

MINUTES

**Town of Wappinger
Zoning Board of Appeals
November 13, 2012**

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

Summarized Minutes

Members:

Mr. Prager	Absent
Mr. Della Corte	Member (Vice Chairman)
Mr. Casella	Member
Mr. Johnston	Member
Mr. Galotti	Absent

Others Present:

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

SUMMARY

Joseph Carino	Adjourn PH-New plans will be submitted
Chapel of Sacred Mirrors	Variance Granted

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

Mrs. Rose: Howard Prager-----Absent
Tom Della Corte-----Here
Al Casella-----Here
Bob Johnston-----Here
Peter Galotti-----Absent

Mr. Della Corte: The first item on the agenda is to open an adjourned Public Hearing on:

Appeal No. 12-7472

Chapel of Sacred Mirrors-Is seeking an area variance of Section 240-37 of District Zoning Regulations in an R 40/80 Zoning District.

-Where a **side yard setback of 40 feet is required**, the **applicant can only provide 14.6 feet** for construction of an addition to the existing carriage house which will be converted to an art gallery, **thus requesting a 25.4 side yard setback.**

The property is the former Deer Hill Conference Center, **(46-70 Deer Hill Road)**, located on Wheeler Hill Road and is identified by **Tax Grid No. 6057-02-834604** in the Town of Wappinger.

Mr. Della Corte: Can I have a motion to open the adjourned public hearing?

Mr. Cassella: **I make a motion to open the adjourned public hearing.**

Mr. Johnson: **Second.**

Mr. Della Corte: **All in favor?**

Board: **Aye.**

Mr. Cappelli: My name is Alfred Cappelli. I am the architect for the Chapel of Sacred Mirrors. To refresh everyone on this project on the north side of the property is an existing carriage house. I believe you have made a visit to the property. This property is adjacent to the Reese property. We are looking to square off the existing carriage house with an addition on the east and the west side corners. The west side corner there will be an elevator and a staircase. The east side an entrance lobby. The art gallery space will be the two floors of the carriage house. We will not be going out any further that the foot print of the building and we will not be any

closer to the property line.

Mr. Della Corte: Does anyone have any questions?

Board: No.

Mr. Della Corte: Does anyone in the audience have any questions?

Audience: No response.

Mr. Della Corte: Can I have a motion to close the public hearing?

Mr. Johnston: I make a motion to close the public hearing.

Mr. Casella: I second that.

Mr. Della Corte: Can I have a motion to grant or deny this variance.

Mr. Horan: Just a couple of comments. The last time we were here the applicant had indicated that in the areas where he is seeking the variance there was an existing staircase.

Mr. Cappelli: There was an external stair case. There was a garage that was taken down. The garage was in line with the carriage house and was connected by a single brick wall.

Mr. Horan: To those points and to be put into the record the applicant is seeking to put structure back where there was structure previously. Under the Town Zoning Code, this is called a non-conforming structure. A non-conforming structure applies to a structure that does not comply with heights, setbacks and things to that nature. The use here is an allowed use in the zone. The question here is strictly related to structure. The other question is does the applicant have the right to rebuild where the structure had previously been. The section in the code that applies is 240-16, subdivision G. The code is for non dimensional non conforming buildings and structures. (Mr. Horan reads the code, which can be found on our website).

Mr. Casella: Are you saying since there was a building there before and was taken down shouldn't prohibit us from saying no to the variance.

Mr. Horan: Yes, what we are saying since that is there it won't necessarily change the character of the neighborhood and it is not generating additional traffic.

Mr. Johnston: You said if they expand on the non conforming building.

Mr. Horan: They can expand on a non conforming building. What it says is they

cannot increase a non conforming building.

Mr. Casella: They are not increasing the size.

Mr. Horan: The non conformity is the set back line.

Ms. Roberti: If you were to grant the variance, keep in mind the letter from Mr. Reese concerning the trees that need to be planted.

Mr. Cappelli: They are already in.

Ms. Roberti: Are they on his property?

Mr. Cappelli: Yes.

Mr. Horan: I don't think it is appropriate to impose a condition on the owner of this property to maintain the planting of bushes on someone else's property. The variance runs with this property. It can be noted that the applicant is willing to concede that fact but I think that it creates some real issues by requiring the owner of this property to maintain improvements on an adjacent property.

Mr. Casella: From a ZBA perspective I agree but from a planning board perspective can't they impose a different code saying that he has to maintain them?

Mr. Horan: I think it is appropriate to issue a condition that the applicant is willing to plant the trees on the adjacent property as a one condition for the granting of the variance but to have a condition to maintain them without an easement or a property right.

Mr. Casella: Mr. Reese can say what he pleases he is not going to grant or deny this variance. He has no real say.

Mr. Horan: Yes. You can note for the record that the concession has been made on the side of the applicant.

Mr. Cappelli: This conversation was between Mr. Reese and Brian. Before the weather got bad, Brian planted the trees.

Ms. Roberti: This conversation also came up at the planning board.

Mr. Casella: This has nothing to do with the ZBA decision tonight. We can put it into the record but this has nothing to do with the decision here tonight.

Ms. Roberti: I just wanted it on the record like when the residents came here.

Mr. Casella: This is really a non issue.

Mr. Horan: My only concern is on the part of COSM. If a future owner doesn't want those trees there, he can take them down.

Mr. Della Corte: Was it discussed in the planning board, who is going to take care of those trees?

Mr. Casella: Do we need to say anything in the variance about this?

Mr. Horan: No.

Mr. Della Corte: Can I have a motion to grant or deny this variance.

Mr. Casella: I make a motion to grant the variance. It is not an undesirable change to the neighborhood. It is not substantial, it was an existing piece of property and the buildings were there before. There is no other feasible way. As our attorney has said, there has been improvement made on the behalf of the applicant by planting trees.

Mr. Johnston: I second the motion.

Ms. Rose:	Tom Della Corte	Aye
	Al Casella	Aye
	Bob Johnston	Aye

Mr. Della Corte: Next on the agenda is:

Appeal No. 12-7473

Joseph Carino-Is seeking an area variance of Section 240-37 of District Zoning Regulations in an R20 Zoning District.

-Where a **rear yard setback of 40 feet is required**, the **applicant can only provide 23 feet** for the installation of a 15X24 foot above ground pool and an attached 23' X 30' deck, **thus requesting a 17 foot rear yard setback.**

-Where a side yard setback of 20 feet is required, **the applicant can only provide 10 feet** for the installation of a 15x24 foot above ground pool and a 23'x30' attached deck, **thus requesting a 10 foot side yard setback.**

The property is located at **7 Morgan Court** and is identified as **Tax Grid No. 6258-01-188954.**

Mr. Della Corte: To my understanding this description is to be amended.

Ms. Roberti: Correct.

Mr. Della Corte: Mr. Carino will come back with an amended plan and Barbara and Sue review it and come back to the board.

Ms. Roberti: I had Sue put this back on because at the last meeting you had adjourned it and since the gentleman is not ready to come back and amend it. I felt for continuity it should be in the record. He will be back in a few weeks.

Mr. Casella: Does he have to go through all that paper work again since it is a lesser variance.

Ms. Roberti: He will come in and amend his application in the building department. The building application will come back to me and will be denied. The variance application will be adjusted. There will be no additional fees. We will send you out the amended application.

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

Mr. Johnston: I second the motion.

Respectfully Submitted,

Sue Rose, Secretary
Zoning Board of Appeals