

MINUTES

**Town of Wappinger  
Zoning Board of Appeals  
July 31, 2012**

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

**Summarized Minutes**

**Members:**

Mr. Prager	Chairman
Mr. Della Corte	Member
Mr. Casella	Member
Mr. Johnston	Member
Mr. Galotti	Member

**Others Present:**

Mrs. Roberti	Zoning Administrator
Mrs. Rose	Secretary
Mr. Horan	Attorney

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SUMMARY

**Janice Sabbagh**

- Public Hearing –Granted

**Tony Scott**

-Discussion-Public Hearing August 14, 2012

**NYCDEP**

-Decision-Granted

Mr. Prager: I would like to call the Town of Wappinger Zoning Board of Appeals to order. Roll call please

Mrs. Rose: Howard Prager-----Here  
Tom Dellacorte-----Here  
Al Casella-----Here  
Bob Johnston-----Here

Peter Galotti-----Here  
Barbara Roberti----Here  
Jim Horan-----Here

Mr. Prager: The first item on tonight's agenda is the approval of a number of minutes that date back to 2010 because of the change in secretaries. There wasn't a chance to get them typed up. Did you gentlemen get a chance to look them over? I know a number of you gentlemen were not here at the time. Mr. Horan stated you can still vote on them.

Mr. Horan: Just as a point of order, the committee on open government said that no formal requirement that the board approve the minutes that in essence viewing the minutes and approving is merely just pointing out to the secretary if there are any errors. Absent an approval of the board the minutes would be the minutes of the board. You are just verifying that you reviewed them and there are no errors.

Mr. Prager: Do I need to read the minutes?

Mr. Horan: No they are on the agenda. I think that's appropriate.

Mr. Prager: Does anyone have any questions?

Mr. Casella: I have just two dates. Sept 14<sup>th</sup> and Sept 28<sup>th</sup>. I didn't get copies of.

Mr. Casella: I make a motion to except the minutes even Sept 14<sup>th</sup> and Sept 28<sup>th</sup>.

Mr. Galotti: I second.

Mr. Prager: All in favor?

Board: Aye

Mr. Prager: So carried.

Mr. Prager: First item on the agenda is a public hearing:

**Appeal No. 12-7467**

**Janice Sabbagh**-Is seeking an area variance of Section 240-37 of District Zoning Regulations in an R-20 Zoning District.

-Where a **rear yard setback of 40 feet is required**, the **applicant can only provide 7 feet** for the installation of a 18 x 33 above ground pool, **thus requesting a 33 ft. rear yard variance.**

The property is located at **12 Daisy Lane** and is identified as **Tax Grid No. 6158-02-912877**

Mr. Prager: Please state your name and what you need for the record.

Ms. Sabbagh: My name is Janice Sabbagh and I live at 12 Daisy Lane. I need a variance to put in an above ground pool based on where our prior pool was. There was never a variance for the prior pool and that's what I'm requesting.

Mr. Prager: 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 it.**

**Mr. Prager: All in favor?**

**Board: Aye**

Mr. Prager: We did do a site inspection and I have a couple of questions for you. I noticed a shed on the property and it's right against the property line. Did you get a variance for that?

Mrs. Sabbagh: No that was there also. That is a Rubbermaid portable shed. I think it could be taken down if you needed it to but I thought it was underneath the size you needed a variance for.

Mr. Prager: It seems to be up against your fence. Is that your property line?

Mrs. Sabbagh: I believe it is.

Mr. Prager: I believe there has to be a distance from the property line.

Mrs. Roberti: All sheds need a building permit and in your zone it would be 10 feet from side and 10 feet from the rear.

Mr. Sabbagh: That was there.

Mr. Prager: We didn't realize it or we would have straightened it out before. I don't think we can do anything before this gets a variance.

- Ms. Roberti: We could piggy-back it to the permit but it would have to be moved so that's it 10 ft away. Is it something that can be moved?
- Mr. Sabbage: I think so. It's just a portable shed.
- Mr. Prager: I know it's inconvenient. If you are willing to move the shed 10 feet away, then we can make it a condition.
- Ms. Roberti: It could be a condition.
- Ms. Sabbage: Can it be moved any where?
- Mr. Prager: Not closer than 10 feet to your property line. How much to the rear?
- Mr. Roberti: Is it less than 200 feet?
- Mrs Sabbage: I think it's 7x7.
- Mrs. Roberti: 10 feet from the rear and 10 feet from the side.
- Mr. Prager: We are looking at the photo we have here. I'm not sure if those property lines are correct.
- Mrs. Roberti: On these pictures they never are. They are off.
- Mrs. Sabbagh: I would think the side property line is more accurate that the rear.
- Mr. Casella: Can we amend that variance to add the shed?
- Ms. Sabbage: Can the shed be kept there and added to the same variance so it doesn't have to be moved and piggy-backed on the building permit.
- Mr. Horan: The problem is that the variance is requesting 7 feet so it still has to be moved at least 7 feet.
- Mr. Prager: It still has to be moved.
- Mrs. Sabbagh: It can be moved anywhere.
- Mr. Prager: Let the record show there is no one for or against this variance. Can I have a motion to grant this variance?
- Mr. Johnston: I make a motion to close the public hearing.

Mr. Galotti: I second the motion.

Mr. Prager: If this variance is granted, I would like to add that the shed in question has to be moved. No less than 7 ft.

Ms. Sabbagh: That is 7 feet from the back not the side.

Mr. Prager: Either way.

Ms. Sabbagh: OK

Mr. Prager: You probably only need to move it out.

Mr. Prager: Can I make a motion to grant this variance?

**Mr. Galotti: I make a motion to grant this variance. Mr. Galotti continues to explain why the variance is granted.**

**Mr. Casella: I would like to make an amendment to the granted variance. The shed has to be moved 7 feet but the shed needs to be moved in 30 days.**

Mr. Prager: When are you going to have the pool installed?

Ms. Sabbage: I need some more information as far as what kind of inspections I need along the way so that I can coordinate all this. Can I find that on line?

Ms. Roberti: No, if this is granted and the building permit is ready to be picked up, probably by Friday, all those questions can be answered. If this is granted you are going to amend this permit to include the shed. The shed will then get inspected for a final CC at the same time the pool is getting inspected.

Ms. Sabbage: So the building permit cannot be picked up Friday until the shed is moved?

Ms. Roberti: No, you have to have the building permit to build the pool. The shed will be piggy-backed on it. When they come to do a final inspection for the pool they will also inspect that the shed was moved.

Mr. Prager: Is that alright?

**Mr. Casella:** Amended to say shed must be moved within 30 days.

**Mr. Casella:** I'll second that motion.

**Mr. Prager:** Can I have a roll call vote.

<b>Mrs. Rose:</b>	<b>Tom Della Corte</b>	<b>Yes</b>
	<b>Bob Johnston</b>	<b>Yes</b>
	<b>Al Casella</b>	<b>Yes</b>
	<b>Peter Galotti:</b>	<b>Yes</b>
	<b>Howard Prager:</b>	<b>Yes</b>

**Mr. Prager:** The variance is granted and will be filed in 5 days.

Mr. Prager: Next on the agenda is:

**Appeal No. 12-7468**

**Tony Scott** – Is seeking a variance of Section 240-37 in the Zoning Laws of the Town of Wappinger . No footprint greater than 600' for an accessory building. The applicant can provide 1440 square feet thus requesting a variance of 840 square feet for a 3 bay detached garage.

-Section 240-30 states- There shall be a maximum of two accessory building on a residentially used or residentially zoned lot, and no such accessory building shall have a footprint greater than 600 square feet nor a height in excess of 20 feet.

The property is located **6 Wild wood Drive** and is identified as **Tax Grid No. 6158-02-839730** in the Town of Wappinger.

Mr. Prager: Please tell us what you want.

Mr. Scott: It's a detached garage, 3 bay to store my classic cars.

Mr. Prager: How many cars do you have?

Mr. Scott: I have 4 classic cars.

Mr. Johnston: How high is the building going to be?

Mr. Housekeeper: 26 feet high.

Mr. Prager: Why do you need it so high? It looks to me that it is a house. What are you doing with the upstairs?

Mr. Scott: The idea is to mimic the house. I didn't want it to look like a shed. It's going to look very nice. It's going to complement the house.

- Mr. Prager: What do you plan on doing upstairs?
- Mr. Scott: It's going to be storage.
- Mr. Housekeeper: That loft is a partial loft, if you look at the part of the plan you'll see a line right here. The last 13 feet is opened to the roof. The second floor is only about 26 feet. I'm a barn builder and I have done many here in Wappinger. He is looking for storage for his parts.
- Ms. Roberti: Howard, we are going to have to redo the legal notices because of the height I would like to add it as a secondary.
- Mr. Prager: Does anyone have any questions?
- Mr. Galotti: The building says it's 36x40 and on the plans it says 24x40.
- Mr. Housekeeper: There is a shed area off the back, if you look at the plan.
- Mr. Galotti: It's the footprint we are considering.
- Mr. Housekeeper: The footprint but the total 1440 is 24x40 of this section here with the upstairs then there is 12x40 shed off the back.
- Mr. Galotti: Then the footprint is 40x36.
- Mr. Johnston: Are you going to have electric?
- Mr. Scott: Yes
- Mr. Johnston: Water?
- Mr. Scott: No, not at this time.
- Mr. Prager: Anyone else have any question?
- Mr. Prager: Do you have it marked off where you want it.
- Mr. Scott: Not yet.
- Mr. Prager: Can you and we will do a site visit this weekend.
- Mr. Housekeeper: Two things to consider. The size of his house is a pretty large house so we are not dwarfing the house in anyway. The neighbor to his left has a horse farm it's not a tight neighborhood. There is 2.9 acres.
- Mr. Prager: Next on the agenda is:

**Appeal No. 12-7456**

**NYCDEP Shaft 6** – Seeking five (5) variances of Section 240-27 & 240-37 of District Zoning Regulations R-80 Zoning. The property is located at **195-209 River Road** and is identified as **Tax Grid No. 6056-01-288977** in the Town of Wappinger.(Canale)

1. Where **one (1) construction trailer is allowed**, the applicant is **proposing up to ten (10) temporary construction trailers to allow the NYCDEP requirement of multiple contractors on publicly-bid projects. Each contractor to provide its own construction trailer to be used as an office**, thus requesting a variance **of nine (9) temporary trailers.**
2. Where **one (1) storage container is allowed**, the applicant is **proposing up to forty-five (45) storage containers for sound mitigation**, thus requesting a variance of **forty-four (44) temporary storage containers.**
3. Where **a side yard setback of 80 feet is required for storage containers from the property line**, the applicant is **proposing a side yard setback of 40'**, to allow placement of double-stacked empty storage containers as a noise barrier along one (1) property line, **thus requesting a temporary variance of 40'.**
4. Where **two (2) square feet is allowed for signage in a residential neighborhood**, the applicant is **proposing thirty-two (32) square feet**, to allow one (1) 4-foot by 8-foot site identification sign at the entrance to its property, **thus requesting a variance of for signage of thirty (30) square feet.**
5. Where **ten (10) percent maximum lot coverage is allowed**, the **applicant can provide thirteen and four-tenth (13.4) percent** lot coverage on the site upon completion of the project, **thus requesting a variance of three (3) and four-tenths (.4) percent additional lot coverage.**

Mr. Horan: Let me set it up for the board's consideration. The finding statement under SQRA process, this is a coordinated view with an environmental impact statement. The NYCDEP was the lead agency in this matter. They issued a finding statement dated June 28, 2012 which the board has. There is a final environmental impact statement. The big volume there considers all the impacts with respect to the project. Project 1 and 2 looks at much more than what we have here for this variance. Of the 5 variances before us, variance 1 is for addition construction trailers. One of the findings in the finding statement is

that the construction trailers in the Wappinger Code doesn't apply to a project of the magnitude.

Mr. Prager: Let's talk to them as we go along. The first variance read as follows:

Where 1 construction trailer is allowed, the applicant is proposing up to ten temporary construction trailers to allow the NYCDEP requirement of multiple contractors on publicly-bid projects. Each contractor to provide its own construction trailer to be used as an office, thus requesting a variance of 9 temporary trailers.

Mr. Horan: With respect to the project, one of the things that are mentioned here respect to public work projects. One of the requirements under the WICKS Law, which is a general municipal law regarding public contracts. Each contract is required to be bid separately so there will be multiple contractors. As contractors come and go during various stages in this project. They will take their trailers.

Mr. Prager: The second variance:  
Where one storage container is allowed, the applicant is proposing up to forty-five storage containers for sound mitigation, thus requesting a variance of 44 temporary storage containers.

Mr. Horan: Why don't you read three because they are related?

Mr. Prager: The third variance:  
Where a side yard setback of 80 feet is required for storage containers from the property line, the applicant is proposing a side yard set back of 40 feet, to allow placement of double-stacked empty storage containers as a noise barrier along one property line, thus requesting a temporary variance of 40 feet.

Mr. Prager: Are they stacked next to each other?

Mr. Horan: They are actually stacked on top of each other. There is an appendix that analyzes the sound absorption in qualities of the constructions trailers. DEP in a project regarding the Croton Treatment Facility they used some shipping containers and certain material to create a certain noise barrier. One of the benefits is that they are more resilient than the typical noise curtains. They stand up better than the curtains that tend to blow around in the wind. Under the town code, construction trailers that are in a residential district need to be twice the side or rear setback in an R-80 district. The shaft location where the construction is

going to take place it about 150 feet from the property line and the barriers have to be between the construction area and the property line. They have to be on a level surface. That is the reasoning for these locations.

Mr. Prager: How are they going to be attached? I was thinking about this because of the high winds we have had.

Mr. Simmons: They have interlocking connections.

Mr. Prager: Next is variance #4:  
Where 2 square feet is allowed for signage in a residential neighborhood, the applicant is proposing 32 square feet, to allow one 4 foot by 8 foot site identification sign at the entrance to its property, thus requesting a variance of 30 square feet for signage.

Mr. Horan: In respect to this variance the applicant needs to post some construction related information. Two square feet is minimal at best. The code says larger signs would be permitted with respect to special permits being issued by the planning board if the town board ever deemed to generate requirements for signs, in essence home business occupations and things of that nature. As the code presently stand we don't have any of those provisions, the NYCDEP is bound by residential requirements which limits things to 2 square feet which is not to big at all.

Mr. Prager: There is a sign there now. Is this going to replace that sign or is it in addition?

Mr. Villari: It's going to replace the sign.

Mr. Prager: Next is variance # 5:  
Where **ten (10) percent maximum lot coverage is allowed**, the **applicant can provide thirteen and four-tenth 13.4) percent** lot coverage on the site upon completion of the project, **thus requesting a variance of three (3) and four-tenths (.4) percent additional lot coverage.**

Mr. Horan: This goes to the development of the property after all the construction is completed. On the particular premises a

number of buildings are on that property and they all go into this calculation. The calculation for lot coverage is really for residential use. Ten percent is a really low number in respect to this project. One of the things the planning board is required to do in this case is to review the storm water pollution prevention plan. What is interesting is that NYC is its own SWIPP but the Town of Wappinger has to approve the SWIPP in conjunction with the site plan and after it's been approved it's then up to NYC to administer all of it. The DEP is well versed in respect to the storm water on the site.

- Mr. Prager: Reads the finding statement.
- Mr. Prager: Can I have a motion to grant or deny the findings and facts?
- Mr. Casella: I make a motion to grant those findings and facts.
- Mr. Johnston: I second the motion.
- Mr. Prager: All in favor?
- Board: Aye.
- Mr. Prager: The next portion of this will be the application for the area variance findings and decision and again it's on appeal no. 12-7456. Mr. Prager reads the finding and decision statement.
- Mr. Della Corte: I would like to discuss something in private.
- Mr. Casella: I make a motion to go into executive session for legal advice.
- Mr. Prager: I second the motion.
- Mr. Casella: I make a motion to come out of executive session.
- Mr. Prager: I second that motion.
- Mr. Prager: Can I have a motion to approve this decision on this project?

Mr. Casella: I make a motion to approve this decision on all the information that was provided to us by Jim.

(Horan)

Mr. Johnston: I second the motion.

Mr. Prager: Can I have a roll call vote.

Mrs. Rose:	Tom Della Corte:	Abstain
Bob Johnston:	Yes	
	Al Casella:	Yes
	Peter Galotti:	Yes
	Howard Prager:	Yes

Mr. Prager: Can I have a motion to close the meeting?

Mr. Johnston: I make a motion to close the meeting:

Mr. Della Corte: I second the motion.

Mr. Prager: All in favor?

Board: Aye.

Respectfully Submitted,

Sue Rose, Secretary  
Zoning Board of Appeals









