

MINUTES

**Town of Wappinger
Zoning Board of Appeals
June 14, 2011**

**Town Hall
20 Middlebush Road
Wappinger Falls, NY**

Summarized Minutes

Members: Mr. Prager, Chairman
 Mr. Dellacorte, Member
 Mr. Kuzmicz, Member
 Mr. VanTine, Member
 Mr. Casella, Member

Absent:

Others Present: Jim Horan, Attorney
 Mrs. Roberti, Zoning Administrator
 Mrs. Dao, Secretary

SUMMARY

Public Hearing:

Sergio Lopez
Jennifer McEvoy-Riley

- Public Hearing closed. Decision.
- Public Hearing closed. Decision.

Interpretation:

228 Myers Corners Road, LLC

- Discussion

Public Hearing:

Appeal No. 11-7439 - At the request of **Sergio Lopez** who is seeking an area variance of Section 240-37 of District Zoning Regulations for R-20 Zoning District.

-Where **a rear yard setback of 40 feet is required**, the applicant is **proposing a rear yard setback of 33 feet**, to allow for the construction of a 24' above ground pool, **thus requesting a variance of 7 feet**.

The property is located at **34 Martin Drive** and is identified as **Tax Grid No. 6258-02-963888** in the Town of Wappinger.

Present Sergio Lopez Owner

Mr. Prager: Are all the mailings in order?

Mrs. Dao: Yes.

Mr. Kuzmicz: **Motion to open the public hearing.**

Mr. VanTine: Second the motion.

Vote: All present voted aye.

Mr. Prager: Please restate what it is that you need and why.

Mr. Lopez: I am seeking a 7 foot rear setback variance. I put in the pool prior to getting a building permit. Rocha Pools told me I needed a 25 foot rear setback. I also put the pool in the existing spot where a pool previously was.

Mr. Kuzmicz: Motion to close the public hearing.

Mr. Casella: Second the motion.

Vote: All present voted aye.

Mr. VanTine: Motion to grant the variance. It is not an undesirable change to the character of the neighborhood. You are just replacing an existing pool. It's not substantial. It's only 7 feet. It is narrowly self-created. It's not unique to the area. I don't see any other feasible methods. I make a motion to grant this variance.

Mr. Kuzmicz: Second the motion.

Roll call:

Mr. VanTine, Aye.

Mr. Kuzmicz, Aye.

Mr. Dellacorte, Aye.

Mr. Casella, Aye.

Mr. Prager, Aye.

Mr. Prager: I did see Mrs. Dao's letter that was sent to Rocha Pools giving rules and dimensions. They have been notified and should have no problems in the future.

Mr. Lopez: Thank you.

Appeal No. 11-7440 - At the request **Jennifer McEvoy-Riley** who is seeking an area variance of Section 240-37 of District Zoning Regulations for R-20 Zoning District.

-Where **a side yard setback of 20 feet is required**, the applicant is **proposing a side yard setback of 4 feet**, to allow for the construction of a 15' x 30' above ground pool, **thus requesting a variance of 16 feet**.

The property is located at **17 Bowdoin Lane** and is identified as **Tax Grid No. 6057-02-801553** in the Town of Wappinger.

Present Jennifer McEvoy-Riley Owner

Mr. Prager: Are all the mailings in order?

Mrs. Dao: Yes.

Mr. Kuzmicz: Motion to open the public hearing.

Mr. Casella: Second the motion.

Vote: All present voted aye.

Mr. Prager: Please state your name.

Ms. McEvoy-Riley: My name is Jennifer McEvoy-Riley. I live at 17 Bowdoin Lane. I am seeking an area variance. My property has a right of way of Central Hudson. The only place to put the pool is on the side. I am seeking a variance of 4 feet instead of 20 feet.

Mr. Prager: There are no questions or comments for or against this.

Mr. Kuzmicz: Motion to close the public hearing.

Mr. VanTine: Second the motion.

Vote: All present vote aye.

Mr. VanTine: Motion to grant the variance. It cannot be achieved by any other means. It will not make an undesirable change to the neighborhood. The request is substantial. It will not have adverse environmental effect. It's not unique to the area. I don't see any other feasible methods. I make a motion to grant this variance.

Mr. Kuzmicz: Second the motion.

Roll call:

Mr. VanTine, Aye.

Mr. Kuzmicz, Aye.

Mr. Dellacorte, Aye.

Mr. Casella, Aye.

Mr. Prager, Aye.

Mr. Prager: Your variance has been granted.

Ms. McEvoy-Riley: Thank you.

Interpretation:

Appeal No. 11-7438

228 Myers Corners Road, LLC - Seeking an Interpretation of Section 240-16: Nonconforming uses and structures, Town of Wappinger Zoning Code as to the use of the 6.27 acres of property, 3.5 acres are in the NB Zone, and 2.77 acres are in the R-40 Zone. The property is located **228 Myers Corners Road** and is identified as **Tax Grid No. 6258-02-702520** in the Town of Wappinger.

Present Ian Lindars Attorney of McCabe and Mack

Mr. Lindars: My client is not here tonight and I would like to request to put on your next month's agenda on July 12, 2011. A submission was made.

Mr. Horan: I am handing over to Mr. Lindars copies of a resolution dated September 27, 1999, Special Use Permit application dated April 15, 1999 and draft minutes of the May 3, 1999 meeting. The first site plan approval March 4, 1968 deals with the expansion of an existing garage. It says J and B Parsons Inc. can build a concrete block garage. This structure currently exists on the property today. There is a second site plan approval dated June 2, 1980. There was a discussion of a building for a proposed 2,000 square foot showroom. A June 16, 1980 site plan amendment was granted, subject to the following conditions. There was a trailer on the property that can only remain on the property for one year from the date of the resolution. Condition number two; install a salvage yard fence to make separation from the showroom. Condition Number five; parking shall be delineated prior to the issuance of a building. The Town Board denied the special use permit without holding a public hearing. The applicant commenced an article 78 proceeding, Decision index number 4782-1999 in Supreme Court of Dutchess County. The decision said the town board acted improperly in denying the application, without a public hearing. After the decision on April 10, 2000 a discussion was made. Mr. Roberts wrote a letter dated July 19, talking about the uses of the property at the time. This was one of the final letters regarding this. After this letter was sent, Mr. Elder, principal of Piqwon, died. The facts outlined in the affidavit by Mr. Boric came to pass. There was a bankruptcy filing and an IRS seizing of property. In 2005 a conceptual site plan application was heard at the planning board for the project Phat Custom Cycles. No approvals were made. There was also an application for interpretation.

Mrs. Roberti: It was an interpretation with 5 or 6 variances of which you granted 2 or 3 of them and denied the others.

Mr. Horan: I thought there might be more on the record. It seems the letter from Mr. Roberts from July 19th is a description of the culmination of the prior applications. The Special Use Permit application of 1999 was to allow Gals Construction equipment to be on the property. The rationale is the salvage yard, that was in place, was an unsightly condition that by

removing the scrap type and junk materials and cleaning up the site, using it as a contractor yard, would bring the property more in to conformity with the zone.

Mrs. Roberti: The back piece of the property remains zoned R-40 and is not up for any rezone.

Mr. Prager: Mrs. Dao I'd like if you can everyone on the board and interested parties copies of the interpretation. I'd like to re-look at the interpretation.

Mrs. Roberti: Originally they sort 5 variances. It was modified to 2 variances. The only two variances granted were for the existing metal shed and the area for the automobile sales.

Mr. Prager: Mr. Horan do you have any more information?

Mr. Horan: I don't have anything at this time.

Mrs. Roberti: I have received an application for a used car dealership for the front building. As long as there violations and until they are cleared up I will not be entertaining an approval.

Mr. Casella: Did they ever put down \$3,000.00 escrow?

Mrs. Dao: Yes, I received \$3,000.00 for escrow.

Mrs. Roberti: Don Walsh sent it in on behalf of the owner two weeks ago.

Mr. Casella: Is there an existing business now?

Mrs. Roberti: There is a telecommunications business in the rear.

Mr. Horan: In the file associated with a special use permit before the town board, there is a map depicting lands of Piqwon Inc. There is a map in the file dated March 24, 1999 prepared by John E. Railing PE. Is this consistent to what is out there right now?

(Discussion of the map at the dais)

Mrs. Roberti: The R-40 section is all empty. The sheds are gone. The bulk of use is in the middle with storage.

Mr. Prager: I would like to have a copy of the most recent survey.

Mrs. Roberti: We should have something from the planning board in the 2000's. The applicant should provide a survey map of what is there at this time, since they are seeking approval. Mr. Frank Cadamo is cleaning up the site. Things that were out there in 2005 when they came in for a variance might be removed.

Mr. Casella: Before I make an interpretation I need more information.

Mr. Horan: The map on file from 2004 has very small print.

Mr. Prager: The next meeting you'll have the owner here and Mr. Lindars, you know what we need.

Mr. Kuzmicz: Motion to adjourn.

Mr. Casella: Second the motion.

Meeting ended at 8:10 PM

Respectfully Submitted,

Susan Dao, Secretary
Zoning Board of Appeals