MINUTES:

April 25, 2019	8	Approved as written.
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The meeting was adjourned at 7:59 p.m.

Respectfully submitted,

Dawn M. Andren

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HOLD OVER

1. Application of **JAMES & TINA MILLICKER** for a Variation of Section 156.39.5 seeking permission to retain existing chicken coop and 5 chickens. The property is located at 8 Brook Street, Mahopac NY 10541 and is known by Tax Map 64.7-1-19.

Code Requires/Allows	Provided	Variance Required
40,000 sf	18,519 sf	21,481 sf
25' – front yard	20'	5'
6 chickens/40,000 sf	5 chickens/18,519 sf	Variance to allow 5 chickens

- Mr. James Millicker of 8 Brook Street, Mahopac was sworn in.
- Mrs. Tina Millicker of 8 Brook Street, Mahopac was sworn in.

Mrs. Millicker said my husband bought me chickens because I eat a lot of eggs and he thought it was a cute thing. He brought the little baby chicks home; we raised them in our house for a couple of months and then we put them outside unaware of the 1 acre rule. He built a beautiful coop for them. We had a rooster which crowed for a couple of weeks. I was looking for a home for him and found one at a real farm. Then we received a notice about two weeks after I got rid of Oreo. We've been doing every step that we've had to keep them.

Chairman Maxwell asked did someone file a complaint.

Mrs. Millicker responded not that we know of. I think it was the rooster crowing but nobody complained to me. My neighbors love them.

Chairman Maxwell said we did get some letters of support from Donna & John Cappelli and Chris Stock.

Mrs. Millicker said my neighbor next door too. He just forgot to do it. They're our pets; they have names and everything. My kids love them; the neighbor kids love them.

Chairman Maxwell asked do you keep the cage clean; no odor issues?

Mrs. Millicker responded very clean. I'm out there all the time cleaning it. I don't let them roam either. I let them out, hang out with them and then put them back in the penned-in area. They're not running around the neighborhood.

Chairman Maxwell said it looks like a well-constructed coop. I know there are also concerns about predators but.... Is the chicken wire sub-terrain....

Mrs. Millicker interjected it's 6" or maybe a little bit more. My son and I did that before winter. I haven't seen anything. It's been good; it's super clean, doesn't smell. It looks nice – like a little house. They don't roam around so nothing is coming around to get them.

Chairman Maxwell said I guess it comes down to the acreage.

Mrs. Fabiano said I think what is unique to this situation is that you only have two other houses on that road from what I remember. I find that much easier to make a decision on because it doesn't affect so many people. When we make decisions on things like this, we have to look for the uniqueness of it and you don't have a lot of people that are affected by it. How long have you had them?

Mrs. Millicker replied we got them at the end of August so they're about 8 months old or so.

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Chairman Maxwell then opened this up to the public for input on this application of 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:

Mr. Balzano moved to grant the requested variance; seconded by Mrs. Fabiano with all in favor.

2. Application of **KARA HUBERTUS** for a Variation of Section 156.15 seeking permission to construct a two car attached garage with an exercise room above. The property is located at 15 Crosby Road, Carmel NY 10512 and is known by Tax Map 55.15-1-2.

Code Requires/Allows	Provided	Variance Required
40' – front yard	31'	9'

- Mr. Richard Vail of 4 Mooney Hill Road, Holmes NY (architect) representing the applicant was sworn in.

Mr. Vail stated that we're proposing the addition of a two car garage with an exercise room above. You can see on this plan that the addition is colored in purple. You can see by the floor plans that the section that would be encroaching on the setback is approximately 18'6" x 9'7". It's kind of triangular.

Chairman Maxwell interjected it's just that corner that's impeding?

Mr. Vail responded right. We did look at alternative options to this configuration. One was if we were to try and configure it to bring the driveway around and enter from the side but the issue we're having is that it was very tight for backing-up. It was also going to constrain us; we'd get a very tight two car garage.....

Chairman Maxwell interjected well you get a nice incline there too which is kind of tough to manipulate.

Mr. Vail responded right; with the exercise room above, that would pop the massing above the existing roof which was not really ideal so we came back to this idea of sinking the garage into the hill a bit and then coming up so the exercise room is only a few steps above the main level of the house. It's something similar to neighbors' houses where you come in and there's a retaining wall and the garage is on the lower level and the house is above that. The next door neighbor and some others have a similar condition because they're on a hill like this.

Chairman Maxwell said it's not a very big variance that you're seeking. It's common for a garage to be at the front portion of a house. I complement you on the design because it's in character with the existing design of the house. I think it fits well with what you're looking to do here.

Mr. Balzano said just note that there are a couple letters of support.

Chairman Maxwell said yes; I'm not going to read them all but they're the same five letters from five different neighbors in support of this application.

Chairman Maxwell opened this application up to the public for input, comments and concern of which there were none.

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

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Decision of the Board:

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

NEW APPLICATIONS

3. Application of **GAETANO BALZO** for a Variation of Section 156.15 seeking permission to retain existing shed. The property is located at 233 Dahlia Drive, Mahopac NY 10541 and is known by Tax Map 75.12-2-57.

Code Requires	Provided	Variance Required
40' – front yard	31'	9'
15' – side yard	2.7'	12.3'

- Mr. Gaetano Balzo of 233 Dahlia Drive, Mahopac NY was sworn in.
- Ms. Gina Franzell of 233 Dahlia Drive, Mahopac NY was sworn in.

Mr. Balzo stated when we acquired the property, there was an existing shed there. I think the previous owner had tried to make it legal and never went through with it so we want to take the necessary steps to make it legal and when we applied for the building permit, they informed us that we need a variance on the shed.

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

Mr. Balzo replied I don't know the answer to that but it has been there since before I purchased the property and I purchased it last year.

Chairman Maxwell said and it never got picked up on a title search or anything.

Mr. Balzano indicated no.

Chairman Maxwell said it's well screened and fenced. The side variance is the worst one. Have you spoken with your neighbors on either side?

Mr. Balzo replied yes; one neighbor doesn't mind at all. We're in good communication with them. The neighbors that are closer to the shed; I've never met them.

Chairman Maxwell said we've received a letter from Mary & Michael Vinci. Where are they?

Mr. Balzo replied they're on the opposite side.

Chairman Maxwell said I see there's a little bit of moss on the roof so it's been there for quite some time. Shame on the title company for not picking it up. There's no other property you can buy to bring it into conformance? You're land-locked there – right?

Mr. Balzo responded yes; there's nothing we can do about that. As far as the structure is concerned, if you have any issues about it.....I'm a plumber so I have a little bit of a construction background. There's no dry rot. The wood is not rotted. The construction is sound. It's two by four construction and ¾ inch plywood. It's water-tight and well ventilated.

Chairman Maxwell said sheds in the front yard are typically not favorable but if it's been there a while and it looks like good screening is around it, I don't think there are too many problems.

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Mr. Starace said and it's just for storage?

Mr. Balzo answered yes; my lawnmower & snow-blower, etc. It's off to the side so it's not really a curb appeal issue in my opinion.

Ms. Franzell said the way the driveway is, we have a high grass with a retaining wall so it's behind the retaining wall so you still have the plants and trees in front of the shed so you don't see the full structure.

Mrs. Fabiano said it's also 31' from the front so it's quite a distance from the front.

Chairman Maxwell polled the Board for questions and concerns and then asked the public for any input on this application of which there was none.

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

Decision of the Board:

Mrs. Fabiano moved to grant the requested variance; seconded by Mr. Balzano with all in favor.

4. Application of **ERIC & KIMBERLY HOROWITZ** for a Variation of Section 156.15 seeking permission to obtain variance from side yard setback for existing boathouse. The property is located at 156 West Lake Blvd., Mahopac NY 10541 and is known by Tax Map 64.19-1-84.

Code Requires	Provided	Variance Required
20'	5' 7"	14' 5"

(Chairman Maxwell recused himself from this application)

- Ms. Jamie Spillane, Esq. of Hogan & Rossi, 3 Star Ridge Road, Brewster NY representing applicant appeared before the Board.
- Mr. Eric Horowitz of 20 Jean Way, Somers NY (applicant/property owner) was sworn in.

Ms. Spillane stated Mr. Horowitz owns lot 84; (inaudible) right on the lot line. We went in front of the Planning Board seeking a lot line change to add 5'7" to the property to potentially make this boathouse (which is pre-existing, non-conforming) less non-conforming. In addition to the plans, I believe that two photographs were submitted as well. Where you see the foliage and the fence is where the new proposed lot line is. It looks like what would naturally occur. The lots, at one point, were lot 84, lot 85 and were all owned in conjunction. The proposed new lot line is essentially what would be used as a lot line (inaudible) even though it wasn't the actual lot line. What we're trying to do here is get a variance so that we can go back in front of the Planning Board to seek the lot line adjustment. I believe we did get a recommendation from the Planning Board to move forward with this project.

Vice-Chairman Aglietti asked is there anything else you want to add.

Ms. Spillane said just the persons who are most affected by it are in agreement with the lot line adjustment; Elsie Russell & Brett Brown. They'll be signing off on the lot line adjustment and they're completely in favor of it.

Vice-Chairman Aglietti said okay; we didn't get any letters or anything from neighbors that I could see just so you know.

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Ms. Spillane replied Mr. Horowitz did speak with a couple of neighbors who had called him just to ask about what the plan was and what was going on. They had no concern with the situation of looking for a lot line change.

Mr. Horowitz said (inaudible) I owned for many years so we just re-sided it and actually cut the roof off and made it lower. We sold the lots. We went from \$2,300 to \$18,500 with the tax increase. Based on somebody in the Town that said if I don't do the lot line adjustment, I'd basically be trespassing on your neighbors ten years ago. All I want to do is to be able to maintain the right side of the boathouse – legally without trespassing and just keep the trees and fence that have been in existence for years providing privacy for both landowners.

Vice-Chairman Aglietti opened this application up to the Board for questions and concerns.

Mr. Starace said did you install this existing fence and evergreens?

Mr. Horowitz replied yes I did.

Mr. Starace asked how long ago did you install them.

Mr. Horowitz answered I installed the trees approximately two years ago when all this was going through the taxes.

Mrs. Fabiano said there's no issue with the shed? It looks like it's 3 feet from the property line on the other side? There's a small shed on the left side. Is that yours? It says Erik & Kimberly Horowitz.

Ms. Spillane said the shed is in the middle of the property (referencing the map)?

Mrs. Fabiano replied no; closer to West Lake Blvd. – there; that little shed.

Mr. Horowitz said that's a tool shed.

Mrs. Fabiano said has that tool shed been given a variance? How long has it been there?

Mr. Horowitz answered 8 or 9 years.

Mrs. Fabiano said that's very close to the property line. It looks like it's only 3 feet from the property line.

Mr. Horowitz stated that the shed is only 4' x 6'. It's a little bigger than a 3' door.

Mrs. Fabiano asked am I reading this wrong?

Mr. Starace said Mrs. Fabiano is looking at the property line to the east and it looks like it's 3' from the property line.

Ms. Spillane said the Boathouse is where we're looking for the lot line adjustment. (inaudible)

Mr. Balzano said to Mrs. Fabiano on the application there is a retain shed with waterfront lot in 2008. That may have covered it.

Mrs. Fabiano said that may have covered that shed.

Mr. Balzano said yes; I just noticed there was a prior appearance for this property so that may be why that is.

Vice-Chairman Aglietti said there is no other shed.

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Mrs. Fabiano said that must be it.

Vice-Chairman Aglietti opened this application up to the public for questions and concerns of which there was none.

Vice-Chairman Aglietti said there isn't any other land that you could buy to bring this into conformance?

Ms. Spillane replied no; (stepped away from mic) in fact part of the reason we went for a lot line adjustment to add the extra here is because we can only do it for 90% of the parcel and we could do it as a lot line adjustment without having to do a full subdivision process and we (inaudible) any bigger. We made this lot too small. So that's really the only feasible way to do it.

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

Decision of the Board:

Mr. Rossiter moved to grant the requested variance; seconded by Mrs. Fabiano with all in favor – (1 abstention of Chairman Maxwell).

5. Application of **RONI BESHEARS** for a Variation of Section 156.15 seeking permission to construct a free standing garage. The property is located at 537 Beach Road, Mahopac, NY 10541 and is known by Tax Map 64.12-1-11.

Code Requires	Provided	Variance Required
Garage – Front 25'	12' proposed	13'
Garage – Side 10'	5' proposed	5'

- Mr. Joel Greenberg of Architectural Visions, 2 Muscoot Road North, Mahopac representing the applicant was sworn in.

Mr. Greenberg stated if you've been out to the property and as you can see from the map here, the existing driveway goes down very steeply. The septic system is in the front. The well is down in the back. So this is the only place for a small garage. You can see we've tried to keep with the house design and with the same type of siding. It's a small two car garage. There are no houses over here further down. This is a huge lot that's next door over here. The house on the corner over here is totally on the other side of the property. Park Hill Road goes down to a dead end over here. My clients have spoken with the neighbors and they have no objection to any of this. Again; a small garage. If you've been to the property, this section of the property is extremely steep and it would be very difficult to maintain and put a driveway down such a steep slope so we felt this was the best location. It's sort've tucked away on the corner of the property. The street itself, Park Hill Road – the right of way and the paved section of it is quite far from the proposed garage. These are the property lines and we need a front yard and a small side yard variance.

Chairman Maxwell said so this was an old bungalow house....

Mr. Greenberg interjected actually this was Mrs. Beshears' parents' house back in the 1940s I think.

Chairman Maxwell said it has no existing garage.

Mr. Greenberg responded no; didn't have many cars back then.

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

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Mr. Greenberg replied no. Again; the septic system is here and the other properties are all developed.

Mrs. Fabiano asked do you see foresee any problems with the curve – on the one side – Park Hill. How are they going to enter the garage – from Park Hill or Beach?

Mr. Greenberg answered the entrance to the garage is going to be from Beach. As I mentioned before, Park Hill Terrace is quite far from the garage. Any car coming from here would be able to look out here and see traffic from Beach Road or Park Hill.

Chairman Maxwell interjected and there's a stop sign there. This is a steep road too so cars tend to come up pretty slow from there.

Mr. Starace said there's really no gutter detail from that but the run-off from the roof.....where is that going?

Mr. Greenberg responded the ridge goes perpendicular to Beach Road and the run-off from the gutters on either side will go into a swale that is located along the property line on the westerly side so it will not infringe upon anything.

Mr. Starace said I'm familiar with that one little section. There's a flowing stream there that runs down to the Lake but is there certain details with capturing the run-off there before it hits the property.

Mr. Greenberg replied I think we can discuss that when we get our permit. What we can do to take care of the situation you're talking about is to have a stop-gap with either a gallery or some kind of leaching space.

Mr. Starace asked is that considered a wetland.

Mr. Greenberg replied no; that area is high.

Mr. Starace said there between the properties?

Mr. Greenberg answered not to my knowledge.

Chairman Maxwell said it's a natural brook there. I understand what you're saying – so it's not washing directly intothere probably should be a catch basin of some sort.

Mr. Greenberg said what we'll do, as part of our submission to the Building Department, is capture so the water can actually be dissipated onto the property.

Mr. Starace said yes; as a check.

Mr. Greenberg agreed and said no problem.

Chairman Maxwell said we can condition that.

Mr. Carnazza said if he's within 100' of a wetland, he's going to go to the ECB also. That will be part of the submission there.

Chairman Maxwell opened this up to the public for input & comments on this application of which there was none.

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 the requested variance; seconded by Mr. Rossiter with all in favor.

MISCELLANEOUS

Minutes: April 25, 2019 :

Vice-Chairman Aglietti & Mr. Rossiter abstained from voting minutes.

Mr. Balzano moved to accept the minutes as written; seconded by Mrs. Fabiano with all in favor.

The meeting adjourned at 7:59 p.m.