

**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**

**JUNE 24, 2021**

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

\*\*\*\*\*

<b><u>APPLICANT</u></b>	<b><u>TAX MAP #</u></b>	<b><u>PAGE</u></b>	<b><u>ACTION OF THE BOARD</u></b>
Jennifer Cottle	85.12-2-11	1	Requested Variance Granted
Christina Capizola	63.82-1-7	2	Requested Variance Granted
Charles Harmon	76.18-2-55	3 – 15	Held Over
Collin Hanlon	64.11-1-29	15 – 17	Requested Variance Granted
E.Russell & B.Brown	64.19-1-44	17 – 18	Requested Variance Granted
Vito Torchia	65.5-1-55	18 – 19	Requested Variance Granted
Laura Rudovic	55.6-1-12	19 – 21	Requested Variance Granted
Interpretation Memo		21 – 25	Deferred
MINUTES:	May 27, 2021	26	Approved as Written

The meeting was adjourned at 9:05 p.m.

Respectfully submitted,  
Dawn Andren

# **NEW APPLICATIONS:**

1. Application of **JENNIFER COTTLE** for a Variation of Section 156-15 seeking permission to retain deck. The property is located at 11 Boniello Drive, Mahopac NY and is known as Tax Map #85.12-2-11.

<b>Code Requires/Allows</b>	<b>Provided</b>	<b>Variance Required</b>
30' Rear	5.4'	24.6'

- Ms. Jennifer Cottle of 11 Boniello Drive was sworn in.

Ms. Cottle said we are looking to retain the deck. We're looking to sell our house and when we bought it, everything seemed fine. Now that we're in the process of selling it, we found out that there were things that were not okay and we needed to fix.

Chairman Maxwell said did you build the deck?

Ms. Cottle said no.

Chairman Maxwell said it was there prior to so it never got picked up on the title search. How long have you been there?

Ms. Cottle said we've had the house since March 2013 but it's in the survey from 1995.

Chairman Maxwell said you've talked with your neighbors; everybody in the immediate area? Does anybody have any issue with it?

Ms. Cottle said no. Everybody is fine.

Chairman Maxwell said if you had to remove and relocate it, what would that cost be roughly?

Ms. Cottle said probably pretty high.

Chairman Maxwell said it's not in bad shape. Looks like it was maintained pretty well.

Chairman Maxwell polled Board Members for any questions or comments of which there were none and then asked the public if there was any input on this application; also resulting with no input.

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

## **Decision of the Board:**

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

2. Application of **CHRISTINA CAPIZOLA** for a Variation of Section 156-15 seeking permission to retain front entry porch. The property is located at 280 Topland Road, Mahopac NY and is known as Tax Map #63.82-1-7.

Code Requires/Allows	Provided	Variance Required
25' Front	13' to deck; 8' to stairs	12' & 17'

- Ms. Christina Capizola of 280 Topland Road was sworn in.

Ms. Capizola said I'm looking to retain the front steps and deck the way it is on the front of the house.

Chairman Maxwell asked how long has it been there for?

Ms. Capizola said I've been in the house since 1982.

Chairman Maxwell said and it's been there since that long?

Ms. Capizola said yes.

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

Ms. Capizola said no. We had originally changed the steps around a little but nothing different . We made the steps a little bit wider.

Chairman Maxwell said you spoke to all of your neighbors on either side and anybody have an issue with it?

Ms. Capizola said no one has an issue.

Chairman Maxwell said if you had to remove it and bring it into conformance, there'd probably be considerable cost.

Ms. Capizola said it's probably a couple thousand dollars; especially with the price of lumber that went up.

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. Rossiter with all in favor.

**Decision of the Board:**

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

3. Application of **CHARLES HARMON** for a Variation of Section 156-15 seeking permission to retain existing shed 8 feet from side yard (required 20') and 15 feet from rear property line (required 20'). The property is located at 51 Fenwood Road, Mahopac NY and is known as Tax Map #76.18-2-55.

Code Requires/Allows	Provided	Variance Required
(20) twenty feet	(8) eight feet from side yard	(12) twelve feet
(20) twenty feet	(15) fifteen feet from rear property	(5) five feet

- Mr. Charles Harmon of 51 Fenwood Road was sworn in.
- Mrs. Doris Harmon of 51 Fenwood Road was sworn in.

Mr. Harmon said we're here to request a variance for a shed that's been on our property since approximately 2007. In 2007, I called the Carmel Building Department for guidance on putting in the shed. I was told, at that time, as long as it was 10' off the property line, that would be sufficient. I used the guidance and put the shed on my property. In May of 2021, Denis Marousek of the Building Department came out to visit my shed and he measured the shed. It's a 12' x 16' shed. He measured the side. We came over 10.5 feet and from the back, we came in with 15'. Being that I have over an acre, Denis told me that I needed 20' which was to my surprise. He recommended I apply for a variance. In May of 2021, I filed the appropriate paperwork for a variance. I did look to relocate the shed to other areas of my property. However, the only level areas are on top of my septic fields and because of that are not suitable. The other areas of my property are not level and the grade would make the shed an eyesore and unsafe. The shed is aesthetically pleasing, and the location of it is to the rear of my property surrounded by woods. I have a 6' fence as well as the neighbor right next to me has a 6' fence as well. (Moved to display Boards) As you can see, right here is my house. I have a 1,200-gallon septic tank which goes to a distribution tank to a distribution chamber and then goes to approximately 8 fields. When the builder did the house, all my level area is septic fields and here is a significant grade which would not be safe. I also have a letter from a contractor which I'll get to in a minute. I put the shed right here which is the only level area that I deemed as well as the contractor who installed it.

Chairman Maxwell said it's not even that level over there.

Mr. Harmon said it's the best I have. I have very little to work with level-wise. As I'd said: when the builder did the property, the level area was the septic fields here which is basically my whole back yard.

Chairman Maxwell said on the back top?

Mr. Harmon said yes. As you can see, right about here is where the level part ends and then I have a significant slope which goes back.

Chairman Maxwell said yes. It tapers uphill.

Mr. Harmon said it tapers significantly which would be an eyesore and unsafe. I have kids and it just would be unsafe on that hillside. As I had indicated, the shed is not an eyesore. I've recently painted it. It's not adversely affecting anyone's property. As you can see, this is an aerial photo from a drone. The shed is right here. It's surrounded by wooded area. Here's my level area with the septic fields. That's my house. There's no where else to put the shed. It's 10.5 feet off mine. I estimated 12'. I didn't want to have any issues or come back if anyone is measuring with a ruler. You can see the significant grade here. Here are the two 6' fences. The closest residence is well

away and pretty well blocked. These pictures right here don't really show the grade but there's a significant grade here and these are all septic fields.

Mr. Carnazza said you've got a permit for the one shed – correct?

Mr. Harmon said yes; I had applied for a permit and then Denis had come out and did the site survey and indicated I need a variance.

Mr. Carnazza said how big was the first shed you got a permit for?

Mr. Harmon said I don't remember.

Mr. Carnazza said but it's not the same size as this one?

Mr. Harmon said no. I didn't get an initial permit for the first one. I was unaware of that.

Mr. Carnazza said I just want to clear something up for the Board and then said to Board Members: if the shed is 150 sf or less, the setback is 10' to the property line. Once you go over 150 sf, you have to go to the setbacks for an accessory structure. It wasn't that we just shot off 10'. The shed size changed.

Vice-Chairman Aglietti said what's the size now?

Mr. Harmon said 12' x 16'.

Mr. Balzano said I was wondering how the discrepancy hit. Thanks Mike.

Mr. Harmon said of the residents on Fenwood Road, thirteen have sheds that I'd counted. So, it's not uncommon that people on the road have sheds. I just want to read something for you. Anthony Rasulo of 41 Fenwood Road – two houses away from me – applied for a variance for his shed. He needed a significant variance. His side, he only had 3' and the rear he only had 5.7'. The Board granted him a variance of 17' for the side and the rear 14.5'; significantly more than I'm asking for. Just a summation here from the Board and ruling was: the applicant had established hardship and practical difficulty and there is no practical manner in which to resolve the deficiency except through granting of a variance. To deny the applicant's request would deprive him of reasonable use of his property and would be abuse of discretionary power given to the Board.

Chairman Maxwell asked what year was that case?

Mr. Harmon said 1992. For precedence, I have photos of his shed as well. In 2017, Thomas Santangelo of 33 Fenwood Road.

Chairman Maxwell you have them with you?

Mr. Harmon said I'll show them to you. (Mrs. Harmon brought photos/documents up to Board to look at.) This photo was taken with aerial photos from the drone. As you can see, his shed is right on the property line; pretty intrusive as well. Getting back to Thomas Santangelo of 33 Fenwood Road, he applied for a variance for two sheds and a gazebo. He needed a variance of 8' for each of the two sheds and a 4' variance for the gazebo. That was approved to him in 2017. His argument was consistent with mine and he's lower than I am. He complained about septic fields and grade which is traditional on Fenwood Road. Those are two instances that I looked into and found online. I'm sure if I kept looking, there'd be more.

Chairman Maxwell said it's not out of character for the neighborhood.

Mr. Harmon said no. I also have a petition here that I'd like to give you signed by six neighbors indicating support of us receiving the variance.

Chairman Maxwell said can we submit these into the record?

Mr. Harmon said absolutely. I also have a letter here from a contractor who came out and did a site visit. If you'd like it read verbatim, I can. The substance is he came out and concurred with the fact of the best spot for the shed is currently where it's at; the grade would make it significantly difficult both financially – time & labor wise to move it and it would be quite an eyesore and obtrusive to the neighbors. So, he recommended, and he is a contractor sanctioned by the County, I apply for a variance. To move it, which he wouldn't recommend, would be like \$6,000.

Chairman Maxwell said you've built some stone wall elements up into it? It's quite aesthetic.

Mr. Harmon said as you can see, it's on dirt in the back, dirt on the side and here it has a couple step stones for the steps and right here are a couple of step stones to level it out as best we could. Obviously, if you put it up higher on the hill, it'll be obtrusive when the leaves are off the trees.

Chairman Maxwell said I'm going to ask the Board if they have any questions or comments on this.

Mrs. Harmon read directly from the letter dated June 2, 2021(copy located in the applicant's file) from Mr. Salvador Barragan of Tiro Construction, Peekskill NY.

Mr. Starace said I'm looking at this photo; it's an overhead shot. This structure here in the corner, is that the shed we're talking about?

Mr. Harmon said I believe so.

Mr. Starace said because this picture.....

Mr. Harmon said that's the neighbor's shed at 41 Fenwood just to show that he got more of a substantial variance.

Mr. Starace said this is your shed?

Mr. Harmon said it's not a picture that I provided but yes; that's my shed up in the corner.

Mr. Starace said it has a really nice, stone, mason steps.

Mr. Harmon said yes.

Mr. Starace said you're 42 square feet over the variance. 150 sf is allowable at that distance. What do you store in the shed?

Mr. Harmon said I store patio furniture, a mower and my kids' sports equipment. It's not a big shed. I store furniture in the winter time, kids bikes, sports equipment, nothing substantial.

Mr. Starace said you couldn't slide this over.

Mr. Harmon said the grade is substantial. Plus, my father gave me a tree before he passed away and it's the tree right to the right there, and I'd rather not disturb it to be honest.

Mr. Balzano asked when did this shed go in?

Mr. Harmon said approximately 2007 when we took ownership of the property; thereabouts.

Mr. Balzano said that shed was already there?

Mr. Harmon said no. We put it in but it's been there for about 14 years. I can't say definitively but give or take about 14 years it's been there.

Mr. Balzano said this was not a recent change?

Mr. Harmon said this was not a recent change. It's been there for approximately 14 years. It just seems to have become a.....

Mr. Starace said is there an electric pipe to there?

Mr. Harmon said nothing.

Mr. Starace said where do the roof drains go? Do they just hit the ground?

Mr. Harmon said yes. They hit the ground.

Mrs. Fabiano said I'm looking at your petition. David and Joseph: are they directly the next neighbor on the other side?

Mr. Harmon said I'll show you up there if you'd like. (walks to display board) They are right here.

Mrs. Fabiano said so he's directly on the other side of you.

Mr. Harmon said correct, and the two rear neighbors here whose property butts up; they have substantial acres, I spoke to the gentleman back here and let him know what's going on. I asked him if he felt comfortable signing the petition. He said that he had no issues with it but he did not want to sign the petition but I did speak to the gentleman here. I don't know the individuals on the other side but they also have substantial acreage. We did send out 29 letters. As far as I know, we potentially only have 1 individual who objects to the variance being granted.

Mrs. Fabiano said so the person in the rear at 15' has no problem.

Mr. Harmon said correct. I spoke with him and got a verbal. He did not want to sign but he doesn't like signing "governmental forms". I let it be at that. The other individual over here – I don't know them and didn't want to show up to anyone's door out of the blue so I did not speak with them. I assume their letter went out. We sent out 29 letters. If they had any issues, they would be here to oppose it tonight.

Mrs. Fabiano said so 54 Fenwood is next to David and Joseph Smajlaj.

Mr. Harmon said yes. I got most of our immediate neighbors that you can see from our front door. I'm sure they came around and took a look. You can't see the shed from the street. It's surrounded by woods and it's been there for approximately 14 years without any issues.

Mr. Rossiter said the windows in the front – are those the only windows on the shed?

Mr. Harmon said yes.

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

- Dr. Lawrence Gorelick of 47 Fenwood Road, Mahopac was sworn in.

Dr. Gorelick said we share a common property line with the Harmons. We are the only ones that have a problem with the shed because we are adjacent to the shed. Let me begin by saying there is only one shed in question. It was built some 14 years ago that they were talking about. There is no 2 sheds or 3 sheds involved just to make it clear to the Board. I have written my reply and if I may I'd like to read it to the Board: I would like to begin by pointing out a number of inconsistencies in the Harmon's letter to Chairman Maxwell. As far back as 2007, when the Harmon's built their shed, and as stated in their letter, they were told incorrectly that the setback should be 10'. Even then, they disregarded the Building Department's rules as pointed out in our recent survey. They built the shed under 8' from our property line; their first demonstration that rules do not matter to the Harmons. Also, in their own letter to this Board, they claim actions are retaliation. Their letter claims that they were told by the Building Department that we called and made a complaint in December of 2020. In their next paragraph, they state correctly that this Board turned down our variance for an 8' fence in January 2021. How could this be retaliation in December if the Zoning Board didn't vote down our request until January 2021? The Harmons then talked about property contours and the difficulties in moving their shed in order to conform to the Town Code. Please note that they have not presented a letter from a licensed engineer stating that there is nowhere on their property that this shed can be placed other than its present location. Contrary to what the Harmons say, my engineer tells me that there is no problem moving their shed in order to conform to Code. Also, where is it written that everyone has a right to own a shed even if it cannot conform to Code. We do not have a shed and if we choose to have one, we would follow the zoning laws in its construction. We are wondering whether the Board finds it unusual that the survey that the Harmons presented to you, as part of this variance application, does not show the location and size of the shed. This is despite the fact that they had their property surveyed within the last year. I feel certain that this recent survey should show all of the details of the shed. In their recent application to the Building Department, for a Building Permit, they of course had to show the location and size of the shed on a survey in order to obtain a permit. But, you have not been presented with that survey. There must be a reason. I would now like to explain why you are not seeing what they presented to the Building Department. At the conclusion of my presentation, I will present to you a copy of the fraudulent survey they presented to the Building Department. At this time, I would like to point out that the Harmons lied by misrepresenting to the Carmel Building Department on their application to obtain a permit for their shed years after it was constructed. They lied about the position of the shed. They positioned it by sketching on an old survey map far from its actual position. They then misrepresented its size by stating that it is 120 square feet when, in actuality & according to my surveyor, Link Surveyors of Mahopac, it is in excess of 200 square feet. Finally, they misrepresented the shed's distance from the common property line by showing it 20' from the line when it is actually showing it 20' from the line when it is actually less than 8' from the line. Just wondering if the Harmons swore on their application for the Permit that everything was factual and true. Clearly, an outright, premeditated lie. Proof is the Links survey done in December of this year that I will present to you. Additionally, as pointed out in our attorney's letter to the Town of Carmel's Building Department and Mr. Carnazza dated April 30, 2021, the Harmons building permit was obtained fraudulently and should be nullified. If this is truly the case, and we believe it is, why are we here discussing the variance to an illegally obtained building permit. It is important to note that Mr. Caruso never received a reply to his letter from the Building Department. The photos that I



will present to you show what looks like a small house. It is built on a foundation with liters and gutters directed to drain specifically onto my property. This has caused a wetlands problem for me after heavy rain. I have had to cut down trees that have died. I will present to you photos of at least two of the rotting, dead tree stumps. The placement of a fence does not negate the volume of water draining onto our property nor does it negate the bulk and size of the shed which is causing a loss of value to our property due to its proximity to our property line. You might ask me why am I here this evening. It is our hope that this Board will value fairness and have the courage to do what is right and not reward lies and misrepresentations to the Town of Carmel. We request you deny the Harmons variance based on the facts we have presented. At the very least, we believe a thorough investigation should take place under the auspices of the Town Attorney, and the Harmons request for a variance should be tabled until all facts of the investigation are produced. Furthermore, in my reading of what constitutes fraud in New York State, it seems to me that all four legal elements of fraud have been met in this case by the Harmons. When a thorough investigation takes place, the facts may reveal that the Harmons actions can be viewed not only as a civil but as a crime. I would now like to pass out to you the exhibits that I mentioned. The first page is a survey from Link Surveyor done in November of 2020. It shows the shed. I circled it in yellow.

Chairman Maxwell asked how was Link able to get on their property without permission?

Dr. Gorelick said there was no fence at that time. They did everything through laser and whatever scales a surveyor uses. This was clear and evident.

Chairman Maxwell said he was not on their property to get this?

Dr. Gorelick said he was not allowed to set foot on their property but on the property line. It shows the shed, and this is according to the Link Surveyor which is the first time you're seeing this. The shed is over 200 +/- square feet. It's over 200. It is 7.8 feet from the actual property line. In the next photo, this is what the surveyor saw when he drew it. He is there standing. In the back, there is a surveyor putting in a rear stake. You can see the proximity of the shed to the survey line. So, all the other photos are this deceptive. The next picture shows the size and bulk of the shed. From my upstairs, I can see  $\frac{3}{4}$  of that shed and it's quite annoying when you see this. It's built on a foundation. If you go back to the previous photo, you will see the drains draining down onto my property. That's the area that is not grass. It's on the other side of the stone wall. The stone wall that you're looking at is entirely on my property. You can see at least one, maybe two liters and gutters coming down and the drainage goes down on my slope and has killed a number of trees that I've had to cut down. Again, the next one is the size and bulk of the shed. There are two tree stumps on the next photograph that are the remains of trees that I had to remove. The next one is a letter from Mr. Caruso to the Building Department asking that the application or the actual granting of the Building Permit should be nullified.

Chairman Maxwell said how long ago were those trees removed?

Dr. Gorelick said a long time ago. This has been on-going. Remember; the shed is 13 years old or at least 13/14 years. I've had to continually, during this period of time, cut down trees on my land, during a heavy rain; all of the liters and gutters from this shed drain onto my property.

Mrs. Fabiano said why haven't you come here before 14 years?

Dr. Gorelick said why haven't I come before?

Mrs. Fabiano said right. Why is this coming up now?

Dr. Gorelick said I don't know. I can't answer that. I really can't answer that question. We've had a number of problems with our neighbors which is going to be culminating this Tuesday evening in a suit in the small claims court which is the culmination of our problems. I really don't want to go into some of the details that I'll have to reveal on that night. In answer to your question, it can be revealed after Tuesday evening. I can't do it now.

Mrs. Fabiano said okay. It just seems odd that you would have this happen for 14 years.

Mr. Balzano said and I have to say from my standpoint, and I'm only one Board Member, that sort of negates the argument of changing the environmental look of the neighborhood because it's been there for 14 years. You can't make that argument now.

Dr. Gorelick said I didn't make that argument.

Mr. Balzano said your lawyer did in his brief. Your lawyer said, that he's making the argument for 'undesirable change' to the neighborhood. Those changes happened 14 years ago. That didn't happen a couple of months ago.

Mr. Carnazza said you keep talking about a permit that was issued. This permit is not issued for this shed. You keep talking like I issued a Building Permit. They are here to get a building permit for the shed.

Dr. Gorelick said I don't understand that.

Mr. Carnazza said there is no building permit for this shed. They came in to get a permit; we found out that it was not the right size shed I believe is the situation.

Dr. Gorelick said you negated that permit?

Mr. Carnazza said no. That's not the shed that is there. Now, they are here for this shed that is now in front of us. You just gave us this (shows document); now we're looking at numbers. These numbers don't line up so I'm going to talk to the Board about that. Don't assume I issued a Building Permit for this shed. This shed that is sitting there does not have a building permit. I did not go and issue a building permit after your lawyer asked me not to. They came in to get a building permit and we said no; you need a variance. That's why they're here. Just to be clear because you're making it like I've already issued this. This is not issued.

Dr. Gorelick said my understanding, on the last page, which would indicate fraud to me. Can I ask you (Mike Carnazza): when someone requests a building permit, do they have to swear that everything they submit is truthful and accurate?

Mr. Carnazza said they sign an application for a Building Permit that is saying everything is true.

Dr. Gorelick said you're looking at the last page which shows a sketch that's circled in yellow.

Mr. Carnazza said which Building Permit was this for?

Dr. Gorelick said for the shed.

Mr. Carnazza said which one?

Dr. Gorelick said how many Building Permits have been issued?

Mr. Carnazza said there was one issued and now the shed that's there is this shed and that's what they're applying for right now.

Dr. Gorelick said I'm confused.

Mr. Carnazza said they submitted this showing 20' to the property line.

Dr. Gorelick said right.

Mr. Carnazza said so, when you get 10' to the property line, that meets the requirements of the Code.

Dr. Gorelick said I know but it's a lie.

Mr. Carnazza said I understand but now, we found out from whomever complained about it and we went out there and it turned out it is not 20' from the property line and it didn't meet the size I believe. So, when they came in, it was closer and bigger than what was allowed to be 10' from the property line and that's why we're here.

Dr. Gorelick so this was submitted at one point.

Mr. Carnazza said I don't know what point and that's why I have to check my files.

Mr. Balzano said do you know, Dr. Gorelick, when this last page was submitted?

Dr. Gorelick said (to Mr. Caruso) do you have that date.

Mr. Caruso said no; I don't have that date. What I think he's driving at is he's testing the veracity of the submission regardless of when it was made. It's in the file that prompted this point in his opposition.

Mr. Carnazza said I just wanted to clear that no permit was issued for this shed, and this is why we're here right now because they applied for a building permit; now we're going for the variance.

Mr. Balzano said what I'm thinking, Counselor, is this may have been the prior shed – maybe?

Mr. Caruso said perhaps.

Dr. Gorelick said there's only one shed. There was never a shed except for this shed that I'm showing you pictures of. There is no other shed ever there.

Mr. Balzano said the applicant testified that there was a shed prior to 2006; that this was a replacement for.

Dr. Gorelick said I'm sorry to disagree. I've lived there for 50 years. There's never been a shed on that property.

Mr. Balzano said that's the only shed that's been there?

Dr. Gorelick said that's correct and I will swear to that.

Mrs. Fabiano said what he's applying for is 8'. We're only talking about 1/10<sup>th</sup> of foot or 2/10ths of a foot difference which could be the difference.

Dr. Gorelick said no. We're talking 12'.

Mrs. Fabiano said provided – 8' from side yard.

Dr. Gorelick said it's not quite 8'. I don't know how important that is.

Mrs. Fabiano said he's looking for a variance of 12' but he's providing 8'. Here is 7.8' so it's a difference of 2/10<sup>ths</sup> of a foot.

Dr. Gorelick said I'm not making a big deal over the 2/10ths.

Chairman Maxwell said (to Mr. Carnazza) did you determine these numbers? (Mr. Carnazza approached dais and reviewed survey with Chairman.)

Mrs. Fabiano said it could be the difference in surveyors.

Dr. Gorelick said 2/10ths I am not arguing about. I can understand that. That is clear.

Mrs. Fabiano said his application says provided 8'.

Mr. Caruso said it's a sound point. It can definitely be a variation in surveying especially without access on the property. That's a fair point.

Mrs. Fabiano said so what he is applying for is not fraudulent in my eyes. It's not fraudulent because it's only a difference of 2/10ths of a foot. It could be the difference between your survey....

Dr. Gorelick said that's not the application ma'am.

Mr. Caruso said I think what he is identifying is the applicant was up saying that the shed is 10.5' from the property line. That's clearly not the case. I think that's what Dr. Gorelick is pointing out.

Mrs. Fabiano said the application does ask for 8'.

Mr. Caruso said well the application said 8' exists and the deviation is 12'.

Mrs. Fabiano said he is asking for 8'.

Vice-Chairman Aglietti said 12'.

Mr. Balzano said 12'.

Mrs. Fabiano said he's asking for a variance of 12' but he's providing 8' which is the same as the 7.8'. So, you're talking about 2/10ths of a foot.

Dr. Gorelick said no. I'm talking about an application that was submitted to the Building Department that shows a sketch of the shed which is obviously a fraud. It shows that the shed is 20' from the property line. It shows the shed to be 125 square feet. It's the last page in the packet I gave you. Just let me clarify that this is what was submitted to the Building Department at some point in time.

Mr. Caruso said I think what my client's point is that Dr. Gorelick is showing you what he's had generated applying for an area variance, one would think that distances, courses, proximity and numbers are important to this Board obviously. My client has this in his possession. I have not seen anything like this by a surveyor from the applicants which is troubling. The only thing that we have shows a box, half way up the property line, not in the corner and not drawn to scale and not certified. So, I think that's what's really drawn the ire of my clients.

Chairman Maxwell said that's understandable. This is not their surveyor. This is your surveyor. I've been on this Board for almost 20 years and I've seen differences between two different adjacent properties and surveyors for 2 – 4 inches, I don't think it's.....

Dr. Gorelick said we're not.....I'm trying to make it clear.

Chairman Maxwell said sometimes people just round up the numbers they have because of not having an exact line showing on the ground.

Dr. Gorelick said Mr. Maxwell that is not what page 5 shows you. That is not my contention. I understand. I am not dealing with inches. I'm dealing with a fraudulent diagram of the existence of a shed that is 20' from the property line. Are you clear on what I'm saying to you? They submitted a diagram – not a survey from a surveyor. It shows the shed.....

Chairman Maxwell said and I'm telling you that every other person who submits a shed doesn't go and get a survey done. It's not required.

Dr. Gorelick said they don't have to get it but they can't obviously lie.

Chairman Maxwell said it's not an intentional lie is what I'm getting at.

Dr. Gorelick said it's not intentional?

Chairman Maxwell said if I had to prove this application to every Board Member on a shed, we'd have to mandate that they hire a surveyor.

Mr. Caruso said I think that's a reasonable position. Not a lot of people are going to go out and spend surveying money.

Chairman Maxwell said of course. It's a Board of Appeals and for people seeking relief. We're not making cost added to peoples.....

Mr. Caruso said I think what my client is trying to say is there is a difference between an honest mistake and something else perhaps. Not that we're suggesting.....

Chairman Maxwell said you know it actually sounds like there are some suggestions here and it sounds like your civil issue should not really be reflected onto this case of what is in front of us tonight.

Mr. Caruso said I think what's important is this Board has accurate information presented to it and not presented in a way.....

Chairman Maxwell said I'll let you continue and wrap it up shortly; there might be some other people that want to be heard on this.

Mr. Caruso said I'm going to bring the Board through my submission and we'll wrap this up. I know we've been at it for a little while now. Let's just bring it back to the law. My client is here because obviously this is important to him and his wife. When you look through my letter and you identify the 5 criteria that the Board has to balance an application for an area variance which this Board has done many times for many sheds in the Town of Carmel, this is not a novel issue. My clients are just here because they want to ensure that the information you have is accurate and that what you're seeing is actually out there. They're not casting aspersions. I know there's a little bit of heat behind me. But; at the end of the day, they want to make sure this Board has the information it needs to make a reasonable, good decision. At this point, there is a shed here. It is right on the boundary line. My clients are most effected by it. When we get into factor 1 about the relief and the changes to the neighborhood, Board Member Balzano looked me square in the eye and said it's been here for 14 years; why is this a problem now? It's not that it's a newly created problem. It's a perpetuated problem for 14 years. This has been here and my client has learned to live with it. Yes; we're in a flashpoint here where we're opposing the application. But, it's for reasons as to how it got here. I think this is the first opportunity we've had to hear or speak against the application which is why, in 14 years, here we are. Other than 33 Fenwood, I haven't seen any examples. I'm not aware of any examples. I've asked my clients for examples of other sheds in the neighborhood. I'm not aware of any this big and I'm not aware of any others. I don't know how 33 Fenwood came to this Board and how it was approved. Without that information in front of me or without the Board having it, I don't think it's relevant other than to say that there may be one other shed in the neighborhood. So, for adverse impacts in the neighborhood, we'll leave it at that for now. In terms of obviating the need for a variance; is there anything else that can be done? If you look at the last page of the submission I provided to you, I FOILED the septic plans for 51 Fenwood and there's a drawing in the back with contours that you can see. I apologize the scale is a little small. Where my pen is here is approximately where the shed would be. You can see these lines that are drawing in parallel are representing fields. You can see along the border of the property in the back, there's obviously other places for this shed than the corner closest to my clients' property. All up here; there are contours and there is a grade but there are other areas for this - clearly. Other than an area variance of 60%, perhaps moving the shed is an option. It could have been an option had this been at the forefront of their mind when they purchased the shed and installed the shed. Other than the inaccuracies which we've cited and which we've gone through, the alternative location for the shed that's not on their septic fields, which you can see from these plans, is substantiality - #3. They're asking for a 60% deviation from the side yard setback which is substantial. It's 8' proposed and 12' deviation and 20' required. Side yard setbacks exist for a reason as this Board is well aware to reduce the bulk and scale of an object to a neighbor who is in their back yard, front yard or elsewhere. This is large. There is a grade difference. The structure is large. I don't disagree that it's aesthetically well built but my client has to look at it every time they come out in their yard. It's imposing. When someone's on the top step, they can probably see over the fence and into my client's yard. There's a privacy issue for them. I think that goes to substantiality. My client spoke about the adverse impacts. I would say bulk and scale, aesthetic impacts being chief. I can't speak to the drainage issues. I can't speak to the environmental; I haven't seen them. My clients have lived there for 50 years. They can tell you and have told you about what they've experienced. As for the self-created nature of this harm; the last factor for you to consider. Obviously, the owners of 51 Fenwood took title subject to the zoning ordinance in effect. They're charged with its knowledge. They could have and should have looked at the Code, found an area that didn't violate the setbacks so much and located the shed there. That is a textbook, self-created harm. There's plenty of ways around this. We'd ask the Board at this time to consider the submissions. I'm a firm believer that you don't come to this Board asking for forgiveness before asking for permission. That's exactly what's happening here tonight. That's okay sometimes but I think we'd ask the Board to look at the veracity of the submissions, in total what they mean and to look at our submissions and make a good judgement and, hopefully, deny the application.

Chairman Maxwell said (to Mr. Carnazza) at this point, you want to verify those numbers?

Mr. Carnazza said I think that would be a good idea to verify the size of the shed and the setback because if this is saying 7.8'.....I'm not saying this is stamped because it's not. I don't see a stamp in the corner but I'm sure the full map is. It would be nice to have a stamped map because what was submitted by Mr. Harmon was a drawn on the survey. This is now showing something different so maybe we should just confirm it.

Chairman Maxwell said right. Most likely, we're going to hold this over until that can be justified.

Mr. Harmon said Mr. Marousek came out and we both measured the distance of the side. Denis came up with 10.5' and he came up with 15' from the back. I had a re-spike done. I did not have a new survey done. I have my original survey the shed was not there for. Last I knew water runs downhill. I can't do anything with water running downhill. I believe Mr. Caruso mentioned no one on the street had a shed; 13 out of 20 residents have sheds. He cut a tremendous amount of trees recently. I'm not sure of the reason on that was. but I have a photo here if you'd like to see. With the magnitude of trees he recently cut, he also brought in 140 yards of topsoil to create a berm there. If you're displeased with viewing the shed, I don't know why you cut this magnitude of trees recently. Again; to his point – if I put it up further on the hill which in my assessment would be an eyesore, it's more intrusive to his property. His main argument is, he doesn't want to see the shed, so if I move it up on the hill, what do you think is going to happen. Referring to this 1992 ZBA variance by Anthony Rasulo of 41 Fenwood Road: he requested the side of 17' and from the rear, he needed 14.5'. I just want to indicate immediate neighbors. Mr. and Mrs. Arpano and Mr. and Mrs. Gorelick who never contested that shed of that magnitude and such a variance. This is all done out of retaliation for us opposing his variance here in January with regards to a fence and a hindered neighbor relationship because of an adverse possession claim made by Mr. Gorelick.

Mrs. Fabiano said I'm looking at your submission, I don't see the shed on here. Why do I have a survey with no shed drawn?

Mr. Carnazza said the shed is on the survey in the file. I just saw the same thing. It's not on that survey.

Chairman Maxwell said that's why we're going to hold this over so Mike can clarify those dimensions.

Mr. Harmon said I just want to read [something]. It is my opinion residents of 47 Fenwood Road are only complaining about my shed after nearly 14 years is nothing more than retaliation for our concerns and our opposition for an 8' fence for over 300'. The Zoning Board unanimously voted this down in January. Again, it's been a hindered relationship for the last year unfortunately. This is why the shed has become a point of contention and nothing but that. I hope you can see through that and not make the Board's decision making here as an arm for Mr. Gorelick in retaliation. And, Mr. Rasulo's shed is larger than my shed and the encroachments are more substantial. You can see that shed right from his house and I'll show you right here. And, I want to apologize for taking all this time on a ridiculous shed. You can see Mr. Rasulo's shed is right here. My shed is way back there. The claim of 'bothering you'. He was there neighbor in 1992. He said he lived here for 50 years. He had no opposition to a larger shed with 2 feet from the property line. Mine is 8'.

*Board Members and Mr. Harmon all had conversations about holding the application over; missing information, clarification of measurements.*

Mr. Folchetti said the application may need to be amended if the variances are slightly more than originally thought. He's just going to have to amend the application.

Mr. Harmon said how can a Town employee measure 10.5' .....

Chairman Maxwell said we're not taking sides.

*Again; several Board Members explained the reasons for the holdover.*

Chairman Maxwell asked if there was anybody else wishing to speak on this application of which there was none.

***Vice-Chairman Aglietti moved to hold the application over; seconded by Mr. Rossiter with all in favor.***

4. Application of **COLLIN HANLON** for a Variation of Section 156-15 seeking permission to retain existing deck. The property is located at 46 Longwood Road, Mahopac NY and is known as Tax Map #64.11-1-29.

Code Requires/Allows	Provided	Variance Required
15'	0'	15'

- Mr. Collin Hanlon of 46 Longwood Road, Mahopac was sworn in.

Mr. Hanlon said I'm here to ask for a variance to retain my deck. You should have in your packet some photographs. I have a stone wall 9' from the house with a stone walk in between the house and the wall. Originally, when I had purchased the house, off the walk were stone steps into the backyard. The steps were crumbling so I decided to replace it and I couldn't afford to replace it with stone; it's 9' wide. So, I replaced it with wood and then decided to attach a deck to it while I was building the steps.

Chairman Maxwell said so you didn't realize that you needed a permit?

Mr. Hanlon said no sir. The stone wall is approximately 20" wide and you'll see in the survey that the stone wall crosses the property line. I guess it was when they built it long ago.

Chairman Maxwell said how long has the deck been there?

Mr. Hanlon said the deck has been there 7 years.

Chairman Maxwell said and your neighbor on the adjacent side?

Mr. Hanlon said I have a letter from the neighbor in the packet.

Mr. Balzano said that's Mr. Santaniello.

Mr. Hanlon said yes.

Chairman Maxwell said just for the public's information, it is in support of the application.



Mr. Hanlon said I am selling the house and my attorney, Mr. Jacobellis was doing the title search and called me about the deck and explained to me where I screwed up. So, that's why I'm here asking for the variance.

Chairman Maxwell said if you had to remove it and bring it into conformance, what kind of costs would be involved.

Mr. Hanlon said I think removing it and then repairing it aesthetically, I'm probably thinking \$6K but thinking a lot more now with the prices.

Chairman Maxwell said you have stairs going down the back – right?

Mr. Hanlon said yes.

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

Mr. Hanlon said no.

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

Mr. Balzano said just for the public record, there was also a letter from the Adlers, which Dawn Andren put in our file, explaining what the situation is because you're selling the house.

Mr. Hanlon said yes. The people that are purchasing the house wrote a letter of understanding the situation.

Chairman Maxwell asked the public for any input on this application.

➤ Mr. Jeffrey Smith of 28 Cricket Lane, Mahopac was sworn in.

Mr. Smith said I would like to take a look at the survey and if you have a picture of the deck in question because I walked down there today. I believe I own the common property line so I want to see his survey and a picture of the deck he's talking about. (Mr. Smith took a look at the application.)

Chairman Maxwell said you have every right to come to Town Hall and search this file if you ever had a question.

Mr. Smith said I'm aware of that. When I got it, I looked at several of the other ones along that property line and I didn't realize that Mr. Hanlon's property was actually for sale until I saw the 'for sale' sign. It's a dead end there so you don't go down there a lot and there's a significant amount of woods and stone back there so it's not an area on my property that I often see.

Mrs. Fabiano said so where are you exactly?

Mr. Smith said I'm lot 45 which is right above it.

Mrs. Fabiano said so behind him.

Mr. Smith said yes; behind him. I can show you on my survey.

Mr. Starace said you're on the north line there.

Mr. Smith said correct. Mr. Hanlon's house is along the north property line.

Mr. Starace said yes. So, he's looking at the southeast side there.

Mr. Smith said yes; I'd like to see their survey.

Mrs. Fabiano said it's in there.

Mr. Smith said I've got it.

Mr. Starace said it's about 303' from your line to.....

Mr. Smith said I'm confused by something. It doesn't look like his patio is on my.....

Mr. Starace said no. It's on Santaniello's line.

Mr. Smith said then I have no objection to this other than there's a bridge treehouse or something.....just remove the junk around it and I have no objection.

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.***

5. Application of **ELSIE RUSSELL & BRETT BROWN** for a Variation of Section 156-15 seeking permission to remove garage and add larger garage for boats & cars. The property is located at 161 West Lake Blvd., Mahopac NY and is known as Tax Map #64.19-1-44.

Code Requires/Allows	Provided	Variance Required
15' Rear	11'	4'
40' Front	32'	8'

**Chairman Maxwell recused himself from this application.**

- Ms. Elsie Russell of 161 West Lake Blvd., Mahopac was sworn in.
- Mr. Brett Brown of 161 West Lake Blvd., Mahopac was sworn in.

Mrs. Russell said we are looking to take down our current 19' x 20' garage and replace it with an almost double size garage which is 28' x 38'. We're looking for a variance on the roadside. We're not going any closer to the road. We're keeping the same corner. We're looking to maintain that same setback that exists today. We're looking to get a variance for the backyard which faces the woods. We're in between  $\frac{3}{4}$  and 1 acre so we need 15', offering 11' and asking for a 4' setback.

Vice-Chairman Aglietti said there's no other property that you can purchase to bring it more into conformance?

Ms. Russell said no.

Vice-Chairman Aglietti said you're looking for 4' variance in the rear and 8' in the front.

Ms. Russell said correct.

Vice-Chairman Aglietti said anything else you want to add?

Ms. Russell said we talked to our neighbors, The Coles – the ones who have the most visual impact although it's not their property lines. They're the neighbors across the street. They're in support of it. They asked questions when they saw the letter and we had a conversation. They said it looks great. Our current garage is a little bit worn down and is older so they thought the new designs look much better.

Vice-Chairman Aglietti polled the Board for any input, comments or concerns.

Mrs. Fabiano said these variances are not very big so I have no questions.

Mr. Rossiter said there's no water in this – right?

Ms. Russell said no.

Mr. Balzano said no plumbing.

Ms. Russell said no plumbing.

Vice-Chairman Aglietti asked the public if there was any input, comments or concerns of which there was none.

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

**Decision of the Board:**

***Mr. Balzano moved to grant the requested variance; seconded by Mr. Starace with all in favor. Chairman Maxwell abstained.***

6. Application of **VITO TORCHIA** for a Variation of Section 156-15 seeking permission to legalize existing shed. The property is located at 33 Cook Drive, Mahopac NY and is known as Tax Map #65.5-1-55.

Code Requires/Allows	Provided	Variance Required
Shed: front yard – 40 ft.	15 ft.	25 ft.

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

Mr. Greenberg said this is a piece of property located on the corner of Cook Drive and Spruce Drive. The shed, as you can see from the survey, has two fronts and two rear yards. As far as the rear yards are concerned, the shed does conform to that. However, the shed, which was built probably some 20-odd years ago, has a 15' setback. I've taken a couple pictures. If you've been out to the site and are standing on Spruce Drive and looking back at the shed, there's a lot of foliage in front of it. The portion facing into the property almost looks like a little dollhouse. It's a very well built shed with a foundation and everything. I don't think it would be of any consequence to any of the neighbors. In fact, in your package, you should have letters from 2 of the neighbors who are most effected by it. They would be the ones directly across the street on Spruce Drive.

Chairman Maxwell said it looks like Carol Linda Woermann & John Piqueras. Just for the record, both are in support.

Mr. Greenberg said they obviously have no problem with it.

Chairman Maxwell said what would be the cost if you had to relocate it and bring it into conformance.

Mr. Greenberg said with the foundation and everything, we're probably talking in the neighborhood of over \$10,000 to put a new foundation and move it.

Chairman Maxwell said and there's no property that can be purchased to bring it into conformance?

Mr. Greenberg said no. Everything around it is all built and across the street is all built. Again, it's not a detriment to the neighborhood. I don't think it would be of any problem. Even though it's only 15' back from Spruce Drive, there's trees and a lot of bushes in the area so that it's very well screened.

Chairman Maxwell polled the Public and the Board Members for any input on this application of which there were none.

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

**Decision of the Board:**

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

7. Application of **LAURA RUDOVIC** for a Variation of Section 156-42. ZBA approved a variance of 4 car spaces on 10/22/20. Due to field conditions, an additional variance of one parking space is required. The property is located at 1707 Route 6, Carmel NY and is known as Tax Map #55.6-1-12.

Code Requires/Allows	Provided	Variance Required
18 parking spaces	13 parking spaces	1 parking space (additional)
	As per 4 PS variance from ZBA on 10/22/20. Therefore, an additional variance of 1 PS is required.	(4 spaces granted 10/22/20)

➤ Mr. Joel Greenberg, architect of 2 Muscoot Road North, Mahopac was sworn in.

Mr. Greenberg said this Board granted a variance of 4 parking spaces back in 2020. What we had hoped, at that particular time, was to have two parking spaces underneath this area over here which you can see in the picture which was also submitted with the application. After we had started the projects and got the building permits, we found that the elimination of these two columns would affect the structure. Because of the site conditions, we're asking for another car variance. Basically, you had agreed to 14 cars [parking spaces]. We'd like to reduce it by one car to 13 [spaces].

Mr. Carnazza said they could put one more spot over there but then it kind of blocks the handicap access and I would rather have that wide open. We discussed this out there.

Mr. Greenberg said we met with Mr. Carnazza out at the site and found another spot but it would affect the ability for the handicap spot to go both ways. So, we felt that was too dangerous. The discussion/argument that we used for the 4 car space variance was that this Bridal Shop is by appointment only. They have a temporary C.O. because we needed the variance and they've been open now for almost 3 months. In that whole 4 months, everything is by appointment and basically there's never been more than 4 cars there. As you discussed I think when we first came back, this is sort of the biggest building as we enter into the downtown area of Carmel and it was vacant for some time. Between what they did on the outside and what they did on the inside, it's absolutely beautiful.

Chairman Maxwell said it's nice to see some life brought back to the area. I don't think 1 spot is going to break the bank due to the nature of how they operate, so I don't have an issue with it but I'll open it up to the Board Members.

Mr. Carnazza said they made it through the prom season without any parking issues.

Mr. Starace said why are these other existing parking spots on an angle?

Mr. Greenberg said if the spots were perpendicular, you'd have to have 24' as a two-way aisle but because we couldn't get the 24', we have them at an angle. Basically, it's one-way traffic. Also, Seminary Hill is a one-way road so we have signs saying 'no left turn' and it's worked out fine. As I've said, we've never seen more than 4 cars there. The reason for that is because the restriction on the aisle.

Mr. Rossiter said you put a sign in the front you've said?

Mr. Greenberg said the sign is here for one-way traffic because the aisle is not wide enough for cars going in both directions and there's a sign here, as you exit onto Seminary Hill Road which is one way, south. There's a sign there that says no left turn.

Mr. Rossiter said there's a sign on Seminary Hill Road side that says no entrance?

Mr. Greenberg said yes; no entrance.

Mr. Balzano said isn't it already there?

Mr. Greenberg said yes.

Chairman Maxwell asked the public 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 Ms. McKeon with all in favor.

**Decision of the Board:**

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

## **MISCELLANEOUS:**

8. Memorandum addressed to the Zoning Board of Appeals from Mr. Mike Carnazza, Building Inspector dated June 7, 2021 regarding **INTERPRETATION 156-28**.

Chairman Maxwell asked (Mr. Folchetti) do we need to do this publicly.

Mr. Folchetti said yes. It's something that you're going to make a determination publicly. My understanding is that it got to you in the fairly recent days.

Mr. Carnazza said yes; there's no rush. Once I looked at the law, after you made your interpretation, I went deeper, and as I read, it says RMF, RMFA and gives two different densities.

Chairman Maxwell said let me read it and then we'll discuss it. The Memo reads:

To: Town of Carmel Zoning Board of Appeals  
From: Michael Carnazza, Building Inspector  
Re: Interpretation 156-28  
Date: June 7, 2021

At the May 2021 meeting, the Zoning Board of Appeals interpreted that code section 156-28 applies to lots the R-Residential zoning district even though the Schedule of District Regulations is silent.

In reading the entire code section, the density portion addresses RMF and RMFA but does not address R. Please clarify which density should be used and I will get the changes made in the code portion of the Master Plan discussions.

*§ 156-28 Multifamily developments.*

*A. In R Residential Zones, multifamily developments and their on-site accessory uses for parking and recreation shall be permitted as a garden apartment design or townhouse design, provided that:*

*(2) The maximum permitted density shall not exceed five units per acre in a R-MF and 3.4 units per acre in an R-MFA Zone.*

In addition, I reviewed the previous Zoning Map (1982-2002) and clearly see one R-MFA zoned area (King's Grant in Carmel) and multiple R-MF zoned areas (Society Hill, Williamsburg Ridge, Woodcrest, Water Club, Clearing in the Woods, Vista on the Lake, Alexandria Court, Church St., Along Rt. 6 and Rt. 52, and Woodland Trail). All RMF zoned areas were permitted to be developed @ 5 units/acre. Thank you,"

Mr. Carnazza said my feelings are that one area that's R-MFA zoned was specific for that one place: Kings Grant. Everything else was always the R-MF (without the "A"), and that was throughout the entire Town. Now there are other developments that were developed in the R-zone but they got variances or did something different. You have ones like Maple Hill, etc. but when you're in the R-MF zone, they were developed at 5 units per acre. I think that's the fair number to be honest with you but that's up to you. That's something you need to talk about as a Board.

Chairman Maxwell said we don't have to vote on this tonight. We can just discuss it though if anyone has questions on it.

Mr. Folchetti said you'll get applications based on your interpretation and you need to be able to determine what the applicable density is because those zones don't exist anymore.

Mr. Carnazza said and we have applications coming in after the interpretation obviously.

Chairman Maxwell said I think the intention was to cap it at 5 units per acre.

Mr. Balzano said you're looking for this for guidance as they're building a new master plan for going forward to make sure that that's covered?

Mr. Carnazza said which they may change to six or ten or two. I don't know what they're going to do but I'm going to make sure that it's clear that if it's allowed in this R zone and it's 10 acres or whatever the requirement is, that they tell us what is a normal number for other towns of our type. Maybe it's going to be different if you have sewer.

Mr. Balzano said right. If you have Town Water and Town Sewer, that could increase density.

Mr. Carnazza said correct.

Mr. Folchetti said the Planning Board is going to get applications based on somebody who wants to put just non-age-restricted, multi-family units in an R-zone. One of the things you have to determine is how many units per acre. That's why it's applicable. That particular section: 156-28 had the split between R-MF and R-MFA which neither exist anymore.

Chairman Maxwell said did this ever come up in any of the Advisory Boards.....

Mr. Carnazza said it has not yet. This is brand new – your interpretation so I'm going to bring that up to.....

Chairman Maxwell said so it will be captured in the new.....

Mr. Carnazza said it will be captured.

Mr. Folchetti said it has to be. Certainly, the application that sought the interpretation is probably going to making a proposal for the development of that property, and the Planning Board is going to need to know what standard to apply for the density calculation.

Mr. Folchetti reiterated The Planning Board will need to know what standard to apply for the density calculation when an application comes in for non-age-restricted, multi-family residential dwellings in an R-zone. That's what the interpretation here is now. That's exclusively your province to interpret the Zoning Code.

Mrs. Fabiano said (to Mr. Carnazza) you and I had a little email back and forth and I started to think, as I had expressed to you, that MFA was multi-family with an accessory but you said no.

Mr. Carnazza said apartment.

Mrs. Fabiano said right. If you look at the list of R-MF places that you've listed Society Hill, Williamsburg Ridge, Woodcrest, Water Club, Clearing in the Woods, Vista on the Lake, Alexandria Court, Church St., Along Rt. 6 and Rt. 52, and Woodland Trail. I know Society Hill has garages. What other units in this list have garages?

Mr. Carnazza said garages under or garages?

Mrs. Fabiano said garages; just garages.

Mr. Carnazza said Maple Hill.

Mrs. Fabiano said but that's not on this list.

Mr. Carnazza said I'm sorry. I thought you just said other townhouses. (He then reviewed the list and said no.)

Mrs. Fabiano said I almost felt that the density should be less if there are garages. I could be wrong on that. It would take up more room.

Mr. Carnazza said but there's a coverage requirement and I think that would fall into the buildings.

Mrs. Fabiano said so if you had garages, then you couldn't build as many units?

Mr. Carnazza said no. You'd have to stick to a lot coverage regardless of whether you build garages or not. So, if you have 10 acres and you're allowed to cover 10%, you're allowed to cover an acre.

Mrs. Fabiano said but if you put the garage under the unit, then that wouldn't affect.....

Chairman Maxwell said but then you're losing square footage because you can only go so high.

Mrs. Fabiano said so, if you have garages underneath, you could only do two additional stories would you say?

Mr. Carnazza said two additional stories without sprinklers; yes.

Mrs. Fabiano said or if you had no garages, you'd have.....

Mr. Carnazza said two over a basement.

Mr. Rossiter said depending on the grade.

Mr. Carnazza said agreed.

Chairman Maxwell said you could excavate and build an underground garage. It could be costly but...



Mr. Carnazza said Society Hill built them right through the front. But, the “A” didn’t have anything to do with the garage or no garage. It was just another classification. I actually said that R-MFA was an apartment but I’m looking in the 1982 Code and it just says R-MF & R-MFA; it doesn’t give an explanation. Residential, multi-family: R-MF & R-MFA.

Mrs. Fabiano said and there’s no distinction?

Mr. Carnazza said when I first got here, somebody had said “apartment” for the “A”; that’s why I said it but looking at this, it’s not there.

Mr. Balzano said and Kings Grant is the only R-MFA that we have.

Mr. Carnazza said Kings Grant is the only piece of property that was zoned that way in the Town. That’s correct.

Mrs. Fabiano said Maple Hill is R-MF?

Mr. Carnazza said residential. I believe it was 60/40 if I remember correctly.

Mr. Starace said what determines a unit?

Mr. Carnazza said facilities for eating, sleeping and sanitary would be a dwelling unit.

Mr. Starace said nothing to do with square footage, bedrooms.

Mr. Carnazza said nope. If they do a townhouse type, there’d be 1 unit – 2 stacked or 3 stacked. If they do garden style apartments, they would be front and back and above and above; up to 6, 10 or however many units they want. Actually, it wouldn’t be 10 because it’d be in groups of 4 so it’d be 4, 8, 12, whatever. Vista on the Lake – if you look at them, they’re all garden front to back.

Mr. Balzano said I would think that I would go with your recommendation for multiple reasons; the 5 because, again, you’ve got to worry about water, septic and all that stuff but I think it’s easier for us to grant variances going down than to let all of these things happen.

Mr. Carnazza said if you give them 5 per acre and they have 10 acres, they can have 50 units. If they leave here and go to the Board of Health for an approval because they need a septic and they say you can only get 40, they’re only getting 40. It doesn’t matter what this or any board says. It’s going to be based on septic but if they have sewer, that’s the important ones. That’s when you get to density.

Vice-Chairman Aglietti said the Code says shall not exceed 5 units.

Mrs. Fabiano said the difference is building 50 units versus 34 units.

Chairman Maxwell said there’s some pending sewer extensions coming down the line.

Mr. Carnazza said that’s only if you have exactly 10 acres. So, if I have 14 acres, every acre above (inaudible).

Mr. Balzano said can be more.

Mr. Carnazza said it's not like they'll come in here and chop it into exactly 10 acres because they can do bigger developments.

Mrs. Fabiano said but when you think about it, there's 16 more units on the acre lot.

Mr. Carnazza said if they get the septic approval or the sewer approval, why not. We need housing for people to be able to stay here that are not only seniors.

Mr. Balzano said then at that point, we can deal with that variance if somebody comes in.....

Mr. Carnazza said if somebody wants 6 units per acre, you could say yes. That's not a problem if they get the approval.

Mr. Balzano said we could always do that because if they have Town Water and Sewer, it becomes an easier argument for us.

Mr. Carnazza said but 3.4 & 5 were the toss-ups here. That's why I said, I need to know which way you're going but again, we don't need to know tonight. We just need to start the process of thinking and discussing it. If you guys have questions, you can email me or call me.

Mrs. Fabiano said the only thing is that we have greater control the lower the number.

Mr. Carnazza said but why would you want that? If we want the development, why would we make everybody come here for a variance instead of 34 to go to 50?

Vice-Chairman Aglietti said do you know what other towns have?

Mr. Carnazza said I don't; I do not know that.

Board Members talked amongst themselves about other towns.

Mr. Folchetti said I could provide the information from the neighboring towns. It's nothing that has to be decided tonight. We just wanted it on your radar because there will be applications coming down.

Chairman Maxwell asked if there was any further discussion needed now.

Vice-Chairman Aglietti said should we hold it over?

Chairman Maxwell said how do we handle this; it's a new one for me?

Mr. Folchetti said you're just deferring your determination.

**Decision of the Board:**

***Vice-Chairman Aglietti moved to defer the determination on the Interpretation until the next discussion and/or meeting; seconded by Mr. Balzano with all in favor.***

**MINUTES:**

- **May 27, 2021: *Vice-Chairman Aglietti moved to accept the minutes; seconded by Mr. Starace with all in favor.***

The meeting was adjourned at 9:05 p.m.

Respectfully submitted,

Dawn M. Andren