

APPROVED

JOHN MAXWELL
Chairman

PHILIP AGLIETTI
Vice-Chairman

TOWN OF CARMEL
ZONING BOARD OF APPEALS



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ZONING BOARD OF APPEALS MINUTES

MAY 26, 2022

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>
John Regan	55.6-1-24	1 – 5	Granted Requested Variance
Jose Paz	77.17-1-18	5 – 7	Granted Requested Variance
Peter Ferone	86.7-1-16	7 – 8	Granted Requested Variance
Robert Montuoro	65.16-1-43	8 – 9	Granted Requested Variance
Armand Papasodero	65.8-1-3	9 – 10	Granted Requested Variance

MINUTES:	April 28, 2022	10	Accepted as Written
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The meeting was adjourned at 8:07 p.m.

Respectfully submitted,

Dawn M. Andren

HOLDOVER APPLICATIONS:

1. Application of **JOHN REGAN** for a Variation of Section 156-15 seeking a Use Variance for permission to legalize existing third apartment. The property is located at 1751 Route 6, Carmel NY and is known as Tax Map #55.6-1-24.

Code Requires/Allows	Provided	Variance Required
No Mixed Use – Variance granted to allow 2 families w/office below 6/19/98	2 apts. approved; request permission to expand non-conforming use to a 3rd apartment.	Applicant seeks to expand existing 2 family w/office, approved by ZBA in 1998, by adding a 3 rd studio apt from existing empty space which has been residentially occupied for over 10 years. Applicant will, in turn, waive the previous ZBA approval to add a garage.

- Mr. Frank J. Smith, III, Esq. from the Law Office of Shilling & Smith representing the applicant appeared before the Board.
- Mr. Joel Greenberg of Architectural Visions representing the applicant was sworn in.

Chairman Maxwell said last month we had asked for some financial back-up which you did provide and we had received earlier this week. I, personally, did not have a lot of time to review it but, hopefully, it will make sense and we'll see what you think.

Mr. Smith said as you had stated, last month we were here and the Board had requested additional information on behalf of the applicant's financial hardship. Before we get into any further questions about it and analysis of the Use Variance standards, Mr. Greenberg would like to go over the plans that are presented before you this evening.

Mr. Greenberg said just to review exactly what we're looking for as far as the variances are concerned; this, of course, is the lower floor where the insurance office, which is being vacated, is. This is the middle floor which has the studio apartment and, I think as the Chairman had mentioned in his opening statement, originally back in the early 2000s, this Board approved apartments and a free-standing garage. The garage was never built, and we have no intentions of building it. What's interesting too is that this little portion, which is about 200 square feet, is in the existing building. In other words, there was no addition; nothing added on to get this particular apartment. The other two are the two two-bedroom apartments and the one studio. Basically, what we're asking for is for the approval of the studio apartment which is about 200 square feet and, again, is in the existing building. There were no additions ever added. The building is just as it was when this Board approved the two apartments probably 20 years ago. If there are any questions regarding the apartment, I'll be happy to answer them.

Mr. Carnazza said did you say something was being vacated?

Mr. Greenberg said yes; the office.

Mr. Smith said the lower level office, currently occupied by an insurance company, is going to be vacated starting in June.

Mr. Carnazza said but it's still going to be an office in the future?

Mr. Greenberg said yes; absolutely.

Mrs. Fabiano said do they have a new tenant yet?

Mr. Greenberg said no.

Mr. Smith said not as of yet.

Chairman Maxwell said do you want to run us through the financials that we had requested.

Mr. Smith said of course. The financials that I'd provided are in the form of 3 spreadsheets. The first spreadsheet represents rental income from 2021. It is broken down by the office, the 3-bedroom unit, the studio and the 2-bedroom unit. The second spreadsheet represents rental income in 2022. As we've already mentioned, in June the office will be vacant. That represents a further loss of rental income. The third spreadsheet provided represents monthly expenses along with one-time expenses as well as capital improvements and other items. Some of these monthly expenses do vary. There's landscaping. There is snow removal. You can see that some months are more expensive than others but when taken in the aggregate, it does show a financial loss.

Mrs. Fabiano said I have a few questions. The Central Hudson Gas/Heat bill – is that for all four units or is that just for the hallway. Does each individual apartment pay their own Central Hudson bill?

➤ Mr. John Regan, owner of the property, was sworn in.

Mr. Regan said just one bill for the whole building.

Mrs. Fabiano said so in other words, the rent covers the heating.

Mr. Regan said I pay all the heating and then the rent includes heat.

Chairman Maxwell said but their electric is separate?

Mr. Regan said their electric is on their own.

Chairman Maxwell said how many meters?

Mr. Regan said I believe there are three.

Mrs. Fabiano said so the expenses that you have are for everybody. In Jan, Feb & Mar of last year, I noticed they were significantly lower. Is that because the two-bedroom was vacant at that point?

Mr. Regan said that's correct.

Mrs. Fabiano said you have a list of one-time expenses. When did these expenses occur? Last year or.....?

Mr. Regan said one-time expenses for the apartment; painting, cleaning, getting it ready for the next tenant, real estate fee, things like that that are associated with making the apartment ready, vacating the other tenant and moving a new tenant in.

Mrs. Fabiano said so that's something that you may have this year again because you have somebody leaving.

Mr. Regan said that is correct. My insurance tenant is leaving for hardship. She determined that there's not enough business for her to maintain her office in the area.

Mrs. Fabiano said these studio expenses, legal fees and engineering, permit – that's all because of this situation that we're talking about?

Mr. Regan said that is correct. However, there are some there like the new porch, new back deck. These are just expenses in owning/operating and keeping the place nice.

Mrs. Fabiano said in a typical year, what do you normally see as your one-time expenses for that year. Is this unusual?

Mr. Regan said not really unusual; it depends if somebody moves out or not. It would be very hard for me to say that. Things come up; you need a roof, you put it on.

Mrs. Fabiano said last year you had a lot of expenses and then I saw March and April of last year, your landscaping, pruning and snow removal. I guess we had more snow last year and that's why I'm thinking that you had a greater expense in 2021 than you had in 2022.

Mr. Regan said that's correct. Also, there's different times that we've done different things; hedges, bushes, landscaping, things like that. When I put up the porch, we did some other stuff.

Mr. Carnazza said not to make the argument for them but the loss that they're showing is with the additional unit that they're trying to get.

Mrs. Fabiano said they're still showing a loss even though they have that fourth unit.

Mr. Carnazza said correct.

Mrs. Fabiano said I'm looking at this and seeing your monthly expenses as \$5542 plus I averaged out your Central Hudson and your landscaping and that worked out to be \$6168 without your one-time expenses. So, you're pretty close. You're only making \$300 here but again you have regular maintenance on a house.

Mr. Smith said exactly.

Mrs. Fabiano said so you're really cutting it close as it is right now. I have no other questions.

Mr. Starace said how many other people are in the other two apartments?

Mr. Regan said there's a two-bedroom apartment and a three-bedroom apartment.

Mr. Starace said as far as vehicle parking, they all park in the driveway?

Mr. Regan said no. There's ample parking for all of the tenants. I believe we have a map.

Mr. Greenberg said (and pointed out on map) this is Route 6 over here. There are basically two parking lots. This parking lot here which has 9 spaces is for what is now and will be the future office. There's another slew of cars over here with a separate driveway for the apartments. There's more than enough parking. If you look at the parking regulations for the Town of Carmel, we meet or exceed the requirement even with the extra apartment.

Mr. Carnazza said they had a variance for the parking in the past on this I believe.

Mr. Greenberg said I don't think so.

Mr. Carnazza said different one then.

Mr. Greenberg said anyhow; there's more than enough parking and if you pass by, the place is kept very, very well and just that little corner here has that apartment. There were no additions or anything added on to get that apartment. It's been there way before Mr. Regan bought the building. It was actually the previous owner that put the apartment in.

Chairman Maxwell said for a Use Variance, let's just read through this to make sure we're hitting these targets; must prove all of the following for a Use Variance to be approved. Number 1: incapable of earning a reasonable return if used for any of the allowable uses; amounts must be shown. I think you've proven that case to be. Number 2: property is affected by unique or at least highly uncommon circumstances. I think we have an okay argument for that. Number 3: Will not alter the essential character of the neighborhood. This is indicative of that whole corridor of Carmel there. Number 4: not self-created. Any comments on that?

Mrs. Fabiano said I just have one question. Applicant will, in turn, waive previous ZBA approval to add garage. That's part of the variance required. Do we need to condition that as well in our decision?

Mr. Carnazza said what was it?

Mr. Starace said not to add a garage.

Chairman Maxwell said just make sure it's captured; yes.

Mrs. Fabiano said where we have Code Required; Provided and Variance Required – he states that he's not putting the garage in. Do you want that conditioned as well?

Mr. Carnazza said if you want that condition.

Mr. Greenberg said we have no problem with that. It was part of the variance from years and years ago. It was never built and we have no intention of doing it. We have no problem.

Mr. Carnazza said avoid the previous variance is what you're trying to do.....

Mr. Starace said it says under Variance Required: it says applicant will, in turn, waive the previous ZBA approval to add a garage. They put that on the application.

Mr. Carnazza said it's going to be a nightmare to keep track of.

Mrs. Fabiano said right; so, would you rather us condition it?

Mr. Carnazza said just leave it. There's no harm if they want to add the garage. They'd have to go back to the Planning Board because their site plan approval expired. They already have the variance if it's a setback thing or whatever it was. What's the harm? I wouldn't even touch it.

***** TAPE CUTS OUT for 8 seconds *****

Mr. Balzano said I don't think it's material to this at all. I wouldn't touch it.

Chairman Maxwell asked if there was anybody from the public wishing to have input on this application of which, there was none.

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

Decision of the Board:

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

Mrs. Fabiano said I believe they've passed all the criteria for a Use Variance between the financials and not being self-created and altering the character of the neighborhood. It's unique.

Mr. Balzano said I would agree with that as well.

Ms. McKeon said agreed.

NEW APPLICATIONS:

2. Application of **JOSE PAZ** for a Variation of Section 156-15 seeking an Area Variance for permission to retain existing sheds. The property is located at 22 Pebble Brook Drive, Carmel NY and is known as Tax Map #77.17-1-18.

Code Requires/Allows	Provided	Variance Required
20' Rear	10'	10'
20' Side	18'	2'

- Mr. Jose Paz of 22 Pebble Brook Drive, Carmel was sworn in.
- Mr. Michael Celestino of 52 Anton Drive, Carmel was sworn in.

Chairman Maxwell said how long has the shed been there?

Mr. Paz said one of the sheds would be about a year and a half. The other shed would be over 10 years.

Chairman Maxwell said and that's the one on top of the hill; right?

Mr. Paz said yes.

Chairman Maxwell said you didn't know that you needed a variance? You didn't know you needed a building permit?

Mr. Paz said I didn't think that much distance from the neighbors was needed.

Chairman Maxwell said did you talk to your neighbors about it?

Mr. Paz said no.

Chairman Maxwell said do any of the neighbors have an issue?

Mr. Paz said no.

Chairman Maxwell said what would be the cost if you had to relocate it approximately – both of them?

Mr. Paz said I don't know.

Chairman Maxwell said a couple thousand dollars?

Mr. Paz said a couple thousand maybe.

Chairman Maxwell said there's no other property that you can buy to bring it into conformance; there's no land available?

Mr. Paz said yes.

Chairman Maxwell said I was up there the other day. The one on the right back corner is pretty well screened with natural woods and stuff. And then the one on top of the hill, there's no one behind you so you're really not affecting anybody. So, the one down on the right-hand side of the corner, that's the one that's been there for a year and a half.

Mr. Paz said yes; that's the one.

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

Mr. Carnazza said how big are the sheds?

Mr. Paz said 16' x 10'.

Mr. Carnazza said if they were 1' smaller, they wouldn't be able to be 10' from the property line just so everybody understands.

Mr. Balzano said so that's why; I was wondering why.

Chairman Maxwell said what do you have in the shed?

Mr. Paz said just landscaping stuff.

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

Decision of the Board:

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

3. Application of **PETER FERONE** for a Variation of Section 156-15 seeking an Area Variance for permission to retain 10' x 12' shed. The property is located at 44 Mi-Anna Drive, Mahopac NY and is known as Tax Map #86.7-1-16.

Code Requires/Allows	Provided	Variance Required
10'	3.8'	6.2'

➤ Mr. Peter Ferone of 44 Mi-Anna Drive, Mahopac was sworn in.

Chairman Maxwell said you've got a similar situation. I was up there the other night. You're way in the back. There are no houses near you. The guy on the left has a solid fence that's 6'. It's pretty well maintained and in good shape. So, you can't move it – right? What would be the cost to move it if you had to?

Mr. Ferone said more than it's worth.

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

Mr. Ferone said no.

Chairman Maxwell said do you have a septic back there?

Mr. Ferone said no; it's in the front.

Chairman Maxwell said I didn't see any issues with it. I don't think any neighbors are complaining about it.

Mr. Ferone said I have a letter from my neighbor.

Chairman Maxwell said good. Do you want to submit it?

Mr. Ferone handed it to the Chairman.

Chairman Maxwell read the letter of support from Carmela Ortiz of 40 Mi-Anna Drive. (Copy of letter available in applicant's file.)

Mr. Balzano said which side is which neighbor's house?

Mr. Ferone said if you're facing my house, it's the one on the right.

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.

4. Application of **ROBERT MONTUORO** for a Variation of Section 156-15 seeking an Area Variance for permission to retain tool shed in existing location. The property is located at 207 Drewville Road, Carmel NY and is known as Tax Map #65.16-1-43.

Code Requires/Allows	Provided	Variance Required
10'	7'	3'

➤ Mr. Robert Montuoro of 207 Drewville Road, Carmel was sworn in.

Mr. Montuoro said same as the other applicants. The shed is centrally located at the bottom of my driveway where I could park a car on each side. I have two kids with cars as well so, getting in and out of the shed and to move it over, I would have to move the fencing. Aesthetically, it would not look correct and getting in and out of it, I would have to move vehicles around it to get the snowblower, lawnmower, etc.

Chairman Maxwell said yes; I looked inside and it looks like you're jam packed with lawn equipment in there. It's well kept and even from the pictures, you can see it's in good shape. The front line is almost in line with the fences. Your neighbor on the right has no issue?

Mr. Montuoro said no.

Chairman Maxwell said what would be the cost if you had to relocate this to conform?

Mr. Montuoro said I have no idea.

Chairman Maxwell said you'd have to do footings or a pad?

Mr. Montuoro said I'd have to slide over footings and redo the fencing, things like that.

Chairman Maxwell said is that your septic in that back area?

Mr. Montuoro said yes; the whole back is septic.

Chairman Maxwell said then you can't really go close over there.

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 Ms. McKeon with all in favor.

Decision of the Board:

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

5. Application of **ARMAND PAPASODERO** for a Variation of Section 156-47(A)(1) seeking permission to extend existing home (den) on lot with 2 dwellings. The property is located at 71 Drewville Road, Carmel NY and is known as Tax Map #65.8-1-3.

Code Requires/Allows	Provided	Variance Required
1 – one family	2 – one family	Expand lot with 2 – one family dwellings

➤ Mr. Armand Papasodero of 71 Drewville Road, Carmel was sworn in.

Chairman Maxwell said bring us through your situation. I was up there the other night. You've made incredible improvements on the property that was there from what used to be there. Your heart is in the right place here. Unfortunately, you have an existing condition where there are two one-family dwellings. So, to expand, you have to come in front of us. You're just doing a quick addition on the right side?

Mr. Papasodero said yes; to the house that we live in. We bought this property three years ago. We lived in Garrison for twenty years. We couldn't retire there between the taxes and upkeep of the house. We bought this property because of the cottage; a second dwelling and it helps pay our expense. Our house that we came from was about 3,000 square feet. The house we live in now is a little under 1,000 square feet. We tried but we just can't. We need some room. We have big family with 8 grandchildren; dinners over the holidays and all. We have no place to put them. We haven't had a holiday dinner in three years.

Chairman Maxwell said it makes sense. It's a small house but cute and well maintained.

Mr. Papasodero said I have a letter from one of my neighbors. I did not get a chance to make copies as we just got it.

Chairman Maxwell said that's okay and read the letter of support from Rita & Axel Kucinski of 77 Drewville Road, Carmel. (Copy of letter available in applicant's file.)

Mr. Papasodero said theirs is the house to the left; the big beautiful colonial.

Mr. Starace said looks nice. Are you going to put a fireplace on there?

Mr. Papasodero said I'm going to put in a sealed gas fireplace.

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 Ms. McKeon 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.

MISCELLANEOUS:

MINUTES: April 28, 2022:

Vice-Chairman Aglietti moved to accept the minutes as written; seconded by Mr. Balzano with all in favor.

Mr. Balzano moved to adjourn the meeting; seconded by Ms. McKeon with all in favor.

The meeting was adjourned at 8:07 p.m.

Respectfully submitted,

Dawn M. Andren