

APPROVED

JOHN MAXWELL
Chairman

PHILIP AGLIETTI
Vice-Chairman

TOWN OF CARMEL ZONING BOARD OF APPEALS



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Director of Code
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BOARD MEMBERS
ROSE FABIANO
SILVIO BALZANO
JOHN STARACE
JULIE MCKEON

ZONING BOARD OF APPEALS MINUTES

JULY 27, 2023

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

ABSENT: JULIE MCKEON

<u>APPLICANT</u>	<u>TAX MAP #</u>	<u>PAGE</u>	<u>ACTION OF THE BOARD</u>
Frank Giordano	55.6-1-68	1	Hold Over
Bore Cotaj	76.30-1-5	1	Hold Over
William & Joy Bloomer	76.22-1-12	1 – 3	Granted Requested Variances
Sargis Mirza	55.-2-66	3 – 6	Granted Requested Variance
Dany & Doris Avila	74.35-1-2	6 – 7	Granted Requested Variance
Thomas Simone	75.44-1-32	7 – 9	Granted Requested Variance
Liz & Pat Martin	74.12-2-56	9 – 13	Hold Over
John Chang	76.30-1-26	13 – 14	Hold Over
Nikolle Smajlaj	77.13-2-44	15 – 17	Granted Requested Variance
Minutes: June 22, 2023		17	Approved as Written

The meeting was adjourned at 8:25 p.m.

Respectfully submitted,
Dawn M. Andren

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HOLD OVER APPLICATIONS:

1. Application of **FRANK GIORDANO** for an Interpretation of Section 156-15. Applicant seeks interpretation that the apartment above garage is legally pre-dated, or in the alternative, a Use Variance to permit same to continue. The property is located at 23 Seminary Hill Road, Carmel NY and is known as Tax Map #55.6-1-68.
 - Mr. Frank J. Smith, III, Esq. requested a holdover to the September meeting on behalf of his client, Frank Giordano due to current smaller Board and unavailability to represent by either Mr. Smith or Mr. Shilling for the August meeting.

Vice-Chairman Aglietti moved to hold this application over to the September ZBA meeting; seconded by Mr. Balzano with all in favor.

2. Application of **BORE COTAJ** for an Interpretation of Section 156-15. Applicant owns the parcel upon which the temporary dock is located and a parcel improved by at least one residential dwelling unit which is directly across the street but separated by a road (i.e. East Lake Blvd.). Applicant seeks an interpretation that the intent of the statute (i.e. a dock when not located on a parcel improved by at least one residential unit) is met under the circumstances set forth herein or, in the alternative, the following area variances (table below). The property is located at 148 East Lake Blvd., Mahopac NY and is known as Tax Map #76.30-1-5.
 - Mr. Frank J. Smith, III, Esq. requested a holdover to the September meeting on behalf of his client, Bore Cotaj due to current smaller Board and unavailability to represent by either Mr. Smith or Mr. Shilling for the August meeting.

Mr. Carnazza asked if the dock was being utilized. Chairman Maxwell said he looked at it and it looked unsafe. Mr. Smith promised to speak to his client first thing in the morning to ensure it's not being utilized due to safety issues.

Vice-Chairman Aglietti moved to hold this application over to the September ZBA meeting; seconded by Mr. Balzano with all in favor.

NEW APPLICATIONS:

3. Application of **WILLIAM & JOY BLOOMER** for a Variation of Section 156-15 seeking a Variance for permission to retain 1 shed and a pergola. The property is located at 188 East Lake Blvd., Mahopac, NY and is known as Tax Map #76.22-1-12.

Code Requires/Allows	Provided	Variance Required
10' (shed)	2.7'	7.3'

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10' (pergola)	3.1'	6.9'
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- Mr. William Bloomer & Mrs. Mary Joy Bloomer of 40 Greenfield Road, Mahopac were sworn in.

Mrs. Bloomer said we need a variance for the pergola and the shed. We're not 10' from the neighbors' property line.

Chairman Maxwell said were you served or did someone call?

Mrs. Bloomer said we got a letter.

Chairman Maxwell said how long have they both been there?

Mrs. Bloomer said we bought the property in 1963 but the property that the pergola and the shed are on were purchased later and the shed was already there by the previous owner.

Chairman Maxwell said how long ago was that?

Mrs. Bloomer said maybe 1976 or something like that.

Chairman Maxwell said so the shed was there the whole time?

Mrs. Bloomer said yes.

Chairman Maxwell said what about the pergola?

Mrs. Bloomer said the pergola we put up afterwards.

Chairman Maxwell said what year was that built in?

Mrs. Bloomer said I would say maybe four years ago.

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

Mrs. Bloomer said no.

Chairman Maxwell said did you talk with your neighbors at all?

Mrs. Bloomer said we always talk with our neighbors. They have the same situation.

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

Mrs. Bloomer said no.

Chairman Maxwell said you're land-locked and lake-locked there. I was out there the other night. They're beautiful structures – both of them. I'm sure of the fact that they're pleasing to the eye to your neighbors, no one would complain about it. At this point, I'll open it up to the Board Members (no comments).

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Chairman Maxwell asked if there was anybody in the public that wished to speak on this application of which there was none.

Vice-Chairman Aglietti 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 variances; seconded by Vice-Chairman Aglietti with all in favor.

4. Application of **SARGIS MIRZA** for a Variation of Section 156-15 seeking a Variance for permission to erect one story two-car garage. The property is located at 19 Brookview Drive, Carmel NY and is known as Tax Map #55.-2-66.

Code Requires/Allows	Provided	Variance Required
20' Side	13.8'	6.2'

- Mr. Sargis Mirza of 19 Brookview Drive, Carmel was sworn in.

Chairman Maxwell said you already have a garage there as part of the house – correct?

Mr. Mirza said yes; as part of the house.

Chairman Maxwell said what's the reason for the additional garage?

Mr. Mirza said I have quite a few cars that I'd like to bring to one location at the house.

Chairman Maxwell said are you a collector?

Mr. Mirza said I'm just a car enthusiast.

Chairman Maxwell said so you work on cars?

Mr. Mirza said I really don't work on them too much. It's more for storage purposes; oil & brakes but I'm not building cars.

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

Mr. Mirza said no.

Chairman Maxwell said could you move this? It's not built yet so could this be moved to minimize or mitigate the amount of variance that you're looking for?

Mr. Mirza said it could be moved but I'd like to coincide with the driveway that's going up to the house. That way, if it's straight, I can just continue up the driveway as opposed to having it in the middle of the yard and having to turn into it at that point.

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Chairman Maxwell said I see. It makes sense. So, you're going to add the driveway to that portion and connect it.

Mr. Mirza said correct.

Chairman Maxwell said that makes sense.

Mr. Balzano said it does considering the slant of the driveway.

Chairman Maxwell said have you talked with your neighbors about this?

Mr. Mirza said my direct neighbor is all for it. She said it's no problem.

Mr. Starace said the bottom is over 600 square feet. How many cars do you fit in there?

Mr. Mirza said I should be able to fit four cars because I'm going to put two lifts in because I have another four cars.

Mr. Starace said so you're going to have the height to lift cars up and park underneath?

Mr. Mirza said correct.

Mr. Starace said so you can do six cars in there?

Mr. Mirza said only four; the other space is just for my tools and whatever else I have.

Mr. Starace said transient space.

Mr. Mirza said correct.

Mr. Carnazza said are you going to have three bay doors on the front?

Mr. Mirza said no; only two bays and one door to get in. That's it.

Mr. Starace said is that going to be a mason garage or is that going to be wood?

Mr. Mirza said it's going to be a concrete foundation 4' high and then wood portion will be attached to concrete. It's a pre-fab.

Chairman Maxwell said it looks like it's blocks up grade and 4' above grade and wood framing above that.

Mr. Mirza said correct.

Mr. Starace said the electric is underground going to there?

Mr. Mirza said it will be; yes.

Chairman Maxwell said no plumbing – right?

Mr. Mirza said no plumbing.

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Mrs. Fabiano said I'm very aware of that whole development. I watched it all go up when I was on the Architectural Review Board. It's a very beautiful neighborhood; probably one of the nicest in Carmel. So, I drove around a little bit and noticed there are no other detached garages. You would be the only one.

Mr. Mirza said probably. There are sheds but no garages.

Mrs. Fabiano said do you plan to park commercial vehicles there?

Mr. Mirza said absolutely not.

Mrs. Fabiano said it kind of looks commercial to me in some ways. Does your community have restrictions?

Mr. Mirza said not that I'm aware of.

Mrs. Fabiano said it's kind of inconsistent with the neighborhood – this structure.

Mr. Mirza said it may be but I can actually conform it to the variance if I had to but like I've said, I have quite a few cars, and I'd like them to be home. I don't want to drive everywhere to get them.

Mrs. Fabiano said and you're not using it for commercial purposes?

Mr. Mirza said absolutely not. It's not a business. It's not for commercial use or anything like that. It's just to store my cars.

Mrs. Fabiano said what kind of cars do you have?

Mr. Mirza said I have a couple of '68 Camaros. I have a twin turbo '78 Malibu. I have an '88 Mustang.

Chairman Maxwell said some classics.

Mr. Mirza said it's an expensive hobby.

Mrs. Fabiano said I'm sure it is. Where do you have them now?

Mr. Mirza said I have a couple in the garage now. I have one in a warehouse in Queens. I have another one in a trailer in Connecticut. They're kind of all over the place.

Mrs. Fabiano said and your neighbors know what's going on?

Mr. Mirza said my neighbors know. I don't make any noise with what I have. I'm very considerate. I'm very friendly with my neighbors. I help them out if they need something. So, I understand the neighborhood and what's there.

Mrs. Fabiano said there's nothing like that. It's beautiful – that neighborhood.

Mr. Mirza said I'm not going to do anything. I just want to have them close to home.

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

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

Decision of the Board:

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

5. Application of **DANY & DORIS AVILA** for a Variation of Section 156-15 seeking a Variance for permission to add room where existing deck is. The property is located at 94 Entrance Way, Mahopac NY and is known as Tax Map #74.35-1-2.

Code Requires/Allows	Provided	Variance Required
15' rear	11.2'	3.8'

- Mr. Dany Avila of 94 Entrance Way, Mahopac was sworn in.

Chairman Maxwell said I was out there the other night. It looks like you're basically just closing this in. Did you not know that you needed a variance for this originally?

Mr. Avila said we just want to close in the room to the house. I asked and was told I needed a variance.

Chairman Maxwell said there's a roof there now. I don't know if it's been inspected or what. There's a shed there now but there is some kind of roof structure.

Mr. Carnazza said yes; they didn't build this addition yet.

Chairman Maxwell said there's a roof over it.

Mr. Carnazza said that's a porch though – isn't it.

Mr. Avila said yes. We bought it like that.

Vice-Chairman Aglietti said he wants to enclose it.

Chairman Maxwell said okay; outside of the footprint of this thing, are you still going to have a small deck?

Mr. Avila said yes; a small deck to go to the patio.

Chairman Maxwell said according to the plans.

Mr. Avila said yes; according to the plans.

Chairman Maxwell said is there any land you can purchase to make this conform?

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Mr. Avila said no. I don't think.....

Chairman Maxwell said your neighbors have all the land next to you.

Mr. Avila said I don't think they want to sell us any.

Chairman Maxwell said you spoke with your neighbors about this; does anybody have any concerns or issues?

Mr. Avila said no. I talked with my neighbor in the back and he said it's fine.

Chairman Maxwell said you have a nice screened solid fence between you guys.

Mrs. Fabiano said so you're staying within the footprint of the deck as it exists right now?

Mr. Avila said yes. The deck is going to be the same.

Mrs. Fabiano said so the deck - you're going to have an enclosed area & the deck and that's going to be in the same footprint?

Mr. Avila said yes.

Chairman Maxwell said are you doing the work yourself?

Mr. Avila said most of the time but I have a lot of friends. Do I need a contractor?

Mr. Carnazza said you're allowed to work at your own house. Contractors that work at your house have to be licensed.

Chairman Maxwell asked if there was anyone in the public wishing to speak on this application of which there was none.

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

6. Application of **THOMAS SIMONE** for a Variation of Section 156-15 seeking a Variance for permission to install shed onto waterfront property without a principal structure. The property is located at 879 South Lake Blvd., Mahopac NY and is known as Tax Map #75.44-1-32.

Code Requires/Allows	Provided	Variance Required
10' side	1'	9'

- Mr. Thomas Simone of 155 Buckshollow Road, Mahopac NY was sworn in.

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Mr. Simone said if you look at Route 6N, my property has a row of arborvitaes that I planted years ago. I also have two beautiful flowering pears on each end of that. That's my property and it's across the street from Route 6N and Clark Place. You're not going to see this shed just so you know. It's not going to be visible to the public. It's on a footprint that my dad put an old shed on a long time ago but it was in such disrepair that I took it down. I'm not saying I'm replacing a shed but that's where the old one was, and it's a perfect spot for me to put this one. I've been using it for a patio for the furniture but I have so much stuff around the property now, it has to be cleaned up. So, everything is going in a shed. My neighbors are on board – big time on this because they've been asking me to put a shed up for years.

Chairman Maxwell said there's a little vinyl shed that's there now. Is that going to be removed?

Mr. Simone said yes. That's going. I want all of that out of there. It's all going.

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

Mr. Simone said no. It's going to butt up against my neighbor's shed. It's in a good spot. You're not going to see it.

Chairman Maxwell said the fact that you have that hedge row there really helps you out here.

Mr. Simone said yes; you're not going to see it at all.

Chairman Maxwell said can we bring it in a little bit instead of 1', can we.....

Mr. Simone said I could do whatever I want but my neighbor's shed is up against his post. He didn't need room on the fence side to do anything. I don't need it so I'll just put it up against the fence. That's where the old one was, I'll just leave it there.

Chairman Maxwell said it's a tight spot anyway so to maximize the rest of the property, it makes sense.

Mr. Simone said the property is 50' x 60'. When you walk in the gate, you make a left and it's up in the corner. It's out of the way. Nobody is going to see it.

Mr. Starace said it'll line up with your neighbor to the west. What size is their shed? Do you know?

Mr. Simone said their shed is either 8' x 10' or 10' x 10'.

Mr. Starace said and you're going to put 10' x 16' up.

Mr. Simone said I'll put a 12' x 16' but his property is very small. I have the third largest piece on South Lake Blvd. that's without a home.

Mr. Starace said on the survey or site plan, your shed looks a lot smaller than his.

Mr. Simone said and Mike [Carnazza] actually drew it to scale if you want to look at this one but yours should be to scale.

Mr. Balzano said we have that one.

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Chairman Maxwell asked the remaining Board Members and the public if there were any questions or concerns on this application of which there were none.

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

Decision of the Board:

Mr. Balzano moved to grant the requested variance with the condition that the existing vinyl shed is removed; seconded by Vice-Chairman Aglietti with all in favor.

7. Application of **LIZ & PAT MARTIN** for a Variation of Section 156-15 seeking a Variance for permission to relocate accessory apartment (no setback variance needed). The property is located at 151 Secor Road, Mahopac NY and is known as Tax Map #74.12-2-56.

Code Requires/Allows	Provided	Variance Required
Single Family House w/accessory apt can be detached if existing prior to 1998.	Separate cottage as an accessory apartment being relocated	To relocate accessory apt./cottage, therefore, not existing prior to 1998.

- Mr. Joel Greenberg, Architectural Designs at 2 Muscoot Road North, Mahopac representing the applicant was sworn in.

Mr. Greenberg said this is the main house on the property on Secor Road. You can see in the back here, that's the cottage that we want to move. Here's a picture of it. We did a floor plan of the new cottage and they have added a garage to one side of the new cottage because there's no garage on the property at all. Again, we're just reconstructing the accessory apartment. The house, of course, is going to remain the same. There are two separate septic systems so there's no problem with sewage because the amount of bedrooms stays exactly the same. That's basically it.

Chairman Maxwell said Mike [Carnazza] this was referred to us because it's a decision beyond the 1998....

Mr. Carnazza said yes because the 1998 decision had a condition in it. What was that condition; something for mother/daughter I think? Didn't it have to be that family had to live in the back apartment?

Mr. Greenberg said yes actually; but what happened is that Liz's sister lived in that cottage. Unfortunately, she passed away a few months ago.

Mr. Carnazza said the new Code allows an accessory apartment in a detached structure provided it was legal as of 1998. Now; if they take down that structure and move it, that's not existing as of 1998. That's why they're here.

Chairman Maxwell said okay. So, unless, of course, it's a family member that's moving in there. Does that still hold true?

Mr. Carnazza said there's not a family member in it now so I guess.....right?

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Mr. Greenberg said there's no one in there now; it's empty.

Mr. Carnazza said their intention is to rent it. That's why they're making it an accessory.

Mr. Greenberg said right. There's also a good possibility that one of their sons might move into the cottage but there's no guarantee. Basically, the use of the property is exactly the same except we're moving the accessory apartment over.

Chairman Maxwell said I get it but it's not 1998 at this point.

Mr. Carnazza said how big is the dwelling unit because it's only allowed to be up to 900 square feet as an accessory.

Mr. Greenberg said it's 900 or less. That's what's permitted in the Code.

Mrs. Fabiano said it's advertised as a cottage; one and a half stories; garage, deck, dining room, living room, kitchen, two-bedroom, two full bath. I don't see cottage when I look at this. This almost looks bigger than the existing structure.

Mr. Greenberg said not even close. Here's the existing house which is a full two stories and this is the cottage which is less than half the size.

Mrs. Fabiano said this is going away.

Mr. Greenberg said again; all we want to do is move it. Eventually, in the future, they'll let the son move into their house and Liz and Pat will move into the cottage.

Mrs. Fabiano said I don't see this as a cottage. I asked Michael do we have a definition of cottage, and he said we didn't. So, I looked in the dictionary, and it says a simple house. To me, this is not a simple house. I think I did the calculation correctly and the acreage is .81 which is not even an acre, and you're putting two houses.....

Mr. Greenberg said there's been two houses on there almost forever.

Mrs. Fabiano said what's the square footage of the existing cottage?

Mr. Greenberg said it's probably in the neighborhood between 700 and 750 [s.f.]. The new house will be 900 s.f. which is allowed by Code. We're not doing anything against the Code. All we're doing is.....

Mrs. Fabiano said the two floors equal 900 square feet?

Mr. Greenberg said yes. You can see the plans here.

Mrs. Fabiano said do you have the measurements?

Chairman Maxwell said the square footage calculations?

Mrs. Fabiano said this looks way bigger. I'm only one Board Member but this to me is a good size house.

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Mr. Greenberg said as Mr. Carnazza said the Code allows up to 900 square feet and we will not do more than 900 square feet plus the garage. I don't see what the concern is.

Vice-Chairman Aglietti said the plans you gave us don't have a scale.

Mr. Starace said there's a scale on there. 1" equals 20'.

Mr. Greenberg said this has been reduced. It's not to scale.

Mrs. Fabiano said so each floor would be 450 square feet?

Mr. Greenberg said no. These are just dormers in the attic. It's not a full second floor.

Mrs. Fabiano said so it'd be what?

Mr. Carnazza said where it says low attic doesn't count. The hall and the stairs do not count. The rest of it counts.

Mr. Balzano said so it's not about the footprint. It's about the livable space.

Mr. Carnazza said it's about the square footage of living area.

Mrs. Fabiano said do they need a garage?

Mr. Greenberg said I don't see a reason why somebody can't have a garage on their property.

Mrs. Fabiano said because it's a small lot. It's not even an acre and you're putting two houses on less than an acre.

Mr. Greenberg said there's been two houses on there as long as I can think. We're not changing that.

Mrs. Fabiano said the existing cottage doesn't have a garage does it?

Mr. Greenberg said no.

Mrs. Fabiano said I'm one person.

Chairman Maxwell said Mike [Carnazza], could this not renovate the existing structure as long as it didn't exceed 900 square feet?

Mr. Carnazza said yes; or two bedrooms or any of the other requirements.

Chairman Maxwell said so that's an option here, Mr. Greenberg, that's probably less costly in my mind.

Mr. Greenberg said the other reason they want to move it is because right now the accessory apartment is right back here. They just want to move it over. It meets all of the setback requirements.

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Chairman Maxwell said fortunately back in 1998, they were covered. Now you're taking this whole structure, raising it and relocating it. This opens 'Pandora's Box' for many other situations that are like this.

Mrs. Fabiano said it looks like it's much bigger than the footprint of the existing cottage too.

Mr. Starace said yes.

Mr. Greenberg said I'm not denying that.

Mrs. Fabiano said it is bigger than the existing footprint.

Mr. Greenberg said but we're allowed 900 square feet.

Mrs. Fabiano said what did you say was the existing.....

Vice-Chairman Aglietti said it's not allowed though. It's not 1998 anymore.

Mr. Greenberg said ask Mr. Carnazza. If there's a free-standing, accessory apartment, you're allowed up to 900 square feet?

Mr. Carnazza said that's correct but you take it down, it's no longer that structure. That's why you're here.

Mr. Greenberg said to answer Vice-Chairman Aglietti's question, if I rebuild it, aren't I allowed to go up to 900 square feet? Can I do that? Can the new structure be 900 square feet?

Mr. Carnazza said the new structure can't be 1 square foot by Code.

Mr. Balzano said does it need an area variance for that too then?

Mr. Carnazza said no.

Mr. Balzano said no?

Mr. Carnazza said the Code says you can put an accessory structure in the main house or an existing accessory structure that existed lawfully at the time of the adoption of this chapter. 1998 is when that law went into effect so, anything that was legally there in 1998 can be converted to an accessory apartment but you had to meet all the criteria.

Mr. Balzano said but it's not.

Mr. Carnazza said now, they chopped this building down; it's gone. Now, a new building that is going in is not an existing structure. That's why they're here.

Mr. Charbonneau said so the Board is basically applying the area of criteria to the 1998 (inaudible). It's an interesting scenario. Mr. Greenberg is correct as long as the footprint the footprint can be greater but it's up to the Board whether or not it meets the criteria for an area variance when you are relocating, essentially, the existing cottage.

Vice-Chairman Aglietti said if I'm looking at definitions, accessory dwelling unit or accessory apartment, it says that a dwelling unit is defined in this chapter which is subordinate to and located

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within an existing single-family dwelling or existing accessory building. This is not located within. This is located without. That's two so it's four to two which maybe you've got that but the "and" makes it also within an existing single-family dwelling. This is not.

Mr. Carnazza said if you go to section 156-45 (1), the Building Inspector shall issue a permit.....there shall be only one accessory dwelling unit and it shall be located either in the existing single-family dwelling or in an existing accessory building provided the accessory building was constructed and is existing in accordance with this chapter and all other applicable regulations.

Mr. Starace said so it should stay where it is.

Chairman Maxwell said that's to my point. Why put the money and effort into renovating what you have where you can expand the square footage of what it is now. It'll probably cost you a heck of a lot less than what a new building is going to cost plus the driveways and all the accessory renovations that would need to take place. In my mind, that makes the most sense.

Mr. Greenberg said why don't we hold the case over and let me speak to my clients, and see if they are willing to go your route.

Chairman Maxwell said I think that's a better way because you're going to open a can of worms here if we approve this. I'm one of five.

Vice-Chairman Aglietti said your can of worms might not be approved.

Mr. Greenberg said I sent in two letters from the neighbors stating that they have no objection.

Mr. Balzano said we have them. For the record: Mr. & Mrs. Raul DeSinchi & Mr. & Mrs. Julio Rosado.

Chairman Maxwell said if there is anyone from the public wishing to speak before we hold it over, please come up (none).

Vice-Chairman Aglietti moved to hold over this application; seconded by Mr. Balzano with all in favor.

8. Application of **JOHN CHANG** for a Variation of Section 156-15 seeking a Variance for permission to retain church on 2nd floor. The property is located at 716 Route 6, Mahopac NY and is known as Tax Map #76.30-1-26.

Code Requires/Allows	Provided	Variance Required
1 space/200 sf – Deli		
23/07/100 = 12 ps		
1 ps/3 seats – church		
32 seats/3 = 11 ps		

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Total 23 ps	18 ps	5 ps
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- Mr. Joel Greenberg, Architectural Designs at 2 Muscoot Road North, Mahopac representing the applicant was sworn in.

Mr. Greenberg stated this has been before the Planning Board several times and what happened is there were offices upstairs on the second floor which is, obviously, up over here. Unfortunately, and for whatever reason, they couldn't be rented. So, I guess this small church decided they would take the space, and they received a violation. We went to the Planning Board to adjudicate that. A couple of things that will make the variance not quite as onerous as one might think: the church and the deli will never be open at the same time. Services are only Wednesdays and Sundays in the evening. The Deli is closed at that time. So, if you take away that, there's enough parking, legally, to meet the Deli requirements which needs 11 spaces and the church would be 12 spaces. Again; they're not open at the same time. Also, we have an agreement that the Church will never have more than 25 parishioners at one time.

Chairman Maxwell said how did we determine there are 32 seats?

Mr. Greenberg said it goes by square footage and the pews are fixed. That's how we came up with that square footage and the pews.

Chairman Maxwell said I was out there the other night and my question to you is that it looks like there are some other areas where some spots can be created. For instance: where you pull ahead next to the handicap spot, there's dumpster there so not there, but at the triangle piece that has a couple bollards in it right now. Could a spot be created there? Also; in the front, there's some pavers that are used for a picnic area. It looks like you can get two spots out of that. In addition, I didn't have a tape measure with me but my size 10 shoe is usually 12", I counted almost 10' wide spots. Could you not restripe it and look for a variance to minimize the size of the parking? Mike [Carnazza], I don't know if that's an option. As a Board, we've approved 9' wide parking spots and it looks like they were pretty wide. You probably could get one or two more spots out of restriping alone, and then maybe create a couple additional spots.

Mr. Greenberg said why don't we hold it over and look into it. I know you've approved 9' parking spaces before. If we do 9' spaces, maybe we can gain a couple spaces and go down to a 2-space variance [needed].

Chairman Maxwell said I'm just thinking out loud. I'm one of five Board Members here and would like to hear what other Board Members have to say.

Vice-Chairman Aglietti said I'm actually okay with the variance as it is but I appreciate you trying to help us out.

Mr. Balzano said I think it's a good Solomon-esque type solution to this.

Chairman Maxwell said so you want to hold this over? Our job is to grant the minimal possible so let's look into that. Does anybody in the public wish to be heard on this application?

Vice-Chairman Aglietti moved to holdover this application; seconded by Mr. Balzano with all in favor.

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9. Application of **NIKOLLE SMAJLAJ** for a Variation of Section 156-15 seeking a Variance for permission to retain existing free-standing garage. The property is located at 579 Croton Falls Road, Carmel NY and is known as Tax Map #77.13-2-44.

Code Requires/Allow	Provided	Variance Required
Rear Yard – 15’	0’	15’
Front Yard – 40’ (Munich Road)	37’	3’

- Mr. Joel Greenberg, Architectural Designs at 2 Muscoot Road North, Mahopac representing the applicant was sworn in.

Mr. Greenberg stated as you can see from the survey, this is the garage right over here. As you can also see, it's right on the property line. If you've gone out to the property, you'd see the front of the garage faces Croton Falls Road. If you go to the back [toward Munich Road] and you look at the grading here, the garage is basically buried. We've had some conversations with this gentleman over here (pointing to map) whose house is over here. Again; if you go out to Munich Road, the grade keeps going up and up and up so that this gentleman's house is quite a bit higher than my client's house.

Chairman Maxwell said he's a corner lot so he's got two frontages.

Mr. Greenberg said yes. Again, the reason the variances are the way they are is because we have two front's and two rears. There's no side yards in this case.

Chairman Maxwell said how long has the garage been there for?

Mr. Starace said it looks decrepit.

Mr. Greenberg said [to Mr. Carnazza] do you have any idea? I don't know.

Mr. Balzano said it looks like it's been there a while.

Chairman Maxwell said it looks like some renovations are going on. This whole property is puzzling to me. It looks like the garage, that was attached to the house, is now sunken and the land is sunken. He's got some vineyards or something going on there? Yes; it looks like the garage is in disrepair or half repaired?

Mr. Greenberg said actually, it was under construction when it got the violation. So, it's on its way but

Chairman Maxwell said so you've talked with the neighbors on either side?

Mr. Greenberg approached the dais to hand out a letter and said we're passing out a letter from the neighbor basically saying that he has no objection to the garage being on the property line. Again, as I'd mentioned, his house is at a much higher elevation and the back of his [Mr. Smajlaj's] garage is almost completely buried so all that you can see is the triangle of the top of the roof. He also wrote a letter for us indicating that he has no objection to the garage staying where it is. That's the

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neighbor to the right. Because you have these two roads converging, he's basically the only neighbor.

Mr. Balzano said that goes a long way.

Chairman Maxwell said if this gets approved, is this thing going to get completed?

Mr. Greenberg said absolutely; after we get a Building Permit.

Mrs. Fabiano said when I drove by, it almost looked like the back part of the garage – the roof – was on the other person's property. Have they had it surveyed because you're saying it's a 0'.

Mr. Greenberg said yes. This is an actual survey which was just done maybe a month or so ago. It was very accurate.

Mrs. Fabiano said it did look like it was, potentially, sitting on the other person's property.

Mr. Greenberg said no. There's only one portion of the garage that sits on the property line. The other section, I think, is like .4' inside the property line.

Mrs. Fabiano said I guess there's no way to bring that side of the roof in more, is there?

Mr. Greenberg said you probably didn't go inside it but this thing is built like a fortress. This is all poured concrete up to here, concrete block, ...

Mrs. Fabiano said I think it's the overhang.

Mr. Carnazza said she's talking about the eave.

Mrs. Fabiano said the overhang of the roof. Isn't that what's causing the problem or is it the actual structure itself?

Mr. Carnazza said survey says to the wall of the structure.

Mrs. Fabiano said to the wall of the structure. So, you don't worry about that overhang?

Mr. Carnazza said it doesn't count for zoning but if I owned the property next door and it was overhanging on my property, I'd have an issue with it.

Mrs. Fabiano said that's what I would think but he doesn't.

Mr. Carnazza said but in zoning, if you read the Code, it says eaves do not count as long as they're up to 3' or whatever. This is well under that.

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

Mr. Greenberg said absolutely none. Also; there is a stream along Croton Falls Road that goes all along here so there's really just this small area as far as being buildable.

Mr. Balzano said there's a wetland setback there.

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Chairman Maxwell said I'm serious about my pondering. Are there vineyards? Is that what those hedgerows are? I see an older man working on that property all day long.

Mr. Greenberg said that's the owner of the house. Yes; a lot of landscaping; a lot of trees along Croton Falls Road and then there's the stream. I don't think we'd be allowed to put any structures over here.

Chairman Maxwell said it's a tough one because he built it already and it's as solid as it is. To make him raise this thing would be costly.

Mr. Balzano said plus the way he's built the land up with all the retaining walls; where do you go from there.

Chairman Maxwell said yes. Does anybody in the public wish to be heard on this application (none)?

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

Decision of the Board:

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

MISCELLANEOUS:

MINUTES:

- June 22, 2023

Vice-Chairman Aglietti moved to accept the June 22nd minutes as written; seconded by Mrs. Fabiano with all in favor.

Vice-Chairman Aglietti moved to adjourn the meeting; seconded by Mr. Balzano with all in favor.

By Order of the Chairman,

John Maxwell