

APPROVED

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Chairman

PHILIP AGLIETTI
Vice-Chairman

TOWN OF CARMEL
ZONING BOARD OF APPEALS



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JULIE MCKEON

ZONING BOARD OF APPEALS MINUTES

FEBRUARY 23, 2023

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

<u>APPLICANT</u>	<u>TAX MAP #</u>	<u>PAGE</u>	<u>ACTION OF THE BOARD</u>
Glenacom Lake	87.5-1-90	1 – 3	Requested Variance Denied
Platinum Propane	65.10-2-11	3 – 9	Requested Variance w/cond. Granted
Anne Margolis	64.12-2-19	9 – 10	Requested Variance Granted
Silver Spoon Foodies LLC	65.13-1-54	10 – 14	Requested Variance Denied
Sheldon & Lori Ginsberg	75.43-1-16	14 – 15	Requested Variance Granted
Steven Spada	64.6-1-44	15 – 18	Requested Variance w/cond. Granted

The meeting was adjourned at 8:27 p.m.

Respectfully submitted,

Dawn M. Andren

HOLD OVER APPLICATIONS:

1. Application of **GLENACOM (aka GLENCOMA) LAKE** for a Variation of Section 156-20, 156-62.O.2 & 156-62.O.5 seeking a Variance for permission to locate a public utility wireless telecommunications facility at the site. The property is located on Walton Drive - Mahopac NY and is known as Tax Map #87.5-1-90.

Code Requires/Allows	Provided	Variance Required
50 Feet Maximum in Height	140 Feet in Height	90 Foot Height Variance
280 Feet Minimum in Tower Setback	174 Feet in Tower Setback	106 Foot Tower Setback Variance to nearest occupied residence.
Fence 4 or 6 Feet in Height	Fence 8 Feet in Height	4 Foot Height Variance for Fence.

Chairman Maxwell said the public hearing is closed on this application so there is no input from the applicant, the client or the public on this application, and we will be adjudicating on this application at this juncture.

Mrs. Fabiano recused herself from this application.

Decision of the Board:

Mr. Balzano moved to deny this request for discussion purposes; seconded by Vice-Chairman Aglietti.

Mr. Balzano said people are coming in here and looking at this as an area variance, traditionally, but this is a telecommunications request. So; the criteria is slightly different. What needs to happen really are these four criteria: Has the applicant established itself as a public utility? That's apparent; yes, they have. The basis of the designation of public utility? Yes, I believe that's established. Whether there is an established gap in coverage and is there a need for the coverage to be provided in each gap area? These are the areas now that we're going to look at and in depth. In my motion to deny, I want to make it clear how I interpreted the data; specifically looking at the PierCon Solutions exhibit that was submitted to this Board.

Looking first at Yorktown Heights 2 Alpha: The summary of the KPI data (key performance indicator) on PierCon [report], page 19, showed 70% of the days at 700 megahertz (MHz). In fact, the performance graph provided for Yorktown was Exhibit O and only at 700 MHz which ensured that it never exceeded an 8% call drop rate. Regardless, Exhibits A – D, in PierCon, showed decent coverage in 700 and 850 MHz while the drive test, specifically Exhibits E & H, show no improvements to the coverage. There is not enough data to support any argument for improvement of data in Yorktown Heights 2 Alpha.

Looking onto Lincolndale Gamma: The Lincolndale Gamma Sector had a 700 MHz drop rate of under 10% for the majority of the study with the period of November 5th through November 11th showing drop rates going much higher with a peak of 48% on November 7th. Drops in the rest of the spectrum never went past 6% in the other areas

of the spectrum. As stated in the report, you start at the higher bands and you drop to the lower bands as time goes on. But; the reality is starting at a lower band and you have no other place to go. Starting in the higher bands and dropping to the lower bands, the call drops are thus less and the data provides that. So, we should not discount the lower counts at the higher bands as the system is working as designed. Finally, access rate failure rate is only hitting on 4% on two days of the study. What's even more interesting, is Exhibit A shows on streets such as Ross Drive and Rogers Lane, during the drive test, they had coverage but during the antenna test at 140, 120 and 100 feet, those streets actually lost coverage.

Looking at Heritage Hills Beta: Heritage Hills shows the same trends in data. 700 MHz consistently has a call drop rate between five and fifteen percent with the higher frequencies consistently between two and three percent with 850 MHz peaking at eight percent in the worst-case scenario. The access rate for failure set again between two and four percent with a peak of seven percent on November 5th, six percent on November 8th and nine percent on November 13th. Once again, the maps show conflicting data with green and yellow shaded existing 2,100-MHz service on Lovell Street, Flower Drive and Elder Road, as examples, but disappearing on the map in all of the antenna tests.

Mahopac Falls Alpha: The Mahopac Falls data submitted never provided us with anything other than 700 MHz. Again, the average drop rate fluctuated between two and five percent. The access rate fluctuated between one and four percent. And again, streets with coverage such as Hillside Terrace, Kia Ora Blvd., Glenacom Road and Crecco Place did not show service during the 2100-MHz antenna tests which existed prior.

Testimony of attendees vs. Need:

When I asked about the amount of people, citing PierCon page 9 which shows the gap in the 2100-MHz spectrum impacting 1900 people, I asked for a specific customer number noting that Verizon market share is 33%. The applicant admitted the number provided is based on the census and not the true population. The applicant also noted that people driving through the area, as well as everyone who lives there, is a potential customer. The question the applicant raises is are they being "materially inhibited". The applicant stated they have a significant number of customers, potential customers that live in the area and customers that travel through the area. It would've been in the best interest of the applicant to show that customer count because without that data, I cannot make a determination. First of all, the number of subscriptions, if they were low, would indeed show that the applicant was materially impacted by the gap in service. Second; if the number of subscribers in the area was somewhere between thirty and forty percent of the households in the area, then the applicant would have to show me customer service complaints regarding the service in the area. No such complaints were submitted to this Board. Regardless the impact is shown in hypothetical, not real, numbers. My opinion is no material impact has been proven.

Interpreting Data & typing in ExteNet Sys vs. Village of Flower Hill:

When I asked about the 1% drop rate, the applicant responded that is an industry standard. Industry standard is desired but not protected by Law. In ExteNet vs. the Village of Flower Hill, the applicant in the case stated, like the applicant in this case, the goal is to improve services provided by Verizon Wireless. The Court, also using prior precedent, found that while improved capacity and speed are desirable goals in the age of smart phones, they are not protected under the telecommunications act.

Emergency Services Needs:

Finally; the applicant noted "a lot of emergency services use Verizon services". The areas of identified gaps on the maps – pages 9 & 10 on the PierCon report - show

those gaps exist both in Mahopac and the Town of Somers. Mahopac is provided services by Carmel Police Department, Mahopac and Mahopac Falls Fire Departments, Putnam County Sheriff and Ambulnz ambulance providers. Somers is provided emergency services by the Somers Police Department, New York State Police, Somers Fire Department and Westchester EMS. None of those entities provided testimony nor sworn affidavits to this body for the need for this tower. In fact, the applicant never provided proof that these emergency services even use Verizon Wireless. Based on that, I fail to see the need for this antenna because I believe the applicant failed to prove it to me – a single Board Member. So, on that basis, I'm moving to deny.

Vice-Chairman Aglietti said I want to thank Mr. Balzano for putting in words that I can't understand. When I look at this, and I look at the PierCon Reports and as Mr. Balzano went through, the applicant must prove the necessity required for adequate service. I don't see that that's proven here. They must prove that there's gaps. I don't see that the service is inadequate with those gaps that they're showing. As Mr. Balzano said, the percentages are minimal. There's no indication that the location here will actually remedy the situation. It requires substantial evidence, and I don't believe it's there.

Mr. Starace said I just want to echo all the words from Mr. Balzano and Vice-Chairman Aglietti and that the driving factor here is to consider whether that proposed facility is necessary to provide a safe and adequate service which it does not meet.

Chairman Maxwell called for a roll call vote:

- Mr. Starace voted for the motion to deny***
- Vice-Chairman Aglietti for the motion to deny***
- Mr. Balzano for the motion to deny***
- Ms. McKeon for the motion to deny***
- Chairman Maxwell for the motion to deny***

The motion carries; it is denied.

Again; Mrs. Fabiano had recused herself from this application.

2. Application of **PLATINUM PROPANE** for a Variation of Section 156-15 seeking a Variance for permission to convert a 1 family house into a propane facility. The property is located at 1035 Route 6, Mahopac NY and is known as Tax Map #65.10-2-11.

Code Requires/Allows	Provided	Variance Required
Front Yard Setback of 40'	22'	18'
Minimum Square footage of 5,000 square feet	1,938 square feet	3,062 square feet

- Ms. Jamie Spillane, Esq. of Hogan, Rossi & Liguori; 3 Starr Ridge Road, Ste. 200 Brewster NY for the applicant appeared before the Board.

Ms. Spillane said at this time, this matter is pending before the Planning Board. We were referred to your Board for variances. What we're looking to do is put a propane plant on this site but the variances are specifically for an existing building that will be converted into an office building. No changes are proposed to the exterior of the building beside general, customary, routine maintenance to clean it up. All the changes will be in the interior of the building that we'll be requesting the variances for. Any other buildings that are proposed on site, pursuant to the site plan, do not require any variances before your Board.

Chairman Maxwell said how long has that house been there for?

Ms. Spillane said it's been there since, I believe, the 1930s. It's a pre-existing, non-conforming structure.

Chairman Maxwell said it's the same footprint and everything is the same from that original building?

Ms. Spillane said yes. As I've said, pre-existing, non-conforming, residential structure in a commercial zoning district. There is some screening proposed with the application. As I've said, it's in front of the existing building but pursuant to the overall site plan, they're going to be putting additional trees in the front of the property.

Chairman Maxwell said you're just in front of us for an area variance so I'll remind the public of that just in case anyone is here to discuss this. Any questions from the Board?

Mr. Starace said the proposed facility is going to provide distribution into mobile trucks or is that a distribution into residential containers?

Ms. Spillane said I have the landscape architect here, and our client is here as well. They'll be able to give you a little more information on the facility itself.

- Mr. Adam Thyberg of Insite Engineering, Surveying & Landscape Architecture PC at 3 Garrett Drive, Carmel representing the applicant was sworn in.

Mr. Thyberg said to answer your question, the facility will be a place where the propane is stored. They will have retail, residential customers to whom they will deliver propane.

Chairman Maxwell said what kind of screening are we talking about?

Mr. Balzano said it looks like trees on the plan – right?

Mr. Thyberg said yes. We have some shrub plantings and some trees along the front.

Chairman Maxwell said what species?

Mr. Thyberg said here, we're showing viburnum in terms of shrubs which is kind of a large shrub and we're showing.....

Mr. Balzano said serviceberry. It's a flowering tree.

Mr. Thyberg said yes; serviceberries and redbuds.

Chairman Maxwell said so they're not evergreen type.

Mr. Thyberg said they're not. I don't think the applicant would be opposed to including some evergreen trees as well.

Mr. Starace said as far as the propane is concerned, that's liquid propane. What's the maximum amount of quantity that you would have on hand there?

Mr. Thyberg said the two tanks that are shown. These are going to be buried tanks, and they're two 30,000-gallon tanks.

Mr. Starace said they're underground?

Unknown voice from audience said two 30,000 gallon?

Mr. Thyberg said two 30,000 gallon; yes.

Mr. Starace said they're covered in like a concrete slab? They're underground in a vault?

Mr. Thyberg said they're buried underground. I don't believe there's a slab that's involved but they're buried underground. There is a loading/un-loading location here that's covered with a canopy. This is the location where the delivery trucks would come up. They would load the trucks up as they make their way out to make their deliveries.

Mr. Starace said is there a fixed fire protection with that system or what kind of life safety do you have on there?

Mr. Thyberg said the applicants provided a very thorough and detailed fire safety analysis which was provided to the Planning Board. They're working with Hills Propane and their engineers. They're putting together a state-of-the-art system that'll meet all of the NFPA 58 requirements.

Mrs. Fabiano asked how far are you from the church? The church has a pre-school in it with 3 and 4-year olds.

Mr. Thyberg said the church property is next door. The tanks have specifically been put in this location to keep the maximum distance away. They're outside of an established setback and I don't

recall, off the top of my head, what that is to a school facility. They're outside of the regulated distance from that facility to allow for the tanks to be in this location. Initially, there was some thought given to putting the tanks over here but because of that regulation, they've been moved to here so they're outside of that area.

Chairman Maxwell said and that's regulated by the State; Federal Government?

Mr. Thyberg said that's regulated by the NFPA 58 I believe.

Chairman Maxwell said so that's National Fire Protection [Association].

Vice-Chairman Aglietti said regarding the front yard setback, would the applicant be willing to put evergreen trees or shrubs or something in the front so it would be less intrusive?

Mr. Thyberg said of course.

Vice-Chairman Aglietti said so if we make that condition as part of the variance, that's okay?

Mrs. Fabiano said the setbacks are for the existing building so it's not for any new structure?

Ms. Spillane said it's not for any new construction. All the new construction meets the setback requirements.

Mr. Thyberg said so again, both of these variances are for pre-existing, non-conforming conditions.

Mr. Balzano said (to Mrs. Fabiano) it's the one off to the side; not the new one they built.

Chairman Maxwell said at this point, I'm going to open it up to the public for any comments or questions.

➤ Ms. Robin Webb-Lopez of 24 Baldwin Lane, Mahopac was sworn in.

Ms. Webb-Lopez stated I'm one of the people who received your notice because we're within 500 feet of this property. We do, of course, have some grave concerns about having two 30,000 gallons of propane in our back yards but I do understand that we're here just to discuss these two variances. The question that I have is can this project go forward without these variances?

Mrs. Fabiano said yes; I guess they could because you could knock down that building and put another office building in. The only problem is the white house. So; you could knock that house down and put a little structure up.

Ms. Webb-Lopez said I appreciate that they've been considerate to move the tanks to a location so it's not in close proximity to a school, but that does put it in closer proximity to all of our backyards which is very concerning. I understand, again, that we're only here to discuss the variances but, of course, we weren't aware that this project has existed until we got this letter. So, I don't know if there's any other recourse that we have with them being buried. I know that these are very modern tanks. It's not like an old oil tank but do we run the risk of ground contamination?

Chairman Maxwell said there are new codes and more stringent codes in today's world that cover and protect folks like yourselves. When is the Planning Board meeting on this because that's where you can go and voice further concerns. Again; this is really just for the variances.

Ms. Spillane said there will be a public hearing on the site plan.

Ms. Webb-Lopez said thank you for making me aware of that meeting. How will I find out when/where that meeting is?

Mr. Balzano said they'll get noticed.

Ms. Webb-Lopez said we'll get another letter?

Mr. Balzano said yes.

Ms. Webb-Lopez said when I was reading the Code, there are some.....but again, this is for the building, so whether or not you allow these variances, it appears that they're only providing 1,900 and they require 5,000. They're asking for more than half of what's required. That seems like a large variance request. Of course, I'm here for whatever way we can keep this from moving forward because for those of us who live with this in our backyards, it has the potential to affect our property value and that's a big concern for us.

Chairman Maxwell said unfortunately, for you guys, it's allowed within the commercial district.

Ms. Webb-Lopez said we're not disputing the fact that it is zoned mixed-use, commercial. That we do agree with but this particular business with 60,000 gallons of propane on the property.....

Mr. Starace said I don't think they can hold 60; correct me if I'm wrong but I think it's about 80% max so it's about 48,000.

Ms. Webb-Lopez said which still seems [like] a lot of propane to have in your backyard. We're right around the corner from there but their property backs up to all of our yards. We're near Route 6 and Baldwin Lane – near Stop & Shop so we're right there on that corner. Again; those are our concerns. I guess we'll present them at the Planning Board meeting and we'll definitely get a letter regarding that?

Mr. Carnazza said it's the same distance so the same people will get a letter.

Ms. Webb-Lopez said on the variance request – this is my first experience. Is this a reasonable request?

Chairman Maxwell said it's not unreasonable when something has been existing for as long as this has.

Mr. Balzano said it's a unique scenario.

Chairman Maxwell said because it predates our zoning ordinances, traditionally, we see things in a better light.

Ms. Spillane said again; there will be a Planning Board public hearing on this and notice will be provided to all the neighbors to discuss any of the additional improvements on the site.

Mr. Thyberg said I just want to clarify that this is a pre-existing use and would certainly understand the commentary if we were presenting a newly proposed building that was that much smaller than the requirement. With regard to the location of the tanks on the site, this is a 12-acre site and the entirety of the development is within about an acre and some change up against Route

6. This site, as you can tell from the existing conditions plan, is fairly extensive. The extent of the development is in this area here.

Mrs. Fabiano said where is the closest house?

Mr. Starace said what's the elevation at the tanks?

Mr. Thyberg said we're just a few feet above the road grade in that location. We're in around here.

Mr. Balzano said yes. That lot goes up.

Chairman Maxwell said yes. It goes uphill in the back.

Mr. Thyberg said this slope gets quite steep.

Mr. Starace said is that going down or going up?

Mr. Thyberg said this goes up like this.

Mr. Starace said so, that's a higher elevation - those land lots in the back.

Mr. Thyberg said yes. In the direction that we moved the tanks from the original proposal, we're really moving them closer to this wooded area over here; not toward any particular adjacent property.

Mrs. Fabiano said how close is the closest house?

Mr. Thyberg said I don't know a dimension off the top of my head but you can see our tanks are around this area so, we're pretty central on our 12-acre lot.

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

Mr. Thyberg said no.

Chairman Maxwell said you're land-locked there - right?

Ms. Spillane said as far as the variance goes, we're right on the road there.

Mr. Balzano said yes; that is the problem.

Mrs. Fabiano said one question for Mr. Carnazza. This minimum square footage - that's on the lot or the building?

Mr. Carnazza said building; for the commercial zone.

Mr. Balzano said that's because it's a building in a commercial zone. That's what it's all about.

Mr. Carnazza said any site plan or approval for a building in the commercial zone has to be 5,000 square feet or more.

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

Decision of the Board:

Vice-Chairman Aglietti moved to grant the requested variance with the condition that there will be evergreen trees/bushes screening in the front; seconded by Mr. Balzano.

Mr. Carnazza said any special location?

Mr. Balzano said screening in the front.

Mr. Starace said we want them on the front; 3' on center from each one so it's a screen.

Mr. Carnazza said how tall?

Mr. Starace said 6'.

Chairman Maxwell said I think they showed them on their site plan.

Mr. Starace said those were deciduous.

Mr. Balzano said that was the problem.

Chairman Maxwell called for a roll call vote:

- Mr. Starace for the motion***
- Mrs. Fabiano for the motion***
- Vice-Chairman Aglietti for the motion***
- Mr. Balzano for the motion***
- Ms. McKeon for the motion***
- Chairman Maxwell for the motion***

Granted.

NEW APPLICATIONS:

3. Application of **ANNE MARGOLIS** for a Variation of Section 156-15 seeking a Variance for permission to construct new deck. The property is located at 9 Averill Drive, Mahopac NY and is known as Tax Map #64.12-2-19.

Code Requires/Allows	Provided	Variance Required
15' side	13.5'	1.5'
20' rear	2'	18'

- Ms. Anne Margolis of 9 Averill Drive, Mahopac was sworn in.

Ms. Margolis said the deck is old and starting to lean. The stairs are starting to lean and separate. There are some things that are not to Code. So, we want to fix it. It's more than 20 or 30 years old. I inherited the house from my mother and we're starting to figure things out. We figured we would add on a few feet. That's why we need the variances.

Chairman Maxwell said so you're expanding the deck.

Ms. Margolis said we're expanding it slightly on the left side where it kind of butts up to the property which is why we need that 1.5 foot, and because we're on the Lake, that's why we need a variance. The deck that already exists has the variances but this is going to be just a few feet wider.

Chairman Maxwell said you've talked to your neighbors on that side?

Ms. Margolis said I don't have neighbors on either side. They're actually associations on both sides that have multiple.....

Chairman Maxwell said but I mean like the nearest house as it would affect them most. If they had a problem, I'm sure they would be here.

Ms. Margolis said yes; we spoke to them but they can't even see the deck because there's a bunch of trees that line the right of way that separates our property from the next house. The way my house is set up, it's so far to the left of the property and doesn't sit in the center. This deck doesn't really affect anybody except for us.

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

Ms. Margolis said no.

Mr. Starace said are you redoing that deck on the top level – the second floor - too?

Ms. Margolis said we are going to replace the boards that are disintegrating and keeping it exactly the same but changing the railings.

Mr. Starace said so you're moving the bottom deck over.

Ms. Margolis said exactly; losing my garden but adding some more deck.

Mr. Balzano said you're losing your garden?

Ms. Margolis said yes.

Mrs. Fabiano said I have a question for Mr. Carnazza. The 20' rear – is that because they already had a variance? When you advertise, do you advertise for the entire amount or the additional amount from the variance before?

Ms. Margolis said I believe this is the entire [amount] because we don't have that much property between the house and the water. We're only extending the deck like 3.5 feet wider than what it is. We're not adding on an additional 18'.

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

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

Decision of the Board:

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

4. Application of **SILVER SPOON FOODIES LLC** for a Variation of Section 156-39.3 seeking permission for a temporary trailer permit for 1 year; 45' x 10' trailer. The property is located at 870 Route 6, Mahopac NY and is known as Tax Map #65.13-1-54.

Code Requires/Allows	Provided	Variance Required
Temporary trailer allowed for only emergency	Construction on property in future	Allow temporary trailer on lot without approvals.

- Mr. Chris Surace, property owner, of 21 Columbus Drive, Carmel was sworn in.

Mr. Surace said I own the lot 870 Route 6 right next to Arturo's and across the street from The Carriage House. I bought it about a year ago. I've been trying to figure out what to do with it. I had a general idea of what I wanted to do with it and I'm currently working with architects and civil engineers now to put my plan together to open up a future restaurant in that location. I own three restaurants in Westchester County. I live up here, and I've been looking at that property for a long time. I'm happy to take it over.

Chairman Maxwell said but what is the need for a trailer?

Mr. Surace said part of it is I just had a child in December so I do need someplace to work but I want to have a place where I can sit and meet people on site and figure out all of the things that I want to have happen on the property. I'm still working on the design and layout. The trailer, itself, was a surprise to me. It was gifted to me by somebody that had it on a lot. They told me on a Thursday. I looked at it on the Friday. I just had to take it. I planned on coming here that Monday. Mr. Carnazza was there 5 minutes after it got dropped off. Essentially, I'd like to have office space for me for the upcoming year to basically plan, have a place to work and plan it out.

Chairman Maxwell said I've been on this Board for over 20 years. This is a new one on me.

Mr. Surace said I'm not here begging to keep it there. I would like to keep it there. I would like to have a place to work from. It's a trailer. I can move it. It's not something that I'm going to beg and plead for.

Chairman Maxwell said and you plan on putting this toward the back?

Mr. Surace said I have it.....

Mr. Balzano said it's already there.

Mr. Surace said I put it in the most non-invasive position I feel that you'd be able to see off of Route 6. I put lattice around the bottom of it so that nobody can go underneath it and made it just look like a standalone building as simply and quickly as I could.

Mr. Starace said this trailer is towable?

Mr. Surace said yes.

Mr. Starace said you could move that.....

Mr. Surace said I could move it to any position on the lot or off the lot.

Mr. Starace said so we don't need any.....the variance is just to.....

Mrs. Fabiano and Mr. Balzano both said just to allow it.

Mr. Starace said I've got it; just to allow it.

Mr. Surace said I did go around to all the local neighbors; all the restaurant owners and business owners in the area and had them sign off on this. *(Mr. Surace approached dais and handed sheets to Chairman Maxwell.)*

Chairman Maxwell read 'by signing this form, we have been approached by the property owner of the vacant lot located at 870 Route 6, Mahopac NY. We understand that he had parked the trailer on his lot and will be seeking approvals for a 1-year permit. We were informed that there will be a Planning Board/ZBA meeting today. If we do not attend this meeting, please use our signature as acceptance.' *(There are several signatures from the surrounding area buildings.)*

Mr. Surace said I'm actually friendly with all the restaurant owners. I have another business which is beverage dispensing. I have a company that installs and services draft beer lines and cocktails on tap so I've pretty much installed every draft pub in Mahopac.

Mrs. Fabiano said what happens later? Where are you going to plant this when the year is up?

Mr. Surace said I'm going to get rid of it. I'm going to give it to the next person that needs it.

Chairman Maxwell said running water?

Mr. Surace said no running water. It has lights in it and a split Mitsubishi unit heater but that's pretty much it.

Mrs. Fabiano said what is the siding made out of? Is it wood? Is it paintable?

Mr. Surace said it's paintable. It was already painted. You should have seen it when it first rolled in.

Mrs. Fabiano said will you be selling any food out of there?

Mr. Surace said I don't plan on doing anything out of there except working there. I wanted to have a place to go work, clean the lot and just have meetings up there. When I actually start to do construction, I'm going to end up moving it off the lot. The way I positioned it is the way I'm currently working with my architect to view the piece of property for the layout that I want to do. It's helpful for me to sit there and look out the window and imagine what I want to do.

Mr. Starace said it would become a site trailer for the construction. In your mind, what would be the construction start date and when would you have something established?

Mr. Surace said ideally, I'm trying to pay off the property this year, and at the same time, try to get my approvals this year. So, after this year, I'll hopefully get that phase done and probably the following season. Two of my restaurants are heavily seasonal so in the off-season, probably the following winter, I would like to start doing construction.

Mrs. Fabiano said so it could be two years that you'll need it.

Mr. Surace said I'm hoping that I can get all that stuff done in a year. Then it could be off the property. Once I get all the approvals for the plans and everything, I don't really want it there. Really I want it there so I could sit there and visually see what I want to do, I have a good idea of what I want to do but I'm still kind of.....

Chairman Maxwell said you'd have to come back if it extends past a year if we approve it.

Mrs. Fabiano said this color is pretty striking. Has anybody else been out there?

Mr. Surace said I thought it was a good color. Can it be painted; yes. I can paint the whole trailer in a day.

Chairman Maxwell asked if there were any more questions from the Board of which there was none and then asked if there was any input from the public of which there was also 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. Starace moved to grant the requested variance for 1-year; seconded by Mrs. Fabiano.

Mrs. Fabiano said has anybody been out there? Did you see it?

Vice-Chairman Aglietti I saw it driving by. The applicant basically said it's something that is a luxury for him. I don't think it really meets variance requirements.

Chairman Maxwell said we've approved trailers for the DEP, the one by the reservoir, for like ten years in a row.

Vice-Chairman Aglietti said I just think that's a different....

Mrs. Fabiano said that's a utility.

Vice-Chairman Aglietti said it just seems.....

Chairman Maxwell said it's a luxury.

Vice-Chairman Aglietti said so I am not for the motion.

Mrs. Fabiano said I would agree that he doesn't really need it. I think if we open this door, we could be putting ourselves in a position where many people will want to do this kind of thing. So, I think since he doesn't really need it and he's open to not having it, then I think I'm against the motion.

Mr. Balzano said I hear what they're saying. I know every case stands on its own but I'm worried about what this message sends.

Mr. John Starace said I stand with mine.

Vice-Chairman Aglietti said so, we vote on the motion to approve.

Chairman Maxwell called for a roll call vote:

- ***Mr. Starace*** ***for the motion to approve the trailer for 1-year***
- ***Mrs. Fabiano*** ***against the motion***
- ***Vice-Chairman Aglietti*** ***against the motion***
- ***Mr. Balzano*** ***against the motion***
- ***Ms. McKeon*** ***for the motion***
- ***Chairman Maxwell*** ***against the motion***

Motion fails [denied].

5. Application of **SHELDON & LORI GINSBERG** for a Variation of Section 156-15 seeking permission to construct new stairs onto front porch which requires a setback variance. The property is located at 795 South Lake Blvd., Mahopac NY and is known as Tax Map #75.43-1-16.

Code Requires/Allows	Provided	Variance Required
Code requires 40 ft. front yard setback	6.5 ft. will be provided. Entire front of house & porch are non-conforming. Existing stairs project into setback; new stairs will closely align with the existing stair being removed.	Setback Variance of 33.5 ft.

- Mr. David Coffin of Sawmill Studio Architecture at 110 Wood Road, Bedford Hills NY was sworn in.

Mr. Coffin said first let me just say that the house and the location, in terms of the setback, is non-conforming to begin with. The house was built in 1850 so there's nothing that we can do about being within the setbacks. Right now, there's a Building Permit for interior renovations. As a result of that, we've relocated the front door from the center of the room, in the center of the house, over to the side where the new stair is going to be located. The reason for that is to improve circulation inside the house and also functionality. The intent, as you can see on the drawing, is to locate the stair right in the corner where the new entrance door is. The original entrance door was over here in the middle of the house. The original stair line runs essentially right along here. The corner of the stair that we're talking about is having the stair wrap around and then the corner projects just a little bit beyond the existing stair. To be on the safe side, that's one of the reasons we're asking for the 6.5.

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

Mr. Coffin said absolutely not. In fact, if you take a look at the photographs that we have on the front page, you'll see that there's really no place to go. Everything is behind an existing brick wall.

Chairman Maxwell said they talked with the neighbors next door?

Mr. Coffin said we did. We sent all of the notifications out.

Chairman Maxwell said any questions from the Board?

Mr. Starace said the slate that's down there; that's staying or being removed?

Mr. Coffin said it is staying.

Mr. Starace said it looks really nice.

Mr. Coffin said it is. In order to connect with the new stairs, we're going to have stone that will connect with the bottom tread.

Mr. Starace said yes; it's tight right there on Route 6.

Mr. Coffin said it is but it's certainly going to improve what happens with the new porch and entrance.

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

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

6. Application of **STEVEN SPADA** for a Variation of Section 156-15 seeking an Area Variance for permission to build a detached accessory structure to be used as storage/workshop. The property is located at 6 Kayla Lane, Mahopac NY and is known as Tax Map #64.6-1-44.

Code Requires/Allows	Provided	Variance Required
40' Front on Hill St.	18'	22'

- Mr. Steven Spada of 6 Kayla Lane was sworn in.

Mr. Spada said I'm simply looking to build a storage shed on my property. Essentially, we just have a lot of storage items like lawn mower, household items, a work bench, various garden tools that I'm looking to store. I get in trouble everyday with my wife because she can't park her car in the garage. My lawn mower is taking up where her car would go. So, we were hoping to just build a storage shed on the property where all those items can go. I have it separate where one side of the storage shed will be items that are kind of dirty from grass, etc. The lawnmower will go on that side where I won't mind it to get dirty and all of that. The other side is for more household items; things I wouldn't want to get dirty. That's the reason for it being divided.

Chairman Maxwell said you're going to have a wall in between?

Mr. Spada said that's correct.

Chairman Maxwell said and two doors?

Mr. Spada said it'll be a wall with two doors whereas one will just be a walk-in door and the other will be enough for the ride-on lawn mower to make its way in. The reason for the location [is because] it actually is in the area that would least impact any of my neighbors. I have one neighbor to the left of me. I obviously sent him the letter but I also texted him to let him know what we're intending to do. He said whatever you've got to do, go ahead. The reason for the variance is because it's right next to Hill Street. Between my house and Hill Street, the area is elevated and with a fence, trees, rocks. Frankly, you won't even see the shed, from Hill Street, once it's built but I understand the purpose of the variance. Where it's located, it will actually be the least intrusive to any of my neighbors. Instead of being in the middle of the yard, it's to the side.

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

Mr. Spada said no; there would not be.

Mrs. Fabiano said where is your septic?

Mr. Spada said it is located in the front yard of the property - immediately in front of the front door and the fields channel out to the left. So, it's nowhere near where this is going to be placed.

Mrs. Fabiano said you have a fence there and I'm not sure if the fence is legal. You have a 6' fence close to Hill Street. That would be a front yard variance, wouldn't it if it's on Hill Street?

Mr. Spada said I went through Campanella Fence so I'm hoping it's legal.

Mrs. Fabiano said it's actually closer than this 18'. What's the setback? Isn't it 40' on the front for a fence?

Mr. Carnazza said a front yard fence can only be 4' tall.

Mrs. Fabiano said this is 6' tall.

Mr. Carnazza said it can be on the line.

Mr. Balzano said absolutely, it can be on the line.

Mrs. Fabiano said alright. It should only be a 4' fence instead of a 6' fence; so, you need a variance for that.

Mr. Carnazza said I'll take a look and I'll let you know.

Mr. Spada said I used Campanella but if I need to appear, I will.

Mrs. Fabiano said why so close; can you pull it in more?

Mr. Spada said the fence or the shed?

Mrs. Fabiano said the shed.

Mr. Spada said there's a playground area for my kids that is located right in front of that. You'll see on the [building] I have windows because I want to be able to see my kids. So, it can't go any further because of the playground right there.

Mr. Starace said are you providing heat in there?

Mr. Spada said no.

Mr. Starace said is it going to have electric?

Mr. Spada said no.

Mrs. Fabiano said plumbing?

Mr. Spada said no.

Mr. Starace said it's premanufactured?

Mr. Spada said I haven't made the decision whether it's going to be premanufactured or just built right on the spot.

Mr. Starace said that's just a rendition then.

Mr. Spada said that's correct.

Chairman Maxwell said who is the architect?

Mr. Spada said the architect is just a family friend. If my variance gets approved, I was then going to find a local..... I guess design and have it be more formally designed and make sure it's structurally sound and all of that.

Mrs. Fabiano said so we can have it conditioned that there will be no plumbing in it.

Mr. Spada said sure.

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 Mr. Balzano.

Mrs. Fabiano said I wanted no plumbing as a condition of that.

Chairman Maxwell said (to Vice-Chairman Aglietti) will you add that condition?

Vice-Chairman Aglietti said surely.

Mr. Balzano said I'll second that.

All were in favor by responding 'aye'.

Granted.

Vice-Chairman Aglietti moved to close the meeting; seconded by Ms. McKeon with all in favor.

By Order of the Chairman,

John Maxwell