

# APPROVED

JOHN MAXWELL  
Chairman

PHILIP AGLIETTI  
Vice-Chairman

## TOWN OF CARMEL ZONING BOARD OF APPEALS



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MICHAEL CARNAZZA  
Director of Code  
Enforcement

**BOARD MEMBERS**  
ROSE FABIANO  
SILVIO BALZANO  
JOHN STARACE  
JULIE MCKEON

## ZONING BOARD OF APPEALS MINUTES

### AUGUST 31, 2023

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

**ABSENT:** JOHN STARACE

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<b><u>APPLICANT</u></b>	<b><u>TAX MAP #</u></b>	<b><u>PAGE</u></b>	<b><u>ACTION OF THE BOARD</u></b>
Liz & Pat Martin	74.12-2-56	1	Hold Over
John Chang	76.30-1-26	1 – 3	Hold Over
Patrick Vetere	74.43-1-18.1	3 – 4	Granted Requested Variance
Thomas McKenna	64.17-1-46	4 – 5	Granted Requested Variance
Lori Desetto	76.8-1-19	5 – 6	Granted Requested Variance
Marc Pekowsky	75.13-1-37	6 – 7	Granted Requested Variance w/cond.
Carl & Anita Albano	55.14-1-26.324	7 – 11	Hold Over
Christopher Graham	76.6-1-4	11 – 12	Granted Requested Variance
Robert Altero	53.12-1-17	12 – 15	Hold Over
Matthew Simon	74.12-1-18	15 – 17	Granted Requested Variance
John Cicerale	43.-1-53	17 – 23	Interpretation Granted
Minutes:	July 27, 2023	24	Approved as Written

The meeting was adjourned at 8:47 p.m.

Respectfully submitted,  
Dawn M. Andren

**approved**

## **HOLD OVER APPLICATIONS:**

1. 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.

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

Chairman Maxwell indicated that this application had requested a holdover.

***Vice-Chairman Aglietti moved to holdover this application; seconded by Ms. McKeon with all in favor.***

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

<b>Code Requires/Allows</b>	<b>Provided</b>	<b>Variance Required</b>
<b>1 space/200 sf – Deli</b>		
<b>23/07/100 = 12 ps</b>		
<b>1 ps/3 seats – church</b>		
<b>32 seats/3 = 11 ps</b>		
<b>Total 23 ps</b>	<b>18 ps</b>	<b>5 ps</b>

- Mr. Martin Stejskal (Architectural Visions) of 34 Linda Lane, Bethel CT representing the applicant was sworn in.

Mr. Stejskal stated that Mr. Joel Greenberg was unable to be here this evening due to a family emergency. Joel has come back and he has revised the site plan to reduce the variance from five parking spaces to three. He's rearranged the parking to allow for two more parking spaces. We have 20 provided where we're required to have 23.

Chairman Maxwell said yes; that was kind of my recommendation last month.

Mr. Stejskal said right. He said based on the discussions of the Board last month, he tried to rearrange it to allow for more parking.

## **approved**

Chairman Maxwell said I don't see that was amended because on the publication that went out, it says five parking spots and now you've reduced it down to three. We probably have to revise the original application. I'll open it up to the Board Members since we knew this case from last month.

Mrs. Fabiano said we had talked about reducing the size of the parking spaces from 10' to 9' [wide]. Do you know anything about whether he wanted to do it or didn't want to restripe, etc.?

Mr. Stejskal said I'm not sure but he was able to create 20 parking spaces there where we had 18 before.

Mrs. Fabiano said I don't think he's gone for a variance to reduce the size so I guess they just don't want to restripe?

Mr. Stejskal said I'm not sure.

Mr. Balzano said then how does he get two more spots in?

Mr. Stejskal said we'll be restriping anyway. So, you want to make sure they are 9' and ask for a variance?

Mrs. Fabiano said I thought that's what he was going to think about.

Mr. Balzano said yes; he did Rose.

Mrs. Fabiano said unless it just didn't make sense; maybe he wasn't gaining anymore from it. If you were to take 1' off of all those, would that give you anymore?

Mr. Carnazza said you'd need ten spots in a row to gain a spot.

Mr. Stejskal said right; so, we've only got eight here including the handicap so we wouldn't be able to gain any here.

Mr. Carnazza said if you take 1' from each one – nine spots, you get the extra spot.

Mr. Balzano said Julie's right, at the side over there.

Mrs. Fabiano said the side, he probably could've restriped that to nine.

Mr. Stejskal said I think that's where he got the extra spots. So, he's restriping it to get the extra spots. Maybe he went to 9'.

Mr. Carnazza said if he did, he needs a variance.

Mr. Balzano said it says it on the plan, 9' x 20' so he did go to 9'.

Mrs. Fabiano said so he did unless it already was 9'.

Mr. Carnazza said it was not.

Mr. Balzano said there would have been an existing variance on that; I would hope.

**approved**

Mr. Carnazza said it needs to be re-noticed with the additional variance.

Mrs. Fabiano said okay; so, he has to come back.

Mr. Balzano said one more time; the only thing you have to do is correct the paperwork.

Mr. Stejskal said okay; are you all good with this?

Vice-Chairman Aglietti said I think we're all good with that.

Chairman Maxwell said it's got to be advertised properly.

***Vice-Chairman Aglietti moved to hold over this application; seconded by Mrs. Fabiano with all in favor.***

## **NEW APPLICATIONS:**

3. Application of **PATRICK VETERE** for a Variation of Section 156-15 seeking a Variance for permission to construct a deck in the rear of property. The property is located at 56 Entrance Way, Mahopac NY and is known as Tax Map #74.43-1-18.1.

<b>Code Requires/Allows</b>	<b>Provided</b>	<b>Variance Required</b>
<b>15'</b>	<b>11.7'</b>	<b>3.3'</b>

➤ Mr. Patrick Vetere of 56 Entrance Way was sworn in.

Mr. Vetere stated my yard is on a hill so there's really no flat area for anything. There's an existing structure there that's just kind of a step down but you can't put anything on it. So, we're trying to have family parties and with the kids and stuff, there's really no place to do anything outside. So, we want to put in a deck so we can have some tables and chairs outside where we can eat and things like that.

Chairman Maxwell said is there going to be a railing around it?

Mr. Vetere said yes; there's going to be a railing.

Chairman Maxwell said I was out there the other night. It looks like you have a boulder and a stump. Are you going to be able to clear that with room to get around?

Mr. Vetere said yes.

Chairman Maxwell said have you talked with your neighbors?

Mr. Vetere said yes.

**approved**

Chairman Maxwell said no issues or concerns?

Mr. Vetere said no.

Chairman Maxwell said and there's no land that you could buy to bring this into conformance?

Mr. Vetere said no; it's Secor so everything is.....

Chairman Maxwell said I saw there's a nice solid fence between the next neighbor behind you so 'good fences make good neighbors'.

Chairman Maxwell asked the Board and the Public if there were any questions on this application of which there were none.

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

**Decision of the Board:**

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

4. Application of **THOMAS McKENNA** for a Variation of Section 156-15 seeking a Variance for permission to construct addition with 15' property setback instead of 20' required by Code, and retain existing shed. The property is located at 100 Macgregor Drive, Mahopac NY and is known as Tax Map #64.17-1-46.

Code Requires/Allows	Provided	Variance Required
20' setback - addition	15' setback	5'
10' side – shed	3'	7'

➤ Mr. Thomas McKenna of 100 Macgregor Drive was sworn in.

Mr. McKenna stated said I live in a split-level, 1,750 square foot house with three kids. There's not a lot of space. The garage I used to have was converted into a playroom. I'm looking to build an addition on that's about 1,500 square feet with the lower floor as a garage/mechanical room and storage with the upper floor being a living room, laundry, closet and half bath. My property layout doesn't allow me to have any other options other than going slightly toward the property line which would require that variance.

Chairman Maxwell said your septic's in the back?

Mr. McKenna said yes; it goes down hill and then all my septic fields are behind the house so I can't go back. During the process, I also discovered that I built a shed that was also out of compliance which I just didn't realize. So, I want to include that as well to try and get everything squared up on my property.

**approved**

Chairman Maxwell said you didn't realize that you needed a permit or a variance for that as well. There's no other property that you could purchase for conformance?

Mr. McKenna said no sir.

Chairman Maxwell said have you talked with your neighbors on either side?

Mr. McKenna said yes sir.

Chairman Maxwell said and there's no issues or concerns?

Mr. McKenna said no.

Vice-Chairman Aglietti said once you have the addition, will you need the shed?

Mr. McKenna said I will. Unfortunately, I have zero storage in my house. That shed is critical to any storage I have in my home right now; lawn mower, snow blower, paddle boards & paddles. Everything is stored in that shed right there.

Chairman Maxwell said it's a nice property. Does anybody in the public wish to speak on this application?

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 Ms. McKeon with all in favor.***

5. Application of **LORI DESETTO** for a Variation of Section 156-15 seeking a Variance for permission to retain shed. The property is located at 71 Rebecca Lane, Carmel NY and is known as Tax Map #76.8-1-19.

Code Requires/Allows	Provided	Variance Required
10' side	9.6'	0.4'

- Ms. Lori Desetto of 71 Rebecca Lane, Carmel was sworn in.

Chairman Maxwell said I was out there this afternoon and quickly saw this one. It looks like you're nestled in the corner and surrounded by nothing but woods so I don't think you're affecting anybody on either side of the house. In fact, the house is pretty much its own island inside the woods.

Ms. Desetto said correct.

Mr. Balzano said it's a 3" variance.

**approved**

Ms. Desetto said it's one back corner apparently.

Chairman Maxwell said there's no land that you can purchase to bring this into conformance; you're land-locked there?

Ms. Desetto said right.

Chairman Maxwell asked if there was any input from Board Members or 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:**

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

6. Application of **MARC PEKOWSKY** for a Variation of Section 156-15 seeking a Variance for permission to install a pre-fabricated garage on property. The property is located at 43 Benjamin Rd., Mahopac NY and is known as Tax Map #75.13-1-37.

Code Requires/Allows	Provided	Variance Required
40' front	15'	25'
20' side	10'	10'

➤ Mr. Marc Pekowsky of 43 Benjamin Road, Mahopac was sworn in .

Mr. Pekowsky said my house was built in 1935. It is on the small side and does not have any storage space at all. Over the last few years, due to family circumstances, we have developed the need for more storage. Plus, the fact that we do not have a garage. That has taken a toll on the vehicles and machinery that we have. So, we, having just retired, thought this would be a good time for us to address these needs. What you should know is that while we are asking for these variances, we have put in the largest possible building that we could conceivably build. It's highly unlikely that we will build anything as large as that but we just need the variance. Ms. Fabiano came over to the property. She saw the property. It's a very secluded property.

Chairman Maxwell said I must mention that it's a very nice road coming in. It didn't do any damage to my car at all.

Mr. Pekowsky said I believe you have emails from my immediate neighbors. They are well aware of what I'm proposing. Nobody has any objections. As I had explained to Ms. Fabiano, the proposed placement of this structure is based on logistics of where the driveway is. It's also based on where the hedges are very tall so that the neighbors won't be.....

Chairman Maxwell said good screening.

**approved**

Mr. Pekowsky said yes. Also, if you look at the layout of the land, the place where we're proposing is the perfect place to minimize impact.

Chairman Maxwell said I see that because you have the curve of the road as well.

Mr. Pekowsky said exactly.

Chairman Maxwell said it seems to be the perfect spot. Daniel and Theresa Maddock of 5 Benjamin Road, who is your immediate neighbor to the left as you're looking at the house, sent a letter of support. Also; Emily Williams sent in a letter of support.

Mr. Pekowsky said they're my side neighbors. They're the ones where the hedges would shield them.

Mrs. Fabiano said were you planning to put plumbing or electric?

Mr. Pekowsky said electrical; I may want to install lights.

Mrs. Fabiano said plumbing?

Mr. Pekowsky said absolutely not.

Mrs. Fabiano said we can condition it that you will not have any?

Mr. Pekowsky said I promise and attest that we will never install plumbing in this structure.

Chairman Maxwell asked if there was anybody 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 Mr. Balzano with all in favor.

**Decision of the Board:**

***Mrs. Fabiano moved to grant the requested variance with the condition that there will be no plumbing in the garage; seconded by Mr. Balzano with all in favor.***

7. Application of **CARL & ANITA ALBANO** for a Variation of Section 156-45.2B(3) seeking a Variance for permission to allow 1,640 square foot accessory apartment where 900 square foot maximum is allowed. The property is located at 7 Albano Ridge, Carmel NY and is known as Tax Map #55.14-1-26.324.

Code Requires/Allows	Provided	Variance Required
Apartment should be between 400 s.f. & 900 s.f.	1,640 s.f.	740 s.f.

➤ Mr. Carl Albano of 11 Clark Place, Mahopac NY was sworn in.

Mr. Albano said I applied for a building permit and built this house over the last year. It's a two-story house; duplicate upstairs and duplicate downstairs. I went to get the C. of O. and it came to



**approved**

my attention that the square footage was not allowed. There's no inside staircase connecting upstairs & downstairs. I got a Building Permit, built this house and when I was finished, it came to our attention that the square footage did not meet the Code. I got the building permit with that plan and apparently it was something that was just overlooked. It's basically a two-story house with duplicate upstairs and bottom. Two bedrooms upstairs and two bedrooms downstairs.

Chairman Maxwell said so it's a two-family house? Was it submitted as a two-family house?

Mr. Albano said the plans showed what the house was with a side door. So, I think it was just an oversight. It just didn't come to my attention. Now, when I went to get the C. of O., we're realizing that it was an issue. Fortunately, it has a side door which complies.

Chairman Maxwell said to Mike Carnazza: can you shed some light Mike?

Mr. Carnazza said the first plan was a one-family.

Mr. Albano said right.

Mr. Carnazza said and then you came back with the second plan to change the house, and that's where there was a little confusion between the two plans. That's what happened. The original plan was a 1-family house. If you did a mother/daughter, you're allowed to have that. But being that it's going to be an accessory, it has to be between....

Chairman Maxwell said mother/daughter means it has to be a relative.....

Mr. Carnazza said mother/daughter does not have a size requirement.

Mr. Balzano said and there's a connection between the mother/daughter.

Mr. Carnazza said that's correct and there's no connection on this. That's the difference.

Mr. Balzano said that's what makes it an accessory.

Chairman Maxwell said it's kind of a tough one for this Board. This is a pretty extreme amount of square footage that is being sought. My fear is that it opens up a can of worms or the floodgates for everybody to go and do this, and I don't think that was the intent of the Town Board when they approved this.

Mrs. Fabiano said but I think there is something that we should consider. If I'm not mistaken, is this lot 13 acres?

Mr. Albano said yes.

Mrs. Fabiano said we normally don't have cases with 13 acres of land come in and the house size is how much?

Mr. Albano said probably double what the [provided] is. It's just two floors that are exactly the same. It's only a two-bedroom but they're nice, big bedrooms. I tried to make something nice because I live there. It's sewer and water and it's 13 acres. I applied for the permit and built it that way based on the permit. It just got missed.

**approved**

Mrs. Fabiano said for all intensive purposes, he could have subdivided and put 4 houses on it with 3-acre zoning. So, to have two properties, in a sense, on 13 acres doesn't seem that unreasonable to me. I understand the can of worms but I also see the fact that we don't often see a lot come in with 13 acres.

Vice-Chairman Aglietti said but is it going to remain 13 acres with one house; somewhere down the road?

Mrs. Fabiano said well, he'd have to come back and get that variance.

Mr. Balzano said they'd have to go to Planning to get it subdivided.

Mr. Albano said yes; it's on a private road.

Chairman Maxwell said the Planning Board would be aware of it.

Mr. Albano said that's not likely because it's on a private road. Like I've said: it's just a two-bedroom. It's a nice sized two-bedroom. It's a duplicate of mine so it's not like it's three or four bedrooms. I live there so it's not going to be.....I'm just trying to do it the right way. That's the way it was applied for and that's the permit I got to build that house.

Chairman Maxwell said it's a good point about the acreage.

Mrs. Fabiano said he could certainly put 4 houses on it; he only has one house on there.

Mr. Albano said and I've had it for about 20 years. I've lived in the neighborhood about 40 years so I'm not looking to bang out \$1,000,000. I'm at a point in life trying to make it easy when taxes are \$24K, \$25K.

Chairman Maxwell said that's the intent of the Code change – to allow people to alleviate the high taxes.....

Mr. Albano said when I got the permit, if it was an issue, I guess I could have tried to figure out a different plan but I built it based on the plan I had the permit with.

Chairman Maxwell said is there a way to minimize the square footage to a certain degree; like make some storage?

Mr. Albano said not really. You could try to shut a bedroom off or something but in all honesty, it has the potential of a two-bedroom apartment.

Chairman Maxwell said and you're living there too?

Mr. Albano said yes; I live there.

Mrs. Fabiano said how often do we see properties with 13 acres looking for an apartment?

Mr. Balzano said you said it's a two bedroom?

Mr. Albano said it's a duplicate; two bedrooms upstairs and downstairs, nice sized living rooms & kitchens. It does have a side door fortunately.

**approved**

Mr. Balzano said there's your separate entrance.

Mr. Albano said well I know you can't have two front doors so this has a front and a side door. It pretty much works in every way. It's a sewer and water district.

Chairman Maxwell said that helps.

Vice-Chairman Aglietti said it's a two-family house, and we have no guarantees that somewhere down the road, this property is not going to be divided the proper way and then we're going to have a series of two-family houses.

Mr. Carnazza said the only reason it's not a two-family house is with the accessory house, the owner has to occupy. A two-family house, you can rent both units. I'm not trying to argue; just give you the facts.

Mr. Albano said I've been here for forty years and twenty years on this road. I'm not going anywhere. Like I said, it just seemed like a logical thing to do.

Vice-Chairman Aglietti said I think we're more concerned about the next guy that comes up.

Mr. Albano said the world is changing. Hopefully, I'm here another ten, twenty years and so many things can happen but so far, forty years and twenty years, this is what I've done and haven't changed. I don't plan on changing or leaving Town. It's a little expensive to live here but I plan on staying. My five kids are here. The apartment has the same potential. It's just a nicer apartment.

Chairman Maxwell said none of your kids want it to make it a mother/daughter?

Mr. Albano said that might happen. I'm doing it the right way. There's no inside connection. I built based on what the plan was. I'm just trying to get it done the right way. Five kids and two mothers; who knows what the future is. I have a lot of family.

Mrs. Fabiano said how many people have raised ranches that are two family houses on a ¼ acre?

Mr. Carnazza said again; you mean accessory apartments – right?

Mrs. Fabiano said yes; accessory. People come in for these all the time.

Mr. Albano said I think a primary concern is you don't want to see fifty cars and you don't want to overburden.....like I've said; it's sewer. We're on a private road – probably 300-400 feet off the main road. There's ample parking. It works. It's just a nicer apartment.

Mrs. Fabiano said each case stands on its own merit and I don't think we see this. We never see 13 acre lots. We never see situations like that.

Chairman Maxwell asked if there was anyone from the public looking 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 Ms. McKeon with all in favor.

*\*\*\*Mr. Albano approached the Board after all other applications had presented\*\*\**

**approved**

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

Mr. Albano said can I ask that my application be postponed or held over? I want to do some research.

***Mr. Balzano moved to hold over the application; seconded by Ms. McKeon with all in favor.***

8. Application of **CHRISTOPHER GRAHAM** for a Variation of Section 156-15 seeking a Variance for permission to build addition at 4.75' from the left side of property line. The property is located at 20 Front Street, Mahopac NY and is known as Tax Map #76.6-1-4.

Code Requires/Allows	Provided	Variance Required
20 ft.	4.75 ft.	15.25 ft.

➤ Mr. Chris Graham of 20 Front Street, Mahopac was sworn in.

Mr. Graham said I'm rebuilding the front entrance to repair some minor damage and improve the look of the house from the road. The house is very close to the property line and I'm actually going to be able to change the footprint slightly to give it a little more space than what's existing but to the best of the ability.....basically we're doing as much as we can to increase that space based on the existing structure being so close to the property line.

Chairman Maxwell said it's a nice house. I was out there this afternoon. It looks like it's got some good potential to be an even nicer house. It looked like to me that the whole neighborhood was chopped up like that. They must've subdivided right at that line. It's pretty far back off the road; I don't think it affects anyone. There's another existing house on the opposite side of the property line in a similar situation but there's some screening between I think.

Mr. Graham said yes.

Chairman Maxwell said there's no property that you can buy – right?

Mr. Graham said none.

Mrs. Fabiano said you have that side jut-out. If I'm looking at the house, on the left side there's that little side. That's probably adding to your variance size. Is it possible to eliminate that little section?

Mr. Graham said that is part of the staircase that goes from the main floor to the second floor. That will change slightly with this renovation but the footprint over there will basically stay the same because underneath that is the mechanical room where the well pump and furnace and stuff is. The part that will be changing is the actual front entrance which will kind of jog out a little bit which you can see on the new plan version.

Mrs. Fabiano said so you're not changing any of the inside.

Mr. Graham said the existing is pretty much staying the same. It's just that front entrance.

**approved**

Chairman Maxwell asked if there was anyone in the public that had any questions or concerns on the 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:**

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

9. Application of **ROBERT ALTERO** for a Variation of Section 156-15 seeking a Variance for permission to retain gazebo and legalize room above garage. The property is located at 3 Curry Spur, Mahopac NY and is known as Tax Map #53.12-1-17

Code Requires/Allows	Provided	Variance Required
10' rear (gazebo)	2'	8'
25' front (garage)	0' (over property line. Easement agreement needed.)	25'

- Mr. William Besharat of Rayex Design at 266 Shear Hill Road, Mahopac representing the applicant was sworn in.

Mr. Besharat stated this house has been completely damaged by fire, and the house has been removed. We're trying to rebuild the house in the same footprint that was there. This has a lot of issues with it. The gazebo is too close to the property line. It has to be legalized. The room built above the garage requires a variance and is a tricky situation where I'm looking for your guidance and which direction to go with it. We asked for zero lot line but the garage, as it exists, is over the property line. In the past, I think we have done it in a situation in Lake Secor years ago but it was on the Town Right of Way and the Town deeded that portion of the property along the footprint of the garage.

Mr. Carnazza said but this is not a Town Right of Way.

Mr. Besharat said I'm just using it as an example on how it was handled. I'm looking for guidance from the Zoning Board on how to handle the situation with the garage being over the property.

Mr. Carnazza said you'll need a perpetual agreement/easement from the owner of that property.

Mr. Besharat said okay. Mr. Altero is under the impression that there is one. I told him we need to show it to the Town considering that he had purchased the property like this, with the garage on it, from the people next door who own that Right of Way. I'm completely in agreement with you. We need to show it in writing and how it is and how it exists. In the meanwhile, we have a notice of violation from the Town. We're trying to resolve the two things: the garage and the gazebo.

Chairman Maxwell said the garage was existing there?

**approved**

Mr. Besharat said yes; the garage was always existing.

Chairman Maxwell said over the property line?

Mr. Besharat said correct.

Chairman Maxwell said and you built above?

Mr. Carnazza said it was one-story though.

Mr. Besharat said correct. It was one-story with a flat roof that had water problems.

Chairman Maxwell said it was one-story from this lower grade. Now, it's a second-story and a half from the upper grade.

Mr. Carnazza said just a second story.

Mr. Besharat said just a second story. There's no half.

Chairman Maxwell said gable is what I mean.

Mr. Besharat said it had a flat roof on it. There were a lot of issues with it. I cannot really say what happened with it but they ended up putting the room up there with a gable roof.

Chairman Maxwell said it's all built up with a new room, new finishes and everything. So, it was built on top of an existing, illegal footprint. So that road is a private road? It's not a Town Road?

Mr. Besharat said I don't think it's even a road.

Mr. Carnazza said I think it is a private road.

Mr. Besharat said Curry Spur is a flagged lot for the back I think but don't quote me.

Mr. Carnazza said if you go do a title [search] on it, you'll find out how you gain access.

Mr. Besharat said we shall do.

Chairman Maxwell said so it sounds like you need to have this agreement in place before you come here. We might have to hold this over until that happens.

Mr. Besharat said can I ask the Board to address the pool house/cabana/gazebo; it's open but it has an outdoor kitchen inside.

Mr. Carnazza said you're going to divide the application?

Chairman Maxwell said you would have to revise this application; cross off the garage for now.

Mr. Besharat said I could do that and we could come back again for another meeting after we seek an attorney's help on this.

Chairman Maxwell said is there a time constraint or something?

**approved**

Mr. Besharat said it's in the process of being worked on right now. So, we will be coming back immediately with it. At this stage, and to tell you the truth, we could holdover the whole thing as I'm sure the Code Enforcement Officer will agree with us that we are in front of the Board trying to legalize it. In this case, I would like to hold it over until I get an attorney's opinion on it.

Chairman Maxwell said that makes sense.

Mr. Besharat said yes; there's no reason to separate the application.

Chairman Maxwell said if a perpetual easement is required, you're going to need that information before we decide.

Mr. Besharat said and Mike [Carnazza] said rebuilding the house in the same footprint doesn't need any variances. The house, surprisingly on such a small lot, is conforming to all the setbacks.

Chairman Maxwell said I presume you're aware there's a letter of opposition?

Mr. Besharat said yes; I'm aware of it.

Chairman Maxwell said I think we should read it for the record unless that person is here tonight.

*Person was in audience and was asked if they wanted letter read, be sworn in to make a statement or wait until the next meeting regarding this application because the hearing was not going to be closed this evening.*

Chairman Maxwell said I'm affording you the opportunity to speak on record but you can do it next month when the same situation comes back.

Mr. Balzano said or whenever it comes back.

*Person stated he would speak on the record at this meeting.*

Chairman Maxwell said okay; hold your thought. Board Members – any other questions?

Mrs. Fabiano said I just don't know how you can build something on somebody else's property. I have a really hard time with this application, and I don't think we should touch anything until all of this is resolved.

Mr. Balzano said I agree with Rose [Fabiano] 100%.

Ms. McKeon said I agree with Rose [Fabiano] too.

➤ Mr. Anthony DelDuco of 5 Curry Spur, Mahopac NY was sworn in.

Mr. DelDuco said I'm going to give you a picture. This picture is the garage prior to the driveway being paved and also soon after we had purchased the house.

Chairman Maxwell said I'm just going to ask one quick question: when did the house burn down?

Mr. DelDuco said it was October 2022. I've been there a long time and my statement will sum it up.

**approved**

*Mr. DelDuco proceeded to read from his two-page letter dated 8/28/23, received by the Planning Office on 8/29/23 and forwarded, via email, to ZBA Board Members the same day. Hard-copy of letter is in the applicant's ZBA file.*

Mr. Balzano said do you know who owns the property.....

Mr. DelDuco said I do.

Mrs. Fabiano said you own the road?

Mr. DelDuco said yes; it wraps around. That road is part of 4 Curry Spur. My daughter-in-law actually lives at 4 Curry Spur whereas I live at 5 Curry Spur. So that road is part of #4. The property that backs up to the gazebo is part of #5. They're all empty properties but they're my properties. I fought long and hard through-out the years. I actually sub-divided back in the 90s to make all my stuff legal. When I built #3 Curry Spur, we had to get one variance. It was for a few feet to square out the footprint to make one of the bedrooms a livable size.

Chairman Maxwell said you own the road?

Mr. DelDuco said I own the road.

Chairman Maxwell said then the easement would have to come from you if you're willing.

Mr. DelDuco said correct. Had the discussion have happened earlier, maybe we'd be in a different place but, even now, with getting this letter in the mail, I was never contacted.

Vice-Chairman Aglietti said is there any pending litigation?

Mr. DelDuco said no; none at this moment.

Mrs. Fabiano said so it may have to come down.

Mr. DelDuco said I have contacted a lawyer and he gave me some advice to walk in here today with.

Mrs. Fabiano said the structure will probably have to come down unless you give approval.

Chairman Maxwell said we'll let the two parties speak outside of here and we're going to hold this over at this point.

***Vice-Chairman Aglietti moved to hold this application over; seconded by Ms. McKeon with all in favor.***

10. Application of **MATTHEW SIMON** for a Variation of Section 156-15 seeking a Variance for permission to retain a shed that's existing 6' from rear property line. The property is located at 20 Red Brook Road, Mahopac NY and is known as Tax Map #74.12-1-18

Code Requires/Allows	Provided	Variance Required
10'	6'	4'



## **approved**

- Mr. William Besharat of Rayex Design at 266 Shear Hill Road, Mahopac representing the applicant was sworn in.

Mr. Besharat stated this is a situation where there is a shed on the property, and he purchased it this way. I told him to look into the title search and see why this shed was not picked up. It exists 6' from the property line at the closest point to the rear yard where the requirement is 10'. It's really a small shed that's tucked in the back yard. There's plenty of screening within the neighbors.

Chairman Maxwell said you can even see from the picture that it's well screened. There's no property that you can buy to bring this into conformance?

Mr. Besharat said there's no property available to purchase. There's no other place to really put it. The other side is a slope and it would be too far away to serve the purpose of a shed. Like I've said, it doesn't create any negative impact on anybody. The majority of homes in the area do have sheds. It is not oversized or anything like that.

Mr. Carnazza said what did they do in that garage?

Mr. Besharat said what do you mean?

Mr. Carnazza said somebody called up and said that they're running a business there – working on cars.

Mr. Besharat said not that I know of. I know the guy is a mechanic and he works full-time at some kind of a dealership of some sort. If he works on his own cars.....I really have no idea.

Mr. Carnazza said would you mention it to him because we're going to be checking on it.

Mr. Besharat said I will mention it to him but as far as I know, he works full-time and it's a small two-car garage. The cars that are in there, he showed me, are his cars.

Mr. Carnazza said are the cars all over the yard too?

Mr. Besharat said he has seven cars registered to his name. I asked what's with all the cars here and he said they're all his.

Mr. Carnazza said Denis [Marousek] will probably be over on Tuesday. That's why I'm asking.

Chairman Maxwell said Board Members – any questions?

Mrs. Fabiano said why is this coming up now?

Mr. Besharat said he got a violation. He purchased the house a couple of years ago and he wasn't aware of it.

Chairman Maxwell asked if there was anybody from the public with questions or comments 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.

**approved**

**Decision of the Board:**

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

11. Application of **JOHN CICERALE** for an Interpretation to retain 2 residences on one lot (currently three 1-family dwellings.) There are three residential structures with history of residential use. The main structure (31) has recently been destroyed by a fire in March 2023. It will be rebuilt upon receipt of insurance proceeds. The “cabin” was occupied residentially upon Applicant’s purchase in 2021 and has not been discontinued during Applicant’s ownership. The third residential structure (27) has fallen into severe disrepair and has not been resided in for an extended period of time. Applicant wishes to discontinue the legal residential use of the “cabin”, raze the house in disrepair (27) and place a new one-bedroom structure which is smaller than the existing structure (27). Applicant seeks an Interpretation of §156-47 permitting the replacement of the single-family house (27) which is of “a more restrictive nature” (156-47 A-2). In the alternative, Applicant seeks a variance of §156-10 to permit two residential structures on one lot. The property is located at 27-31 Causeway Park, Carmel NY and is known as Tax Map #43.-1-53.

- Ms. Jamie Spillane, Esq. of Hogan, Rossi & Liguori covering for Bill Shilling, Esq. representing the applicants, John & Justine Cicereale.

Ms. Spillane said as you’d indicated in that summary, the owners purchased the property in 2021. It’s a pre-existing, non-conforming lot of approximately 8.6 acres. When they had purchased, they got a pre-existing letter that noted the two single-family residences and the cabin that were all used for residential purposes. In March of 2023, these folks, unfortunately, had a fire at the residence that they were residing in which is the structure right here on the survey.

Chairman Maxwell said can you just clarify which numbers for each house.

Ms. Spillane said the single-family residence/main structure, #31, is this building right here. The cabin that’s referred to as “cabin” is right here, and the single-family residence that is in significant disrepair that’s referred to as #27 is right here. So, if you went up the driveway and looked at the site, the structure that they’re proposing is a one-bedroom unit is right here, on the left. It’s in significant disrepair on that site. That’s the house that had the fire (#31). That will be rebuilt upon insurance proceeds. That’s all in process already. It’s been approved; it just takes time to get that whole ball rolling. The issue right now is, of course, that these folks have been displaced from their property. None of the units on the property are livable, and they’ve been bouncing from family member to family member since March 2023 – themselves and their two dogs. This is the unit that’s being proposed to replace the structure that’s in disrepair.

Chairman Maxwell said is this just a rendering?

Ms. Spillane said yes; that’s a rendering. It’s a small house. Our argument is that this is more restrictive, more conforming with the Code to replace the structure that was in disrepair with this one-bedroom small house.

Chairman Maxwell said so the cabin will be removed completely?

Ms. Spillane said the cabin will just be used for storage. There will be no livable space in there.

## **approved**

Chairman Maxwell said and there's someone living there now?

Ms. Spillane said not currently but it had been used for living in the past. They've resided in there. They've had friends and family members stay in there.

Chairman Maxwell said so is it like a rental unit at this point or is it....?

Ms. Spillane said no. It's not a rental unit. It's just that it has been used by them and by family in the past.

Mr. Balzano said when was the last time it was used?

Ms. Spillane said they'd purchased in 2021 and they've used it since purchase.

Mr. Balzano said there could be an abandonment issue there for non-use.

Ms. Spillane said they've used it in the last year.

Mrs. Fabiano said #27 hasn't been used in a long time.

Ms. Spillane said no.

Mrs. Fabiano said so that's the one that's really has lost its ability to exist because it hasn't been used in a long time. However, they want to take the cabin.....

Mr. Carnazza said and convert it to an accessory storage.

Mrs. Fabiano said what about knocking down the cabin? Would they consider that?

Ms. Spillane said well if they're just going to use it as storage, similar to a shed, I don't see a reason why not to keep it on the property.

Mrs. Fabiano said only the fact that things change and owners change. You know how things go.

Ms. Spillane said it certainly does but the way that it stands as pre-existing, non-conforming, it does not have adequate utilities, it doesn't have adequate restrooms, it really isn't adequate for someone to live there. They would need to make substantial improvements before anything like that could happen.

Chairman Maxwell said so there's no plumbing or electrical. Is there a kitchen in there?

Ms. Spillane (looking to audience) said there's not a kitchen – correct?

➤ Mr. John Cicerale of 27-31 Causeway Park, Carmel was sworn in.

Mr. Cicerale said there was a kitchenette and a room for a bathroom but when we had first seen it, there wasn't a bathroom established in there.

Chairman Maxwell said but is there piping and plumbing in the walls?

Mr. Cicerale said a cesspool for the County I believe.

**approved**

Chairman Maxwell said no; I mean in the walls to serve for a faucet, running water, drainage, etc.

Mr. Cicerale said yes; there's a sink.

Mr. Balzano said so in the cabin, there's running water?

Mr. Cicerale said from the house; not on its own well system.

Chairman Maxwell said so it's usable and could be an apartment or rental.

Mr. Cicerale said there's gas lighting; no electric.

Chairman Maxwell said if there's a stove, it's considered a usable residence.

Mr. Carnazza said but if they take all of that out and make it into a shed, the net would be the same number of dwelling units on the property and I think that's what their goal was.

Mr. Balzano said and we could condition it obviously.

Mr. Folchetti said the interpretation being sought is going from three permissible single-family dwellings on a lot to two is less restrictive. It's still non-conforming but it's a lot less restrictive change of a non-conforming use. Actually, that's what they're seeking for you to determine. I'm not big on conditioning variances; obviously if they go to two, the third structure stays as a storage facility and it turns into a residence, that would be another issue that would have to be dealt with at that time.

Ms. Spillane said yes; we would be in violation at that point in time.

Chairman Maxwell said Mike [Carnazza] you would inspect it upon the other residences being rebuilt and .....

Mr. Carnazza said yes. As we're doing it; otherwise they'd have three and three to three is not more restrictive.

Chairman Maxwell said that makes sense.

Mrs. Fabiano and this is almost nine acres – correct?

Ms. Spillane said yes; 8.6 [acres].

Mr. Carnazza said again; another big one. They could have the three houses if they divided it; like you were saying before.

Mrs. Fabiano said right. It's a big lot; why wouldn't you just subdivide and then you have.....

Mr. Carnazza said it's a little bit different on this one because you're on a private road.

Ms. Spillane said they're on a private road and also the location of the houses, it would be hard to get any lots there even if we were on a public road.

**approved**

Mr. Carnazza said the front lot would chop off the back lot; open development issues. It would be difficult.

Mr. Balzano said it would be a horrific site plan.

Chairman Maxwell asked if there was any more input from the Board of which there was none.

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

➤ Mr. Charles Steeber of 5 Causeway Park & 9 Causeway Park was sworn in.

Mr. Steeber stated we own the road ergo the problem. 5 Causeway Park owns the road. I'm concerned that if you put another residence up there, we're going to have additional traffic. You see the condition of the road now. Prior to their purchase of the property.....

Chairman Maxwell said you're not going to have another residence; already existing is three residences.

Mr. Steeber said nobody is living up there though. (Inaudible) existing prior to this. Right now, you have two people up there; two cars. Prior to that you had the Millers up there. The house was abandoned well over ten years before that.

Chairman Maxwell said ten years ago, you had families up there.

Mr. Steeber said for the last ten years, nobody has lived up there. The Millers bought the house and he renovated it. He lived there with his wife and their three children – only one of which drove. So, they had three vehicles going up and down the road. Millers only lived there for about three or four years prior to this purchase. It had been abandoned before that. Originally it was built as a summer weekend place by the Blousteins. So, it was only used weekends in the summer. Currently, all the neighbors chipped in for the maintenance of the road. When the Millers lived there, they always contributed to the maintenance of the road because he had a back-hoe and front loader. So, he helped out with spreading the stone and all of that. They don't contribute to the maintenance of the road at all.

Chairman Maxwell said is there a homeowner's association?

Mr. Steeber said nope. It's voluntary.

Chairman Maxwell said there's got to be an easement or some kind of agreement that they would have to contribute.

Mr. Steeber said it's all voluntary. It's not required by law but out of courtesy, we all contribute because we all use the road.

Chairman Maxwell said that's an issue this Board is not concerned with.

Mr. Balzano said that's well outside the purview of this Board.

Mr. Steeber said what happens is that the property has no access except by that road. My understanding is that under 156-10F, to have a building permit, you must have at least one hundred feet of access to a Town, County or State Street or Highway.

**approved**

Chairman Maxwell said that's to build a new house sir.

Mr. Steeber said a new house and what you're talking about is a new house.

Mr. Carnazza said if you have an unimproved lot and you're trying to divide it into two lots, each of the two lots have to have that frontage on a Town, County or State road. Unless you're on a cul-de-sac; then it's fifty feet.

Mr. Steeber said but the fact that there's a building that hasn't been occupied..... well; it's not even a building anymore. It's the remains of a structure.

Mr. Carnazza said that's why they're here.

Mr. Balzano said but it's a replacement of an existing property which means it's legal. That's the issue.

Mr. Steeber said so you can still build a house there and still use the road?

Chairman Maxwell said if they did before, why could they not now?

Mr. Balzano said nothing's changed.

Chairman Maxwell said that's their only access to the property. Like the previous owner, they all had access to the property.

Mr. Steeber said and they all contributed to the maintaining of the road.

Chairman Maxwell said again; that's not the prevue of this Board.

Mr. Steeber said I know it's not but the point is as you allow more traffic up that road, you're going to create even more problems.

Chairman Maxwell said then I suggest you have a friendly chat with your neighbors and get them on Board because that's not for this Board to review or ponder.

Mr. Steeber said okay; I understand. I will go on record as objecting because it's just going to cause more problems with a road you already agreed has problems.

Mrs. Fabiano said technically, the one house had a fire so they have the right to rebuild that and the cabin.....

Mr. Steeber said right; I'm not concerned about that at all but now you're adding another house. You don't build a house unless someone is going to occupy it and you're going to have more cars going up and down the road.

Mrs. Fabiano said technically the house that burned down can legitimately be used.

Mr. Steeber said no issue with that.

Mrs. Fabiano said the cabin can be built as a home.

Mr. Steeber said but it's never been.

**approved**

Mrs. Fabiano said but it can be. It's #27 is the problem.

Mr. Steeber said #27 is going to be built as a home.

Mr. Carnazza said but the cabin is no longer going to be a cabin.

Mr. Steeber said it'll be at least one – probably two more cars.

Mrs. Fabiano said but the cabin's not going to be used anymore.

Mr. Steeber said the cabin wasn't being used as a residence.

Ms. Spillane said but it could.

Mr. Steeber said but it's not. I'm the only witness there is. There's nothing going up and down that road from the cabin right now. There will be something going up and down that road if you build another house there.

Mrs. Fabiano said if you eliminate #27, they could potentially make that cabin into a house.

Mr. Steeber said we cross that bridge if we come to it.

Mrs. Fabiano said it's two houses any way you look at it. Whether they decide to make the cabin into a house. They can just say if you don't want #27 to be, I'm allowed to make the cabin into the one-family house.

Mr. Carnazza said but that's not even why we're here.

Mr. Steeber said (inaudible) they don't go up and down the road. What you're telling me is.....

Mr. Carnazza said what's on the agenda right now is a question of whether two one-family dwellings and a cabin – taking down one of the buildings and having two one-family dwellings is less restrictive. That's what they're here for; an Interpretation. They're not here to fight a variance or anything. They're here for an Interpretation.

Mr. Balzano said and that's usually pretty straight forward.

Mrs. Fabiano said I think I would feel better if the cabin were gone though; I know you wanted a storage but I think I.....

Chairman Maxwell said there's an existing shell that probably might need a new roof or whatever but for storage, it'd be like a shed basically.

Mrs. Fabiano said it's a big shed though.

Chairman Maxwell said Mike [Carnazza] will inspect it upon the build out of the other to make sure there's no plumbing or livable utility there.

Mr. Balzano said and it would be illegal if they tried to make it a house because we've now knocked it down.

## approved

Mr. Carnazza said and the Health Department would be involved in that because there's only so much room for septic over there.

Ms. Spillane said this whole application, of course, is subject to Board of Health giving the septic for both units and the wells which is in more conformance with the Code as well. The cabin did not have an individual well and, as indicated, there was a cesspool there.

Mr. Steeber said I think there's a cesspool in the house too because the Millers had a lot of trouble with the septic up there.

Ms. Spillane said that will all be dealt with by the Board of Health.

Mr. Steeber said my sole issue is additional traffic on the road. The road is a nightmare to begin with. You all understand that.

Chairman Maxwell said good roads make good neighbors too so maybe talk with them and approach them in a peaceful manner that this is what your desire is.

Ms. Spillane said the applicant has no issue speaking after this and trying to get the road issue resolved. It's outside of this matter but of course, they all want to have a safe roadway there.

➤ Mr. Bruce Bishop of 21 Causeway Park was sworn in.

Mr. Bishop said my wife and I were just talking. So, there's only going to be two houses there no matter how you look at it. Just like it was in the past.

Mr. Carnazza said there's three right now.

Mr. Bishop said but the cabin, years ago, didn't have anybody in it. The house that's falling apart: they were living in there but not for a long time. Then there was the house that burned down. So, there's only going to be two places there just like now.

Ms. Spillane said but greatly improved.

Mr. Balzano said it's also one less bedroom – right?

Chairman Maxwell said this is all pending Board of Health approval.

Ms. Spillane said the house that is being fixed – the one from the fire – is only going to be two bedrooms. The affidavit said three bedrooms.

Mr. Balzano said so it's less and we don't have to worry.

Ms. Spillane said yes.

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 interpret that two residences on one lot is less restrictive than three single-family residences; seconded by Vice-Chairman Aglietti with all in favor.***



**approved**

## **MISCELLANEOUS:**

Minutes: July 27, 2023

***Mr. Balzano moved to accept the July 27, 2023 minutes as written; seconded by Vice-Chairman Aglietti with all in favor.***

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

By Order of the Chairman,

John Maxwell