

MINUTES

**Town of Wappinger
Zoning Board of Appeals
December 11, 2012**

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

Summarized Minutes

Members:

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

Others Present:

Mrs. Roberti	Zoning Administrator
Mrs. Rose	Secretary
Mr. Volkman	Conflict Attorney for Old Troy Subdivision

SUMMARY

Old Troy Subdivision
(Craig O'Donnell)

Adjourn until February 12, 2013

Gas Land Petroleum, Inc

Variance 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 Della Corte-----Here
Al Casella-----Here
Bob Johnston-----Here
Peter Galotti-----Here

Mr. Prager: The first item on the agenda is minutes to be approved:

November 13, 2012 and November 27, 2012 do I have a motion to accept these minutes?

Mr. Casella: I make a motion to accept these minutes.

Mr. Johnston: Second.

Mr. Prager: All in favor?

Board: Aye

Mr. Prager: I am going to change the agenda a bit because we are going to spend more time on the Old Troy Subdivision. So we will start with:

Appeal No. 12-7475

12-3264/Gas Land Petroleum, Inc. - Is seeking an area variance of Section 240-37 of District Zoning Regulations in an NB Zoning District. The applicant is proposing a front yard setback for a 137 square feet addition to an existing building.

-Where a **75 foot setback is required to a county or state highway**, the applicant **is proposing a front setback of 70 feet**. The applicant is seeking a variance of **5 feet**.

The property is located at **1831 Route 376** and is identified as **Tax Grid No. 6259-02-524833**. (Chazen)

Mr. Prager: Are all the mailings in order?

Ms. Rose: Yes Sir.

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

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

Mr. Casella: **Second.**

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

Board: **Aye.**

Mr. Lipine: My name is Chris Lipine. I am with the Chazen Group and I am representing the applicant. This gas station was purchased from the Bottini family. Since the purchase they have remediated it with the consent from the DEC. They are before the Planning Board for site plan approval. They are looking to turn the entire store into a Convenient Mart. They are also looking to make some changes to the building. The front yard setback is only 70 feet and 75 feet is needed.

Mr. Prager: Reviews map with Mr. Lipine and Board. Reviews map 3 of 11.

Mr. Casella: What is this addition going to be used for?

Mr. Lipine: He will be eliminating the entire garage and making it a convenient store.

Mr. Prager: The 5 feet is because it is a state road?

Mr. Lipine: Yes.

Mr. Prager: You really aren't going out any further.

Mr. Lipine: No we are in line with the existing building.

Mr. Prager: Is there anyone in the audience who has any question?

Mr. Prager: Let the record show that there is no one in the audience for or against this variance. Can I have a motion to close the public hearing?

Mr. Casella: **I make a motion to close the public hearing,**

Mr. Johnston: **Second.**

Mr. Prager: **Can I have a motion to grant or deny this variance?**

Mr. Galotti: **I make a motion to grant this variance.**

Mr. Johnston: **Second.**

Mr. Prager: **Roll call vote.**

Ms. Rose: **Tom Della Corte** **Aye**

Bob Johnston	Aye
Al Casella	Aye
Peter Galotti:	Aye
Howard Prager:	Aye

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

Appeal No. 12-7474

Old Troy Subdivision-Craig T O'Donnell-Is seeking an area variance of Section 240-37 of District Zoning Regulations in an R/80 Zoning District. The applicant is proposing two resident lots in a residential district.

- Where **80,000 square feet is required per lot**, the **applicant can only provide 80,037.87 square feet** for Lot 1 (which is in conformance) and can only provide **75,649.28 square feet** for Lot 2. The applicant is seeking a variance of **4,683.72 square feet for Lot 2**.

The property is located at **Wheeler Hill Road (Along the southwest side of Old Troy Road and near the intersection of Wheeler Hill Road)** and is identified as **Tax Grid No. 6057-04-589487**.(Day)

Mr. Prager: Are all the mailings in order?

Ms. Rose: Yes sir.

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

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

Mr. Galotti: Second.

Mr. Prager: All in favor?

Board: Aye.

Mr. Volkman: Mr. Chairman, I would like to go on the record to say my name is Scott Volkman. Mr. Roberts and his firm have a conflict with this application. I will be the conflict attorney for Mr. O'Donnell at the Planning Board and here for the ZBA.

Mr. Morris: My name is Jason Morris. I work for Day Engineering and I represent Craig O'Donnell the applicant. This is a two lot subdivision in an R80 zone. He will be dedicating to the town a strip of land and dedicating an easement for the purpose of water line construction. There is a miss print in the paper. The variance we are requesting is 4,685 square feet and the non conforming lot will be 75,315 square feet. It is just a small discrepancy.

- Mr. Prager: I also noticed on the map the old lot line is going down Wheeler Hill Road.
- Mr. Morris: Yes the original lot line.
- Mr. Johnston: If you didn't have the easement, would you be in compliance?
- Mr. Morris: The easement has nothing to do with the non conforming lot.
- Mr. Volkman: The dedication of the road frontage, which was requested by the Highway Superintendent, it would be conforming if not for the dedication.
- Mr. Prager: Is there anyone in the audience that would like to speak for or against this variance.
- Mr. Glembotzky: My name is Martin Glembotzky and I live at 647 Wheeler Hill Road. I live directly across the street from these lots. We live on one of the most beautiful road in the county. It is in a historical district and Mr. O'Donnell has made great contributions to this area. I have spoken to Craig directly but I'm not really concerned with what Craig would do. He wants to put a cottage there for his family. My concern is by giving this variance to allow the split what will happen down the road. (Pointing to the map) There is a stream that runs at the base of this property. I'm concerned about the ground water and how it affects my neighbors. What happens if the property is split and a large house is put on that property? I'm not here to oppose or fight. I just want to look at it and see what it is about.
- Mr. Prager: Can we get some sort of answer.
- Mr. Morris: In terms of the environmental impact the project is before the planning board. As part of the approval from the planning board, they need to look at SEQRA. They need to review the environmental impact. They are the lead agency in the project.
- Ms. Wagman: My name is Marcy Wagman and I live at 50 Old Troy. I am unclear about the split. Does this mean there are two separate properties? Does this mean one can be sold separately? I guess I agree with Marty about the future and the environmental impact.
- Mr. Morris: The project in addition to be approved by the planning board this project also has to be approved by the Dutchess County Planning Board. They have to approve well size and septic locations. My office has to take into account all the neighboring wells and septices. The Dutchess County Department of Health reviews all of that. There are several agencies that have to approve all of this.

Mr. Della Corte: The concern is what is going to happen in the future. Mr. O'Donnell, I'm thinking you are putting these buildings here? Are you developing those lots?

Mr. O'Donnell: My name is Craig O'Donnell. I live at 701 Wheeler Hill Road. My plan is to build a home here for my wife and myself. We currently live down the street and have lived there 27 years. The kids are gone now and my plan is to build a smaller home. (Pointing to the map) I plan to build on the far south corner and I have no plans to build here. In donating the property it makes one of the lots non-conforming and in the future if one of my kids wants to build it would be a problem. I've cleaned up the property and have been fixing the stone wall that has been there for about 200 years. Lot #1 is where I want to build my house and Lot #2 will stay green until one of my kids want to build.

Mr. Pratt: My name is Jim Pratt. I live at 21 Old Troy Road. I am a neighbor of Craig and our house is west of his property. Our major concern is that our well exists on Craig's property and any future septic systems as it relates to our well. There is a spring that comes out of the hill and goes across Old Troy Road and feeds a pond there. We have been in that house 42 years and that is our main water supply. It is a hand dug well and at the most 25 feet deep and a sustained us all 42 years.

Mr. Johnston: Mr. Pratt, Lot 1 is in compliance. It is Lot 2 that needs the variance.

Mr. Pratt: I understand but our concern is any septic situation because it is downhill. Other than that Craig has done a good job in cleaning up and building the wall.

Mr. Volkman: There are a couple of issues I would like to talk about. I think we should close the public hearing and go into executive session.

Ms. Dohrenwend: My name is Heidi Dohrenwend. I live at 5 Douglas Drive. Douglas Drive is right across the street from Craig's lot. I understand everybody's concerns but I'm here to let you know what Craig has done so far with this property is just a miracle. It was a problem pulling in and out of our driveway; Craig has cleaned up an old tree that fell. He has cleaned up the lot. He knows what he is doing and what he has done so far is a big improvement.

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

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

Mr. Casella: Second.

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

Board: **Aye.**

Mr. Prager: **Can I have a motion to go into executive session?**

Mr. Della Corte: **I make a motion to go into executive session.**

Mr. Galotti: **Second.**

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

Board: **Aye.**

Mr. Prager: **Can I have a motion to come out of executive session?**

Mr. Johnston: **I make a motion to come out of executive session.**

Mr. Galotti: **Second.**

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

Board: **Aye.**

Mr. Prager: We are not going to make a decision tonight for a couple of reasons. First because the planning board is the lead agency in this variance and what they need is their 30 days to determine and confirm that they are the lead agency status since this is a type 1 environmental assessment. Second, we did recognize the minor difference in the acreage it is very immaterial but we do want to get this on the record.

Mr. Volkman: If you want to now, move this to a particular agenda.

Mr. Prager: What I would like to do is adjourn this put the decision off until February 12th.

Mr. Della Corte: Does everyone know what lead agency is?

Mr. Prager: Since this is a type 1, which is a more serious environmental assessment because it is in a historic area. It basically is more involved.

Mr. Morris: It gets circulated to all the agencies.

Mr. Della Corte: There were a lot of questions this evening concerning the environment and that is why we are not making a decision tonight. All the environmental questions have to be answered first and there is a time period that needs to

elapse.

Mr. Prager: That is done by the planning board. I would like to put this on the agenda for February 12th.

Mr. Morris: Are you waiting for a decision on lead agency?

Mr. Prager: Yes.

Mr. Morris: I except to have that at the next planning board meeting.

Mr. Volkman: We also have to have our SEQRA determination to be complete and then a public hearing has to be scheduled.

Mr. Prager: Do we have any other business?

Mr. Prager: I make a motion to send a letter to the Town Board on behave of Tom and we are in favor of his reappointment.

Mr. Casella: Second.

Mr. Prager: All in favor?

Board: Aye.

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

Mr. Galotti: I make a motion to close the hearing.

Mr. Casella: Second.

Mr. Prager: All in favor?

Board: Aye.

Respectfully Submitted,

Sue Rose, Secretary
Zoning Board of Appeals