

# APPROVED

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

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SILVIO BALZANO  
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JOHN STARACE

### ZONING BOARD OF APPEALS MINUTES

**OCTOBER 24, 2019**

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

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<u>APPLICANTS</u>	<u>TAX MAP #</u>	<u>PAGE</u>	<u>ACTION OF THE BOARD</u>
Homeland Towers LLC (Casse)	65.19-1-43	1 – 9	Variance Denied
Homeland Towers LLC (Dixon Lake)	54.-1-6	10 – 16	Variance Denied
John Nemeth	65.14-1-27	16 – 17	Variance Granted
Joseph Ragusa	74.43-1-24	17 – 22	Variance Granted as Amended
Sarunya Bangsaruntip	86.55-1-1	22 – 23	Variance Granted
Mt. Carmel Baptist Church	44.14-1-35	23 – 26	Variance Granted w/Conditions
Urstadt Biddle Properties	44.9-1-9	27 – 32	Variance Granted
Salvatore Salvia	64.7-1-2	32 – 34	Variance Granted
Laurie Monteleone	88.5-1-11 SubLot1 & 87.8-1-12 SubLot2	34 – 35	Variance Granted w/Conditions
Anthony Perricone	74.26-2-22	35 – 36	Variance Granted w/Conditions

The meeting was adjourned at 10:30 p.m.

Respectfully submitted,  
Dawn M. Andren

## **HOLD OVER APPLICATIONS**

1. Application of **HOMELAND TOWERS LLC & NY, SMSA Ltd. Partnership d/b/a/ Verizon Wireless (Casse)** for a Variation of Section 156.62(O)(2), 156-42(D) & 156-20 as well as an Interpretation seeking permission to install a wireless telecommunications facility. The property is located at 254 Croton Falls Road, Mahopac NY 10541 (n/o Diehl) and is known by Tax Map 65.19-1-43.

<b>Code Requires/Allows</b>	<b>Provided</b>	<b>Variance Required</b>
156-62(O)(2): 75 feet (height) *	140 feet	65 feet
156-42(D): 24 feet (width of access drive)	12 feet	12 feet
156-20: 6 feet (max height for fence)	8 feet	2 feet
* Code allows for increase in height if criteria in Code Section is met. Branches extend 7 feet above tower as an architectural feature.		

***Mrs. Fabiano recused herself from hearing this application.***

- Mr. Robert Gaudio, Esq. of Snyder & Snyder representing the applicant appeared before the Board.

Mr. Gaudio said since we last met back at the end of August, we did submit the materials that we spoke about at the last meeting for this particular application. They included some of the prior materials, the back-up documentation from our radio-frequency engineer which the Town's own radio frequency engineer had agreed and concluded that the proposed height was necessary to provide the necessary coverage. We submitted an appraisal report and we also submitted various documentation that we did copy to the Planning Board. The documents that we had copied to the Planning Board included a revised EAF with a visual addendum, a letter from the DEC confirming that there were no wetland permits required; we submitted correspondence with the DEP showing that we had access to the property; we submitted a letter from Mr. Ray Vergati confirming that the alternative sites that were proposed were not feasible. We submitted a supplemental response from PierCon, our radio frequency engineer explaining some of the data that we had previously submitted; we submitted a letter from our engineer showing there would be no adverse effects related to fire safety. We showed that the facility, as located on the property, meets all applicable setbacks and we confirm that there are no adverse effects on historical resources from our engineer firm, EBI Consulting. Finally, we added to the site application in the revised plans based on some comments from the ECB, and we added some additional view points and some additional renderings from Saratoga Associates from the closest properties showing no adverse visual impact. With that, Mr. Chairman, I'd be happy to answer any questions that you may have.

Chairman Maxwell said this is a continuation from last time so I'll open it up to the Board Members for any questions or comments.

Mr. Starace said I have no questions.

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Vice-Chairman Aglietti said I have no further questions; thank you.

Mr. Rossiter said no further questions.

Mr. Balzano said no further questions.

Chairman Maxwell then opened this application up to the public for input, comments and/or concerns.

- Andrew Campanelli, Esq. of Campanelli Associates PC at 1757 Merrick Avenue, Ste. 204 appeared before the Board.

Mr. Campanelli said I understand this first application is concerning the tower proposed for 254 Croton Falls Road. I represent six homeowners opposed to the current application for a variance. I previously submitted a 'memorandum of opposition' and supporting exhibits. I believe I submitted sufficient copies for each Board Member. I just want to make some initial comments first. If the Board chooses to close the public hearing this evening, I respectfully request that you leave the record open for a limited period of time. The reason for this is since my first review of the application, it is my understanding that the applicant has made certain changes and submitted additional documents which I heard described by Mr. Gaudioso this evening. I'd simply like an opportunity to review them and submit any responses in writing. It wouldn't take long; as soon as I see them, I could probably prepare them in two weeks. So; if I can get a two-week period after the close of the public hearing to submit written comments, I would very much appreciate that. With regard to the memorandum that's previously been submitted, I believe I've established for the Board, based on substantial evidence, that the proposed installation would have an adverse aesthetic impact on nearby properties. As outlined in the memorandum (I won't go through everything in detail), we've submitted letters from the residents, which the US Court of Appeals for the Second Circuit has identified as substantial evidence of adverse aesthetic impacts. It is critical, in my view, not merely to seek to convince the Board to deny the application but to make sure it gets denied in a way that conforms to the Telecommunications Act of 1996. It is critical to me, therefore, that the Board makes certain factual determinations; one of which is that the proposed tower would, in fact, have a substantial adverse aesthetic impact and if you make such a determination as it does, you cite the evidence in the record. That will 1) satisfy the constraints of the Telecommunications Act and would likely reduce any possibility of anyone challenging the decision and, of course, reduce the likelihood that they would prevail if they saw fit to file such an application. In a similar vein, I submitted what is known as substantial evidence of reduction in property values. In similar vein, the US Court of Appeals for the Second Circuit has ruled that when a tower is irresponsibly placed too close to residential properties, it can have an adverse impact on property values. The Federal Court has said you don't need appraisers; you can get letters from licensed real estate brokers and they are, in fact, very good substantial evidence. We didn't just choose any real estate brokers, we chose real estate brokers who are licensed here for lengthy periods of time. That clothes them with the authority not only as a licensed professional but shows they have an acute understanding of this specific real estate market. So, I submit to you the letters of the brokers constitute substantial evidence that the proposed installation will have a significant adverse impact on the property values of nearby homes.

Chairman Maxwell interjected who was the broker again?

Mr. Campanelli replied there were a number of brokers. It was attached as Exhibit.....they were attached to the briefs but I sent them in a while ago so I'll have to pull that for you.

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They're attached to both of the briefs. With regard to the allegations that they established a need for this facility, I respectfully request the Board look hard at this evidence and make a determination that the applicant has not established that they suffer from a significant gap in personal wireless services. Contrary to what they're alleging, they haven't given you any hard data. I handle these cases not merely across the entire State of New York but across the entire United States. I handle them everywhere. There are two types of deficiencies which render a new facility is necessary. One would be a significant gap in service. The Telecommunications Act doesn't guarantee seamless coverage for every carrier. What it protects them, in favor of the carriers, is if they suffer from what's called a significant gap in personal wireless services and they establish that before this Board and they also establish that the proposed facility is the least intrusive means of remedying that gap, then you must grant their application. They haven't established, certainly, that the height they're proposing is the minimum height necessary and that height may change – we'll talk about that in a second. Normally, when they have a gap in service, they do an actual drive test and they give you the hard data. From what I saw in the application, there is no hard data; they did a computer model. In every single case I've seen, when they don't give you the hard data, there is no significant gap in service. In similar vein, where they're claiming capacity is the problem, they're not claiming there's a gap in the area of service, they're claiming that at peak times, the system can't handle all the calls. Once again, if such a deficiency exists, they will give you hard data. By way of an example: in the Town of Philipstown, Homeland went in with Mr. Gaudio, claimed they had a gap, claimed they had capacity deficiency and they provided actual dropped call data from Verizon. That is proof positive of a capacity deficiency. You don't have that here. Consistent with the lack of evidence, I attached for both towers, actual print outs from the database maintained by Verizon. Verizon maintains its own database and as an interactive website. Its database has an accumulation of every data spot, every geographic point, and, if you log into their system, you can type an address and they give you two critical pieces of information. They indicate whether or not they have a significant gap in their personal wireless service. Attached to both of the briefs, I printed out, which was current as of a few months ago, each of the proposed sites for the locations according to Verizon's own database. Verizon has no significant gaps in coverage at either of these locations. It doesn't mean they have perfect coverage; they're not guaranteed perfect coverage but you, as a Board, are not obligated by the Federal Telecommunications Act to grant their application unless they establish that there is a significant gap. According to Verizon, there is no significant gap. Simultaneously, Verizon's database also indicates the level of service – that effects capacity. By Verizon's own standards, they define their capacity services as no service, fair, good or excellent; excellent being best capacity. For both of these sites, as reflected in the exhibits that I provided to the Board, Verizon itself specifies its capacity level at both sites as excellent. It's the best service level they have at anywhere in the United States. Again; I handle these cases all over the country and I know what they show. Mr. Gaudio may get up and say well that's a marketing tool. There's even a disclaimer that says we don't have perfect coverage. I'm not saying Verizon isn't claiming they have perfect, seamless coverage. What I'm telling you is that according to Verizon's own database, not third-party information, they have no significant gap in coverage and no significant capacity deficiency which means that if they don't comply with your Code, this Board is well within its power to deny the application. I also take issue with the fact that Mr. Gaudio cite an engineering report from Ron Graiff and it strains the imagination that he does this because he knows what the problem is. Ron Graiff.....

Mr. Gaudio interjected can we please leave the commentary about Mr. Gaudio and focus on the actual application.

Chairman Maxwell said let's keep it non-personal.

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Mr. Campanelli replied it's not personal at all. Ronald Graiff is the (*inaudible*) shareholder of a corporation that owns a cell tower. One of his principal tenants on the cell tower is Verizon. Verizon has been paying him thousands and thousands of dollars a year for a decade, and Mr. Graiff has been fired by at least one municipality that I know of because when he was retained by the municipality, he didn't disclose his conflict of interest. Can anybody on this Board truthfully expect Mr. Graiff to come before the Board and tell this Board that Verizon is coming to you and says they have a gap in service and he's going to tell you that they don't have a gap in service where they're paying him thousands of dollars every month for ten years. The fact that he did not disclose that he has such a conflict of interest destroys his credibility and this Board should completely ignore his report. It's completely defective; just as defective as the visual impact analysis which have been provided by Homeland in this case. With the visual impact analysis, once again, as Homeland is well aware according to the Us Court of Appeals for the Second Circuit, when you provide a visual impact analysis to a Board, the whole purpose is to give the Board an accurate depiction of what the adverse aesthetic impact can be. Not surprisingly, in every case, Homeland omits from its visual impact depictions any images taken from the actual homeowners that are going to suffer the worst adverse aesthetic impacts. Federal courts have said again and again, when they do this, Boards should ignore them because they're defective. With regard to the variance, the variances they're looking for are fairly substantial,. In the Croton Falls Road application, at this juncture they're claiming they want a tower for 140 ft. At 140 ft., if I understand correctly, they're trying to exceed the maximum under your Code which, if I'm reading it correctly, is 75 ft. If they go to 140 ft., that means they want to exceed your Code by 87%. I respectfully submit they haven't shown what they need to show: 1) that they need this tower in the first place much less that they need to have it built at this height. Even worse, if you approve this tower at 140', that doesn't mean that the tower is only going to be 140'. Under the Middle-Class Tax Relief and Job Creation Act of 2012, once the facility is built, Homeland Towers will have the ability to, thereafter, increase the height by an additional 20' and this Board will be powerless to stop them. That means that the tower would go up to basically 160' which is more than 200%. I think it's 213% of the height that's actually permitted under your Code. I respectfully submit, under the circumstances, that should not be permitted. I would also ask the Board to consider two things. If you want to know the height of what this tower is going to be, there's two things you can do. 1) look at the base of the tower – both in this case and the Dixon Road tower, when they submitted plans; I assume you've received drawings for the tower. The base of a tower for 140' or 160' tower is significantly different than the base of 110' tower. If they showed you new plans and the new plans show the same base, nobody builds 110' tower and employs a base design for a 140' or 160'; it never happens. What that tells you is eventually this tower is going to be 160'. The only way you can stop it is if you get the property owner, not Homeland, to agree to impose a restrictive covenant, running with the land, that no tower will ever be built beyond the 140'. If you make it a condition of your zoning decision (i.e. grant the variance but condition to never go to 160'), they won't honor it. They'll just build it to 160' and force you to sue them. What they'll claim is you can't do that because your power is pre-empted by Federal Law. I've seen it before. I'm going to let the record stand with my brief; if you have any questions, I'll be happy to answer them. My only other request is please, if you choose to close the public hearing this evening, that you keep the record open to afford me an opportunity to see any changes in the application so I can respond appropriately.

➤ Mrs. Gail Fiero of 308 Croton Falls Road was sworn in.

Mrs. Fiero stated we know that the Diehls have already had the variance for their 2015 retirement home and they're going for the great other variance. Homeland Towers recently sent revision application of letters to the PBA Board because they had a lot of



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misconceptions and things they had to correct. I read over all of their new ones and I wrote a letter myself to EBI and Saratoga because they're still incorrect – blatantly incorrect with the visual that they're giving - specifically of our two historical buildings on 294 Croton Falls Road and the Well House. From the google street image of the driveway for 292-300 Croton Falls Road, that the view shed mapping predicts visibility from this driveway as demonstrated by this photo, the modeling is conservative and the views, if any exist, will be obscured by the arching tree branches and the nearly 1,400 ft of intervening distance they're talking about to our two historical buildings. They are not 1,400 ft. They are approximately 600 to 800 feet. What they did was took a picture from the end of the driveway. From the end of the driveway to the tower would be 1,400 feet but not any of our homes or our historic buildings. It's still wrong and they've given everybody copies of this. I have it on record that I *wrote to* EBI & Saratoga. I think I gave every Board copies of the letters. We need all the view sheds mapping corrected. I gave them the okay to get in touch with me and come to my house which is 497 feet away and take a picture from my backyard exactly to where the tower is. They need to take a picture standing in front of the Well House and put the camera up toward the tower – not the other way. Their pictures are blatantly incorrect and misleading. The other thing is they wrote to Putnam Valley Historical Society with an invitation to comment. Putnam County in Mahopac knows all about our historical buildings but they never wrote Putnam County, Mahopac *or* any of the historical people here. They always, for the past 35 years, have called us wanting more information about our property. So, they write this letter to Putnam Valley I guess seeing the word "Putnam" and not looking into it deeper. I'm in this to the end; I'm not giving up; they're still wrong. Everything is so wrong. I know the Planning Board has more things that I can say about it. They give out these kinds of things (shows piece of paper); we're never going to see this from where our places are; it's blatantly untrue. I was in contact with Tom Maxon who is Chairman of the Highlands Historical Preservation. He told me that he has been watching our case and Mr. Gaudio, and this is not personal, publicly stated that our case was nothing like the Agor Hill Street case which got knocked down. Mr. Maxon told me in an email that ours is the same type of case and they had gotten knocked down because of the historical nature of the Agor place. Mr. Diehl knew about it and nobody said to Homeland there are historical buildings that should be looked into. I also have millions of pictures too.

- Mr. Bryce Fiero of 292 Croton Falls Road was sworn in.

Mr. Fiero stated first I'd like to thank you all for your service. The reason I came here tonight is because I'm a little bit upset that you're even considering giving this variance on this particular property. The property was given a previous variance because they didn't have the proper frontage. In looking at our own Town Code, Section 156-62 allowing a special exception Use Permit for a wireless tower communication at 254 will increase the already existing non-conformity of this parcel. A variance was already granted by the Board for the construction of a single-family residence on this parcel on 8/27/15. This is a land-locked parcel with multiple easements for access. The variance granted was to alleviate the 100' frontage on a town, county or state road code requirement. Additionally, the variance was granted based upon the statement that no future subdivision was planned. Granting a special exception use permit for this address will be a violation of this section. I watch a lot of the meetings on TV and I see how we're trying to keep the "New England feel" in this town. I don't see how having a tower next to a 9-acre piece of property that has historical things on it - Mr. Gaudio said this isn't next to historical property but it is. It's within 600' of a place where a book, Revolutionary Road.....a movie was made about it. I don't want to go off on a tangent but it is historical. You're never going to see Mr. Gaudio or Homeland Towers down at the deli or Ace Hardware; you're not going to see any of them. You're going to see these other people here that live in this Town. These big companies come into our

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Town and they give inaccurate information that our housing value is going to go up when a tower goes up. I don't think it's very common that someone's house value goes up when a tower goes up next to it. It's a small town; I grew up here; I served honorably in the USMC and there are a lot of veterans around here. I work at the VA and I see people want to come up here to relax. People who work in the city don't want to come home to a cell tower. If we wanted that, we'd live in NYC where they have cell towers on top of every building. It definitely doesn't belong next to something that's historical to this Town. I'm not sure if this Board is aware of the fact that these towers do catch fire. I don't know how they would get a firetruck up there with a road that's only 12'. I don't know what the Town Code is for a firetruck but it's not going to allow it; the road is washing out; they're not paving it. Our land is right up against it so they're going to have to address drainage issues which they haven't done with us. They're just trying to push this through with inaccurate evidence. I just hope that this Town would do their due diligence and not accept this. I don't want to have to take this further but I really feel like I'm in it for the long haul, like my mother, and if I have to litigate, I will litigate because I'm not going to let something happen that's not legal. Please consider what we're all saying here because the people here don't want this.

Chairman Maxwell said Mr. Gaudioso, I'll afford you the opportunity to respond.

➤ Mr. Gaudioso returned to the podium.

Mr. Gaudioso stated I'll work backwards because that's how I have my notes. Regarding the drainage issues, we've dealt with all the drainage issues. There is a full erosion control and sediment plan that's been reviewed by the Town Engineer and the plan has been revised multiple times to the Town Engineer's satisfaction. It's also an issue before the Planning Board. We've totally addressed any potential drainage issues. Regarding fire access, we've submitted a report from our engineer showing that there's absolute fire access to the property; we've detailed all the required specifications we've shown on the plans - the turning radii and so forth to be able to get a truck up there. Granting a special use permit is in no way a violation of either any prior approvals of this property or the Town Code simply put. Totally unrelated; I'm at Fraser's Hardware Store probably every week. The EBI and Saratoga reports are completely accurate. The original application includes a determination from the NYS Historic Preservation Office that there were no historic properties or properties eligible for listing on the historical register in the area. After that information was provided, Mrs. Fiero did successfully attempt having two buildings on her property made eligible for listing on the historic register. Since that time, in the last filing which you have in your package from EBI, we did not only a letter from a specific person from EBI that has the qualifications under the Section 106 process (Department of Interior Historian) and we have that in the record. We also, from Saratoga Associates, had view shed mapping showing the tower would not be visible as well as actual sight lines of the tower in the proposed tower in the surrounding properties. That's all in the package and that's all correct by both EBI and Saratoga Associates. Regarding the visuals: they were also done in conjunction with the Planning Board. We went through a laborious process and methodology. We actually held 6 different balloon tests at this property. At 180', the proposed tower, just by way of recollection, is 140'. It's proposed to be a stealth tree design. We also did a crane test at 180'. We took photographs at predetermined locations from our consultant based on the view shed mapping; we had the Town Planner review that and they added specific locations. We made an announcement at prior Planning Board meetings that if anyone wanted additional viewpoints, we'd be happy to take them but no one took us up on that offer at that time. We did the full report from Saratoga Associates. It was reviewed at the Planning Board level by the Town Planner and the other Consultants; there were no comments with respect to any inaccuracies in that report. With respect to Mr. Graiff, he did review the application. He's a NYS licensed professional engineer. He was hired, specifically

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by the Planning Board, and he did conclude that the proposed height is necessary to provide the required coverage. Regarding the comments that there's no 'hard data' in the application: That's simply not true. Not only did we provide the propagation maps, we did provide the drive test data. It was stated that the 'drive test' data was not provided; that is not correct. We provided the drive test data because we conducted the drive test at multiple heights when we did the crane that I mentioned before as part of the visual methodology. Not only was the methodology that was included with the original application – the propagation maps that you have, we also did actual drive test data for both the existing signal in the area and multiple different heights to be able to come up with the minimum height of 140'.

Mr. Balzano interjected question though. I'm reading the drive data and I have a question about it. As I read it, it says 4G LTE; you didn't look at anything down-graded from that. Again; this is all about making cell calls and not necessarily data. Where is your 3G data? I don't see that in any of the megahertz at all.

Mr. Gaudioso replied no; that is in there. We actually provided 850 megahertz, we provided 2,100 megahertz. It's in the reports.

Mr. Balzano interjected 1,900? I don't see that here.

Mr. Gaudioso responded they're not operating at 1,900. On this one though, we've provided both the 2,100, 700 and the 850. The 850 – the 3G is being sunsetted by the end of the year so it's not relevant in the first place. Nevertheless, we showed the gap at the most conservative level which is the 700 and at the most beneficial to us at the 2,100 because of the frequency range. We showed all three different frequency ranges: 850, 700 & 2,100 in the drive test data and also in the KPI data as well. If you look at the KPI data, that was specifically requested by the Planning Board which includes the drop calls and the access failure rates. Mr. Graiff, after reviewing, said it wasn't even necessary because as we've stated this is not a capacity site; this is a coverage site. All of that data is in the reports from PierCon and it was reviewed by Mr. Graiff. So, we did provide all of that data in the various PierCon reports. The facility meets all of the setbacks. As far as the real estate brokers' assessment, we did submit that report. It includes approximately 15 different surveys over a 5-year period. Despite what was said, the Federal Courts have not upheld unsubstantiated broker letters that have no data. The report that we'd submitted was an actual MAI (Member Appraisal Institute) appraiser certified letter which has been upheld by multiple courts. I cited to that in my letter to the Planning Board which was also included in your packet. Finally; with respect to the comment of additional time because the application has changed, the application has not changed. This facility has been exactly the same since it's been filed here. The materials that we've submitted were the supplemental materials that were previously submitted. They've been on record since the end of September. With that, the shot clock is also set to expire at the end of the month. So, we'd respectfully request that the application hearing be closed this evening and a decision made.

Chairman Maxwell polled the Board Members for any comments, input, etc.

Mr. Starace stated in the original plans, there was no submission for filing an alteration application – an FAA7460 and there was an opinion letter that you did submit but I'm just curious why that application wasn't filed so that airspace analysis could be done for the construction of that facility?

Mr. Gaudioso replied because it was not required. Because of the height of the tower and the location of the tower, it did not require filing with the FAA.



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Vice-Chairman Aglietti asked any comment on the adverse aesthetics argument that was made.

Mr. Gaudioso responded the visual renderings, I think, speak for themselves. We've lowered the height of the facility multiple times down to 140' which has been determined to be the minimum height. We've also added the stealth design which is the tree design. The facility meets all the requirements with respect to the setbacks and we did the visual renderings that show any of the views will be very distant from this proposed facility. The Saratoga Associates report specifically comments on the DEC manual for assessing visual impacts. The DEC manual specifically says that visibility alone, even stark visibility, is not a reason to find a significant adverse visual impact with respect to these types of facilities. Even in the area where the facility is visible from quite a distance, we've added the visual mitigation of the stealth tree design, we've minimized the height and we've located it on a large property and distant from adjoining uses. So; we don't believe that there's a significant adverse visual impact as determined by Saratoga Associates.

Chairman Maxwell said just for the public's understanding of our process as a Board, for an area variance, we have to take all the following into consideration:

1. Will an undesirable change in the character of the neighborhood or a detriment to nearby properties be created by granting the variance?

Mr. Folchetti interjected there's a different standard because of a public utility.

Chairman Maxwell said okay; then forget that.

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

*Interjection of inaudible voices from the public regarding the public hearing and inaccuracies.*

Chairman Maxwell said then I'll afford you the opportunity to respond.

Mr. Gaudioso interjected just if I may – to answer your question, it was the March 26, 2019 PierCon report and it was Exhibit D which was the 850 CDMA drive test.

➤ Mr. Bryce Fiero appeared again.

Mr. Fiero stated what I wanted to say that is inaccurate is – in layman's terms what they have to do when they want to put a cell tower in, they have to send a letter out to the local historical asking if there's any impact on historical properties in the area. Our property is 200 years old. It used to be the old Mahopac Playhouse and there's an article in the paper about it last year. Putnam County is very aware of it. That's why the letter was sent to Putnam Valley. They didn't send a letter of notice to our local Town. Therefore, we didn't know about this application. We weren't notified properly because our Putnam County Historical Society wasn't notified – they sent a letter to Putnam Valley. Legally, they didn't send it to a local place. They sneakily sent to somewhere just out of our Town and far enough that nobody picked up on it. They were also supposed to send a letter to local Indian tribes and they picked some tribes that were far out of the area. We have all the evidence. I don't like it when it's not honest and to sit here and say it doesn't affect our property values is really crazy.

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Mr. Gaudioso responded there's no requirement of the Town process to send it to the Historical Society. Actually; it was notified in the local newspaper, it was sent to all the proper parties, notice to the Town. It's been in front of the Town now for multiple public hearings between the Planning Board and this Board. With respect to the Indian tribes, we did send it to the correct Indian tribes – it's through an FCC database. Sometimes, the tribes are tribes that you would not expect. Sometimes you'll see tribes from Oklahoma that have some type of claim even in the northeast and we send the notice to all the applicable tribes pursuant to the FCC and the section 106 process.

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

### **Decision of the Board:**

***Mrs. Fabiano recused herself from this application.***

***Vice-Chairman Aglietti moved to deny the requested variances; seconded by Mr. Starace.***

### **Discussion:**

***Vice-Chairman Aglietti said being on the Board as long as I have and being an attorney, it's interesting and exciting to watch the attorneys that presented both sides, the quality of the work they both provided and the job that they did for their clients. Also, the public response as being part of that and the fact that this Board worked really hard for this application and the sister application that is to follow. The burden is on the applicant and reviewing the evidence in front of us, the burden was not met; there was a lack of sufficient evidence to show that there is a need and that there is a coverage gap. With this question of fact, I do not believe the burden is met and that the application should be denied.***

***Chairman Maxwell said the evidence was not sufficient.***

***Vice-Chairman Aglietti said the evidence was not sufficient; there was a lack of sufficient evidence to prove question of fact; there was a lack of sufficient evidence to show that there was a need and that there was a coverage gap. So; I do not believe that the burden was met and the application should be denied.***

***Mr. Balzano said I think that Vice-Chairman Aglietti summarized it the best. I didn't see enough evidence there for my comfort as well.***

### **Chairman Maxwell called for a roll call vote:**

<b><i>Mr. Balzano</i></b>	<b><i>in favor of the motion to deny</i></b>
<b><i>Mt. Rossiter</i></b>	<b><i>in favor of the motion to deny</i></b>
<b><i>Vice-Chairman Aglietti</i></b>	<b><i>in favor of the motion to deny</i></b>
<b><i>Mr. Starace</i></b>	<b><i>in favor of the motion to deny</i></b>
<b><i>Chairman Maxwell</i></b>	<b><i>in favor of the motion to deny</i></b>

***Motion carries and is denied.***

**APPROVED**

2. Application of **HOMELAND TOWERS LLC & NY, SMSA Ltd. Partnership d/b/a/ Verizon Wireless (Dixon)** for a Variation of Section 156.62(O)(2), 156-42(D) & 156-20 as well as an Interpretation seeking permission to install a wireless telecommunications facility. The property is located at 36 Dixon Road, Carmel NY 10512 (n/o Spaccarelli) and is known by Tax Map 54.-1-6.

Code Requires/Allows	Provided	Variance Required
156-62(O)(2): 75 feet (height) *	110 feet	35 feet
156-42(D): 24 feet (width of access drive)	12 feet	12 feet
156-20: 6 feet (max height for fence)	8 feet	2 feet
* Code allows for increase in height if criteria in Code Section is met. Branches extend 7 feet above tower as an architectural feature.		

***Mrs. Fabiano recused herself from this application.***

***Mr. Balzano recused himself from this application.***

- Mr. Robert Gaudio, Esq. of Snyder & Snyder representing the applicant appeared before the Board.

Mr. Gaudio asked was there a reason for the recusals – just for my notes.

Chairman Maxwell replied none was given but I'm sure they have their reasons.

Mr. Gaudio said and it is a 7-member Board – correct?

Chairman Maxwell answered yes.

Mr. Gaudio said very similar to the other application, we did copy the Board on the materials that were previously submitted to the Planning Board that we previously discussed including the Lane Appraisal report, the prior PierCon engineering reports that were, again, approved by Mr. Graiff as being the minimum height to provide the necessary coverage. We included the site plan changes and a letter from our engineering firm detailing that. In addition to the Planning Board, we submitted a number of additional materials that we did copy to this Board as well including the SHPO (State Historical Preservation Office) concurrence that there would be no adverse impact on historic properties because there were none within the potential area of impact. We confirmed with the US Fish & Wildlife Service and the Department of Conservation for NYS; we also included a letter from EBI confirming no adverse impact on eagles. We submitted a letter from Mr. Wimmer from Homeland Towers confirming that none of the alternative sites that were proposed were feasible including McDonough Park which the Town was unwilling to lease to Homeland Towers. We also included, as part of this application, a second alternative location on the property. While I think that's more relative to the special permit and the Planning Board application, we did include that. Basically, the alternative location is further from the residences on this area – complete opposite side of the property and closer to the Park. So, we did propose two alternative locations on this particular property. Finally, we included a DEC mapped plan showing there were no DEC wetland impacts and visual renderings from the Park and the surrounding area of the second alternative site on the property. With that, I'd be happy to answer any questions the Board may have.

## **APPROVED**

Chairman Maxwell opened the hearing up to the public for input, concerns on this application.

- Mr. Andrew J. Campanelli, Esq. of Campanelli & Associates PC at 1757 Merrick Avenue, Ste. 204, Merrick NY re-appeared before the Board.

Mr. Campanelli said once again Members of the Board, respectfully, I submitted a brief. I believe I submitted sufficient copies for each member of the Board along with exhibits under separate cover. By the way, for reference, the real estate broker letters which I submitted as evidence of reduction in property values – for this exhibit and this application, they are attached as Exhibit C to the *document* submitted in opposition to this application. Just for references and purposes on the previous application for Croton Falls Road, the letters were attached as Exhibit M. So, they're all before the Board in the record. I'm constrained to address the PierCon reports that have been submitted by Homeland. I respectfully request that the Board examine very carefully what PierCon alleges to have received for Verizon as the data based on which it rendered its conclusions. The PierCon reports, and I've seen many, many of them, appear to me to be, quite frankly, canned reports. They look remarkably identical when I go from Philipstown to Thompson to wherever, Carmel, Hickory – it doesn't matter. Usually on page 5 of the report, it glosses over the type of data they got from Verizon and the source. They will say we got engineering data from Verizon. That's not sufficient. If they want to show capacity deficiency, they should say we got dropped call records. Verizon, and every carrier, has the ability with their computer system, if they have a capacity deficiency, all they need to do is punch in a few keystrokes and the computer will spit out an actual list of every single dropped call in any geographic location at any given time. In similar vein, their drive test analysis is similarly defective. They have not given you the hard data. Don't let them gloss over it. What they gave you was computer modeling. If they did a drive test, that means they took a device and attached it to a cell phone or device and they drove through an area where they did testing. That device will record the actual signal strengths every few milliseconds. So, on a two-hour drive, you'll get several hundred thousand records. They didn't give you the records. What they did is took their interpretation of the records and they introduced variables. Introducing variables means they use a program where they multiply the actual signal strengths by various factors to, in their mind, account for reductions in signal strength when the signal goes through the trees or for in-building coverage. They'll say exterior coverage is this but we have to figure out what in-building coverage is so we have to reduce the actual signal strength by a factor to account for the reduction in signal strength lost we'll suffer when the signal passes into a building. So, the figures you got in those propagation maps are not the actual figures; they are manipulated numbers. That's why when I say "hard data", you should ask for the 'actual signal strength records', and if it's capacity deficiency, ask for 'actual dropped call records'. Those are much harder to manipulate and Verizon is not going to give you false dropped call records. I don't want to hear about a marketing report – it's not going to happen. Once again, they have failed to meet their burden under New York Code to establish a need to greatly exceed the maximum height limitation set forth in the requirements of your Code which, quite frankly, are smart planning requirements. Cell towers are a necessary evil. Everybody loves their phones; you have to have cell towers. But your Code, like most jurisdictions across the country, has smart planning provisions. What does that mean. Smart jurisdictions enact regulations which enable them to have cell towers strategically placed to accomplish several specific objectives. First, you want to saturate the area with coverage; Second, you want to minimize the number of structures necessary to provide that coverage and have them no taller than necessary and, at the same time, try to keep them away from residents so you minimize the adverse impacts on residential properties. This is a blatant example of utter disregard for your Code. There is

no reason anybody would put a tower of this height 50' from a residence. If one of your residents came and wanted to put a 110' tower for whatever reason and 50' from the neighbor's property line, you'd look at them like they had 3 heads. This should be treated no different than any other zoning application. This shows complete disregard for adverse aesthetic impacts and there's no effort – none at all – to try to minimize the adverse aesthetic impacts. Of most critical importance is they haven't established a need with hard data. Once again, as far as their aesthetic impact images, they're a joke. Also, to the extent that they've submitted a Lane Appraisal – that also, I respectfully submit, lacks any probative value whatsoever. What are they giving you? They give you a list of properties that were sold, the square footage and what they sold for. I respectfully submit that square footage alone, tells you nothing about the property. It doesn't tell you where they're situated and if they can see the tower, what the elevation is or why did the home sell at that value. Was it 100-year-old home that had never been updated; did they have a new kitchen, a new bathroom? That Lane Appraisal shows you nothing. If you really want to get an appraisal, do what was done in Hickory where they have another application pending. An appraiser went in and did two appraisals on the nearby homes. They did one appraisal to show what the homes are worth now and a second appraisal showing what the home would be worth if the tower went up. Not remarkably, every single home lost value. Collectively, millions of dollars in value. So, I respectfully submit their Lane Appraisal reports are also defective. Once again, to the extent that Mr. Graiff saw fit to accept a contract to provide services and failed to disclose his conflict of interest to you, I respectfully submit that speaks volumes as to his veracity. I respectfully submit that this Board should do precisely what other Boards have done when I told them about this conflict; and that is, they disregarded his report in its entirety. On top of that, there are less obtrusive alternative locations. Of course, on the site if you move it away, that will help some but as I mentioned before at the Planning Board, there's a far superior, suitable alternative off to the side of McDonough Memorial Park where it could be placed away from everybody's homes. The only reason Homeland Towers wouldn't go for that application, unless the Town doesn't want it there, is that it's more expensive. The only thing consistent about every application is they always go for the cheapest location. If they have a choice of putting it right next to peoples' homes on property that is already developed than out in the woods, they never go in the woods. It's simple. If they go in the woods, they have to clear foliage, have a gravel access road, have to run utility poles and wires. They don't want to pay for that. The only thing they care about, quite frankly, is the least expensive location. I respectfully submit that if the Board reviews the record, you'll find there are far less intrusive potential alternative sites. Any questions?

- Mr. Robert Montanaro of 30 Brittany Lane, Carmel was sworn in.

Mr. Montanaro said I'll speak for quite a few folks that have been coming here on many evenings to Planning & Zoning Board meetings even though they have to get up at 5:00 in the morning and get to work. I have a lot of respect for those people and I appreciate this Board hearing us out as homeowners and taxpayers. The documentation that's been submitted by local realtors is not disputable. We've already documented 10%-30% reduction in homes which go in the dozens which adds up to millions of dollars. Again; quite a bit to justify any type of litigation that we want to pursue. Those same homeowners pay hundreds of thousands of dollars in taxes every year to this Town. We also look at the driveway situation – Dixon Road already has an issue in the spring, winter and fall with run-off and freeze/thaw. You widen this driveway, you'll have an even further issue. Last, but not least and very importantly, we've talked about the fact that there are alternate, less intrusive sites if, in fact, the tower is even needed. They certainly have not proven that a tower is needed in this area. We started to take a look and see if other sites were even explored. I've heard their attorney speak about the fact that they were turned down at other sites but I'll give you a copy of a letter that we obtained from a gentleman by the name of



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Dave Furfaro. He signed it. The letter is dated September 18<sup>th</sup>. I'll give you folks plenty of copies. "Dear Board, I Dave Furfaro, met with Klaus (& Klaus her refers to is Klaus Wimmer – regional manager for Homeland.) from Homeland Towers on November 20, 2018 at 10:00 a.m. at Jimmy McDonough Park in my official capacity at that time as Chairman of the Town of Carmel Recreation Advisory Committee. We discussed several locations at Jimmy McDonough Park for a potential cell tower. Klaus would not consider any of these remote sites because of cost. Klaus explained the money in the cell tower business was drying up, and at the time, Homeland Towers did not have the funds to make any improvements to facilitate a site off the road or parking area in the Park. This included sites to the east of the Park fields which is a very large open area." If you know the area, I've actually took it upon myself to walk the areas to take a look. I'll give you copies of the letter. I will confess that I originally thought that Homelands and their president, who sits in this room was not concerned about money. They are concerned about money. They're just not concerned about our money. That's who I'm talking to. These folks in this room; the folks that are listening from home. It's their home equity that they sweat for - that you want to take 10%-30% so that the P&L of Homeland looks a little fatter at the end of the year. That is outrageous to us and we're not going to take it lying down – personally or not personally. I'll give you a copy of the letter. I thank this Board for their time and I implore you to knock this down and not approve it.

- Mr. Larry Gray of 20 Brittany Lane, Carmel was sworn in.

Mr. Gray said I just want to build a little bit on what's been talked about here in terms of property values on a number of these meetings, the Lane Appraisal and how it's being represented. Even when it was discussed earlier, there's been a lot of head nodding over here and I think all of us are getting fed up with one side is always right and the residents are always wrong. For the record, I have a degree in mathematics, have been in research and analytics for 30 years so I know what we're talking about when it comes to numbers and how to do an analysis. What I'm not saying is the Lane Appraisal is inaccurate. What I'm telling you is that it's being misrepresented. It does not address the impact – impact means change, before & after – of property values. I went to the Town and got a copy of the Lane Appraisal, read it and dissected it over a weekend months ago. They looked at several properties in this area and it's done by a credited real estate appraiser (not questioning any of that). What it does is takes a look at properties within the view of a tower; takes the sale price divided by the square footage that we heard before and compares that to homes further away. Each one of these cases, they'll say this group is worth \$3 more per square foot than this group. Big Deal; that's not what I'm worried about. I'm worried about what's my home value today worth and what's it going to be the day after the tower goes up. That is not what the Lane Appraisal does. It's funny math. It's just this is what this is worth and that is what that is worth. Impact means change. It doesn't do a before and after. That's very important because we keep talking about that property values go up. They don't go up. The entire Lane Appraisal is done in the context of that one-time frame. That's very important to understand. Analytically, it's not measuring the impact of these property values and that's very important. I just want to make sure that's on the record because we keep referring back to this Lane Appraisal as submitted; it must be right and our property values go up. It's not. Thank you.

- Ms. Linda Montanaro of 30 Brittany Lane, Carmel was sworn in.

Ms. Montanaro said they did a variety of balloon tests; some failed, some crane tests. I just want to show you what it actually looks like because I'm sure you don't actually have this picture. I'm sure they only show you the pictures that they want to.

## **APPROVED**

Chairman Maxwell said I think we've seen this picture.

Ms. Montanaro said that's right from my driveway. I just want to make sure you guys know that that is what it actually looks like when you're either driving by

Chairman Maxwell interjected did you submit these pictures earlier because they look familiar.

Ms. Montanaro replied those were submitted by my lawyer.

Mr. Starace said that was the balloon test.

Ms. Montanaro replied that was the low balloon test because the second balloon test failed and they just didn't do another one. That's what I'm going to see when I'm sitting on my back porch. So, don't believe what you see; visuals can be manipulated as well as statistics.

- Ms. Renee' Pereira of 42 Brittany Lane, Carmel was sworn in.

Ms. Pereira said just one question. I see that it looks like they're proposing to change the location. Does that mean they have to do another balloon test? That has never been asked; that's never been discussed so I'm just curious – are they doing another balloon test.

Chairman Maxwell replied I don't know the answer to that but think if it's in the same vicinity, footprint wise, it wouldn't make much of a difference.

Ms. Pereira said so from one section of the property to another, they do not have to do another balloon test?

Mr. Carnazza replied it would be up to the Planning Board to decide if they want that balloon test.

Ms. Pereira asked what is the process of when you tell us whether it's approved or not approved; nobody knows.

Chairman Maxwell replied we're going to vote on this tonight or carry it over; whatever we decide to do.

- Mr. Gaudioso was afforded the opportunity to respond.

Mr. Gaudioso said there were actually 6 balloon tests and a crane test. They were actually at 150' so that the comment that it failed and wasn't done again is not correct. We actually did 6 that were fully noticed plus the crane test and that was documented in the Saratoga report. It was documented to the Planning Board; it's also in the copies of the materials that you have. It was done at 150' as opposed to the proposed 110'. We also did additional visual renderings at the alternative location – both from Brittany Lane and the Park and those are in your application package as well. Regarding the Lane Appraisal Report, it's been upheld by five different courts – both State Courts and Federal Courts. There is no fuzzy math because, quite frankly, there is no math; it's pure data unlike the broker letters. The broker letters is pure speculation and opinion. The Lane Appraisal Report simply pulls the data from the Town Tax Assessor records to show what the sales prices were on similarly situated homes both within and without view. We have various different studies that were done on towers actually within the Town of Carmel. We have studies done within Putnam; I believe Dutchess and Rockland County as well as Westchester over a period of a decade. So,

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we've looked at all different types of facilities, all different types of locations, all different types of time frames but the data is strictly the data. Lane does not make any assumptions based on the data; they don't make any calculations based on the data other than – take the data, take the square footage, divide it and compare with a view and without a view. Again; that specific methodology has been held up multiple times in courts including within the Town of Kent, within the Town of Philipstown and other towns in the nearby vicinity. We're not widening the road. I know there was a comment about widening the road. There was also a comment about that we take the shortest path or the path of least cost. Actually; we've done just the opposite here. The original location, we were trying to comply with the Code to be further away from the Town Park because there's a provision in the Town's newly adopted wireless law to try and minimize visibility from the Park. So, we located further away from the Park where we had to take out 35 trees and do some grading in through this area to improve, basically, the existing carriage trail. The alternative location is back over in this location and it's actually much easier for us, but the original proposal, to try and comply with the Code, was to take out 35 additional trees and actually improve the existing carriage path to be able to get the access drive back there. The alternative location is probably an easier build for us and that's the second alternative after we heard comments from the residents up in this area. Regarding the alternative site, we documented from Mr. Wimmer the reason why all the alternative sites were not feasible and, specifically, regarding the Town Park and the Town property, we met with members of the Town Board, the Supervisor, the Town Attorney; we visited the property; we proposed lease agreements; we did design visits and ultimately the Town Attorney sends an email the Town was not interested in leasing us that property. That is detailed in excruciating detail in a letter from Mr. Wimmer that's part of your application package. Finally; regarding the reports from PierCon: this was originally submitted to you – it's the PierCon supplemental report dated June 24, 2019. It was in the original application that we submitted to you; it includes all of the KPI data directly from Verizon Wireless, all of the charts, all of the data, everything directly from Verizon Wireless on dropped calls and access failures. It also includes the drive test data that, again, was reviewed by Mr. Graiff; all of the data is in this thick report that was originally submitted to the Planning Board and also submitted to this Board. So; the statements that we didn't submit that data are simply not true. Again; given the fact that the Federal shot clock is up at the end of the month, we would respectfully request that the Board close the public hearing this evening and take action. Thank you.

Chairman Maxwell asked the Board Members if they had any further questions or comments of which there were none.

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

### **Decision of the Board:**

***Mrs. Fabiano recused herself from this application.***

***Mr. Balzano recused himself from this application.***

***Vice-Chairman Aglietti moved to deny the requested variances; seconded by Mr. Starace.***

### **Discussion:**

***Vice-Chairman Aglietti said not to sound repetitive but the application is very similar to the first application that we just denied. Again, there is a lack of***

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***showing of sufficient evidence to show that there is a need or a coverage gap and as such, the motion should be denied.***

**Chairman Maxwell called for a roll call vote:**

**Mr. Starace**                      ***for the motion to deny***  
**Vice-Chairman Aglietti** ***for the motion to deny***  
**Mr. Rossiter**                ***for the motion to deny***  
**Chairman Maxwell**        ***for the motion to deny***

***Motion carries and is denied.***

3. Application of **JOHN NEMETH** for a Variation of Section 156.15 seeking permission to retain two already existing sheds. The property is located at 100 Longdale Road, Mahopac NY 10541 and is known by Tax Map 65.14-1-27.

<b>Code Requires/Allows</b>	<b>Provided</b>	<b>Variance Required</b>
Shed 1: 10' rear	5'	5'
Shed 2: 25' front	19'	6'

- Mr. John Nemeth of 100 Longdale Road, Mahopac NY was sworn in.

Chairman Maxwell said you're back – right; because

Mr. Carnazza interjected yes; we had to add the other structure on so the gentleman put it on there and I amended his application.

Chairman Maxwell said the sheds have been there a while.

Mr. Nemeth replied shed 1 has been there for 32 years and shed 2 has been there for 6 ½ years.

Chairman Maxwell asked have you spoken with your neighbors about it.

Mr. Nemeth responded yes.

Chairman Maxwell said no issues?

Mr. Nemeth replied on shed 1, my neighbor had written a letter to the Zoning Board saying that they had no issues. That was John Bocchino.

Chairman Maxwell said and if you had to move them, there would be a significant cost I'm sure?

Mr. Nemeth replied oh yes; it would cost me more to move the trees that are in the way.

Chairman Maxwell said I think I asked you last time but there's septic over there?

Mr. Nemeth replied no; there's a well. The well is there.

## **APPROVED**

Mr. Carnazza interjected yes; they have septic.

Chairman Maxwell opened up this application to the public for comments and/or input of which there was none.

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

### **Decision of the Board:**

***Mrs. Fabiano moved to grant the requested variances; seconded by Mr. Rossiter with all in favor.***

## **NEW APPLICATIONS:**

4. Application of **JOSEPH RAGUSA** for a Variation of Section 156.15 seeking permission to retain already existing shed. The property is located at 118 Spring Road, Mahopac NY 10541 and is known by Tax Map 74.43-1-24.

<b>Code Requires/Allows</b>	<b>Provided</b>	<b>Variance Required</b>
10' - side	1'	9'
10' – rear	2'	8'

- Mr. Joseph Ragusa of 118 Spring Road, Mahopac was sworn in.

Mr. Ragusa said I'm looking to retain the location of the shed. It's already existing; it's one of those plastic units. The yard is very small and not level in most areas so this was the ideal spot to put it.

Chairman Maxwell said I was out there the other night; you have a hillside on the right side of the property and a fence along both corners.

Mr. Ragusa interjected the whole yard is fenced in. I brought one additional photo. It was a little hard to print and I have a couple letters from neighbors.

Chairman Maxwell said do you want to tell us who.

Mr. Ragusa said three are from adjacent neighbors. I don't know if you remember the property. One is right to the right of my house and the one was pretty much attached; the left-hand neighbor and one is a little up the block.

Chairman Maxwell said okay; they're all in support of your application?

Mr. Ragusa replied yes.

Chairman Maxwell said okay; do you want to submit those please for the record.

- Grace Pietranico, 104 Spring Road
- Gina Lockwood, 114 Spring Road
- Stephen Hassett, 89 Entrance Way



## **APPROVED**

➤ Thomas & Nicole Zelley.....

Mr. Ragusa interjected they're on Entrance Way but they're adjacent to me where the retaining wall is.

Chairman Maxwell said there's no septic over there – right? If you had to relocate this, what would the cost be? A couple thousand dollars?

Mr. Ragusa replied I don't think the cost would be too much because it's a do-it-yourself kind of thing but there is really no place to put it.

Mr. Starace said you really don't have much room back here.

Mr. Ragusa replied no; that's the only bad thing.

Mr. Starace asked does this land just move up – the elevation; does it get very high back here?

Mr. Ragusa replied up that fence is a total hill. My next neighbor in the next street over is very elevated so a lot of that area wasn't usable. Chairman Maxwell came out yesterday and saw the other side of my property slopes down the other way so I only have a little bit of flat area to work with. In the one-color picture, you can see on the left side of that shed is this huge boulder and without a machine – -- which you couldn't even get in the back yard. My father and I tried to painstakingly break it down a little bit but it's not happening.

Mrs. Fabiano said I was out there. It's a very difficult lot to work with so I could see why you put it there.

Chairman Maxwell opened up this application to the public for input, comments and concerns.

➤ Ms. Christine Hickey of 81 Entrance Way, Mahopac was sworn in.

Ms. Hickey said I purchased my home in 2002 by myself. I raised my three kids in my house. Four plus years ago, Mr. Ragusa purchased a newly constructed at 118 Spring Road. His property was newly surveyed for the construction. The northeast corner of my property joins his southwest boundary. This is where the shed is. My property in the northeast corner is very steep. Above this corner where the land is more level, I erected a stockade fence to contain my dogs leaving this corner out of my daily vision. Without my knowledge or permission, Mr. Ragusa knowingly cut a wedge in the side of the existing hill – my property – and placed his shed there. At the end of April 2018, my property was surveyed by David Odell and the encroachment became apparent. I asked Mr. Ragusa which he did. However, he placed it right on the line so that when a line is drawn from my southeast corner to the northeast corner, the roof of his shed is overhanging the line. The string is touching the shed. On his application, it says there's like 1 foot and he's asking for a 9-foot variance; in fact, there is no distance. The string is touching the shed. While I was considering what to do with this, on July 4, 2018, Mr. Ragusa and his father were discovered a wooden retaining wall on my property. I asked them to stop what they were doing and they ignored me. I told them clearly that they had no permission to build this structure on my property and they ignored me. They said that the dirt they had loosed by cutting into the hillside, where they had originally placed the shed, was turning to mud in the rain and interfering with

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his shed. I told them that they had no permission to build on my property, that I would try to fix the problem and they told me that they were going to continue to build this wall until I fix the problem that they created. And so; they did. Mr. Ragusa demonstrated blatant disregard of the law. This is a self-inflicted hardship. I want my rights protected. I filed a complaint with the Building Department on July 5, 2018. One year, 4 months later we are here. I don't have anything else to say but I do have pictures though.

Mr. Carnazza said Mr. Marousek was handling this. I don't know the exact/how it came or whatever happened but yes, Denis was on this.

Chairman Maxwell said if there's a dispute amongst neighbors, that's not under the Board's prevue. What is in front of us is just the shed. According to the data that has been submitted to the Board, it's showing on the survey.

Mr. Carnazza replied, we don't measure to the end of the eave; it's to the wall of the shed. It's not part of the setback.

Ms. Hickey said the roof of the shed is hanging over the property line and the line itself touches the shed.

Mr. Starace showed Ms. Hickey a photo. Is this your property?

Ms. Hickey replied yes.

Mr. Starace said the fence?

Ms. Hickey responded yes.

Mr. Starace said and you're saying this part of the shed hangs over into your property.

Ms. Hickey replied yes; and the wall that they built is a 4' retaining wall. I asked them while they were building it not to build on my property. I'm a single mom; I raised my kids in this house; I'm trying to protect my property.

Ms. Hickey approached dais with photos of her own and said they created their own problem. This is showing my fence is right up against the eave. I've lived in my house for 17 years; I've done a lot of construction to the house and I want to continue improving the property. That corner is part of the future improvement and I can't do it with a shed sitting right on the line. In addition to the fact that he knew where the line way. He had a newly constructed property.

Vice-Chairman Aglietti asked is there any litigation presently or commenced.

Ms. Hickey replied no.

Chairman Maxwell asked Ms. Hickey if she had anything further to which she replied no. Then Chairman Maxwell said I don't think the applicant would be averse to moving this forward if he had to comply with..... Mr. Ragusa; do you want to come back up.

Chairman Maxwell continued would you be averse to us conditioning that you move the shed forward another foot to comply with your neighbor's wishes.

## **APPROVED**

Mr. Ragusa replied I've actually moved the shed twice and if you do come to look at it again, no part of it does go past her fence which is built right on the property line and probably actually comes onto my property a little bit. It was just marked and the stake is still in the ground. I'm not going to go tit-for-tat with her but.....

Chairman Maxwell interjected I'm just asking in the nature of good neighbors and making the situation go away.

Mr. Ragusa said it's pretty much up against that rock. There's no where else for me to put it.

Mrs. Fabiano said this is a significant variance; you're only leaving 1 foot. I believe that you can find a way. If you've moved it twice, I believe you can move it a third time. I think you've been very unneighborly to this person. I do believe that a variance of this size is significant and I think that we, as a Board – actually I'm speaking for myself – I think if you moved it twice, you can move it a third time to do the right thing.

Mr. Ragusa replied I'm being honest, there's literally no more room for me to move it.

Mrs. Fabiano said not a foot or two or three?

Mr. Ragusa replied no.

Mrs. Fabiano said and why not?

Mr. Ragusa responded you can see more in the color picture; that rock is on the side; there's no more movement sideways.

Mr. Starace showed a document to the applicant; you see this site plan right here – do you see this room right here? Why can't you shove it up here to the.....?

Mr. Ragusa interjected forward? It can come a little forward but it can't go left at all.

Mr. Starace said no; just forward.

Chairman Maxwell said if you come forward, you'd come away from her property line with your roof that's overhanging.

Mr. Ragusa said yes; it could come a little forward; it's just that there's no room on the left.

Mr. Starace said it would probably be less of a variance here too with moving it forward.

Mr. Ragusa said so would I have to reapply all over again?

Mrs. Fabiano replied no; we can make an adjustment on your application now.

Chairman Maxwell said we can amend the application right now and make this go away. So, we're going to move this thing from the side – so you're going to provide 2' and you'll need an 8' variance.

Mr. Starace said you've got the side and the rear. The rear is 2'.

## **APPROVED**

Mr. Balzano said the side is 1’.

Mr. Starace said the side is 1’ and you’re saying you cannot move it this way to the southeast at all.

Mr. Ragusa replied yes; that side is the boulder I told you about; Behind it, ideally, I wanted to turn it perfectly in the corner but it’s all sloped and rocky that I couldn’t dig it out.

Mrs. Fabiano asked what’s that fire hydrant.

Mr. Ragusa replied it’s for the dog.

Mrs. Fabiano said that’s decorative – right?

Mr. Ragusa replied yes; it’s not hooked up.

Mrs. Fabiano said so that could move.

Vice-Chairman Aglietti said and the street sign is also decorative? Can it move where the fire hydrant is?

Mr. Ragusa interjected part of the rock is right behind that.

Chairman Maxwell said but there’s room; there’s at least a foot.

Mr. Ragusa said I can come forward; I have some pictures in my cell phone of the side.

Mrs. Fabiano said we could just deny the whole application.

Mr. Ragusa said no; I could pull it forward but I just want you to see...

Mr. Starace said you could probably shimmy it over a little bit there.

Mr. Ragusa moved to dais with cell phone pictures and said I have this rock and this one right behind it.

Mr. Starace viewed the cell phone and said there’s another rock so what we could do is take that out, move it this way; take this hydrant so you clear that one behind you, you can move over another foot or so and you would be looking at a variance of like 7’ and maybe 7’ on both sides to move it up this way and move it over this way. What is this post here?

Chairman Maxwell said you can move the whole platform that it’s sitting on, straight forward and you’re going to achieve what you need to.

Mr. Starace said yes; you could do that. You’ve got at least 3 feet to play with there. See all that – you can move that stuff.

Mr. Ragusa said this is loose but see this right here?

Mr. Starace said that’s a big one; I see that and understand; so clear it and then go that way.

**APPROVED**

Mrs. Fabiano said go in front of it.

Mr. Starace said yes.

Chairman Maxwell said I'm going to change this to 3' from the side is going to be provided that will require a variance of 7'. For the rear; you're providing 2' currently and you're looking for a variance of 8'. We'll do the same thing; pull this forward so that's 3' provided and 7' for a variance. Agreed?

All Board members agreed.

Chairman Maxwell said to Mr. Ragusa please initial this – both lines and said thanks for meeting us half way here.

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

**Decision of the Board:**

***Mrs. Fabiano moved to grant the requested variance as amended; seconded by Mr. Starace – Chairman Maxwell said as amended was 3' for both & a variance of 7' - with all in favor.***

5. Application of **SARUNYA BANGSARUNTIP** for a Variation of Section 156.15 seeking permission to install shed. The property is located at 14 County Line Drive, Mahopac NY 10541 and is known by Tax Map 86.55-1-1.

Code Requires/Allows	Provided	Variance Required
10' - side	5.58'	4.42'
10' – rear	6.37'	3.63'

- Ms. Bangsaruntip of 14 County Line Drive, Mahopac was sworn in.

Ms. Bangsaruntip said this application is to put a shed up but it's actually a shed that was there before the sale. I just wanted to put it back in the same spot. During the sale which happened in March, it was discovered that the shed has no permit. So, to expedite the sale, they agreed to take it down and it will be my responsibility to get the permit to put it back up after the sale had happened which is why I'm here. The spot where it (inaudible) unfortunately does not meet the 10' recess to the property line and not wanting to go through too much trouble, I did look for a different spot to put it but the way the property is situated, there really isn't a good spot to put it except in front of the house because on the left side of the property is a driveway and the building is in the back so there's no room in the back. On the right side, there's a septic tank and a pit tank which prevents it from being moved forward. If I move it to the left to get the 10', it will hit the deck. So; there's no good spots anywhere to put it.

Chairman Maxwell said I was out there the other night and there's an existing base that's built with railroad ties for this. It's kind of nestled in the corner and surrounded



## **APPROVED**

by evergreen and fences which are almost as high as the shed anyway. It's a tough piece of property because you have no backyard.

Ms. Bangsaruntip replied right; I did discuss it with the neighbors – the front, the left and the back and they're all okay with it.

Chairman Maxwell said if you had to relocate that base, what kind of cost would be involved – a few hundred dollars?

Ms. Bangsaruntip responded probably the high hundreds; I'm not very handy.

Chairman Maxwell said so in that case, it would cost more because you'd have to pay for someone to do it.

Ms. Bangsaruntip replied yes.

Chairman Maxwell asked if the public had any input on this application of which there was none.

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

### **Decision of the Board:**

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

6. Application of **MT. CARMEL BAPTIST CHURCH** for a Variation of Section 156-41 A(4)(d) seeking permission to install Message Board Sign (LED). The property is located at 80 Gleneida Avenue, Carmel NY 10512 is known by Tax Map 44.14-1-35.

Mr. Carnazza said they already have the variance for the area; it was for a lighted sign but not an LED message board sign like they have at the other church in Carmel – St. James.

- Mr. Michael Kitts (Sign Installer) of 30 Maggie Lane, Pawling NY was sworn in.

Mr. Kitts said they want to replace the existing message boards sign which is an individual letter board with a new LED sign for greater visibility and ease of being able to get their message across.

Chairman Maxwell said we've had a similar situation come through years ago with the church right around the corner and there were concerns about repetitive messages flashing; almost like being a disruption or distraction to drivers. Are they intending on just keeping one message at one time here....?

Mr. Kitts replied it will change; the Pastor for the church is actually here and he can tell you a little bit more about the intention of the signs but yes; it will be changing.

Mr. Balzano interjected we conditioned St. James, and I don't remember exactly but I know it was 1 message a day and it was also turned off after a certain time.

## **APPROVED**

Mr. Carnazza said it was never turned off; it was turned down. They all turn down automatically once it gets dark and they don't need to be as bright. They turn themselves down.

Chairman Maxwell asked is that the nature of the composition of this one.

Mr. Carnazza interjected and the only thing was no flashing but they can change the message.

Mr. Balzano said I thought we conditioned St. James to the same message.

Mrs. Fabiano said you can't have a constant flow of different messages but if you want to change your message once a day. We just can't have constant changing messages.

Mr. Carnazza said so if they wanted to say, 'Fair today at 7:00' and they had to go into more things, you would say no to that even though it doesn't flash, it would be 5 seconds on, five seconds flip to the next one.

Mrs. Fabiano said I would think that would be distracting.

Mr. Carnazza said just for the record, the fire department does it.

Vice-Chairman Aglietti said my recollection is that we also had a color restriction if I'm not mistaken.

Mr. Balzano said yes; we did. I remember all of that.

- Pastor Andrew Columbia of Mt. Carmel Baptist Church at 76 Gleneida Avenue, Carmel NY was sworn in.

Pastor Columbia stated we do a lot of interaction with the community; we have AA that meets at our building; we have support groups for law enforcement; I'm a former policeman; we also have support groups for addictions. We do a lot of different things at the Church. The purpose for the sign would be that we can highlight the different opportunities we offer to the community. We also have mental health who meets at our building and does things. The firehouse has one; St. James has one. I live there so I see them all the time. The messages do change. Whatever compliance with colors or brightness, etc. I don't have an issue with that. I just want to be able to put out all the different things we do at the Church so the community can benefit from it. That's the purpose.

Mr. Balzano said just so you know, the firehouse was a different case and it was further up the street. We did condition St. James to keep a static message; that I remember. If you look, St. James has the sign but it'll either say "bazaar" and that's it for the day or it'll say St. James the Apostle or something else but it doesn't constantly change the message.

Pastor Columbia replied we'd comply with whatever you wanted to do.

Mr. Balzano interjected it's not the sign so much, we just....

Vice-Chairman Aglietti interjected it's not your intention to have 5 different messages a day.

## **APPROVED**

Pastor Columbia replied no.

Mr. Balzano said we don't want to see a likeness to 'the strip'.

Pastor Columbia replied no; it'll just be subtle and to give people the different.....

Vice-Chairman Aglietti interjected you'll be using your sign for public safety items if there are emergencies, etc. and you have no problem with having one color so it's not different colors throughout the day and all of that.

Pastor Columbia replied absolutely.

Mr. Starace asked if there's a photo eye built into there so as it gets dark out, it lowers down in intensity.

Mr. Kitts replied I'm not sure of the exact sign has that built into it but it is programmable. I don't know if it's automated.

Mr. Starace said it should have a photocell in there.

Mr. Carnazza said I think they do; they don't want to use anymore energy than they have to. You don't need it as bright as you do during the day.

Mr. Starace no; it would be a big distraction then at that intensity.

Pastor Columbia said also, our sign is set back. It's not really up front. It's off the sidewalk and set back.

Mr. Starace said the location is fine.

Vice- Chairman Aglietti said I'm not adverse to having more than one message a day as long as it's something that's not flashing back & forth. If you have a wedding and you want to congratulate the couple, you put that up and then when they're gone, you want to put meeting tomorrow night, that's fine but just to go back & forth would be a little more distracting for drivers.

Chairman Maxwell said I want to read the spec sheet here on the bottom which concerns me. It says LED capabilities 1 – 2 rows 5.5 inches to 12.6-inch characters which is fine. But, it says this sign can display video clips, animations and static images with access to an extensive graphics library. That's something that we're probably concerned about.

Pastor Columbia replied sure; not a problem.

Chairman Maxwell said we want to keep just verbiage and not anything that's flashing. We want to keep it consistent with what we've approved in the past.

Pastor Columbia replied understood; not a problem.

Chairman Maxwell said the record will reflect that.

## **APPROVED**

Mrs. Fabiano asked what were you initially thinking as to how you were going to and what kind of messages you're going to display.

Pastor Columbia replied as I've shared, we have support groups that meet at the Church; we have different activities that go on during the week. With the sign we have now, it's manual and you have to take everything off; it's very labor intensive; it's breaking, it's old. This way, we can have the different things that we do on a regular basis advertised.

Mrs. Fabiano said but were you thinking like: AA Meeting Tuesday Night; Mental Health Awareness Meeting Thursday Night and constantly have it flowing? What was your thought?

Pastor Columbia replied that would be if it was okay; if not, it's not. It doesn't really matter. I know there are two other signs in the area. I see how St. James uses theirs and I see how the fire department uses theirs. I'll comply with whatever it is. I control it as I'm the one who puts the messages on. I'll have the app.

Mrs. Fabiano asked so are they constantly changing their message throughout the day.

Pastor Columbia replied no; St. James is not constantly changing their message throughout the day. The fire department does a lot of different messages.

Chairman Maxwell said if I remember, St. James willingly offered one message per day. I think we made it a condition for that particular application.

Pastor Columbia said let me ask you this: if there's no flashing or colors and it's just basically a message, what does it matter what name or letters are on it if it's the same font or letters that are on it. If it's the same size and it just says, support groups Monday nights 7 pm and then it says Tuesday Night

Mrs. Fabiano said yes; if you can fit it all in on the sign. We don't want to flash it.

Mr. Balzano said just for the record and from a conformity standpoint, it's even smaller than what they're allowed to have too which is good. They were granted 20 sf and it looks like it's 18 sf.

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

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

### **Decision of the Board:**

***Mrs. Fabiano moved to grant the requested variance with the condition that there be no graphics, no flashing messages – only words and an automatic dimmer at sunset; seconded by Mr. Balzano with all in favor.***

**APPROVED**

7. Application of **URSTADT BIDDLE PROPERTIES** for a Variation of Section 156-41 C(8)(b) seeking permission to install a new shopping center sign. The property is located at 150-184 Route 52, Carmel NY 10512 and is known by Tax Map 44.9-1-9.

Code Requires/Allows	Provided	Variance Required
75 SF free standing sign allowed	370.4 SF	295.4 SF
20' tall sign	27'	7' height

- Mr. Brian Vassar of 18 Balsam Circle, Shelton CT with Archer Signs representing Urstadt Biddle was sworn in.

Mr. Vassar said in this location on this side of the property of Carmel Plaza where ShopRite just did some significant upgrades to their property there, they have a small sign that's just servicing ShopRite at the moment. There's a larger sign for the movie theater down the way that was approved by variance some time ago which is contingent on the movie theater being there. The movie theater sign is contingent on the movie theater being there. If that leaves, then that goes. It's not like the sign that they have could ever be utilized for any other purpose. The whole purpose of this sign is really to service the tenants that are further down – approximately about 300 feet away from the street and blocked by a lot of foliage. I took a ride around Carmel and I took some photographs. I have some smaller versions of this as well (referring to exhibit on easel). It seemed to me that most single-tenants, even a lot closer to the road than these folks who are pushed back from the road, have significant signage. Here you're talking about 60-70 sf; here you've got probably 25sf and a sign on the building; they vary anywhere from 20, 30, 40 square feet. When you have a multi-tenant sign, it seemed like they were about 5 sf a piece or so and they had a header up top. There was a multi-tenant sign here and header on the top there. I'm just trying to give you an idea that around Town, this plaza is large and they have a lot of tenants. What they're asking for seems like a lot but when you add it all up, each tenant is not asking for more than about 5 sf a piece. Unfortunately, it requires a large sign because there are so many of them. I took the liberty of taking some pictures of the existing property; that's the existing sign that only services 1 tenant. You can see from here that you can't even see these guys down there. It's quite a way away from the street. The sign, on paper, when you look at the dimensions seems rather large. Even in the shop, when it's being built, it seems large. When you put it out in the world, it really isn't. I dropped it in here (referring to map); this is an 8' ladder and this is 8' to the bottom of the sign so this is in proportion to the property. It's probably not perfect but it's pretty darn close. You can see, on the approach and even as you get close, it really isn't that large of a sign even though the dimensions might suggest that. This is a close-up version of the sign. The brick base is to emulate the building; large Shop Rite because they're the anchor tenant, name of the Plaza representing Carmel, some larger tenants and then the little guys down here that want about 5 sf a piece. You need the height because the roadway is a bit higher in this area so as you travel down, you really have to have that height to the bottom tenant in order to really see the guy on the bottom here. Any questions?

Mr. Balzano said there is a sign that used to.... now I think it's a bank; is that bank even there anymore? Are they going to be part of this sign or are they coming off?



## **APPROVED**

Mr. Vassar said as far as I know, the bank is not going to be part of the sign. They have a small sign in front of their parcel. I'm not sure if it's an out parcel or part of the property or not.

- Mr. Greg Vedo of 45 Country Ridge Road, Rye Brook NY was sworn in.

Mr. Vedo said the M&T Bank is currently vacant. It's for lease and it's a separate tax parcel. That's why they have their own pylon sign.

Chairman Maxwell asked what square footage is the current sign.

Mr. Vassar replied the current sign is..... I don't have the exact specs but looking at it, it's about 40 square feet – maybe 50; in that neck of the woods.

Chairman Maxwell said so what currently conforms to our Code.

Mr. Carnazza interjected 32 sf is what is allowed. Freestanding is what you're talking about?

Mr. Vassar said yes; freestanding sign in front of ShopRite.

Chairman Maxwell stated it says 75 square feet freestanding sign.

Mr. Carnazza said you're saying two different things. Are you talking about the separate bank?

Mr. Vassar replied no; the ShopRite sign.

Mr. Carnazza said sorry; I thought you were talking about the bank still.

Chairman Maxwell said a 20' tall sign is allowed per Code, you're requesting a 27'....

Mr. Vassar replied that's to get the bottom up because of the street.

Chairman Maxwell said which makes sense for vision.

Mr. Vassar said correct; the road is higher in that area.

Chairman Maxwell said it's not any different than what we see here right in downtown Mahopac with the now Stop & Shop pillar that's almost the same size as what you're representing here. We understand there are more anchor stores coming. We get the need for it. We just like to be careful of how large we get. We don't want to be too overbearing but we also want to help the businesses so they can be identified and this is a pretty extreme variance. Is there any consideration to bring this down; how can we work with you to bring it down a little bit from what you're asking for and still help you achieve what you're looking to achieve.

Mr. Vassar responded well; I think the whole thing could shrink in proportion I suppose. We'd want to maintain some good height from the ground because of the elevated street. Looking at the sign, the smaller tenants really don't have a lot of space even though it's so big, so it's tough.

## **APPROVED**

Vice-Chairman Aglietti interjected how big is that area where it says Pizza Restaurant. How high and long?

Mr. Vassar responded this one panel here is about.....

Vice-Chairman Aglietti added no; the individual ones – just for Pizza Restaurant.

Mr. Vassar said about 5 square feet.

Vice-Chairman Aglietti said so you think it's about a foot by 5'?

Mr. Vassar replied yes; about that.

Mrs. Fabiano asked are there 17 stores there?

Mr. Vassar replied there is divisible space that could equal that. Right now, there are not but they're breaking things apart to bring in tenants to allow for that amount of space. That's why some of them are blank. They'll be filled.

Chairman Maxwell said is the actual structure of the pillar.....is that considered part of the sign?

Mr. Carnazza said the smallest rectangle can encompass the entire sign. So; you go width and height and that's it. You don't take out the circles or anything.

Mrs. Fabiano asked why is Rite-Aid and Gold's bigger than the other signs.

Mr. Vassar replied bigger space. It's just to give them space in recognition of their square footage that they lease.

Mrs. Fabiano said so their square footage is larger and that's why their signage is larger?

Mr. Vedo replied correct; the reason there are 18 spaces currently and we join or separate them as required by the tenant. We should have brought some tenants because they would cry significant hardship saying they've never been represented on the street; things like that. So, the size of the sign is a basis so that they could be seen from the street. There's a pool sign right across the street, next to the cemetery, that is one business but of a significant size. This is actually much smaller based on the tenants. Why are there two Mexican restaurant signs there?

Mr. Vassar replied my fault. It's just a place holder to show there are more tenants going to be added. There's not going to be two Mexican restaurants.

Vice-Chairman Aglietti said we've dealt with sign issues before with this Board; this is a different kind of set-up where the actual stores are set up; I think the sign is actually well done. I don't think it's overbearing; I really don't have an issue with it. I don't know what everyone else feels but that's my take.

Mr. Vassar said the only other comment I'd like to make is the original sign is 30 – 40 years old. ShopRite just made a significant investment. They just had their grand reopening so that's why we're trying to liven up the place; we have vacancies

## **APPROVED**

unfortunately because that's the first thing they say: how is anybody going to know I'm here or put us next to ShopRite so they can see us. We're responding to our tenants.

Mr. Starace said the existing sign was sort of on the exit going out on the right-hand side from the lot. Is this going on the island in between.....

Mr. Vassar interjected it's proposed to go on the same spot as the existing sign.

Mr. Starace said the same exact spot as that sign.

Mr. Vassar replied that's right.

Mr. Starace asked did you look at other locations for that sign - like when you pull into that area on the middle island?

Mr. Vassar responded my concern with the middle island is the footings may very well be wider than the island which would require curb removal, asphalt removal, significant....

Mr. Starace said so that stays the same way - that curb line.

Mr. Vassar replied yes.

Chairman Maxwell said you have electric there already for the existing sign?

Mr. Vassar replied that's exactly right.

Mr. Starace asked is there any tree removal involved.

Mr. Vassar said no tree removal.

Mrs. Fabiano said the sign that exists is very understated; it really should be larger than it is.

Mr. Vassar replied especially with the quantity of tenants. I've been doing this almost 30 years now. We do a lot of these and whether I build a big sign or a small sign, doesn't matter to me. It's not a financial thing for us and we're plenty busy. But; I can tell you, based on what we do and what we see and I sit on the ZBA where I live as well, that we see these kinds of things a lot and I don't think we're asking for anything out of the ordinary or out of the ball park here.

Chairman Maxwell said I just come from a long history on the Board and a lot of you guys are newer; we're trying to keep this from being "Long Island-ish" with row of stores, row of stores, row of stores. You have a very characteristic sign; it's architecturally sound.

Mr. Vassar said and as a Board, you know as well as I do, you don't set precedent and each case is different.

Chairman Maxwell agreed and said each case is based on its own merit. From my standpoint and history of being on the Board, we've always tried to ease these down so they're not..... you're almost a 300% variance. Our Code is probably antiquated and

## **APPROVED**

our Town Board are the only ones who can make those changes but we have to stay within.....

Mr. Vassar interjected being the size that this parcel is and the distance back from the street, we felt that it was..... We could have come in with a 35' sign; obviously we tried to keep it relative to what other tenants along that roadway enjoy in terms of the square footage on the street which is about 5 or 6 square feet per tenant. Some of them even have more and their buildings are closer; they have a single sign that are 30 or 40 square foot a piece and they're right on the street with a wall sign. These people are competing against those folks. Given the fact that there's just a lot of tenants, that's what makes it so big. Also, if you made it smaller, you could take the top off but then it won't look as aesthetically pleasing as it does. It starts to look condensed because you still want the same amount of tenant space but you don't want to do anything to put any architectural embellishments on the sign to help it look nice.

Chairman Maxwell asked what kind of lumens at night are we talking about.

Mr. Vassar responded it would be LED which is a 6500-kelvin light; it's made to mimic fluorescent bulbs; in our industry, it's made to sort of follow that line.

Mr. Starace interjected backlight?

Mr. Vassar replied yes; it's internally illuminated; the lights will be inside so you won't see of them. It'll be a glow much like a fluorescent bulb would glow on any sign.

Mr. Starace asked is there any bird deterrent system on that sign.

Mr. Vassar replied not planned; I've never installed one actually.

Mrs. Fabiano said I was actually out there last week to go to the Verizon store. The Verizon store is closed now. Had there been a sign, I wouldn't have had to driven in, gone to the exact location only to find out the Verizon Store was closed. I think this is a great idea. I wish it was here last week.

Mr. Rossiter said the sign is better than looking down the hill as you're trying to drive by.

Mr. Vedo replied that's also the other challenge: to make sure the print is readable without having to stare too long at it while you're driving by. That's why this new format with a white background and nicer/clearer.....

Chairman Maxwell interjected what material are the actual columns? Is that like a stucco?

Mr. Vassar replied everything will be fabricated aluminum with an internal angled frame structure. What we like to do on these things is blow a synthetic stucco on it. It's a sort of hard concrete, break your fingernail kind of thing. It gives it a texture almost like stucco.

Mr. Balzano said so it'll look stone *like*.

## **APPROVED**

Mr. Vassar replied it looks more like a built structure than a break form piece of.....I've seen, in my almost 30 years, some choice signs. We don't break form thin metal and throw it together with pop-rivets – that's not what we do.

Mr. Vedo said it's also going to match the brand new ShopRite facility.

Mr. Balzano said I remember they were in front of us for a variance.

Mr. Vassar replied and great care was given to help emulate the architectural features of the building.

Mrs. Fabiano said I don't think you can reduce it because you just have so many stores in there.

Mr. Vassar replied that is the challenge.

Mrs. Fabiano said that is a very large shopping center. You have to have it.

Mr. Vassar responded in order to give these folks the same as everybody else has up and down the street, you have to have something of a good size. When you look at it and put it out into the world, it's not that large. It's just a big piece of property with a lot of tenants; a lot of open space and a lot of parking area.

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

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

Mr. Vassar said I have small versions of these photos; would you like them.

Chairman Maxwell said we have them as part of our package.

### **Decision of the Board:**

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

8. Application of **SALVATORE SALVIA** for a Variation of Section 156.15 seeking permission to construct a 2-car free-standing garage. The property is located at 64 Stocum Avenue, Mahopac NY 10541 and is known by Tax Map 64.7-1-2.

<b>Code Requires/Allows</b>	<b>Provided</b>	<b>Variance Required</b>
15' - side	10'	5'

- Mr. Joel Greenberg of Architectural Designs, 2 Muscote Road North, Mahopac was sworn in.

Mr. Greenberg stated as you can see, for those of you who didn't make it out there, it's a rather long, narrow lot. The garage is being proposed where the requirement is 15'

## **APPROVED**

but we're down to 10'. We discovered that the septic system is in this area and was upgraded several years ago and obviously there are certain requirements between a building and septic fields, so that is the reason for the request for the 5' variance.

Chairman Maxwell said I was out there the other night; it makes sense because you're going to extend the driveway, from where it's existing, straight to the garage. I did speak with the homeowner; the septic field system is right in that area. He did speak with the neighbors to the right and to the left.

Mr. Greenberg interjected yes; we have some neighbors here who would like to talk.

- Mr. Anthony Scannapieco of 68 Stocum Avenue, Mahopac was sworn in.

Mr. Scannapieco said I have no problem with it.

Mr. Greenberg said I have a letter from the neighbor on the other side that says, as a resident of 60 Stocum, we see no problem with our neighbor, Salvatore Salvia putting a garage in his backyard" signed Marlene Messina.

Chairman Maxwell said it's clearly wooded in the back; I think there's a fence right on...

Mr. Greenberg interjected there's a fence behind where the garage is going to go and the rest of the site is very heavily wooded.

Chairman Maxwell said architecturally speaking, you're going to match the house, the side, the roof color?

Mr. Greenberg replied we haven't decided yet but the architecture will be similar to what the house looks like.

Chairman Maxwell said so not a butler, metal siding, etc.

Mr. Greenberg replied no; of course not.

Mrs. Fabiano asked did you say the septic field is closer to the house so you can't bump it up closer to the driveway; you can't move it forward to the street line?

Mr. Greenberg replied no; the septic is in this area over here so as the Chairman said, we're just going to extend the driveway directly from the existing driveway and lead it right to the garage.

Mrs. Fabiano asked you wouldn't want to bring it forward.

Mr. Greenberg replied no because this is a play area for the kids in the back.

Mr. Starace asked is there going to be electricity to that garage.

Mr. Greenberg replied of course.

Mr. Starace asked how does it get there?

Mr. Greenberg replied underground.



## **APPROVED**

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

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

### **Decision of the Board:**

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

9. Application of **LAURIE MONTELEONE** for a Variation of Section 156.15 seeking permission for a lot line change. The property is located at 124 Shindagen Hill Road, Carmel NY 10512 and is known by Tax Map 88.5-1-11 Sub.Lot1 & 87.8-1-12 Sub.Lot2.

<b>Code Requires/Allows</b>	<b>Provided</b>	<b>Variance Required</b>
Lot 2 Area 120,000 sf	Prop: 79,125 sf	40,875 sf

- Mr. Joel Greenberg of Architectural Designs, 2 Muscoot Road North, Mahopac (still sworn in) representing applicant appeared before the Board.

Mr. Greenberg stated this is a very interesting issue. When discussing with Mr. Carnazza, we discovered that there's a section of the Code that says if you're creating a lot line change of more than 20,000 square feet that we have to go through the process of, even though called a lot line change is going to basically be a sub-division. Right now, this is what the two lots look like. This is the lot with the house which is fairly small and is approximately 33,000 square feet and the larger lot which is this big "u" around it, has approximately 4 acres. So what Lauren wants to do is basically square off the lot with the house on it; create a conforming lot; the lot that's 4 acres goes down to about 3 acres which is what is required by zoning; we have the proper frontage; we have the proper lot depth and lot width. We want to create a larger lot here so this goes from 33,000 square feet to almost 80,000 square feet so this stays conforming & this becomes a lot more conforming. Again; it meets all the requirements for setbacks, road frontage, lot depth and lot width. Again; because the exchange is more than 20,000 square feet, we have to go through the whole process as if it was a subdivision. Basically, we're keeping one lot conforming and the making the second lot a lot more conforming.

Chairman Maxwell asked on the left new property line, left side of the existing house, as you go to the first break – there seems to be an old shed or structure or well house or something. Will it need a variance?

Mr. Greenberg replied that's a shed and that's going to be removed.

Chairman Maxwell said it looks like it's going to be close to the property line.

Mr. Greenberg replied no; it's going to be removed.

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Chairman Maxwell said we'll condition that as part of this. It looks like it was dilapidated.

Mr. Greenberg replied yes.

Mr. Starace asked what's the future of the land.

Mr. Greenberg replied this lot already has a house on it so this will remain the same. We've shown the topography and we had to show the building department and you and eventually to the Planning Board, that we have enough room to have a house that will have the proper setbacks, front, side and rear and we've done some preliminary testing for septic in this area over here where the grade is less than 15% so we feel that we have a buildable lot. We're basically creating a buildable lot.

Mrs. Fabiano said so this was legitimately two specific lots from the get-go?

Mr. Greenberg replied actually it is because as the Chairman read, these two lots are adjacent to each other; one wraps around the other. There are two separate tax maps, two separate deeds. That's the way it is.

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

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

### **Decision of the Board:**

***Mrs. Fabiano moved to grant requested variance with the condition that the chicken coop be removed; seconded by Vice-Chairman Aglietti with all in favor.***

10. Application of **ANTHONY PERRICONE** seeking permission to return to original lot lines. The property is located at 163 Orchard Road, Mahopac NY 10541 and is known by Tax Map 74.26-2-22.

- Mr. Joel Greenberg of Architectural Designs, 2 Muscoot Road North, Mahopac (still sworn in) representing applicant appeared before the Board.

Mr. Greenberg stated this is a very interesting situation in Lake Secor. We put the County Clerk's work to the test to basically to find the original deeds, the original sub-division maps and, believe it or not, this sub-division of Lake Secor was approved back in 1935. Interestingly enough, I have a copy of the original sub-division map and at that particular time, when the sub-division was approved, it indicated that a buildable lot was two lots. Every two lots here could, technically, be a house. But; we tried to find out when this particular lot was originally sold, what was it sold as. If you look in your packet, you should have copies of the deeds; I have copies here just in case (handed copies out). First let me show you the original map. This is the original sub-division map of Lake Secor and let me just read to you what the conditions are. The map was filed in February of 1935 and these are the requirements: no building shall be erected or used on a plot of less than two lots shown on this map; of course, back in those days, they required septic systems but now it's hooked up to the sewer line. That

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was the major condition of the sub-division. Basically, these lots, as you can see from the deeds – first deed was dated 1938 and if you look at the second page, when these first lots were sold: lots 4, 5, 6 & 7 which are these four over here – that was the original sale. That was the original first lot being sold within that particular section of the sub-division and then if you look at the second deed which is a few pages down, it's from 1940. The lots that are being sold are lots 8, 9, 10, 11 & 12. When this subdivision was approved, it was approved that each house had to have at least two lots; when these lots were sold, lot 1 was sold as you can see here by the drawing and lot 2 was sold. Basically, we're asking to go back to the original lot layouts from 1938 & 1940.

Chairman Maxwell said the shed that is behind the existing house – is that going to need to come into conformance as a result of this?

Mr. Greenberg replied that shed will be removed.

Chairman Maxwell said and obviously the deck that's behind the house encroaches considerably into the ..... what are you going to do?

Mr. Greenberg replied whatever has to be adjusted because I believe based on the setbacks – even at the present requirements – the lots are fairly small and there's only a 5' requirement for a side yard.

Mr. Carnazza replied it's either 5' or 10', I'd have to check. How big is the lot, do you know?

Mr. Greenberg replied the lot is about 10,000 square feet.

Mr. Carnazza said it's close to a ¼ acre so if it's at a ¼ acre it is but if it goes just over a ¼ acre, then it becomes 15'.

Chairman Maxwell said you have a corner lot here too that's going to be created.

Mr. Carnazza said it's still the same on the side and the rear for that.

Chairman Maxwell said you're going to lose the deck and you're going to lose the shed – right?

Mr. Greenberg replied yes.

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

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

### **Decision of the Board:**

***Mr. Starace moved to grant the requested variance with the condition of the shed be removed and the deck is removed or adjusted; seconded by Mr. Rossiter with all in favor.***

**APPROVED**

**MISCELLANEOUS:**

No minutes were available for approval.

The meeting adjourned at 10:30 p.m.