

**APPROVED**

JOHN MAXWELL  
*Chairman*

PHILIP AGLIETTI  
*Vice-Chairman*

**TOWN OF CARMEL**  
**ZONING BOARD OF APPEALS**



60 McAlpin Avenue  
Mahopac, New York 10541  
Tel. (845) 628-1500  
www.ci.carmel.ny.us

MICHAEL CARNAZZA  
*Director of Code  
Enforcement*

**BOARD MEMBERS**

ROSE FABIANO  
SILVIO BALZANO  
WILLIAM ROSSITER  
JOHN STARACE  
JULIE MCKEON

**ZONING BOARD OF APPEALS MINUTES**

**SEPTEMBER 24, 2020**

**PRESENT:**     **CHAIRMAN: JOHN MAXWELL,**  
**SILVIO BALZANO, ROSE FABIANO, JULIE McKEON & WILLIAM ROSSITER**

**ABSENT:**     **VICE-CHAIRMAN AGLIETTI, JOHN STARACE,**

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<b><u>APPLICANT</u></b>	<b><u>TAX MAP #</u></b>	<b><u>PAGE</u></b>	<b><u>ACTION OF THE BOARD</u></b>
Rich & Kim Delahanty	74.43-1-22	1 – 2	Requested Variance Approved
Stillwater Business Park	86.5-1-25	2 – 3	Held Over
Tom & Gail Brandariz	42.-1-24	3 – 5	Requested Variance Approved
Salvatore & Melinda Franzese	76.5-1-7	5 – 6	Requested Variance Approved
John Berg	76.5-1-14	6 – 8	Requested Variance Approved
Carl & Lori Potts	75.7-2-3	8 – 9	Requested Variance Approved
Ocean State Job Lot	65.10-1-45	9 – 12	Variance Approved as Amended

The meeting was adjourned at 8:20 p.m.

Respectfully submitted,

Dawn Andren

**NEW APPLICATIONS**

1. Application of **RICH & KIM DELAHANTY** for a Variation of Section 156-15 seeking permission to erect covered porch to front of house which will encroach on front and side yard setbacks. The property is located at 78 Entrance Way, Mahopac, NY and is known as Tax Map #74.43-1-22.

Code Requires/Allows	Provided	Variance Required
Side setback: 15'	6' & 11.7'	9' & 3.3'
Front setback: 25'	7'	18'

- Mr. Rich Delahanty of 78 Entrance Way, Mahopac was sworn in.
- Mrs. Kim Delahanty of 78 Entrance Way, Mahopac was sworn in.

Mr. Delahanty said we want to construct a covered porch on the front of our house. It will allow us views to the Lake which right now, we have a small little deck. It's just a landing at our front door and it's big enough for maybe one chair. If we look down the street, we have a view of the Lake from that particular area.

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

Mr. Delahanty said we are landlocked.

Chairman Maxwell said there's no septic – right?

Mr. Delahanty said no. We're all on sewer.

Chairman Maxwell asked have you talked with your neighbors.

Mr. Delahanty said yes. You guys have seen the pictures. It's a sad little house.

Chairman Maxwell said I was up there the other evening. It was too late and dark by the time I got up there but first thought in my mind was that it was going to be too proud of the rest of the houses because I thought, initially, the whole house was coming forward but then I realized with the drawings, it's just a covered porch and a first story height so it's not too encroaching. So, I'll open it up to the Board for questions, comments.

Mrs. Fabiano said I'm trying to look at the plans and see how much further it's going to go from the existing porch/decking?

Mr. Delahanty said none out toward the street. The existing porch - it's basically going to go the full width of the house then.

Mrs. Fabiano said okay. So, it's not going to go further toward the road except the staircase I guess?

Mr. Delahanty said the staircase is probably going to be two feet into the lawn. It's only going to be like four steps.

Mrs. Fabiano asked so how much grass will you have from the end of the steps to the street.

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Mr. Carnazza said seven feet.

Mrs. Fabiano asked is that to the street or .....

Mr. Carnazza said I apologize I meant the front property line.

Mr. Delahanty said half of our lawn is Town property.

Mrs. Fabiano said that's what I'm saying. How much do you usually have?

Mr. Carnazza said there is no "normal".

Mrs. Fabiano said so were you're saying 7', there's probably another.....?

Mr. Carnazza said 7'. You're about 15' away?

Mr. Delahanty said yes. We're about 15' from the road to the existing deck.

Chairman Maxwell said you're staying on that same footprint as the front deck is now?

Mr. Delahanty said yes. There's a little patio type thing and then steps up to it. Everything is going to exist on that same footprint.

Mrs. Fabiano said except for the stairs.

Mr. Delahanty said except for the stairs.

Mrs. Fabiano said because the stairs come forward instead of sideways.

Mr. Delahanty said I had the architect change the stairs from the center off to the door so it limits it down. The stairs are only fifty-something inches wide. It's not going to be something that's super intrusive.

Chairman Maxwell asked if there was any input from the public on this application of which there was 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. Rossiter moved to grant the requested variance; seconded by Mr. Balzano with all in favor.***

2. Application of **STILLWATER BUSINESS PARK** for a Variation of Section 156-15 seeking permission to have legalized the previously constructed 12,012 SF storage building 5' into the rear yard setback of the subject property. The property is located at 113 Stillwater Road, Mahopac, NY and is known as Tax Map #86.5-1-25.

**APPROVED**

Code Requires/Allows	Provided	Variance Required
Commercial Rear Yard: 30'	25'	5' rear yard variance

Chairman Maxwell indicated that the Stillwater Business Park application requested to be held over until the next meeting.

**Decision of the Board:**

***Mrs. Fabiano moved to hold the application over; seconded by Mr. Rossiter with all in favor.***

3. Application of **TOM & GAIL BRANDARIZ** for a Variation of Section 156-15 seeking permission to relocate to property line and replace existing cedar fence with 133 linear feet of 6 feet high and 40 linear feet of 4 feet high pvc fence. The property is located at 592 Barrett Hill Road, Mahopac, NY and is known as Tax Map #42.-1-24.

Code Requires/Allows	Provided	Variance Required
4' Fence (Front Yard)	6' Fence	2'

➤ Mr. Tom Brandariz of 592 Barrett Hill Road, Mahopac was sworn in.

Mr. Brandariz said I'm not relocating the property line. The fence is not on the property line right now. It's been there for 30 years. The last storm knocked it down. I want to replace it. Apparently, I cannot put a 6' further than the front of my house. The rear of my neighbor's house is 25' in front of the front of my house. So, I want to have the 6' fence go to the front of her house. Otherwise, I'm looking into her backyard.

Chairman Maxwell said and you've spoken to one another?

Mr. Brandariz said she hasn't been around for the last month. Before that, I did speak with her and she wanted to put in for the fence but I didn't ask her for that.

Mr. Carnazza said they're relocating the fence to the property line. It was previously off the property line.

Chairman Maxwell asked how far off the property line was it.

Mr. Brandariz said it was off 30" in the front and 10' in the rear.

Chairman Maxwell said so you're just going to follow the property line.

Mr. Brandariz said yes; two pins and a straight line.

Chairman Maxwell said so you're keeping it 4' from the beginning of the property up to her house and.....

Mr. Brandariz said 6' from the rear to the front of her house and then I'll drop it down to 4'.

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Chairman Maxwell said there's no other property that you can buy to bring it into conformance? Any other issues with any other neighbors?

Mr. Brandariz said no.

Chairman Maxwell said no support letters?

Mr. Brandariz said she's the only one available and she hasn't been around for a month.

Chairman Maxwell said I think I saw a picture. The fence was kind of old anyway – right?

Mr. Brandariz said yes; it's a 30-year-old fence. It's time.

Mrs. Fabiano asked how far to the street line is the fence going to be.

Mr. Brandariz said right now it ends about 50' from the street.

Mrs. Fabiano said and when you replace it? Are you going to keep it in that same spot?

Mr. Brandariz said I'd like to but down to the 4' level.

Mrs. Fabiano said okay; it's going to be 4' at that level.

Mr. Brandariz said from the front of her house to the 40' mark, it will be 4'.

Mrs. Fabiano said and then from your house back.....

Mr. Brandariz said no; in back it will be 6'.

Mrs. Fabiano said to other Board Members - so he doesn't need a variance then, does he?

Mr. Carnazza said he's using her house. Her house is in front of his house. He has to be 4' up to the front of his house but he's going to be 6' up to the front of her house.

Mr. Balzano said if she was doing it, she would not need a variance.

Mr. Carnazza said and when you get to the front pin, you have to stop. You can't go all the way out to the road.

Mr. Brandariz said I'm not going to anyway.

Mrs. Fabiano said you're going to make sure there's 40' from the street to where.....

Mr. Brandariz said to where the fence ends. That's where it ends now.

Chairman Maxwell said is she paying for half?

Mr. Brandariz said no. I'm a nice guy.

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

**APPROVED**

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

**Decision of the Board:**

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

4. Application of **SALVATORE & MELINDA FRANZESE** for a Variation of Section 156-15 seeking permission to retain an already existing deck within 2 feet of neighbor's property line. The property is located at 35 Sycamore Road, Mahopac, NY and is known as Tax Map #76.5-1-7.

Code Requires/Allows	Provided	Variance Required
20'	2'	18'

- Mr. Salvatore Franzese of 35 Sycamore Road, Mahopac was sworn in.
- Mrs. Melinda Franzese of 35 Sycamore Road, Mahopac was sworn in.

Mr. Franzese said we have a deck that's less than 20' to our neighbor's house and due to the proximity of our neighborhood, there is no 20' space.

Chairman Maxwell said you guys are a corner lot too – right?

Mr. Franzese said yes.

Chairman Maxwell said to Mr. Carnazza, it's the rear.....

Mr. Carnazza said and the deck, in most areas, is under the 12" but because a portion of it is over, the whole deck needs the requirement.

Chairman Maxwell said what brings you here tonight – it just got picked up?

Mr. Franzese said we need the variance that our neighbors have okayed but it's less than 20' from their property.

Chairman Maxwell said okay but what brought you in?

Mrs. Franzese said oh, we're selling our house and we need to have the C of O.

Chairman Maxwell asked how long has the deck been there? It looked like it was.....

Mrs. Franzese said seven years.

Mr. Franzese said I didn't want to move but the taxes are killing us.

Mrs. Franzese said our neighbor's deck is on the property line and above our property so there's a retaining wall. They look down upon us so they don't even see our deck and they (Kristen Stevenson) have written an email. You should have received other emails.

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Chairman Maxwell said you have several support letters. I was out there the other night. It was dark so I couldn't see much and I didn't want to alert you being on the property so I tried to see what I could from the road. It looks like you have a pergola so that gives you some privacy. What would it cost to relocate this deck if you had to?

Mr. Franzese said the first section, 7 years ago, was \$1,500 and I did all the work. The second one was \$1,300 because the wood was on sale. I also received a discount because of my veteran status off the delivery.

Mrs. Franzese said but we wouldn't be able to relocate the deck to anywhere really.

Chairman Maxwell said but sweat equity included, it's a good value of time.....

Mr. Franzese said yes; a chainsaw and a few days.

Chairman Maxwell said the neighbors to your immediate left or behind you have no concerns?

Mr. Franzese said no. Not at all.

Chairman Maxwell said obviously, there is no other property that you can purchase to bring it into conformance anyway because you're landlocked.

Mrs. Franzese said correct.

Mrs. Fabiano said from what I could tell, 33 is the most effected and I believe you had a letter from Kristin agreeing to it.

Mrs. Franzese said correct.

Mrs. Fabiano said it seems to be screened in that area too. There's a tree in between the two of you?

Mrs. Franzese said yes; there's a tree line.

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

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

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

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

5. Application of **JOHN BERG** for a Variation of Section 156-15 seeking permission to construct a 20' x 11' deck in the front yard. The property is located at 64 Tamarack Road, Mahopac, NY and is known as Tax Map #76.5-1-14.

**APPROVED**

Code Requires/Allows	Provided	Variance Required
40' front	33'	7'

- Mr. John Berg of 64 Tamarack Road, Mahopac was sworn in.
- Ms. Rebecca Luraschi of Best in Backyards (contractor) – 66 Westridge Road, Warwick was sworn in.

Ms. Luraschi there currently is a front porch there and it's about 4' in width. They would just like to make the width a little bit wider so they can actually sit out there and enjoy the view of the Lake.

Chairman Maxwell said I was out there the other night. Again; It was dark but I can understand. Is the kitchen right off of that?

Mr. Berg said no. It's an office. The kitchen is on the other end.

Chairman Maxwell said I see you have a clear shot of the Lake and actually the sun had just set and I could see why you want to put this there. It's not very common that we allow this near the front of the house. It's not common but each case is judged on its own merits and for that view of the Lake and I'm not surprised why you want to do this. Is there any additional property that you can buy to bring this into conformance?

Mr. Berg said no. We own the empty lot that's right next to us.

Chairman Maxwell said that's an empty lot?

Mr. Berg said yes. That's where our septic is.

Chairman Maxwell said it's not an individual building lot.

Mr. Berg said no. That's part of our property.

Mr. Carnazza said it's a front yard though so the property on the side would not help them. That's the problem.

Chairman Maxwell said it looks like you're pretty well screened. You have a nice bunch of hemlocks and evergreens. Are you going to maintain some of that there?

Mr. Berg said we're going to take out the taller ones on either end and we'll put more shrubs in front. We have that drive-thru driveway right there. It won't reach there.

Ms. Luraschi said right. It won't encroach onto where the driveway is.

Mr. Berg said I think we're about a foot to 15" away from that.

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



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- Mrs. Melinda Franzese (previous application) stated being a member of the community in which they live in, I would definitely approve that because I would like to sit on their front porch to watch the sunset.

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

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

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

6. Application of **CARL & LORI POTTS** for a Variation of Section 156-15 seeking permission to place a pre-constructed shed of same size, shape and location to replace existing shed destroyed in a storm August 2020. The property is located at 51 Vista Terrace, Mahopac, NY and is known as Tax Map #75.7-2-3.

<b>Code Requires/Allows</b>	<b>Provided</b>	<b>Variance Required</b>
40' front	15'	25'
15' side	10'	5'

- Mr. Carl Potts of 51 Vista Terrace, Mahopac was sworn in.
- Ms. Lori Potts of 51 Vista Terrace, Mahopac was sworn in.

Mr. Potts said in August, a hurricane knocked a tree down and split a 10' x 16' metal shed in half.

Chairman Maxwell said yes. We see the pictures and the proof is in the pudding.

Mr. Potts said we're now in the process of replacing it. We want to replace it with an identically footprinted shed: 10' x 16' shed; a little bit shorter, newer and will only pretty up the neighborhood. We sent a bunch of letters from our neighbors.

Chairman Maxwell said I have personal experience. I grew up in this neighborhood and hung out with the previous owners (three of them) of the house so I know that shed has been there for a very long time. It's existing in the same footprint so it's not encumbering anybody.

Mr. Potts said the property owner who is closest has absolutely no problem with it and sent a letter in – Alexis Malsbury.

Chairman Maxwell said we all fell victim of the storm so maybe this was a blessing for you guys.

Mr. Potts said if we get our approval, yes.

Mrs. Fabiano said by any chance would you consider moving it back a little bit because it's very close to the street and we usually don't like sheds in the front.

Mr. Potts said I can appreciate that and I would consider it. The problem that I have is that in back of it, all of the contents in the shed is now in back of it but most importantly, under that

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is a lot of slate. There was a slate patio there and there's a stone barbeque which is very old. I don't want to have to tear that patio and barbeque out of there. There's no space beyond that because next is the garage.

Mrs. Potts said there's also a slab so the new shed will go right on that same slab.

Mr. Potts said yes; I'd have to extend that slab back into that patio.

Chairman Maxwell said I know it's been there for 40+ years.

Mrs. Potts said when you say close to the street, that's on the back street.

Chairman Maxwell said you have two fronts.

Mrs. Fabiano said yes. I went around and know the neighborhood really well.

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

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

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

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

7. Application of **OCEAN STATE JOB LOT** for a Variation of Section 156-41C (2) seeking permission to install (1) 156.31 square foot sign to front elevation of tenant space. The property is located at 983-1005 Route 6, Mahopac, NY and is known as Tax Map #65.10-1-45.

<b>Code Requires/Allows</b>	<b>Provided</b>	<b>Variance Required</b>
40 square feet	156.31 square feet	116.31 square feet

Mr. Carnazza said just so you know, K-Mart had the variance for the sign there but they (Ocean State Job Lot) split the store. It's not the same size store so wasn't sure if you would feel comfortable with the same variance for something that wasn't the same.

- Mr. Chad Chouinard, Construction Manager of 105 Curtis Avenue, Marlboro MA representing the applicant was sworn in.

Mr. Chouinard stated Ocean State Job Lot took a portion of the existing K-Mart footprint and opened a retail store there. Currently, we have installed a 40 square foot box cabinet sign with our branding on it which is a little small for that façade. We're looking to increase to our standard corporate sizes and colors on the façade of that entrance.

Chairman Maxwell said do you know what the previous variance was for?

Mr. Carnazza said I looked it up but I don't remember what it was exactly.

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Chairman Maxwell said it looks like it's comparable to what you're proposing but Mr. Carnazza brings up a good point. What's happening with the other side of that store front.

Mr. Chouinard said right now, we're leasing the entire space and, at some future point, if the landlord opts to lease that space out, a new demising wall will be constructed inside and a new entrance would be cut in for whomever that tenant is. I would imagine they will have their own sign over that space. There may be an opportunity, in the future, where Ocean State may expand into that space.

Chairman Maxwell said but that's not a guarantee so we have to consider that. It makes sense because you're putting in that same main entryway but it looks like it's a little bigger than what K-Mart was. K-Mart was a little different because of the big "K" and little "mart".

Mr. Carnazza said and they had "pharmacy" on the side to the left if you remember. They were allowed to have a second sign on the building.

Chairman Maxwell said so they had a little more square footage, in essence, with the two signs.

Mr. Balzano said I don't remember what Caldor had.

Mr. Carnazza said Caldor had the 3 arches.

Chairman Maxwell said how stuck are you guys on these dimensions? Can we bring this down a little bit? It's not fabricated yet I hope.

Mr. Chouinard said it is fabricated but it's a standard sign for us so we could repurpose it for another location. We could certainly revisit the dimensions and scale it down a little bit.

Chairman Maxwell said this last elevation drawing (page 6 of 10) and just serving from memory, it seems like it's a little bigger than what the K-Mart sign used to be. Knowing that you are unsure of leasing the whole store, I'm a little uncomfortable going as big here. It's 22'4" long by 7'. Mike (Carnazza), we usually complete a square even though it's not.....

Mr. Carnazza said it's always the smallest square that will encase the entire sign.

Chairman Maxwell said in the interest of negotiation here and trying to meet you somewhat, can we bring this to 6' tall by 20'. I'm just throwing some numbers out there. It would still look pretty decent in that main entryway or that part of the façade.

Mr. Carnazza said the only thing I would ask is that you don't do dimensions that way. Give an overall square footage because they have to make it. You can't just squat it; It's a long word.

Mr. Balzano said so scale it down.

Mr. Carnazza said give an overall number and that's fine.

Chairman Maxwell said you're proposing 156.31 square feet. I'm proposing 130 square feet; 135 – something like that. We'll get this down a little bit. It's going to be a back-lit sign anyway. It's red during the day so it's going to stand out regardless.

Mr. Chouinard said correct. Red LED on that brown field. We looked at the K-Mart sign and tried to hold the edges – the horizontal extent of the sign within the same – offset from those pilaster

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features that are on the façade. This is the old K-Mart sign (holds up photo). So, we used these borders of the edges to set.....

Chairman Maxwell said they have that little swish there that comes out a little further.

Mr. Carnazza said they also have a sign on the freestanding so it's not like nobody knows where it is. So, that does help them also.

Mr. Chouinard said yes, there is a panel just below the Stop & Shop sign.

Chairman Maxwell said those were just my thoughts so we'll see what everybody else thinks.

Mr. Rossiter said I would be fine if they dropped it down to 135 square feet. You said you already had the pylon out there so you're just trying to get it for when you pull into the parking lot.

Mr. Chouinard said yes. We're trying to get some visibility from that approach as you pass Dunkin Donuts on the right.

Mr. Balzano said I think the 135 square feet is fine.

Chairman Maxwell said does that sound fair? We don't want to kill you but minimize the variance request when and where we can.

Mrs. Fabiano said looking at the front of the building, where does it start and end? Chairman Maxwell showed Mrs. Fabiano on her photo package where it ends.

Mr. Chouinard said it ends where that entrance feature is on the left side. That's pretty much where the future demising wall would be. We have everything off to the right. As you enter the store, everything to the right of that is ours.

Mrs. Fabiano said so it ends on the left side right where that pole is?

Mr. Carnazza said correct.

Board Members and Applicant discussed and clarified what space Ocean State occupies and how it maps out currently as well as future possibilities.

Mrs. Fabiano said so it's about ¾ of the K-Mart size?

Mr. Chouinard said yes; give or take.

Chairman Maxwell said so whoever comes to us in the future, we would obviously make it proportionate. We wouldn't let them put the same size sign up. So, are you willing to come down to 135 square feet? I'm sure you'll keep your same corporate layout. It'll just shrink down in size.

Mr. Chouinard said yes. We'll scale it all down to fit within 135 sf.

Mr. Balzano moved to close the public hearing on this account; seconded by Ms. McKeon with all in favor.

Chairman Maxwell adjusted the application to 135 sf and had the applicant initial application.

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**Decision of the Board:**

***Mr. Balzano moved to grant the requested variance as amended to 135 square feet; seconded by Mr. Rossiter with all in favor.***

The meeting was adjourned at 8:10 p.m.

Respectfully submitted,

Dawn Andren