

APPROVED

JOHN MAXWELL
Chairman

PHILIP AGLIETTI
Vice-Chairman

TOWN OF CARMEL ZONING BOARD OF APPEALS



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MICHAEL CARNAZZA
*Director of Code
Enforcement*

BOARD MEMBERS

ROSE FABIANO
SILVIO BALZANO
WILLIAM ROSSITER
JOHN STARACE
JULIE MCKEON

ZONING BOARD OF APPEALS MINUTES

MARCH 16, 2021

**PRESENT: CHAIRMAN: JOHN MAXWELL, VICE-CHAIRMAN: PHIL AGLIETTI,
SILVIO BALZANO, ROSE FABIANO, JULIE MCKEON & JOHN STARACE**

ABSENT: WILLIAM ROSSITER

<u>APPLICANT</u>	<u>TAX MAP #</u>	<u>PAGE</u>	<u>ACTION OF THE BOARD</u>
Barbara Halerz	55.20-1-32	1 – 3	Granted requested variance
Craig Keogh	74.42-1-3	4	Granted requested variance
Carl Fanelli	86.5-1-49	5 – 10	Granted requested variance
Zoila Matailo	75.16-1-6	10 – 13	Granted requested variance w/conditions
Lukasz & Katarzyna Patalan	44.10-1-7	13 – 16	Granted requested variance
House of Prayer & Worship	64.6-1-14	16 – 20	Granted requested variance
George & Robbin Jones	53.-1-79.1 & 79.2	20 – 21	Granted requested variance
David Furfaro	43.17-1-67	21	Granted requested variance
Minutes:	January 28, 2021	22	Approved as Amended

The meeting was adjourned at 8:44 p.m.

Respectfully submitted,

Dawn Andren

NEW APPLICATIONS:

1. Application of **BARBARA HALERZ** for a Variation of Section 156-15 seeking permission to retain pool with pool deck. The property is located at 23 Avery Road, Carmel NY and is known as Tax Map #55.20-1-32.

Code Requires/Allows	Provided	Variance Required
15' side	11'	4'

➤ Mrs. Barbara Halerz for 23 Avery Road, Carmel was sworn in.

Chairman Maxwell said so you have a pool and a pool deck. How long has the deck been there for?

Mrs. Halerz said we bought the house in 2017 and it already was [there].

Chairman Maxwell said you didn't realize that you needed a variance and a permit for it?

Mrs. Halerz said no; we didn't.

Chairman Maxwell to Mr. Carnazza: is that when this got picked up?

Mr. Carnazza said it didn't get picked up when they purchased but it got picked up now.

Chairman Maxwell said I see; you're selling the house so it got picked up on the title search.

Mrs. Halerz said we sold already - the house.

Mr. Carnazza said when you purchased it, it was not picked up – correct?

Mrs. Halerz said when we purchased it, we did not know it was illegal.

Chairman Maxwell said it's not a very big variance but did you speak with your neighbors on the other side? Did anybody have any issue with it?

Mrs. Halerz said no.

Chairman Maxwell said if you had to remove it, what would the cost be to remove it – roughly?

Mrs. Halerz said how much would it be?

Chairman Maxwell said yes; a couple thousand dollars?

Mrs. Halerz said about \$20,000.

Chairman Maxwell said to remove it?

Mrs. Fabiano said I was out there and I was a little concerned about it being toward the front of the house. I wanted to know if we could possibly screen it; maybe put some trees in front so

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that it's not so obvious to the street? I don't know if anybody else that was out there feels that way?

Chairman Maxwell said it's pretty well screened on the left side. The property line is a little deceiving. It's actually closer than where the trees are but there's some nice, healthy trees on that left side.

Mrs. Fabiano said I thought on the front.

Mrs. Halerz said we have two trees on the front but not on the pool. They're on the front of the house.

Mrs. Fabiano said but it doesn't cover the pool at all. You can see the pool from the street.

Mrs. Halerz said yes; but it's a very high fence.

Mrs. Fabiano said I don't know. If anybody else was out there, maybe they could say something about it.

Mr. Starace said that's a 6' high fence there that wraps around the pool – basically on three sides. There's a lot of privacy in there. When you're in the pool, can you see the street? I don't think so.

Mrs. Fabiano said it's just the fence.

Mr. Starace said well there's the fence there on top of a deck.

Mrs. Fabiano said yes; the fence is on top of the deck. I just thought since you can see it from the road, it might look better to people passing by, if there's a couple trees in front of it. That's up to you. I'm only one vote.

Chairman Maxwell said it satisfies the setback for the front. If there were any issue, it would be on the left side.

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

- Mr. Luis Palomino of 23 Avery Road was sworn in.
- Mrs. Wanda Palomino of 23 Avery Road was sworn in.

Mr. Palomino stated we are the new owners of 23 Avery Road. The insurance company called me after we purchased the house and they said that they needed a barrier between the house and the pool. So, that's what I did. I put some fencing on that side between the house and the pool, on both sides, so you won't be able to see it from the street anymore.

Mrs. Fabiano said okay because I could see it from the street. I saw the pool when I was there.

Chairman Maxwell said how were you guys able to close on the house without the issue being resolved?

Mr. Carnazza said they do it with escrow sometimes. There are ways around it.

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Chairman Maxwell said is there anybody else in the public having questions or concerns?

Mrs. Fabiano said when did you put up the fence because I was there before, I guess, the fence went up.

Mr. Palomino said I finished it last Saturday I believe.

Mrs. Fabiano said yes; I was there the prior week.

Chairman Maxwell said I was there then too but I thought I saw something in progress. Did you start it sooner?

Mr. Palomino said yes; the insurance company said we're going to cancel your insurance if you don't do it. I told them that it was 20 degrees outside and that I couldn't put any poles in the ground, etc. They said you have to do it. So, I went 6' all around even though there was a fence there already. I sent them pictures and they said fine.

Mrs. Fabiano said I saw it before you put the fence in.

➤ Mr. Ralph Zucker of 3171 Lakefront Ave. Mohegan Lake was sworn in.

Mr. Zucker said I was their attorney for the purchase of the house and there were two issues relative to the pool. I was going to ask if the other one was addressed. Aside from the variance, there was an issue relative to the Certificate of Occupancy (C.O.) to the fence for the deck around the pool. I know that was supposed to be addressed at some point. I don't know if you guys have addressed that yet.

Chairman Maxwell said it's not in front of us on this application but the Code Enforcement Officer can speak to that.

Mr. Carnazza said this application is for a pool with a pool deck. If they get the variance, then they apply for building permit and then a C.O. comes after that.

Mr. Zucker said so after they get the variance, then they have to put in for the C.O. after that.

Mr. Carnazza said a building permit and then when we inspect it and it passes inspection, then you get a C.O.

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

Decision of the Board:

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

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2. Application of **CRAIG KEOGH** for a Variation of Section 156-15 seeking permission to increase size of landing and stairs straight out due to our child with cerebral palsy. Current landing is small with stairs to the side. The property is located at 36 Secor Road, Mahopac NY and is known as Tax Map #74.42-1-3.

Code Requires/Allows	Provided	Variance Required
25' Front	13'	12'

- Mrs. Kathleen Keogh of 36 Secor Road, Mahopac was sworn in.
- Mr. Craig Keogh of 36 Secor Road, Mahopac was sworn in.

Mrs. Keogh said the bluestone of the stairs are falling apart. The way the stairs are set-up, the stairs go down the side on the front of the house and the stairs are very close to the front door. We have adopted a child with CP (Cerebral Palsy) and we just want to make the landing a little wider and safer for him to get out. He is walking but is very unbalanced. We have proof of his diagnosis.

Chairman Maxwell said I met you out there last week or whenever it was. I saw the situation. The stairs are pretty hazardous. So, is the intent to remove the old stairs completely and then have the landing and come straight out?

Mrs. Keogh said yes, completely; and we're doing wood just to make it more cost effective.

Chairman Maxwell said I understand that you have a small frontage because of the size of the property but I think in this situation, knowing your circumstance, there's a little more leniency toward this. I think it's well screened. I think you had some bushes coming around the front?

Mrs. Keogh said we're going to take those out and put new shrubbery in once it's finished. I don't think it will take well taking it out in the cold.

Chairman Maxwell said what kind of railing and all that?

Mrs. Keogh said just regular wood; nothing fancy; nothing crazy; just safe.

Chairman Maxwell said understood.

Mr. Starace said that's a tight area over there. The homes are close together. It's definitely in disrepair so that's a good improvement to do. You need it. What year was that built?

Mr. Keogh said 1945.

Chairman Maxwell opened up this application to the public for any 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:

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

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3. Application of **CARL FANELLI** for a Variation of Section 156-15 seeking permission to retain an already existing pergola. The property is located at 11 Rose Drive, Mahopac NY and is known as Tax Map #86.5-1-49.

Code Requires/Allows	Provided	Variance Required
15' side	10'	5'

- Mr. Carl Fanelli of 11 Rose Drive, Mahopac was sworn in.
- Mrs. Marissa Fanelli of 11 Rose Drive, Mahopac was sworn in.

Chairman Maxwell said give us your situation here.

Mr. Fanelli said I don't know if you came out to the house. We've been doing a lot of construction over the years and six months ago had a baby so it's time to renovate the house. It used to be a bachelor pad. I have an existing deck that was on the house when I purchased it. I did fix the deck going way back. I've owned the house since 2005. I built the pergola. On a Sunday, I went to Home Depot, bought some pressure treated wood, put a little overhang behind the deck. I wasn't aware that I needed a variance. It's just some pressure-treated wood; 2" x 6"s and I put some landscape lighting around it and that was it.

Mrs. Fanelli said and the pergola is very difficult to see from the street so we're not really changing the character of the neighborhood.

Mr. Fanelli said it's been there twelve years.

Chairman Maxwell said I know you guys just came to us a couple of years ago for a garage.

Mr. Fanelli said yes; we needed a variance for the garage.

Chairman Maxwell said if you had to remove it, what's the cost that would be involved?

Mr. Fanelli said two hours' worth of work.

Chairman Maxwell said for a union carpenter, that could be costly.

Mr. Fanelli said I own a HVAC company so, I'm handy.

Chairman Maxwell said there's no other place you could locate that to bring it into conformance?

Mr. Fanelli said no. It was kind of a hobby to be honest.

Chairman Maxwell said if I remember correctly, you had enough screening there with natural shrubs down that property line on the right side.

Mrs. Fabiano said why is this coming up now? Did you get a notice of violation?

Mr. Carnazza said a notice of violation from my department.

Mr. Starace asked what's the width of that?

Mr. Fanelli said 16'.

Mr. Starace said 16'. Is that the right size you think or.....?

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Mr. Fanelli said for the pergola?

Mr. Starace said yes.

Mr. Fanelli said it's built behind the deck. I don't know if you came to the house. I have pictures that I can put on the computer.

Chairman Maxwell said (to Mr. Starace) there's a deck to the right of the house and this is a step down.

Mr. Starace said I can see it.

Mr. Fanelli said we have a kind of barbeque area and we sit at the table.

Mr. Starace said the pergolas are 24" on center?

Mr. Fanelli said I think they're actually closer than that.

Mr. Starace said what's on the floor?

Mr. Fanelli said just pavers.

Mr. Starace said pavers are there?

Mr. Fanelli said I have unilock around the entire house. I did Belgian block for the driveway, and I'm just trying to clean everything up.

Mr. Starace said but it's the right size? In other words, if you took a few feet off the edge and pulled it in, would it be a big deal?

Mr. Fanelli said where the house sits, you have width of the deck – it's behind the deck so it's actually more in my property than the deck is. So, I wasn't aware that I needed a variance.

Chairman Maxwell asked if there was any input from the public on this application.

- Mrs. Kim Kowalski of 15 Rose Drive, Mahopac NY was sworn in.
- Mr. Robert Kowalski of 15 Rose Drive, Mahopac NY was sworn in.

Mrs. Kowalski stated we are the immediate neighbors to the left of the applicant. I have a question that relates to the timing and the applicant's compliance with the rules and truthful disclosure on the application forms previously submitted. Specifically, I would like to know the reason why this application is only before your Board at this time when it relates to a structure that was clearly on the property when the owner received his variance in 2018. It appears clear from your records that despite the rules and the content of your application forms, the 2018 variance was granted to allow a very significant construction on the property. This applicant was before the ZBA and was granted a variance of 4' for a side yard setback for a 30' x 30' two story garage in October of 2018. Your application form requires identification of all structures on the property and the submission of a survey showing such. The submitted application listed improvements as a 1 family dwelling, pool and shed. At that time the greenhouse and pergola structures were already in existence. So, why was this not disclosed to this Board before authorizing the variance for a significant additional structure? The applicant provided, whether intentionally or unintentionally, an inaccurate and simply misleading application. Within 2018, he requested a variance for the garage. He neglected to include these additional structures on his application and on his survey. This is why he is back here today seeking relief for the unpermitted pergola. The current application submission before you lists existing improvements as pergola, 1 family dwelling, garage, shed and greenhouse. The applicant presents a disingenuous application. A significant property improvement of the stone wall that runs 100' along the front

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property line and has four 4-foot, 6-foot high electrified stone columns flanking the unpermitted curb cut has not been listed on this application. Why not list this significant property improvement? Perhaps because the stone wall and columns are erected 8' into the Town's right of way. This applicant was issued two notices of violation listing multiple violations; one on June 26th and one on August 21st 2020. These violations include an encroachment on my property. The applicant uses my property to support a parking area in an 11' side yard of the garage to park his construction van. Coverage: has maximum coverage been exceeded and is there going to be the need for further variances? At this time, other than the pergola, this application is not being submitted to address any other outstanding violation. Accordingly, why would you hear this application with these multiple violations outstanding. This applicant has disregarded the Town's Law and has built structures and made his property improvements without filing for and obtaining the proper permits prior to beginning work. I would also like to note for the record that this applicant has been issued a summons to appear in court for these violations but court has been delayed due to Covid. Had this applicant filed the proper, truthful, ZBA application in 2018, would this Board have granted a variance for the garage? Shouldn't there be some consequences for not providing the necessary, appropriate information required by this Board? The applicant's survey shows his property is overburdened with structures and such has an adverse effect on the neighborhood and certainly on my property. This applicant is looking for relief for one of five violations for which he has had for seven months which is sufficient time to have come into compliance? Should you be granting a variance where there are maybe other potentially illegal structures on the property? This is 100% a self-created hardship and it's clearly significant. It's because of the applicant's deception. Should there be a reward for this deception? Thank you for your time.

Chairman Maxwell said (to Mr. Carnazza) have there been violations from your department?

Mr. Carnazza said yes; there have. Mr. Charbonneau can explain the court thing because we're only allowed to bring 10?

Mr. Charbonneau said Court is reopening on Monday in terms of civil code compliance issues. So, at some point, that matter will be before the Justice Court, and I'm not sure which Judge it would be before. Because of the staggered nature of Court and CDC compliance issues, they're limited as to the number of code cases that can be brought in on any given evening. It could scratch into the next few months because there is a back-log.

Chairman Maxwell said okay; that's understood. So, that answers that.

Mr. Charbonneau said the whole idea of having code violations and having people come before the Zoning Board of Appeals is to rectify those which are compliance which is what we want. I think that answers one of your questions.

Chairman Maxwell said as far as structures, stone walls, Mr. Carnazza can speak to that?

Mr. Carnazza said there is a structure that runs from one side to the other, across the front of their property, with two curb cuts where the driveways come in. A curb cut was put in without a permit; the closest to Rt. 6N one. They went over to Mr. Simone, and I don't know what the outcome was there but they definitely said they went over to speak with him. The stone wall is in the right of way.

Chairman Maxwell said that's at their own risk – right? If something's going to happen with the Town taking it over and it gets destroyed, so be it.

Mr. Carnazza said I called Mr. Simone about that as well, and he's going to have to determine if that's in their way, if they mind it, want it there or if they want to remove it.

Chairman Maxwell said so, that's not really under this Board's jurisdiction. Right now, in front of us tonight, is just this pergola. So, hopefully, you've been satisfied with some of the answers here from Town Counsel and the Code Enforcement Officer.

Mrs. Kowalski said I'm concerned about the application not being completed and listing that improvement.

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Chairman Maxwell said unfortunately, and what happens a lot, is people don't realize they need variances. We get sheds all the time; they get sold by a company that is selling them a shed and they never tell the people thatit happens nine times out of ten in front of us.

Mr. Kowalski said this man is in construction and deals with permits every day.

Chairman Maxwell said there's different facets of construction. I'm in construction myself and I know because I do general contracting on a larger scale but sometimes people don't. I'm not defending or supporting. I'm just telling you that it happens a lot in front of us. Most of the cases are because people just don't know that they need variances for this or permits for that.

Mrs. Kowalski said I'm just concerned about the length of time and, like I said, there's an encroachment on my property. One of those columns, even though it's the Town's right of way, traverses over the imaginary property line. That's the side of my house where my kitchen is and we were talking about putting a driveway there and that would inhibit access to my yard.

Chairman Maxwell asked have you reached out to Mr. Mike Simone's office?

Mrs. Kowalski said I've reached out to Mr. Simone several times.

Chairman Maxwell said unfortunately, there's human error sometimes when a permit comes under Mr. Carnazza. There's a lot of work under his plate and even with some help, they can't get to everything. Sometimes things are overlooked.

Mrs. Kowalski said this is kind of a rock and a hard place because Mr. Carnazza's not really responsible for the Town's right of way and the highway.....

Chairman Maxwell said as far as it's being picked up when their application came by a couple years ago for the garage, you can't see everything. Everything's on paper and your limited some times to get out and look at every actual property.

Mr. Carnazza said what Mrs. Kowalski is saying is that the wall that is from property line to property line, except off the property so it's in the right of way, so if you imaginary lined it forward, it would be in front of their house. It would be past that imaginary property line that continued into the right of way. I believe that's what you're saying?

Mrs. Kowalski said I have a copy of the As Built Survey. Do you have that?

Chairman Maxwell said but it's not on your property line.

Mrs. Kowalski said well the right of way is not my property but it does if you extend my property line up to the street, it's about two feet over the property line onto my side of that.

Mr. Starace said it's not on your property but it's over the line of your property. It's in the right of way but not on your property. I know what you're saying. I can see that clearly on this site plan.

Mr. Fanelli (not at mic so inaudible).

Mr. Starace said did you have a surveyor out there?

Mr. Fanelli (inaudible).

Chairman Maxwell requested Mr. Fanelli to re-approach podium so he could be heard with mic.

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Mr. Fanelli said when the wall was built..... I'm the first house on the block. I've been there since 2005. My block drives 60 miles per hour down and garbage is all over the street. I've constructed a wall because we were having a baby. God forbid I have the baby in the front yard and somebody comes flying down. At least it protects it. When I constructed that wall, they had a previous fence that was in the location that was there from when I built the house. It's one pillar. The pillars are 4' high. They are exactly 48". They are not 6'. The wall itself is like a sitting wall. It's 30" so it's a very low wall. I did go to Highway and ask about the curb cut. There was back and forth between the Building Department and Highway and nobody gave me a straight answer, and nobody said I couldn't do it. When the wall was constructed, we had a fence there. So, the corner of that pillar was on the existing fence that was there for 18 years from when I built the house. That was their fence. I have pictures of that going back. Their fence was basically half missing. So, when I constructed and finished the garage, I hired Campanella Fence. We had a survey done. We put our fence 1' in on the property line. We ran a beautiful PVC fence. I paid for 100% of it. The neighbors did not pay for it. Their fence was gone and it went from an eyesore fence to a really nice fence [of which] I paid everything. That was after we had our property staked. I have 100 pictures here on my laptop and I can show you whatever you want. And; I can show you dated back.

Mrs. Fabiano asked is it possible to move that wall.

Mr. Fanelli said there's no possibility to move the wall but if I were to move the wall, I do understand that the road is 50'where the wall sits, the property slopes. I'm exactly 4' from the pavement of the road – back and then it slopes. There's a telephone pole behind it. So, it was the right location for the wall.

Mrs. Fabiano said but you're encroaching on Town property.

Mr. Fanelli said so are a lot of people.

Mrs. Fabiano said I understand that but if you're.....

Mr. Fanelli said the road is 50' wide and if you go 50' wide – I know the original builders because I actually worked for them – the house was built in 1954. So, if you look at the old road, and there's a lot of road, they would lose half of their front yard.

Mrs. Fanelli said the whole lot is encroaching on Town property. Also, where they say they would put their driveway would be encroaching on Town property as well.

Chairman Maxwell said I just want to remind everybody that the case in point, that's in front of us tonight, is for the pergola and the pergola only. If you have an issue with the wall, that's an issue that's going to be determined from the Highway Superintendent. If he does have an issue, he'll cite you and have you remove it. If they have to take something by domain, they have the right to knock that wall down if it's built. So, that risk is on you if you're going to have something built on the property. That's a separate issue than what's in front of this Board right now. What's in front of this Board right now is this pergola and a 50% variance of a 10' setback. So, keep that in mind everybody. As far as the issue with the Highway Superintendent, that's not for us to decide on or consider tonight.

Mr. Fanelli said no other neighbors are where the pergola is. Nobody else is complaining. I have to be honest; these people have it out for me for whatever reason.

Chairman Maxwell said it sounds like a civil issue. Whether false or not, it's not for this Board's prevue.

Mr. Fanelli said it's a quality of life issue with constant harassment. So, I'm willing to go to court with an attorney.

Mrs. Fanelli said right. The issue right now is the pergola. We want to (inaudible).

Chairman Maxwell said correct. Let's stay tuned to that. I'll afford you guys another opportunity to speak but does anybody else have any input on this application regarding the pergola?

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Mrs. Kowalski said I would just ask that this Board look at this as a whole. There are many items of violations. I don't see how if somebody is not coming into compliance, has dragged their feet, has an encroachment on my property as a result of building this garage and refuses to remove it or acknowledge it, be rewarded. There's no penalty for building stuff without a permit. He's gotten other permits since he's gotten those violations. I don't know the Town Code and Laws, and whether they need to be updated to keep people from building – to continue to build without being properly permitted.

Chairman Maxwell said we'll take your concerns and weigh when we adjudicate.

Vice-Chairman Aglietti moved to close the public hearing on this application; seconded by Ms. McKeon 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.

4. Application of **ZOILA MATAILO** for a Variation of Section 156-15 seeking permission to retain shed, gazebo and garage. The property is located at 171 Buckshollow Road, Mahopac NY and is known as Tax Map #75.16-1-6.

Code Requires/Allows	Provided	Variance Required
Shed: 25' front	3'	22'
Gazebo: 10' rear	.4'	9.6'
Garage (attached): 20' rear	2.7'	17.3'

- Ms. Zoila Matailo of 171 Buckshollow Road was sworn in.
- Mr. Manuel Giovali of 171 Buckshollow Road was sworn in.
- Justin Giovali (son) was sworn in and swore to translate truthfully from Spanish to English and English to Spanish.

Justin said we want to get permits for the shed, gazebo and the garage.

Chairman Maxwell said how many years have you lived at the house?

Justin said we came and went into the house in 2016. We've been [there] for 5 years.

Chairman Maxwell said so you've owned the house for 5 years. How long have those items been there: the shed, the gazebo and the garage?

Justin said the shed, the gazebo and the garage were all there when we bought the house.

Chairman Maxwell said so it never got picked up? When you buy a house, there's a title search. The company's supposed to research all this stuff. How long do you think those items have been there? Do you know the history of the house or the previous owner?

Justin said no. We don't know.

Chairman Maxwell said so if you had to relocate these items, there would be a cost involved. In other words, to make it conform to compliance and be within the setback, it would cost money to relocate the shed and the garage. So, there's got to be a dollar value to that. Is it like \$10,000? Is it \$15,000, \$20,000?

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Justin said for the gazebo, he thinks it's going to be like \$2,000.

Chairman Maxwell said and the garage was built into the house so that's a little more construction and removal involved. My professional opinion is that it would probably be \$20,000-\$30,000; somewhere around there. There's no other property that you guys can buy because everyone owns the land all around you on all three sides?

Mr. Giovali said yes.

Chairman Maxwell said these are some tight variances – especially the gazebo is right up on the property line. You've owned the house for 6 years?

Mr. Giovali said 5 years.

Chairman Maxwell said has anybody ever complained? Any neighbors; any issues?

Justin said no.

Chairman Maxwell opened this application up to the Board.

Mr. Starace said is that your quad under the gazebo? Do you use that a lot?

Justin said yes.

Mrs. Fabiano said you have a chicken coop next to the shed?

Justin said yes. We do.

Mrs. Fabiano said why are you not going for a variance on that?

Justin said no; we were going to remove that.

Mr. Carnazza said they don't have the land for that. They would need a variance for that so I think they've chosen not to do that.

Chairman Maxwell said so you're doing away with the chicken coop?

Mrs. Fabiano said you're going to get rid of the chicken coop?

Mrs. Matailo said the chicken coop has (inaudible) like this but when I came in here and talked with somebody, I don't remember his name, he said we have to remove the flat roof.

Mrs. Fabiano said you don't have enough property to keep chickens.

Mrs. Matailo said we don't have nothing there. We don't have any more chickens.

Chairman Maxwell said as a condition to this, make sure the chicken coop is removed. Mr. Carnazza is going to know about this. So, if he goes to inspect, make sure it's out of there.

Mrs. Matailo said okay. So, we have to remove all of it?

Mr. Starace said remove it.

Mrs. Fabiano asked why is this coming out now?

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Justin said because we got the thing from violations.

Vice-Chairman Aglietti said what is the shed being used for?

Justin said because my dad has some tools. He puts stuff like the lawnmower and stuff like that [in there].

Vice-Chairman Aglietti said could the quad go in the shed?

Justin said no. We don't put it in there.

Vice-Chairman Aglietti said but can it go in there? Is there room?

Justin said I think it does fit but we don't put it there.

Vice-Chairman Aglietti said because you just have assorted things under the gazebo. It's not used for the family to sit and have dinner or anything like that.

Mrs. Fabiano said and you actually have 3 sheds – correct? Two by the house and then the one that you're going for a variance? Is that right?

Justin said we only have 1 shed and 1 gazebo.

Mrs. Fabiano said what's the two beige ones? Is that your neighbor's house?

Justin said yes. That's the neighbors.

Chairman Maxwell asked if anyone in the public had any input, comments or concerns with this application of which there was none.

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

Mr. Balzano said Mr. Chairman before we close we should note there was 1 letter submitted in support.

Chairman Maxwell said that's fine. It's in the record.

Decision of the Board:

Mr. Balzano moved to grant the requested variance with the condition that the chicken coop is removed and there are no chickens on the property; seconded by Mr. Starace.

Vice-Chairman Aglietti said I'm not all that happy with the gazebo. I think it could be removed. I don't think it's necessary but that's just my feeling.

Chairman Maxwell said I'll do a roll call vote on this one.

<i>Mr. Starace</i>	<i>for the motion</i>
<i>Mr. Balzano</i>	<i>for the motion</i>
<i>Ms. McKeon</i>	<i>for the motion</i>
<i>Mrs. Fabiano</i>	<i>for the motion</i>
<i>Vice-Chairman Aglietti</i>	<i>against the motion</i>
<i>Chairman Maxwell</i>	<i>for the motion</i>

APPROVED

Chairman Maxwell said it's granted. It's been there for a while.

5. Application of **LUKASZ & KATARZYNA PATALAN** for a Variation of Section 156-39.5 seeking permission to construct chicken coop/run for 6 chickens. The property is located at 71 Willow Trail Court, Carmel NY and is known as Tax Map #44.10-1-7.

Code Requires/Allows	Provided	Variance Required
40,000 sf lot	20,991.2 sf	19,008.8 sf
6 chickens/acre	6 chickens/.48 acres	6 chickens/.52 acres

➤ Mrs. Katarzyna Patalan of 71 Willow Trail Court, Carmel NY was sworn in.

Chairman Maxwell said I met you out there two weekends ago. You want to add a chicken coop but it's only allowed for property twice the size. It's 6 chickens allowed per acre and you're looking for 6 chickens for a variance of .52 acres. The property is well maintained and very meticulous. You have a whole heck of a lot of letters in support for this application.

Mr. Balzano said did you promise them eggs?

Mrs. Patalan said they did request some eggs if I get approved.

Chairman Maxwell said just explain, you explained it to me when I was there, some of these neighbors – there's one across the street and one immediately next door.

Mrs. Patalan said the letters are from all of my surrounding neighbors. I have Ms. Lynch to my right, and then the Wongs to my left which covers both sides of my property. Across the street, there's three houses and we received the letters of support from those neighbors as well.

Chairman Maxwell said and you explained to me also that on the right side, where you want to put this coop, is a vacant lot that's not buildable. Do you want to expand on that a little bit?

Mrs. Patalan said it's not buildable because of the way the septic tanks are positioned. They can't build a house there. I'm not sure how big the lot is but nothing is there and nobody comes there. That's the empty lot between our house and the Wongs'.

Mr. Carnazza said all septic have to be 100' from wells, and all wells have to be 100' from septic as a rule-of-thumb. If there are already wells and septic there, it's very difficult, on smaller lots, to get that to comply. It's Health Department rules; not ours.

Chairman Maxwell said there's no room behind the house because you're pretty tight to the back-property line. It slopes down as the driveway is pretty steep. So, the only natural spot for this is where they're putting it.

Mr. Carnazza said are your neighbors in Kent or Carmel?

Mrs. Patalan said there's 3 that are in Carmel and two that are in Kent. The Kent line is right in between the house that is next to our house.

Mr. Carnazza said does Kent allow chickens?

APPROVED

Mrs. Patalan said I have no idea.

Mr. Carnazza said okay. I was just wondering. If they were allowed to do them, it would be a little bit easier to swallow. If the neighbor can do it and you can't.....they're kind of pushed away in that area. It's Hill and Dale – correct?

Mrs. Patalan said yes. It's Hill and Dale.

Mr. Carnazza said so you actually have to leave town to get to it. I was just curious if they allowed them in the adjacent town.

Chairman Maxwell said each application is judged on its own merits. There's a tremendous amount of support for this. So, let's see what the Board Members think.

Mrs. Fabiano said does that deck need a variance? It looks like it's on the property line.

Mrs. Patalan said yes. We have a permit for the deck.

Mrs. Fabiano said you have a variance? It's very close to the property line.

Mrs. Patalan said do you mean the front?

Mrs. Fabiano said yes. The one next to the bridle path. Isn't there a deck here?

Mrs. Patalan said there's a porch on the side.....

Chairman Maxwell said is it level to the ground? If it's no higher than 12", then it doesn't need a

Mrs. Patalan said no. It's right next to our house. We purchased it with the house. Then the porch, which we are constructing, we do have a permit for – the one in the front. I'm not sure what you're referring to.

Mr. Starace said that was probably part of the original house itself and the deck. I don't know how far the setback is but it's close.

Mrs. Fabiano said it looks like it's right on the line.

Mr. Starace said the deck does; yes. The house is close.

Mrs. Patalan said I'm sorry.

Mrs. Fabiano said do you want to see (motions for Mrs. Patalan to review survey/map).

Mr. Carnazza said (to Mr. Starace) that's the front of the house John.

Mrs. Patalan (not at mic) said that's the side of our house. (inaudible) that was there when we purchased the house but our property line runs through here.

Mrs. Fabiano said and up here.

Mrs. Patalan said and up here; yes.

APPROVED

Mrs. Fabiano said then you're on the property line – right?

Mrs. Patalan said no. It ends at the house.

Mrs. Fabiano said the deck ends at the house?

Mrs. Patalan said yes. It doesn't pass the house.

Mrs. Fabiano said well it's 3.7 so it's still pretty close.

Mrs. Patalan there's only a little bit of (inaudible) but it doesn't go all the way (inaudible but then mic was utilized.) I believe the property ends where the stone wall is. Do you recall seeing the stone wall when you came?

Chairman Maxwell said I didn't look as there was tons of snow. I didn't look at the back of the house.

Mrs. Fabiano said that was built with the house?

Mrs. Patalan said yes. I believe so. When we purchased the house, it was already there.

Chairman Maxwell said so it's most likely conforming to existing - right?

Mr. Carnazza said if they did title search and it was done properly, then yes. As you know, things don't always.....

Mrs. Fabiano said it looked like there was a metal structure in the front. What is that? It looked like a greenhouse or something?

Mrs. Patalan said oh; that's the garden. It's not a greenhouse. It doesn't have any glass. It has mesh chicken wire. It's plopped on top of the garden beds to keep the deer out. It's not a structure or dug-in. You can kind of pick it up and relocate it.

Vice-Chairman Aglietti said the chicken coop that was part of your application, that's the one you're going to be using or getting eventually?

Mrs. Patalan said we don't have a chicken coop right now. We are actually considering remaking that garden into the chicken coop.

Mrs. Fabiano said so you're going to have it in the front yard?

Mrs. Patalan said no. We're going to move it. You can pick it up and move it.

Mrs. Fabiano said the metal structure.

Mrs. Patalan said it's not metal. It's wooden.

Mr. Carnazza said and that's how the chicken coops are. They want them to be able to be moved so that when they do their business, they can be moved to another spot and let it regrow grass and do everything. That's why they didn't put a fixture on where it has to be. It has to be kept at least, I think, 15' off a property line.

APPROVED

Vice-Chairman Aglietti said some chicken coops actually roll.

Mr. Carnazza said yes. That's what I mean. They want these to be movable so you have a way of continuous

Mr. Starace said do you know if there are any coyotes in the area?

Mrs. Patalan said I haven't seen coyotes. I've seen fox but we have a lot of wildlife. We have a woodchuck that we've named Mr. Faddywaddy and chipmunks.....

Mr. Starace said you just want to secure that very well.

Mrs. Patalan said if we get approved, my husband plans on building the wire underground so that they can't get under.

Chairman Maxwell said it's very rocky there. Get the excavator.

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

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

Decision of the Board:

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

6. Application of **HOUSE of PRAYER and WORSHIP** for a Variation of Section 156-15 seeking area variances. The property is located at 365 Hill Street, Mahopac NY and is known as Tax Map #64.6-1-14.

Code Requires/Allows	Provided	Variance Required
Area: 120,000 SF	8,905 SF	111,095 SF
Lot Width: 200 FT	74 FT	126 FT
Lot Depth: 200 FT	118 FT	82 FT
Front Yard: 25 FT	11 FT	14 FT
Parking: 1PS/3 seats = 17 PS	7 PS	10 PS
Parking: Macadam; Permanently Improved	Macadam & Gravel	Variance for not being permanently improved

- Mr. Joel Greenberg, Architect of 2 Muscoot Road North, Mahopac was sworn in.

Mr. Greenberg said if you recall going down Hill Street, just past Bullet Hole Road on the left-hand side, you'll see the Church which was built in 1870. When we started this project, I was able to research the deeds from the County Clerk's office and we found a deed dated 1870. Anyway, it's been a Methodist Church for all of these years, and they sold to the House of Prayer. Pastor Egan is here if you have any questions. They took over the Church. It's a

APPROVED

beautiful Church as you can see from the picture. It's historic; has been there for all these years and is in excellent shape. The House of Prayer have kept it up beautifully and kept it in good shape. Since it's changed ownership, we are now before the Planning Board to get site plan approval. Then, of course, we've been denied to both this Board, and we've already been to the Environmental Conservation Board because, not on our property but off our property is a wetland which the buffer is on part of our property. To make a long story short, there's a series of variances, all of which have nothing to do with what we're doing. It's because of the size of the property and the setbacks.

Chairman Maxwell said we're not familiar with the case. What are you doing? What are the improvements and changes that you're seeking?

Mr. Greenberg said there's a big strip of blacktop, if you went to see the Church recently, which the previous owners used to park. They were basically pulling in head-on. If you remember, there's a big curve just south of this property and the cars were coming along very, very quickly. We decided that it's just a dangerous situation to have cars backing up onto Hill Street. So, we decided to develop a parking lot which you see on the drawing here. The variances, as I just said, will relate to the property as they exist, the setbacks, the lot area, and so forth. The only variance that's new in this particular case is the parking variance. The lot is very limited in size and the Code requires 1 parking space for every 3 seats. There are 50 seats within the pews. If you divide that by 3, it comes out to about 17 parking spaces. However, the way the House of Prayer works is they have a huge van. A lot of the parishioners are elderly so they actually go around and pick-up the parishioners, bring them to the Church and then bring them back home. At any particular time, there's usually no more than 15 parishioners at any one time. Besides the van, there may be 1 or 2 cars. We have a total of 7 ~~cars~~ [parking spaces] where 17 is required so the variance that we're asking for is for 10 [spaces]. The other variance is this: because a good portion of this property is in the 100' buffer zone just beyond the wetlands, we're asking to have, except where the handicap spot is, gravel instead of pavement to satisfy the NYC DEP. Those are the only two variances that are new. Everything else relates to the existing property.

Mr. Carnazza said this was hashed out at the Planning Board. They came in, originally, trying to put in two porta-johns on the back of the building. Through the process, discussions and everything else, it turned out that they're actually putting two real bathrooms on the back which will be part of the building – correct?

Mr. Greenberg said yes and no. As Mr. Carnazza said, all of these years, the only facilities were a porta-john in back of the building. So, we applied to the Putnam County Health Department to put a well. That's about the only thing that we can get which would have the proper distances to any septic systems. There's basically only one house over here which you can see to the north of us. Their property wraps around here. There's an existing septic system which, obviously, is in the buffer zone. This house was built back, I think, in the late 40s or early 50s. There's really no way that we could ever get a well and a septic system here. Again; it would all be in the buffer and we could never get approval. So, we came up with the idea of having a well and to putting in a handicapped bathroom. In order to make the bathroom work, we spoke with the DEP. We got a letter from the DEP saying that we could use, instead of having a septic tank and a septic system, what's called a holding tank. The House of Prayer would then make arrangements with one of the "honey-dippers" (septic services) to clean it out once every two months or whatever it's needed.

Chairman Maxwell said you have a permit for that already?

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Mr. Greenberg said we have a letter from the DEP stating under what conditions we can put it in.

Chairman Maxwell said (to Mr. Carnazza) doesn't the Board of Health usually have to approve that or not?

Mr. Carnazza said yes but because it's in the DEP wetland area, they have jurisdiction over it. There will not be any septic system. It will be a holding tank. There is going to be something; a permit or something.

Mr. Greenberg said to answer your question, the DEP will be contacting the Putnam County Health Department to tell them that as long as we meet their conditions, it's okay with them. The Health Department says as long as they get the letter from the DEP, they'll give us the permit for the well.

Mr. Carnazza said this structure will be part of the back of the Church – correct; not a blue porta-john on the.....?

Mr. Greenberg said again, the DEP indicated that if we put any additional structures on the structure, that would be creating a whole new series of approvals. So, what we're going to do is: we're not going to put anything on the back. We have the handicap bathroom just inside, off the vestibule, which works out good because the well is just about 20 feet off the building. Then, we can tie that in from the crawlspace under the Church, under the bathroom into the toilet. Then, of course, the holding tank would be on the side.

Mr. Carnazza said you may be able to put a hydro-air system in now too if you have water. That could protect some of that wood inside there instead of it being so dry.

Mr. Greenberg said excellent suggestion.

Mr. Carnazza said it's just a thought.

Mr. Greenberg said if it helps the Church, I'm sure they would entertain it.

Mr. Carnazza said it would help the building.

Chairman Maxwell said it's dry in there?

Mr. Carnazza said right now they have forced hot air.

Mr. Greenberg said the heat is a forced warm air system and as you come in the system is on the right side of the Church.

Mr. Carnazza said so instead of using that dry air, you could put a hydro-system in.

Chairman Maxwell said yes. You could put in a humidifier system.

Mr. Greenberg said I think I discussed this with Mr. Carnazza but there is a crawlspace underneath the existing Church.

Chairman Maxwell said and then you're adding a handicapped ramp?

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Mr. Greenberg said yes. We're also adding a handicapped ramp on the front.

Mr. Carnazza said the DEP is okay with that?

Mr. Greenberg said even though the enclosed structure (inaudible) and that's required by Code. Plus, the fact that the actual handicapped ramp is outside the buffer area.

Mr. Balzano said so, the handicapped spot is going to be paved and the rest of it is gravel or the other way around?

Mr. Greenberg said no. The handicapped spot is the paved area because that's required by Code.

Mr. Carnazza said the path too – right?

Mr. Greenberg said yes.

Mr. Carnazza said so you'll have an actual path from the handicapped spot to the handicapped ramp?

Mr. Greenberg said that's correct.

Mr. Carnazza said because you get those impervious pavers, they kind of get

Mr. Balzano said absolutely.

Mr. Greenberg said incidentally, I spoke with some people about that and they're going to get us some information about that. There are certain impervious pavers that can be used for handicapped.

Mr. Carnazza said they have to be filled with something special.....

Mr. Greenberg said correct.

Chairman Maxwell said so there's no other property that you can purchase to bring this into conformance – correct?

Mr. Greenberg said no. As I'd mentioned, the only property is this gentleman's over here that wraps around us. So, there's no other property.

Mrs. Fabiano said the footprint remains the same – correct?

Mr. Greenberg said identical.

Mrs. Fabiano said from a traffic standpoint, how often are services?

Mr. Greenberg said once a week on Sunday.

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

APPROVED

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. Balzano with all in favor.

7. Application of **GEORGE & ROBBIN JONES** for a Variation of Section 156-15 seeking permission for a lot line adjustment; Lot 1 non-conforming. The property is located at 72 Lockwood Lane, Mahopac NY and is known as Tax Map #53.-1-79.1 & 79.2.

Code Requires/Allows	Provided	Variance Required
120,000 sf – Lot 1	50,518 sf	69,482 sf

- Mr. Joel Greenberg, Architect of 2 Muscoot Road North, Mahopac was sworn in.

Mr. Greenberg said this is a situation up on Lockwood ~~Road~~ [Lane]. There are two lots over here. Mr. and Mrs. Jones own this lot and her parents owned this lot. Unfortunately, her parents have passed on and this property has been sold. However, during the years when both families were here, they took the back area of this upper property and used it for a playground for their kids and so forth. When they sold it, the new people agreed that they would have no problem having this 12,000 square foot area being attached to the Jones' lot. While the Jones' lot has, obviously, gotten 12,150 square feet larger, the parents' property has been reduced by that amount. This has been added onto so no variance is required. This lot has been reduced so that's the one area variance that we need to legalize that lot.

Chairman Maxwell said so, simple lot line adjustment.

Mr. Greenberg said that's it.

Mr. Balzano said I had just wanted to know what the story was because why was somebody giving up a corner of their land.

Mr. Carnazza said (mic not on) you wrote down 120,000 square feet required. It's really 60,000 because the approval, when it went through the subdivision when those lots were created, for the lot area required was 60,000 sf. So, if you stick with what you were required (inaudible) the variance, it's just under the 60,000 sf.

Chairman Maxwell said but this is what it's been advertised for so...

Mr. Greenberg said basically what Mr. Carnazza said the variance is just going to be reduced.

Mr. Carnazza said it's just that it's not as substantial as it appears.

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

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

APPROVED

Decision of the Board:

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

8. Application of **DAVID FURFARO** for a Variation of Section 156-15 seeking permission to construct a 360-sf addition on the west side of existing house. The property is located at 32 Carolyn Road West, Carmel NY and is known as Tax Map #43.17-1-67.

Code Requires/Allows	Provided	Variance Required
40' Front Yard Setback	33.78'	6.22'

- Mr. Jim Coleman, Architect of 217 Harmon Road, Pleasantville NY representing the applicant was sworn in.
- Mr. Vincent Furfaro of 32 Carolyn Road West, Carmel NY was sworn in.

Mr. Coleman said very briefly, Furfaro's house was built 6.5 feet over the front yard setback and they want to do an addition. They have a very young and large family. They want to do a two-story addition which has a new larger kitchen and a mudroom and a pantry and then a playroom above. The best place for the addition is to line it up with the façade of the existing house. So, this is the existing house. This is the side and this is where we are proposing an addition. I have plans showing the addition but you can see on the site plan, the house is located over the front yard setback, and this is where we're proposing the addition at the side of the house.

Chairman Maxwell said there's no other property that you can purchase to bring it into conformance.

Mr. Coleman said correct. The proposal is in conformance with all other zoning. It's a large lot so we have plenty of lot coverage. There's no other setback issues. It's just the front yard setback is the issue.

Chairman Maxwell said and that's the most logical spot to build this because the property is sloped.

Mr. Coleman said yes. The property is a steep slope but it's also the way the house is organized. The existing kitchen, the plumbing, the dining room are right there.

Chairman Maxwell said that's what I meant. For services, it's more convenient.

Mr. Coleman said yes and how the house is laid out with bedrooms above.

Chairman Maxwell polled the Board and asked if there was any input on this application of which there was none.

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

Decision of the Board:

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

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MISCELLANEOUS

MINUTES: January 28, 2021

Mrs. Fabiano moved to accept minutes of January 28, 2021 as amended; seconded by Vice-Chairman Aglietti with all in favor.

The meeting was adjourned at 8:44 p.m.

Respectfully submitted,

Dawn M. Andren