

Appeal No. 12-7464

Douglas Murphy-Seeking an area Variance of Section 240-37 of District Regulations in an R-40 Zoning District.

-Where the **code states...in no case shall Accessory Structures be permitted in the front yard** the **applicant requests a variance for a detached garage/workshop in his front yard.**

The property is located **178 Ketchamtown Road** and is identified as **Tax Grid No. 6157-03-242012** in the Town of Wappinger

Mr. Prager: Sue are all the mailings in order?

Mrs. Rose: Yes sir.

Mr. Prager: Can I have a motion to open the public hearing.

Mr. Casella: I make a motion to open the public hearing.

Mr. Johnston: I second that motion.

Mr. Prager: All in favor.

Board: Aye.

Mr. Prager: Mr. Murphy come on up and state what you need and why you need it for the record.

Mr. Murphy: I need a garage up by the road; my house is up in the back. I have been snowed in one too many times. The last time trees fell across the driveway my wife and daughter were upset because they were stuck there for a few days. I would like to put a garage and a workshop up by the road this way we won't get stuck anymore.

Mr. Prager: Mr. Belliveau do you have anything to say?

Mr. Belliveau: I think you should give it to him.

Mr. Prager: Let the record show that there is no one in the audience for or against this variance except Mr. Belliveau. Does anyone on the board have any comments?

Mr. Johnston: I noticed that you have a plow.

Mr. Murphy: Yes.

- Mr. Johnston: That doesn't assist you in getting out.
- Mr. Murphy: Not with trees. It doesn't plow through trees. That is what caught me last year. In that corner there were trees down all in that knoll which might have noticed when you drove down there. There are still two sycamores that are bent over and they just stopped you dead in your tracks. There is a large hickory down by my house that I don't want to cut down because it is a beautiful tree but in the event that it falls no one is going anywhere.
- Mr. Casella: Was the 2nd driveway approved?
- Mr. Murphy: It was with Graham, years ago.
- Mr. Prager: I asked Mrs. Roberti to check into that and I think there is some confusion on that. I have an e-mail from Graham Foster that I would like to read. "To the best of my knowledge the 2nd driveway into this parcel was not approved and would never have been approved because of lack of sight distance. I have no problem with the applicant building the garage but the garage must be accessed from the approved driveway as a stipulation of the approval. The second driveway must be removed completely and the area top soiled and seeded prior to the building permit being issued for the garage. Graham Foster. "
- Mr. Murphy: Graham Foster showed up at the property personally and inspected it with me and he questions about it himself, about the sight. He said can you actually see oncoming cars? I said look there is a driveway directly across the street as well as next to my driveway. He said I guess you're right. He did approve it.
- Mr. Prager: That's going to be between you and Mr. Foster.
- Mr. Murphy: He did approve it; I'll bring him back there.
- Mr. Prager: You might need to do that. That's not what we are really here for tonight. We're here to approve and give a variance up by the road.
- Mr. Prager: Do you own a chain saw? How did you get the trees...
- Mr. Murphy: I do own a chain saw.
- Mr. Prager: Any one else?

- Mr. Galotti: The driveway that looks like the older driveway was the existing and the newer paved is the newer one.
- Mr. Murphy: They were both black topped at the same time, both aprons where done at the same time.
- Mr. Galotti: One looks like grass is growing through it.
- Mr. Murphy: They were both done at the same time.
- Mr. Galotti: One has a wooden gate?
- Mr. Murphy: They both have a wooden gate.
- Mr. Galotti: So they were both done exactly the same time?
- Mr. Murphy: Yes, you can see the survey. They have both aprons on it. That was back in '99. It's been there for 20 some on years.
- Mr. Prager: Anyone else?
- Mr. Prager: Can I have a motion to close the public hearing.
- Mr. Casella: I make a motion to close the public hearing.
- Mr. Johnston: I second that motion.
- Mr. Prager: All in favor.
- Board: Aye.
- Mr. Prager: Since we only have 4 people here tonight and normally the board is 5. Do you want an answer tonight or do you want a full board in case there is a problem?
- Mr. Murphy: If the answer is in my favor.
- Mr. Prager: It's up to you. I always give everyone the option if we don't have a full board because it's the majority.
- Mr. Murphy: I'll listen to the ruling. That's fine.
- Mr. Prager: Can I have a motion to grant or deny this variance.

Mr. Johnston: I'm going to make a motion to deny this variance based on it's an undesirable change to the character of the property. There are alternate methods and it's self created.

Mr. Prager: Can I have a second.

Mr. Casella: I second it.

Mr. Prager: Roll call vote.

Mr. Johnston: No

Mr. Casella: No

Mr. Galotti: No

Tom Della Corte: Absent

Mr. Prager: No

Mr. Prager: I'm sorry to say this has been denied. It's are feeling that right now there are other things you can do. With the number of storms, you could plow the driveway.

Mr. Murphy: The plow is 37 years old.

Mr. Prager: We just can't grant things unless there is a really good reason and then again the first item we don't try to let any buildings in front of the residence unless there is an awful good reason.

Mr. Murphy: The other houses on my street did they have good reasons?

Mr. Prager: They probably didn't come in for a variance. If they had come in for a variance, they probably would have been denied.

Mr. Prager: The next item on the agenda is:

Appeal No. 12-7466

Joseph Belliveau- Is seeking an area Variance of Section 240-37 of District Zoning Regulations in an R-15 Zoning District.

-Where a **rear yard setback of 30 feet is required**, the **applicant can only provide 10 feet** for the installation of a 21 ft. above ground pool, **thus requesting a 20 ft. rear yard variance.**

-Where a **side yard setback of 15 feet is required**, the **applicant can only provide 10 feet** for the installation of a 21 foot round above ground pool, **thus requesting a 5 ft. side yard variance.**

-Where a **side yard setback of 15 feet is required**, the **applicant can only provide 11 feet 3 inches to side yard for the legalization of pre-existing deck, thus requesting a 3'9" side yard variance.**

The property is located at **24 Dennis Road** and identified as **Tax Grid No 6258-01-096648** in the Town of Wappinger.

Mr. Prager: Sue are all the mailings in order?

Mrs. Rose: Yes sir.

Mr. Prager: Can I have a motion to open the public hearing?

Mr. Johnston: I make a motion to open a public hearing.

Mr. Galotti: I second the motion.

Mr Prager: All in favor?

Board: Aye.

Mr. Prager: There is no one here but for the record we need you to explain why you need what you need.

Mr. Belliveu: I am requesting a variance for my pool because it did not meet the guide lines of the town and the deck I'm still confused about.

Mr. Galotti: You are doing some repairs.

Mr. Johnston: Are you making the deck any bigger than it was?

Mr. Belliveu: No it's going to stay the same size, I guess because 30 years ago the laws are not the same as today.

Mr. Prager: You're not doing anymore to the deck are you?

Mr. Belliveu: No it's staying the same.

Mr. Prager: We did notice it is no further out than the house and you don't have much choice there.

Mr. Prager: We discussed with your mother.

Mr. Belliveu: Yes, that was my mother.

- Mr. Prager: That possibly you could move the pool in a foot or so but with our discussions later on; we are not really worried about it.
- Mr. Galotti: You're pretty tight back there.
- Mr. Prager: Did you say you have the pool already ordered.
- Mr. Belliveu: I already bought it and then came in for a permit.
- Mr. Prager: So the town was the one that told you that you needed a variance.
- Mr. Belliveu: I was applying for a permit for my deck and boiler system so I figured while I was here I should get them all.
- Mr. Prager: Where did you buy the pool?
- Mr. Belliveu: Namco.
- Mr. Prager: Are they putting it up?
- Mr. Belliveu: No.
- Mr. Prager: Anyone else?
- Mr. Johnston: You're kind of close.
- Mr. Belliveu: I know.
- Mr. Johnston: Almost where you can touch the house and the pool.
- Mr. Belliveu: Right now I measured it because I knew I needed 10 feet from the house and honestly I wanted it as far from the house.
- Mr. Prager: Just in case you wanted to put a deck.
- Mr. Belliveu: If you measure from the corner of the yard to the pool you have about 19 ½ feet. So I could always put something back there.
- Mr. Prager: You have a small lot.
- Mrs. Roberti: If you put something back there you need to come back.
- Mr. Belliveu: I know and right now the only thing going back there is a small bistro table.

- Mr. Prager: Can I have a motion to close the public hearing.
- Mr. Casella: I make a motion to close a public hearing.
- Mr. Johnston: I second the motion.
- Mr. Prager: All in favor?
- Board: Aye.
- Mr. Prager: Can I have a motion to grant or deny the variance.
- Mr. Johnston: I have a question. This one variance, can we deny one portion of it.
- Mr. Prager: Sure.
- Mr. Johnston: Can I give my opinion now?
- Mr. Prager: Sure.
- Mr. Johnston: The pool is very close to the house. 21 feet is a big pool. It is a substantial variance. It's over a 60 percent variance to the back and a 30 percent to the side yard. Those are my problems.
- Mr. Belliveau: It meets the guide line to the house; it's 11 feet now from the house where I had the outline.
- Mr. Roberti: You only need 6 feet from the house.
- Mr. Belliveau: The reason I went with such a big pool is because my kids love the pool and my son has a lot of physical therapy issues and it will be good for him and my daughter has ADHD.
- Mr. Johnston: The variance does not go to the person but to the property. I sympathy with you, I just want you to know that.
- Mr. Prager: Can I have a motion to grant the variance?**
- Mr. Casella: I make a motion to grant the variance. It's not an undesirable change to the neighborhood. It's not detrimental to nearby properties. There is no other feasible way unless you moved it another foot or so away but because the size of the pool we would not ask that. The variance is substantial over 60 percent but there is no other place to put the pool.**
- Mr. Prager: Do I have a second?**

Mr. Galotti: I second it.

Mr. Prager: Roll call vote.

Mrs. Rose:	Mr. Johnston:	No
	Mr. Casella:	Yes
	Mr. Galotti:	Yes
	Mr. Prager:	Yes
	Mr. Della Corte:	Absent

Mr. Prager: The variance has been granted; I go along with Bob's thinking but it's the situation.

Mr. Belliveau: Thank you very much.

Mrs. Roberti: The pool companies do not tell anyone they need a permit, either do the installers.

Mr. Johnston: No they don't.

Mr. Casella: As long as they get their money.

Mrs. Roberti: I'm working with the reporter from the Southern Dutchess News and I had it put on our website and also on channel 22 about the pools everyone is buying. The blow up pools and the ones with pvc. This is a problem. I went out last week and issued tickets. NYS law requires that these pools have a permit.

Mr. Prager: Can I have a motion to adjourn.

Mr. Casella: I make a motion to adjourn.

Mr. Johnston: I second it.

Mr. Prager: All in favor.

Board: Aye.

Susan Rose, Secretary
Zoning Board of Appeals

.