

MINUTES

**Town of Wappinger
Zoning Board of Appeals
October 22, 2013**

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

Summarized Minutes

Members:

Mr. Prager	Chairman--Absent
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

Oswald & Mary Mantilla

Variance Granted

William & Jana Carrie

Variance Granted

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

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

Mr. Della Corte: The first item on the agenda is a Public Hearing on:

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. Della Corte: Are all the mailings in order?

Ms. Rose: Yes sir.

Mr. Della Corte: Do I have a motion to open the Public Hearing?

Mr. Galotti: I make a motion to open the Public Hearing.

Mr. Johnston: Second.

Mr. Della Corte: All in favor?

Board: Aye.

Mr. Mantilla: My name is Oswald Mantilla and I would like to make a home improvement by building a front deck. Right now we have a small front stoop that is crumbling. This would give us better access to the front door and an area to sit.

Mr. Della Corte: We did do a site visit. Does anyone have any questions?

Mr. Johnston: You are asking for an 11 foot variance. You can only provide 23 feet where 35 feet is required. The variance should be 12 feet not 11 feet.

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

Mr. Della Corte: Hearing none, 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. Della Corte: Can I have a motion to grant you deny this variance.

Mr. Casella: I make a motion to grant this variance.

Mr. Johnston: Second.

Mr. Della Corte: All in favor?

Board: Aye.

Mr. Della Corte: The next Public Hearing is on:

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. Della Corte: Are all the mailings in order?

Ms. Rose: Yes sir.

Mr. Della Corte: 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. Della Corte: All in favor?
- Board: Aye.
- Mr. Della Corte: Please come up and tell us what you would like.
- Mr. Carrie: My name is William Carrie and I would like to build a 24 x 24 addition. It will be a two car garage and a master suite above the garage. We are currently 8 feet short of the zoning allowance.
- Mr. Della Corte: Is the 8 feet on the right side?
- Mr. Carrie: Yes.
- Mr. Della Corte: Does anyone on the board have any questions?
- Mr. Johnston: There will be one window facing your neighbor?
- Mr. Carrie: There will be no windows facing our neighbor.
- Mr. Johnston: According to these plans there is a window.
- Mr. Carrie: We have omitted the window. There will be windows in the front of the house and the back of the house only.
- Mr. Della Corte: Does anyone else on the board have any questions?
- Mr. Casella: I spoke to the applicant when I had the site visit.
- Mr. Della Corte: Is there anyone in the audience that has any questions? Please come up and state your name and address.
- Mr. Zagarella: My name is Joseph Zagarella. My address is 13 Rose Lane and I live across the street from these people. My wife put together a package which you should all have. My biggest question here is the drainage system. We would like to know how to correct this issue.
- Mr. Della Corte: Is that your question to the board?
- Mrs. Zagarella: Did you get my letter?
- Mr. Della Corte: Please come up and state your name.

Mrs. Zagarella: My name is Tracy Zagarella. Did you receive the letter I sent?

Mr. Della Corte: Your question is did we receive the letter?

Mrs. Zagarella: Yes.

Mr. Della Corte: Yes we did and your question is about the drainage.

Mrs. Zagarella: Yes.

Mrs. Roberti: You need to be specific about your questions because you are being recorded not just asking if they received the packet.

Mrs. Zagarella: How are we going to correct this problem? Is there going to be a curtain drain put at the end of their driveway? What are we going to do to keep the contaminants from going into the catch basin to come out of this outlet and into my yard?

Mr. Della Corte: The contaminants from?

Mrs. Zagarella: The road. The storm water, the construction.

Mr. Della Corte: From my understanding, the drainage is not in our purview. We are only here to discuss the distance between the properties. Because of zoning, we are only here to discuss the variance. Is that a concern of yours on how far away they are to the property?

Mrs. Zagarella: Again, the catch basin is at the end of their driveway that goes to the pipe that goes into my yard. Should we just contact the DEC and go from there.

Mr. Della Corte: Again, that is not in our purview.

Mrs. Roberti: The catch basin is on town property and that is in the purview of the Highway Superintendent, Graham Foster. The pipe you showed us, and I did check with Mr. Foster, and that is on a 50 foot easement that is not on your property.

Mrs. Zagarella: But it overflows into my property.

Mrs. Roberti: That is something you need to take up with Graham because that is not just taking any storm drainage from the Carrie's; it is taking it from you entire street.

- Mrs. Zagarella: But their construction is on top of this catch basin.
- Mrs. Roberti: It is in their yard. All the storm flow goes into that catch basin.
- Mrs. Zagarella: So this is an environmental issue and I need to contact the DEC.
- Mrs. Roberti: What contaminants are you claiming are going in?
- Mrs. Zagarella: Any storm water contaminants. There is construction going to happen and you're going to tell me the water is not going to be contaminated.
- Mrs. Roberti: People construct all over the place it doesn't contaminant.
- Mrs. Zagarella: They will have to take precautions.
- Mrs. Roberti: They will have to put up silt fencing. They will have to have erosion control.
- Mrs. Zagarella: So the water runoff from the construction going into the catch basin, down and into the outlet and into my property isn't contaminating it?
- Mrs. Roberti: That is something you need to take up with Graham because I don't know if it is going on your property because it is on a 50 foot easement.
- Mrs. Zagarella: One time they came and cleaned it out but that has eroded so now it is coming into our yard.
- Mrs. Roberti: That is something that needs to be discussed with the Highway Superintendent.
- Mrs. Zagarella: There are no adverse effects to the environment from this construction.
- Mr. Della Corte: Well catch basins are there to catch stuff. If that is your issue, it is not for us.
- Mrs. Zagarella: Ok we will contact the DEC and have them come out and look at it. If the construction starts, they will have to put up a curtain.
- Mr. Galotti: Part of the conditions of the permit will require them to put up silt fences and have some sort of erosion control.

Mrs. Zagarella: So the water runoff will continue to go into the catch basin into the pipe and into my back yard.

Mr. Galotti: The design of the silt fence is to let the water go and keep the silt in. The silt will not go into the catch basin.

Mrs. Zagarella: Ok, I'll contact the DEC and see what they have to say.

Mr. Zagarella: If you grant this variance, you are saying all people that are going to put additions on their home will be able to get a variance?

Mr. Della Corte: Each variance is looked at individually. There are mitigating factors for each variance. We don't say if one person gets a variance the other person will also get it. We look at each one.

Mr. Zagarella: You are changing the characteristic of the neighborhood.

Mr. Della Corte: We have rules from the state that says what a variance is and what we can and cannot do. We are here as a judgment board. There are five rules we have to go by. If they meet them or not, it is our judgment to grant it. If another person comes up, we look at that one individually.

Mr. Casella: If you want to put an addition on your house and you need a variance, you would need to come before us and like Tom said there are 4 to 5 criterias that need to be fulfilled.

Mr. Della Corte: One is changing the character of the neighborhood.

Mr. Johnston: How do you think it would change the character of the neighborhood?

Mr. Della Corte: Please one person at a time. When Mr. Zagarella is finished you can come up.

Mr. Johnston: Mr. Zagarella, how do you think this will change the character of the neighborhood?

Mr. Zagarella: I think it will devalue our homes. You are putting a big, large home in a small neighborhood.

Mr. Johnston: They are adding value to their home and that is going to devalue your home?

Mr. Zagarella: I go to sell my home and someone comes to check out my home they may look across the street and say "Wow how much is that house going for, it's \$25,000-\$30,000 more. Why don't I look around for a large house in a small neighborhood? "That is what I'm talking about. We have some concerns about that; we as neighbors.

Mr. Casella: I think the construction will be more like \$75,000.

Mr. Zagarella: Ok, let's say \$50,000.

Mr. Casella: Let's say \$50,000. It will add value to his property and to yours.

Mr. Zagarella: Not necessarily. It wouldn't add value to my property.

Mr. Casella: What it does is add value to one house and by default it adds value to the houses around.

Mr. Horan: To the issue of valuation, legally I don't think it necessarily figures one way or another. I think it is speculative at best.

Mr. Casella: Does this mean that both properties are going to have the same value?

Mr. Horan: I think it is speculative.

Mr. Casella: It certainly will not decrease it.

Mr. Horan: You can't say it one way or another. Absent of an appraisal from a licensed appraiser it is speculative. In looking at the plans it looks like the garage is going to be placed in line with the front of the existing building. Does that mean you are going to take out the flat space for the driveway?

Mr. Carrie: (Pointing to the map) the addition is going to come out here.

Mr. Horan: So the paved area will be removed and replaced.

Mr. Carrie: Yes.

Mr. Casella: You will be able to drive up to the garage.

Mr. Carrie: Yes.

- Mr. Horan: So for purposes of impervious surfaces it will be reduced and not increased. So for purposes of runoff you are not increasing the runoff with the construction because you are removing the paved area of the driveway by replacing it with a structure.
- Mr. Della Corte: Do you have any more questions?
- Mr. Zagarella: Well this is only about the variance apparently not about the whole project.
- Mr. Della Corte: We are called the Zoning Board of Appeals and that is what we do. We work with applicants and look at the rules the town has. If it doesn't fit into the rules, Barbara denies it. Then it comes to us next at which time we decide if the variance should be denied or granted. As in Mr. Mantilla's case there is not much he could do. With that, his variance was granted and yes this is just about the variance. We can't talk about storm water or noise.
- Mr. Zagarella: Septic systems or anything like that.
- Mr. Della Corte: No because that would be a Planning Board issue and Barbara the Zoning Administrator. We are only here to talk about the variance. The amount of space the Carrie's would like to use or not use.
- Mrs. Roberti: Do you have septic out there because the Health Department gave the approval for that. They are a separate agency and we do not get involved with the Health Department. When you are adding a bedroom, unless you are removing a bedroom somewhere else, it will go to the Building Department and then the Board of Health for their approval. Once they get an approval, which is all the Building Department needs.
- Mr. Zagarella: So it was given approval?
- Mrs. Roberti: It hasn't gotten to the Building Department. When someone comes in and wants to put something on their property, I am the first person that sees it. If it is denied because they cannot meet the setbacks for zoning, it stops. They get a denial letter. They have the option of changing their plans, withdrawing their plans or going in front of the Zoning Board of Appeals for relief. If this board denies it, they can change the plans or withdraw the plans. If this board approves it, it is only then does the secretary type the approval. I then get it back and approve them for zoning and at that point it goes to the Building Department. The Building

Inspectors have not seen these plans yet.

Mrs. Zagarella: So we go speak to them.

Mr. Della Corte: Mrs. Zagarella, please come up. We cannot have people speaking from the audience.

Mrs. Roberti: Should this be granted and should this go to the Building Department, at that point the Building Inspectors will require some sort of approval from the Health Department for the addition of a bedroom unless they are removing a bedroom. If they get approved for a 3 bedroom or 4 bedroom septic, as long as they are not changing the count of the bedrooms that is fine. If they increase the bedrooms, they need Board of Health approval. The Building Inspector needs this before issuing a permit.

Mrs. Zagarella: Well we will be calling them too. Is there no other feasible way of them putting this addition on their property?

Mr. Zagarella: Like the back of their property. I don't know if you checked it out. I'm just asking a question.

Mr. Della Corte: When we come out and do a site inspection, we look at where the applicant wants to place whatever they are applying for. We then make a decision on where it is going to be. Whether or not it is feasible; at this point we looked where they wanted it.

Mr. Casella: That is the most feasible place.

Mr. Zagarella: Its feasible accepts they need a variance. If they put it in the rear of their home, they wouldn't need a variance.

Mr. Della Corte: We address feasibility in the variance. The rules are is it feasible and we make the decision.

Mr. Galotti: We take topography into concern.

Mrs. Zagarella: Well they already put an addition on the back of the house. Is that a self created reason why they can't put it there?

Mr. Della Corte: As far as the addition on the back of the house, we are not looking at anything on the back of the house.

Mr. Zagarella: You are only here for the 8 foot variance.

- Mr. Della Corte: Yes.
- Mrs. Zagarella: So our next step is the DEC and then going to the Planning Board.
- Mrs. Roberti: There is no Planning Board.
- Mr. Zagarella: This has nothing to do with the whole construction.
- Mr. Casella: Only the 8 foot variance.
- Mrs. Zagarella: I guess we were misinformed then.
- Mr. Casella: I not saying the variance is granted but there are other steps that need to be taken, as Barbara has stated before it can be built.
- Mr. Horan: The other issue is if the variance is denied they can change their plans around and still do the construction.
- Mrs. Zagarella: Right and not change the character of the neighborhood. It is kind of out of speck, it's going to be a 64 foot long dwelling in a community that has 40 foot long houses. It's out of character for our well developed neighborhood. Our 30 year old neighborhood.
- Mr. Della Corte: Again, that is not what we are looking at.
- Mr. Johnston: How old is your house, Mr. Carrie.
- Mr. Carrie: 30 years old.
- Mr. Johnston: Has things changed in 30 years?
- Mr. Carrie: Lots of things have changed.
- Mr. Johnston: Thank you, that's all.
- Mr. Della Corte: Are you done.
- Mr. Zagarella: Yes.
- Mrs. Zagarella: Yes.
- Mr. Della Corte: Is there anyone else in the audience that would like to speak?

Mr. Thornton: My name is Ed Thornton and I live at 19 Rose Lane. My concern is with the variance. In regards to compromising the variance you are allowing other neighbors to do the same, correct? They can apply for a variance and you are going to allow them to do that.

Mr. Casella: Anybody is allowed to apply for a variance. Not that this board allows them; you are allowed to apply as a resident. I don't tell you that you can or can't.

Mr. Thornton: Let me rephrase that. By approving this variance, my concern is that other neighbors possibly to the right of me or the left of me.

Mr. Casella: Including you.

Mr. Thornton: Including me, I don't have a problem with home improvement or expansion, because if you can do it that is great as long as it is in the limitations of whatever the zoning laws are.

Mr. Casella: And that is, what we are going to go by. We are trying to rule based the zoning laws.

Mr. Thornton: And that is what 25 feet between properties.

Mr. Horan: No it is a 25 foot setback from the property line to the edge of the building.

Mr. Thornton: Where do you draw the line? If the neighbor to the left of me wants to come 12 feet and the neighbor to the right of me wants to come 14 feet, I'm getting boxed in. That is not the reason I bought my home. I bought it for the space and privacy in between. It is changing the characteristic of the neighborhood.

Mr. Casella: There is no guarantee that anyone coming into the neighbor is going to apply for a variance.

Mr. Thornton: It is going to devalue my home. It could be a show stopper for somebody to have a house so close to them.

Mr. Della Corte: Our town attorney said it is only speculation.

Mr. Thornton: What is?

Mr. Horan: With respect to valuation.

Mr. Thornton: In my own personal experience, I bought a home purposely to get away from the apartment dwellings and condo dwellings to have my space.

Mr. Della Corte: Are you next to them?

Mr. Thornton: No.

Mr. Johnston: Where are you in relation to their home?

Mr. Thornton: Down the street but my point is by approving these variances anybody can do it. Anybody can get an approval for a variance.

Mr. Galotti: Each variance that comes in front of the board is looked at individually.

Mr. Thornton: Of course it is but if you approve it for one you have to approve it for another if they meet the requirements. Right? So why is there a law then?

Mr. Galotti: Each lot is unique and we look at each one individually.

Mr. Thornton: But the law is 25 feet. The Wappinger Zoning Law is 25 feet. Correct?

Mr. Galotti: Yes.

Mr. Thornton: Why are we compromising this law?

Mr. Johnston: Barbara, when was the zoning law in effect?

Mrs. Roberti: 1963 and sometimes zones change in areas. Sometimes properties don't fit what the zone is. When the zone is done in a large area you may have small lots.

Mr. Thornton: The property is already established but the zoning law is already in place.

Mrs. Roberti: You are not listening to me. You can have 1,000 lots in a zone, some may be a ¼ acre and some may be 10 acres, so some homes were put in before zoning and are only 10 feet off the road. Some were put in so far back that they only have 10 feet in their back yard.

- Mr. Thornton: Not in this case and each case is based on individualism.
- Mrs. Roberti: Each case is based individually and every town has zoning in place and every town has a Zoning Board of Appeals that can give, on their decision, give relief to such setbacks that are in the zone. In this zone, R40, needs 25 feet to the side and 50 to the rear. Not everyone can meet it. Some people want to put something in that can't give them those setbacks and the Zoning Board of Appeals is a board that is in place and looks at things on a case to case basis.
- Mr. Thornton: And the law is 25 feet and if you meet all the requirements you can get a variance like that.
- Mr. Horan: Then you don't need a variance. If you meet 25 feet, you don't need a variance.
- Mrs. Roberti: I would just approve it.
- Mr. Thornton: If you do need a variance, you can impede that 25 feet.
- Mr. Horan: To go inside those 25 feet you don't need a variance.
- Mr. Thornton: Correct. That is what I'm saying anyone can get a variance if they meet the requirements. If you do need a variance, you can impede the variance. Anybody can get a variance if they meet the requirements.
- Mr. Horan: That is correct.
- Mr. Thornton: So where is the limit then? Is it 8 feet, 9 feet, 10 feet?
- Mr. Horan: The question is substantial.
- Mr. Thornton: It can happen to me. My neighbor can get a variance to impede that 25 feet and my neighbor to the right of me could get a variance?
- Mr. Johnston: That is a possibility.
- Mr. Thornton: I could get boxed in.
- Mr. Galotti: That is a possibility.

- Mr. Thornton: That could devalue my house. I could not sell my house because the houses are too close to mine and it is impeding the zoning law.
- Mr. Horan: The other issue is....
- Mr. Thornton: It is devaluating my house.
- Mr. Horan: In respect to zoning, the Zoning Board of Appeals has the right to impose certain particular conditions with respect to granting the variance. For example, screening of the addition; the Zoning Board of Appeals could require putting in a line of trees or putting in fencing so the encroachment of the set back is not viewed by other properties.
- Mr. Thornton: Can this construction be done within the zoning law? How far out is it?
- Mr. Horan: 8 feet.
- Mr. Thornton: Can it be 8 feet less to stay within the law?
- Mr. Horan: Not to get a two car garage at the end of the driveway.
- Mr. Thornton: I know what they are asking for. I want to know if it can be 8 feet less.
- Mr. Della Corte: Probably not.
- Mr. Thornton: Why not?
- Mr. Galotti: Then you can't get a two car garage.
- Mr. Thornton: Well then you have to make scarifies. If I have to make scarifies and getting boxed in, someone else has to make scarifies.
- Mr. Horan: Are you adjacent to their property?
- Mr. Thornton: No, that is not my point.
- Mr. Horan: Then you are not getting boxed in.
- Mr. Thornton: But I can be affected. Not right now but in the future.

- Mr. Horan: But then again, that is speculative.
- Mr. Della Corte: At that time we will look at you.
- Mr. Thornton: I don't want that time to come. Would you want to be boxed in at your house? No you wouldn't.
- Mr. Horan: Under law, if you have zoning you are required to have a Zoning Board of Appeals to provide dispensation from zoning.
- Mr. Thornton: And to listen to our concerns and to take them into consideration.
- Mr. Horan: Exactly and....
- Mr. Thornton: I'm a resident there and a tax paying resident.
- Mr. Horan: Their job is to balance the benefit to the property owner against the potential harm.....
- Mr. Thornton: As well as to keep in mind all the other neighbors intentions and concerns about that.
- Mr. Horan: And again, generalized community opposition is not a concrete harm. The standard is concrete harm must be shown as far as the impact on the community.
- Mr. Thornton: There is a possible harm to the resale of my house.
- Mr. Horan: Again that is speculative. Do you have an appraisal? No.
- Mr. Thornton: If I got an appraisal now, the house may be worth X amount of money and then I get boxed in. Then I get an appraisal then, the value could have gone done.
- Mr. Horan: Then again it is speculative. Do you have an appraisal? We are looking at the house before us. We just have a speculation that this.....
- Mr. Thornton: You can't make that decision on speculation.
- Mr. Horan: That is exactly right.

Mr. Thornton: You are speculating that this is not going to bring the value of my house down.

Mr. Horan: You haven't presented any evidence that this will devalue your home.

Mr. Thornton: And you haven't presented any that it won't.

Mr. Horan: That is not our burden.

Mr. Thornton: So it's my burden.

Mr. Horan: Yes.

Mr. Thornton: How is it my burden?

Mr. Johnston: You have to show us how it is harming you.

Mr. Horan: Let's move on.

Mr. Della Corte: Mr. Thornton I think we addressed that.

Mr. Thornton: My concern is the compromise of that law that is in place. When in fact if construction plans were changed, they could be in the variance.

Mr. Della Corte: We did go over that. We looked at the plans that are here and we are here to deny or grant this variance that has been presented to us. That's it. Thank you Mr. Thornton.

Mrs. Zagarella: So you don't want to talk to neighbors.

Mr. Della Corte: Please come up.

Mrs. Zagarella: I said there is no sense of neighbors coming in and talking. Is that what you are saying?

Mr. Casella: We did not say that. When did you hear one of us say that?

Mrs. Zagarella: Well everything we are saying, you are saying we are wrong.

Mr. Casella: We have certainly listened to your opinion. The reason for coming in here is for the 8 foot variance. We want to

understand what the community

Mrs. Zagarella: We did educate ourselves before coming in here and we were told we could oppose a variance for all these reasons and all these reasons that we are bringing in front of you; you pretty much made your decision.

Mr. Della Corte: I don't know where you heard that. Sorry, we are here for one thing. Anyone else?

Mr. Horan: Just a couple of questions for the applicants. Was there an addition put on in the back of the house?

Mr. Carrie: On a level area. My backyard is sloped. That is what I wanted to address anyway. (Pointing to the map) this is currently the floor plan to what we are doing now. This is my kitchen, this is my dining area and right from here is the addition. It is a 16 x 16 family room and I had it built on the only level on the property.

Mr. Horan: You didn't need a variance to do that.

Mr. Carrie: No, I didn't need a variance.

Mr. Horan: There is an existing garage underneath?

Mr. Carrie: It is under the bedroom here. (Pointing to the map)

Mr. Horan: The outside edge of the house is not going to go further than the existing paved area of the driveway? (Pointing to the map)

Mr. Carrie: That is correct.

Mr. Horan: You currently have a one car garage?

Mr. Carrie: I have a two car garage.

Mr. Johnston: How do you enter the garage?

Mr. Carrie: I have to turn to get into it. The new garage will be easier because we will be able to drive straight in.

Mr. Horan: At the bottom of the driveway, is there any kind of culvert or

anything?

Mr. Carrie: It is a catch basin.

Mr. Horan: Is it on the shoulder.

Mr. Carrie: I can show you on this (Pointing to the map). The catch basin is off to the side of the driveway. So everything comes in here and drains out to the easement.

Mr. Horan: (Pointing to the map) this is the high point here?

Mr. Carrie: Yes.

Mr. Horan: Is there a drainage swale along the side of the road?

Mr. Carrie: No.

Mr. Johnston: Across the street there are two drains?

Mr. Carrie: There are two drains across the street. There is one directly across from the catch basin at the end of my driveway and one about 15 feet going towards Robinson Lane.

Mr. Casella: I noticed that the resident from number 12 was not here. Interesting, considering he is the closest one to you.

Mr. Carrie: We spoke to him right from the beginning and he had no problems.

Mr. Della Corte: Is that the one with the wood stack?

Mr. Carrie: Yes, he is right next door.

Mr. Horan: Are there woods separating you?

Mr. Johnston: There is a small wooded area.

Mr. Horan: Can you see that house?

Mr. Carrie: When the leaves come down.

Mr. Johnston: There are also no windows on that side and your neighbor has no window on that side on the upper part of the house.

- Mr. Carrie: There are no windows facing us at all.
- Mr. Della Corte: Are there anymore questions?
- Mr. Della Corte: Hearing none, can I have a motion to close the Public Hearing?
- Mr. Galotti: I make a motion to close the Public Hearing.
- Mr. Johnston: Second.
- Mr. Della Corte: 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. Horan: Before the meeting, I had the Zoning Administrator pull what files had variances that were granted in the area. The record should show that in 1986 there was a side yard variance for a house on Robinson Lane and it was 10 feet. In 1999 there was a variance granted for 112 Robinson Lane. There was a 7 foot variance granted at 123 Robinson Lane. In 2002 on Paulette Lane had a variance granted. On Rose Lane there was a variance granted for a garage with a 7 foot setback. On Joan Lane there was a 20.5 variance for the construction of a house a house. 94 Robinson Lane there was a variance for 17.7 foot front yard setback that was granted. In respect to this being substantial, there have been variances in this area that are the same substantial nature as this and they were granted. Legally this would not necessarily be considered out of precedence for this area.
- Mr. Della Corte: Roll call vote.
- Ms. Rose:
- | | |
|-----------------|-----|
| Tom Della Corte | Aye |
| Bob Johnston | Aye |
| Al Casella | Aye |
| Peter Galotti | Aye |
- Mrs. Roberti: A letter was sent today from Jennifer Van Tuyl, the attorney for Mini Prestige, they are withdrawing the variance for the height of the sign and they are going to continue with the

Public Hearing just for the cube. At last night's Planning Board meeting they decided to included the height of the sign.

Mr. Horan: And the setback.

Mrs. Roberti: And the size of the sign.

Mr. Della Corte: The sign will be coming down?

Mrs. Roberti: No, the height of the sign will be equal to the other signs but they have a much lower location.

Mr. Horan: There is a provision in the Town Code, with respect to signs, that allows the board to grant waivers for all of the sign criteria's. The setback, the height, and the sign size providing it is consistent with the site plan. In the past, probably the chairman of the board did not want the Planning Board to exercise the jurisdiction and instead sent them before the Zoning Board of Appeals to go through the process to get the variance rather than a waiver. From our point of view, it is much better. I think it is a good thing for the ZBA.

Mr. Johnston: The same as we issue a use variance goes with the property. When they issue a waiver, is that only for that one.

Mr. Horan: It would go with the site plan. It is probably a better way of doing it because if you grant a variance it goes beyond the site plan.

Mrs. Roberti: Say Mini Cooper moves out and Mercedes moves in and they want a different sign in a different location, they are back to square one. They would have to go to the Planning Board but if you granted a variance they could put another sign in that spot but not a bigger sign.

Mr. Casella: Is this going to be a permanent change by the Planning Board?

Mrs. Roberti: We'll have to see because this is the first time they exercised it. We are trying to change some of the zoning code because some of it is very old. We have meetings called quick fixes

and right now we are discussing signage.

Mr. Casella: What does it take to change the code?

Mrs. Roberti: I sit with the planner, attorney and the engineer.

Mr. Casella: Does it have to go through New York State?

Mr. Horan: No, it has to go through County Planning. One of the problems with the code is the sign code is uniformed no matter where you are in the town.

Mrs. Roberti: It would go to the Town Board and the County Planning for them to weigh in on it and then there would be a Public Hearing. If it gets voted in, then the Town Clerk sends it up to the state.

Mr. Horan: The reason it takes so long is because of the process it is a multitude of change. We don't do one at a time.

Mrs. Roberti: We are doing between 20 and 25 code changes at this time.

Mr. Horan: When a code is change, you have to track down references in other places. I think in the case of signs it is better if it stays with the Planning Board.

Mr. Johnston: What is going on with Easter Road?

Mr. Horan: I haven't heard anything yet.

Mr. Johnston: Does the 911 system recognize Easter Road?

Mrs. Roberti: It is a paper road and each house has a number.

Mr. Horan: What about common driveways?

Mrs. Roberti: We allow up to 3.

Mr. Horan: I think by law if there are 4 homes on a common driveway you have to give it a street name.

Mrs. Roberti: Yes but we only allow 3.

Mr. Galotti: I make a motion to adjourn.

Mr. Johnston: Second.

Mr. Della Corte: All in favor?

Board: Aye.

Respectfully Submitted,

Susan Rose, Secretary
Zoning Board of Appeals