

MINUTES

**Town of Wappinger
Zoning Board of Appeals
October 8, 2013**

**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. Barbara Roberti	Zoning Administrator
Ms. Sue Rose	Secretary
Mr. Horan	Attorney

SUMMARY

Aaron Kellner & Krystal Campbell	Adjourn Public Hearing until November 26 th
Prestige Mini	Public Hearing November 12 th
Oswald & Mary Mantilla	Public Hearing November 22 nd
William & Jana Carrie	Public Hearing November 22 nd

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

Ms. 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 the acceptance of the minutes from August 27, 2013 and September 10, 2013.

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

Mr. Johnston: Second.

Mr. Prager: All in favor?

Board: Aye.

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

Appeal No. 13-7504

Aaron Kellner & Krystal Campbell - Is seeking an area variance of Section 240-20(A) of the Town of Wappinger Zoning Regulation and 280-a of Town Law in an R-20 Zoning District.

-The applicant (Kellner) proposes to access his lot over an easement which has been created over the 1.48 acre Campbell lot, two other lots on Easter Road would also gain access over the Campbell property with the granting of this variance. The properties are located at **76 & 80 Easter Road (Kellner) 54 & 62 Easter Road & 14 Circle Drive (Campbell)** and are identified by **Tax Grid Nos. 6056-01-294696/326668 (Kellner) & 6056-01-259729/276713/259750 (Campbell)** in the Town of Wappinger.

Mr. Adams: My name is Jon Adams and I represent Aaron Kellner. We are applying for a zoning variance for Section 280-a of the town law.

280-a permits the board to grant a variance to a property owner when the property doesn't have frontage on a town road. I don't think there is a dispute in this situation because they don't have frontage on the town road. Mr. Chairman I am only going to give you an overview tonight. There are some legal issues that Mr. Horan and I are working on. The objective here is to build a house. I also represent Krystal Campbell and her husband. (Pointing to the map) the houses in yellow are Mr. Kellners and the houses in orange are Ms. Campbell. This is what is supposed to be a right away but I believe it is not a legal right away. This driveway is not passable because of a culvert. Our proposal is to bring a road through this end of the Campbell parcel and then continue on. At one time Circle Drive connected through here to Easter Drive. I just discovered a deed this afternoon in the County Clerk's Office. This parcel here was owned by a person named Leggerio. When you read Mr. Leggerio's deed, this parcel was subject to a right away for access from Circle Drive to Easter Drive. Somehow the town never took it over. We meet with the assessor and we think it was accidentally sold at a tax sale. My client does not want to burden Mr. Leggerio by driving over his lot. Their intention is to replicate on this parcel the right of access onto Campbell's.

Mr. Horan: The deed that Mr. Adams provided today says subject to and together with easement of right away in common with others, and that is the key language, along Easter Road to and from Chelsea Road and along Easter Road heading into Circle Drive. That is an issue that we are looking at.

Mr. Adams: (Pointing to the map) this is River Road, this is my client's lot and this is the Campbell lot. Unless there is a clear indication in that this area here was to be used as a road way, there is not road way, if you notice here there is nothing that says this is supposed to be a road.

Mr. Della Corte: (Pointing to the map) so that would only be Easter Road from Old Chelsea Road.

Mr. Adams: (Pointing to the map) Yes and it is repeated down here but then you have property lines.

Mr. Horan: (Pointing to the map) the property line seems to end right here and then the question is how is this treated? The one issue is 280-a and this legislation has been around since the '30's. It reads as follows:

Permits for buildings not on improved mapped streets. 1. No permit for the erection of any building shall be issued unless a street or highway giving access to such proposed structure has been duly placed on the official map of plan, or if there be no official map or plan, unless such street or highway is (a) an existing state, county or town highway, or (b) a street shown upon a plat approved by the planning board as provided in section two hundred seventy-six and two hundred seventy-seven of this article, as in effect at the time such plat was approved, or (c) a street on a plat duly filed and recorded in the office of the county clerk or register prior to the appointment of such planning board and the grant to such board of the power to approved plats.

That is the section that applies and there was a house on Mr. Kellner's lot. Do you know if that house was prior to zoning?

Mr. Kellner: The house was built in 1954 and my father bought the property in 1946.

Mr. Horan: So that predated zoning.

Mr. Prager: (Pointing to the map) you want to extend this little bit here?

Mr. Adams: I don't want to extend the road; I want to have access to the road through a common driveway.

Mr. Prager: (Pointing to the map) What were we saying about Leggerio's lot? It looks like it is going to go across his too.

Mr. Johnston: (Pointing to the map) the easement that goes across Circle two Easter is that open to everybody on these to lots?

Mr. Adams: That is an open issue.

Mr. Kellner: My name is Aaron Kellner and I own the properties at 76 and 80 Easter Road.

Mr. Prager: (Pointing to the map) this is a little clearer. You want to come in this way. Who owns this lot?

Mr. Kellner: That is the Campbell lot.

Mr. Prager: (Pointing to the map) is this the idea you have?

Mr. Kellner: (Pointing to the map) this is an approved easement on my deed. What we want to do is go up a few feet, across over here and up Easter Road.

Mr. Adams: This picture is from Parcel Access and they do not show the right away. Why I don't know.

Mr. Prager: (Pointing to the map) I see all these names here on Easter Road. How do we get passed them? Are we going to be able to go over those? So it is a road.

Mr. Adams: I don't think it is a road. If it was intended to be a road it was poorly undertaken.

Mr. Prager: Mr. Kellner are you going to improve that portion of the road?

Mr. Kellner: We already filed a grading plan that includes the easement.

Mr. Prager: (Pointing to the map) I'm talking about this portion.

Mr. Kellner: (Pointing to the map) this is the paving plan and it goes up to my lot.

Mr. Adams: One of the lots that is being improved is the Subrize lot. This is west of the Campbell lot.

Mr. Della Corte: When you say improving the Subrize lot. What does that mean? Are you giving them access? You also said you filed a paving plan, are you paving the road?

Mr. Kellner: The town is asking me to do this to get my building permit. Rather than making an issue out of it, I agreed to do it.

Mr. Prager: Can the other people on Easter Road use it?

Mr. Kellner: (Pointing to the map) what we have done is with providing the easement here, here and here they are all under a maintenance agreement. We have all agreed with a schedule to pay for road repairs.

Mr. Adams: There are no provisions for anyone else.

Mr. Prager: (Pointing to the map) you could stop them from coming in that way and going down.

- Mr. Adams: This would be private property. He would have control over the road.
- Mr. Prager: (Pointing to the map) so these people would not have authorization to use the road.
- Mr. Kellner: (Pointing to the map) this is the house that we are trying to put up.
- Mr. Prager: On one lot or two?
- Mr. Kellner: This will be on lot # 9 to replace the one that burnt down. We are under a little pressure because this has taken 9 years to get done. What happened is the house burnt down and we had problems with the insurance company when we made the claim. We got an extension to our insurance claim and we need something up by next May. I tried at first to fix the bridge down at the bottom of Easter Road because that was pointed out as an access problem in trying to get the house built. I wanted to put up what I had before and it couldn't be done because of an access problem. The engineering cost for the bridge started escalating and the bridge became impractical. I tried to put a culvert in and the town wanted a hydrology study done and I couldn't find an engineer to get a good hydrology study done. I spent about \$4,000 and I couldn't get a plan. At this point I started to talk to the Campbell's about getting an easement. It is a decade later and I still don't have a permit. When my Dad bought the place in 1946 and he put the house up in 1954, we have been there a long time.
- Mr. Johnston: Was Easter Road there then?
- Mr. Kellner: Yes but what happened was in 1968, when the Chelsea Ridge Apartments went in all the drainage from the road came down the ridge right by Easter Road. It washed out the road in several places. We were left with it to deal with. It was before Zoning and Planning. The town didn't want anything to do with it. What people started to do is figure out their own way to get off of Easter Road because the bridge over here (Pointing to the map) was washed out. I am outlining the advantages of this for you.
- Mr. Prager: If that bridge goes out and they need to go out this new way, are they going to be able to do it?

- Mr. Kellner: I won't stop them.
- Mr. Casella: What about the Campbell's, will they stop them?
- Mr. Kellner: The people you are speaking of use the Leggerio exit.
- Mr. Prager: We have been out there for another variance and we were told do not go up that way because you will get into trouble because people will not let you through there.
- Mr. Della Corte: The road that you are going to pave, is that going to be a private road?
- Mr. Kellner: Yes.
- Mr. Casella: Is this going to be a continuation of Circle Drive?
- Mr. Adams: It would not be a continuation of Circle Drive because it is going to be a private road.
- Mr. Prager: There is going to have to be some research done on this and we will need \$2000 in escrow.
- Mr. Johnston: I make a motion.
- Mr. Casella: Second.
- Mr. Prager: All in favor?
- Board: Aye.
- Mr. Prager: We will continue the discussion on November 26th.
- Mr. Prager: The next item on the agenda is:

Appeal No. 13-7506

Prestige Mini (Krisujen Realty, L.P.)-Is seeking an area variance of Section 240-37 & 240.29 F (2) (a) of Zoning Regulations in an HB Zoning District.
-Where an **automobile display structure must be 75 feet from the property line** when located on a state or county road, the applicant can only provide **53 feet** for an automobile display structure, thus requesting a **front yard variance of 22 feet**.

-Where a **freestanding sign may not be taller than 10 ft. in height**, the **applicant is proposing 19 ft. 7 ¼ in height for a freestanding sign**, thus **requesting a variance of 9 ft 7 ¼ in.**

The property is located at **1162 Route 9** and is identified by **Tax Grid No. 6157-04-674155** in the Town of Wappinger.

Ms. Van Tuyl: Good evening my name is Jennifer Van Tuyl and with me tonight is Chris Turner the owner of Prestige Mini in Ramsey, New Jersey. We have been before the Planning Board discussing the site plan but we are here today to discuss two specific variances. We are here to discuss the Lead Agency notice that has been circulated. If you have any questions about that, we are happy to answer them. We are hoping you will agree to set a Public Hearing on our requests for variances. We would like to be on the November 12th agenda because the Planning Board has scheduled a Public Hearing on October 21st. The property is across the street from Osborne Hill Road. It is on the east side of Route 9 and it is zoned HB. One of the reasons we are asking for these variances is because our lot is lower than the others. Valvoline which is before our property is up on a hill. The previous properties are 4 ½ to 5 feet higher than ours so please keep this in mind for our sign variance. There are a number of obstructions to the view of our property.

Mr. Marcella: My name is Rob Marcella. Mini is a very high quality vehicle manufacturer and they continue that quality with their dealership. They use the building and cars to market their dealership. Their signs are very elegant. There will be a cube that will be in the front yard setback. What mini chooses to do is just display a mini in a cube instead of lining up cars in the front of the dealership.

Mr. Paggi: We don't believe that our sign will be higher than the other signs on Route 9 because of their higher elevation.

Mr. Prager: We will have a site inspection.

Mr. Casella: Is there any way to stake out where the sign will be?

Ms. Van Tuyl: Do you want us to stake out where the cube will be?

Mr. Casella: Yes.

Ms. Van Tuyl: That will be no problem.

Mr. Prager: We will have a Public Hearing on November 12th.

Mr. Prager: Next on the agenda is:

Appeal No. 13-7507

William & Jana Carrie-Is seeking an area variance of Section 240-37 of Zoning Regulations in an R40 Zoning District.

-Where **25 feet** to the right side yard is required, the applicant can only provide **17 feet** for the construction of a **24 x 24** garage with a master bedroom and bathroom (above the garage), thus requesting an **8 foot** variance.

The property is located at **14 Rose Lane** and is identified by Tax Grid No. **6459-03-004321** in the Town of Wappinger.

Mr. Prager: Please state your name for the record.

Mrs. Carrie: My name is Jana Carrie. I do have pictures so you can have a better idea of what our property looks like. What we are planning to do is build to the right of our house a two car garage, with the garage doors facing front. Above the garages there will be a master bedroom and a bathroom.

Mr. Prager: (Looking at the pictures) will it be the same height as the rest of the house?

Mrs. Carrie: It will be the same height.

Mr. Johnston: Will it be the same color?

Mrs. Carrie: It will be the same color, we are keeping everything uniformed.

Mr. Prager: We will have a site inspection on the 19th. Can you mark out your property line and mark out the addition. We will have a Public Hearing on the 22nd.

Mr. Prager: Next on the agenda is:

Appeal No. 13-7508

Oswald & Mary Mantilla-Is seeking an area variance of Section 240-37 of Zoning Regulations in an R20 Zoning District.

-Where a **35 foot** front yard setback is required, the applicant can only provide **23 feet** for the construction of a **10 X 7' 6"** foot front deck, thus requesting an **11 foot** variance.

The property is located at **149 Cider Mill Loop** and is identified by Tax Grid No. **6258-04-824140** in the Town of Wappinger.

Mr. Prager: Please state your name for the record.

Mr. Mantilla: My name is Oswald Mantilla. I want to make an improvement to my house. I want to build a front deck. We have a stoop that is crumbling. The porch will provide better access to the front door and it is also a nice place to sit. I think it is a reasonable size for the house.

Mr. Della Corte: Will it be a wood deck?

Mr. Mantilla: A wood frame and I will be using Trec for the railings and floor.

Mr. Prager: We will do a site inspection and have a Public Hearing.

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

Mr. Galotti: I make a motion to adjourn.

Mr. Johnston: Second.

Mr. Prager: All in favor?

Board: Aye.

Respectfully Submitted,

Susan Rose, Secretary
Zoning Board of Appeals

