

MINUTES

**Town of Wappinger
Zoning Board of Appeals
January 28, 2014**

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

Summarized Minutes

Members:

Mr. Prager	Chairman
Mr. Brian Rexhouse	Member
Mr. Casella	Member-Absent
Mr. Johnston	Member
Mr. Galotti	Member

Others Present:

Mrs. Barbara Roberti	Zoning Administrator
Ms. Susan Dao	Acting Secretary
Mr. Jim Horan	Attorney
Mr. Graham Foster	Highway Superintendent

SUMMARY

Mousa Nesheiwat	Site Visit & Public Hearing February 11 th
Michael Goodwin	Site Visit & Public Hearing February 11 th
James Geraghty	Variance Granted With Stipulations
James Sanborn	Variance Granted With Stipulations
Greenbaum & Gilhooley's	Variance Granted With Stipulations
Aaron Kellner & Krystal Campbell	Adjourned until February 11th

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
Brian Rexhouse-----Here
Al Casella-----Absent
Bob Johnston-----Here
Peter Galotti-----Here

Mr. Prager: The first item on tonight's agenda is the acceptance of the minutes from January 14th. Do I have a motion to accept these minutes?

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

Mr. Johnston: Second.

Mr. Prager: All in favor?

Board: Aye.

Mr. Prager: The next item on tonight's agenda is:

Appeal 14-7514

Mousa Nesheiwat- Is seeking an area variance of 240-37 of the Town of Wappinger Zoning Regulation in an R-40 Zoning District.

-Where **50 feet** is required to the front yard property line, the applicant can only provide **28.7 feet**, thus requiring **21.3 feet** for an existing front porch and steps.

-The property is located at **94 Robinson Lane** and is identified by Tax Grid No. **6459-03-070409** in the Town of Wappinger.

- Mr. Nesheiwat: My name is Mousa Nesheiwat and I need this variance so I can get my c/o.
- Mr. Prager: I know you came in for a variance to build this house.
- Mr. Nesheiwat: Correct.
- Mrs. Roberti: The variance was for the front and the rear.
- Mr. Prager: You have the porch on already. Why would you do that?
- Mr. Nesheiwat: I never calculated the front step of the porch.
- Mr. Prager: What was done in the back?
- Mr. Nesheiwat: There was a lot of debris back there.
- Mr. Prager: Was it your property?
- Mr. Nesheiwat: Part and I did get consent to clean it up from the owner.
- Mr. Prager: I would like to see that letter.
- Mrs. Roberti: What caused this variance was the final as built. When the building inspector went out for the inspection it was noticed that the steps did not comply and the back was cleared and seeded.
- Mr. Prager: If we grant this variance, one of the stipulations will be shrubbery be planted on your property line. This way when you sell the house the new owner will know where the property line is. We will do a site visit and please mark the back property line.
- Mr. Johnston: The front porch was already built before your engineer realized you needed a variance.
- Mr. Nesheiwat: I was going with what my engineer told me.
- Mr. Johnston: Did you build it yourself?
- Mr. Nesheiwat: Yes.
- Mr. Johnston: When did you change the plans to include a front porch?
- Mr. Nesheiwat: We changed it because of the elevation in the front.

Mr. Prager: We will have a Public Hearing on February 11th.

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

Appeal 14-7515

Michael Goodwin-Is seeking an area variance of 280 A of NYS Town Law and 240-20A of the Town of Wappinger Zoning Code in and R 20/40 Zoning District.

-Where **any construction of any structure unless the street or highway giving access to said use or structure has been suitably improved to Town road standards** for the construction of a modular home, consisting of 3 bedrooms, 1 family room, 1 dining room, 1 bath, central air, and a garage.

-The property is located at **35 Dugan Lane** and is identified by **Tax Grid No. 6256-02-970944** in the Town of Wappinger.

Mr. Indorf: My name is Joshua Indorf and I am interested in developing a piece of property on Dugan Lane.

Mr. Prager: I am a little familiar with Dugan Lane. It is a private road.

Mr. Indorf: I don't think so.

Mr. Foster: It is a paper road. Beyond the black top is a paper road.

Mr. Prager: Does it stop before your property?

Mr. Indorf: It comes in about 75 to 100 feet short of the property. It is the end lot.

Mr. Johnston: The house behind yours on Martin Road does that gets the egress from Martin also?

Mr. Indorf: There is a road around the back.

Mrs. Roberti: That is Elm.

Mr. Prager: We will have a site inspection and we would like you to be there and a Public Hearing on February 11th.

Mr. Prager: The next item on the agenda is a Public Hearing on:

Appeal No. 13-7509

James Geraghty-Is seeking an area variance of Section 240-37 of Zoning Regulations in an R-15 Zoning District.

-Where **12 feet** to the side yard property line is required, the applicant can only provide **9 feet**, thus requesting a **3 foot** variance for an existing **12' X 20'** deck (with no stairs).

- The property is located at **14 Ardmore Drive** and is identified by **Tax Grid No. 6257-03-268482** in the Town of Wappinger.

Mr. Geraghty: My name is James Geraghty.

Mr. Prager: Are all the mailings in order?

Mrs. Dao: Yes.

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. Prager: We did have a site visit.

Mr. Johnston: We did measure that somewhat. It was more about 7 feet than 9 feet.

Mr. Prager: The best way to do it is to leave at 9 since that is what the legal notice says.

Mr. Galotti: It does look like you have some shrubs along the property line. As part of the variance, I think a stipulation should be some more shrubs since it is close to the property line.

Mr. Geraghty: No Problem.

Mr. Prager: Since Brian is new; the three of us will do the voting. Is anyone in the audience for or against this variance?

Mr. Prager: Let the record show no one is in the audience for or against this variance. Hearing none, can I have a motion to close the Public Hearing?

Mr. Johnston: I make a motion to close the Public Hearing.

Mr. Galotti: Second.

Mr. Prager: All in favor?

Board: Aye.

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

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

Mr. Galotti: Second.

Mrs. Roberti: Before roll call, are you going to add a stipulation?

Mr. Prager: Yes, 3 shrubs 4 to 6 feet high.

Mr. Prager: Roll call.

Mrs. Dao: Peter Galotti: Yes
Bob Johnston: Yes
Howard Prager: Yes

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

Appeal No. 13-7513

James Sanborn-Is seeking an area variance of Section 240-37 of the Town of Wappinger Zoning Regulations in an R-40 Zoning District.

-Where **50 feet** to the rear yard property line is required, the applicant can only provide **25 feet**, thus requesting a **25 foot** variance for the placement of a **12 foot X 20** foot shed.

-The property is located at **12 Dose Road** and is identified by **Tax Grid No. 6258-04-930355** in the Town of Wappinger.

Mr. Cappelli: My name is Alfred Cappelli and I am the architect for the applicant.

Mr. Sanborn has a 12 x 20 shed at his current location and would like to move it to the new house that is being built here in Wappinger. There are drainage swales and a septic system in the back. These are preventing us from putting the shed in any other part of the yard except the right back corner.

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. Prager: Are all the mailings in order?

Mrs. Dao: Yes.

Mr. Prager: We did do a site visit. It looks to us that even with that swale it could be moved up closer to the road about 5 to 10 feet.

Mr. Cappelli: Moving the shed up makes sense from a variance point of view but you would want the shed tucked in.

Mr. Galotti: So we are going to move it up 5 feet.

Mr. Prager: Instead of it 25 feet it will be 30 feet from the property line.

Mr. Prager: Is there anyone in the audience for or against this variance?

Mr. Long: My name is Christopher Long and I live at 51 Gold Road. I am concerned with noise coming from that shed.

Mr. Prager: There are some limitations to that property.

Ms. Petrella: My name is Kim Petrella and I live at 9 Dose Road. They cut down every single tree and now there is no buffer.

Mr. Prager: The trees were cut down for the septic system. There is no other place to put the shed.

Mr. Cappelli: Mr. Sanborn will be planting some trees on the property line.

Mrs. Russell: My name is Barbara Russell and I live at 11 Dose Road. It is going to be on a slope on the property. Since I will be looking at it I would like it to be level.

Mr. Cappelli: It will be level; we will be digging the ground to make it level.

Mr. Prager: We would like to see shrubs on the back property line and along the shed.

Mr. Cappelli: We could put white pine along the property line.

Mr. Prager: 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. Prager: All in favor?

Board: Aye.

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

Mr. Galotti: I make a motion to grant this variance with the stipulation that landscape screening be planted.

Mr. Prager: What kind?

Mr. Cappelli: 6-6 foot white pines.

Mr. Johnston: Second.

Mr. Prager: All in favor?

Ms. Cowell: My name is Ruth Cowell and I live at 10 Dose Road. White Pines are very soft trees; I think you should look into something else.

Mr. Galotti: White Pines or something similar.

Board: Aye.

Mr. Prager: Roll call vote.

Mrs. Dao: Peter Galotti Aye
Bob Johnston Aye
Brian Rexhouse Aye
Howard Prager Aye

Mrs. Roberti: For the record, we are changing this variance from 25 feet to the rear to 30 feet to the rear.

Mr. Prager: Yes.

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

Appeal No. 13-7510

Greenbaum & Gilhooley's-Is seeking the following (5) variances of Section 240-18(f), and 240-37of Zoning Regulations in an HB Zoning District. The property is located at **1379 Route 9** and is identified by **Tax Grid No. 6157-02-594684** in the Town of Wappinger.

1. Where as **2 acres** are required in an HB zoning district, the applicant is proposing to develop a pre-existing non-conforming undersized lot, the applicant can only provide **1.89 acres**, thus requesting a **0.11acre** variance.
2. Where as **200 feet** minimum lot depth is required, the applicant can only provide **149 feet 4 inches**, thus requesting a variance of **50 feet 6 inch** for the proposed development of a pre-existing non-conforming under sized lot.
3. Where as **30 feet** from the bank canopy roof, is required for a rear yard setback, the applicant can only provide **13feet 4 inches**, thus requesting a **16 feet 8 inch** variance.
4. Where as **75 feet** front yard setback is required to a state or county highway, the applicant can only provide **69 feet 8 inches**, for an existing front wall of the existing building, thus requesting a **5 feet 4 inch** setback.
5. Where as **25%** is required for landscaping, the applicant can only provide **12%**, thus requesting a **13%** variance. (As part of the mitigation that is being proposed, the applicant will obtain a Use & Occupancy permit from the NYS Department of Transportation. This will allow for the use of a portion of the NYSDOT right-of-way for landscaped planting beds. This will reduce the variance required for the minimum landscaped open space to 4.4 %.)

Mr. Prager: Are all the mailing in order?

Mrs. Dao: Yes.

- Mr. Johnston: I make a motion to open the Public Hearing.
- Mr. Galotti: Second.
- Mr. Prager: All in favor?
- Board: Aye.
- Mr. Prager: Read letter from DOT (dated December 13, 2013) giving permission for landscaping along Rte. 9. (Copy of letter available on request).
- Mr. Tinkelman: I will go over all the variances.
- Mr. Horan: The first two variance are required because of a existing non-conforming lot. Under our code a non-conforming existing lot can be developed provided that the setbacks on the lot are complied with but in this case since variance #3 is requesting a setback they need to get the variance for the size of the lot and the lot width. So 1, 2 and 3 run together.
- Mr. Tinkelman: If you include the DOT property, we are over 2 acres. Even though we don't own it. The bank canopy is another variance. We had the bank in another direction. We did rotate it to request less of a variance. So right now it is only the overhead canopy that needs the variance.
- Mr. Prager: We did have a site visit and walked the whole area.
- Mr. Prager: Is there anyone in the audience for or against this variance?
- Mr. Munoz: My name is Angel Munoz and I live at 110 Curry Road. The teller lanes are facing Old Route 9, say they get the variance, in the future if they decide to expand the bank and get rid of the teller lanes would they be able to put a building up that far. (Pointing to the map)
- Mr. Prager: Not without a variance.
- Mr. Munoz: My issue is with the teller lanes. The teller lanes have speakers and you can hear what is going on in the teller lanes. (Pointing to the map) my property is down here. I will hear all the noise like I hear all the Toyota noise. I would like a buffer or some protection.

- Mr. Tinkelman: (Pointing to the map) Mr. Munoz's property is here and the teller's drive thru is here. I don't think he will hear anything.
- Mr. Munoz: I disagree because I'm about 200 feet away from Toyota and I can hear the loud speakers they installed outside.
- Mr. Horan: They would have to obey the noise code that was adopted last year.
- Mr. Munoz: Where is their water runoff going?
- Mr. Foster: They have some drainage on site.
- Mr. Horan: They have to comply with the State Law.
- Mr. Munoz: There is no buffer facing Old Route 9. It's building after building and it is unsightly.
- Mr. Tinkelman: We have two fronts to this building and it will be landscaped.
- Mr. Prager: Let the record show there is no one else in the audience that has questions.
- Mr. Prager: Can I have a motion to close the Public Hearing?
- Mr. Johnston: I make a motion to close the Public Hearing.
- Mr. Galotti: Second.
- Mr. Prager: All in favor?
- Board: Aye.
- Mr. Prager: Can I have a motion to grant or deny variance number 1?
- Mr. Galotti: I make a motion to grant the applicant variance number 1.
- Mr. Johnston: Second.
- Mr. Prager: All in favor?
- Board: Aye.

- Mr. Prager: Can I have a motion to grant or deny variance number 2?
- Mr. Galotti: I make a motion to grant the applicant variance number 2.
- Mr. Johnston: Second.
- Mr. Prager: All in favor?
- Board: Aye.
- Mr. Prager: Can I have a motion to grant or deny variance number 3?
- Mr. Galotti: I make a motion to grant the applicant variance number 3.
- Mr. Johnston: Second, with the stipulation that the noise is taken into consideration when doing the landscaping.
- Mr. Prager: All in favor?
- Board: Aye.
- Mr. Prager: Can I have a motion to grant or deny variance number 4?
- Mr. Johnston: I make a motion to grant the applicant variance number 4.
- Mr. Galotti: Second.
- Mr. Prager: All in favor?
- Board: Aye.
- Mr. Prager: Can I have a motion to grant or deny variance number 5?
- Mr. Johnston: I make a motion to grant the applicant variance number 5.
- Mr. Galotti: Second
- Mr. Prager: All in favor?
- Board: Aye.
- Mr. Horan: This is contingent on Site Plan approval from the Planning Board and a Negative Declaration has already been done.

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. Prager: Are all the mailings in order?

Mrs. Dao: Yes they are.

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. Adams: The applicant is seeking a variance to use a common driveway to serve 3 lots. Two owned by the Campbell's and one by the Kellner's. We plan to construct a common driveway to the standards of the town. (Pointing to the map) there will be a turnaround at the end for emergency vehicles. Some courts have said this type of variance has to meet an area variance standard to Town Law. Will the granting of the variance change the character of the neighborhood? I will ask Krystal Campbell to come up and explain the use of Circle Drive as contrasted to Easter Drive.

Ms. Campbell: My name is Krystal Campbell and I live at 14 Circle Drive. We are proposing and have given up this land freely. We have also prepared a maintenance agreement so all of us can safely access Easter Road. We are proposing to come in on our driveway go

across the lower pond and go up Easter Road. The maintenance agreement and the request is for Kellner and ourselves. There are other people that live down here (Pointing to the map). They don't have good access. Mrs. Toth is here and she sometimes needs emergency vehicles to come in. The letter we received, those of us that live on Easter Road, stated that it is dangerous icy deep slope. What we are saying is that any ambulance can go across our property and go down and it is relatively flat. Nobody would be at risk and nobody's health would be at risk. We are not going to say that others cannot use the driveway. There are 3 other lots here in the middle that already have an easement and they go across (Pointing to the map) right here.

Mr. Kellner: (Pointing to the map) it is this lot right here. This is the Leggerio property. The intention on this lot years ago seem to have been a connection to Easter Road. It is a narrow lot and it was not developed like it should have been. The person eventually bought it and turned it into his driveway. It was given up as an easement for everyone to use.

Ms. Campbell: For 30 years everyone has used it, up until 5 years ago. This just happened this summer; there were people on Circle Drive that had their oil tank split and they needed trucks to come in and bring gravel. Ms. Leggiero would not let them cross. They wanted We built a hall road across our property because Mr. Kellner was trying to put down gravel on the road and they want a \$100 a truck or \$50,000 to bring the stuff across her property. We said just bring it across our property. At that point we were not talking about a right away but we need a way to get across there too. We also need to maintain our pond. I think it is criminal to charge someone to be able to cross your property. I think this plan will be helpful to the neighborhood and make it easier for everyone else. We would notify emergency services to let them know they can use that entrance because it would be a much safer way.

Mr. Adams: One of the things that need to be talked about is the cost of maintenance. If we had to use the access on River Road, you would have 1500 feet of roadway which maintenance is required. You have a steep road in the first 1000 feet.

Mrs. Campbell: It is very steep and then levels off after the bridge and then it goes up steep again. It is very dangerous.

Mr. Adams: With our proposed common driveway, we are going to have a paved roadway. We are going to grade the one hill that goes to Mr. Kellner's property. It will be to the town's grading code. Another question is, are the alternatives for the applicant. The first practical problem is, and I did submit documentation, we don't believe we have a right away from River Road along the length of Easter Road to where the 3 lots are located. Spending money on an improvement at River Road on the culvert, why put money into something you don't have a right to. That is why we don't have an alternative feasible. You have a much higher cost of maintenance for 1500 feet than 500 feet. It is unfair to penalize the last 2 owners on the end of Easter Road by making them pay all the maintenance for the entire length when you have 5 other properties. Since there is no maintenance agreement along the length of Easter Road, if my clients have to maintain the entire length they are inviting a liability issue. As I said in my letter, we do not think this is a feasible alternative using the entire length of Easter Road for the access of the 3 lots in question. Another question is, is the variance substantial? Normally variances have to do with setbacks; this is not pertinent to this variance. Will this have an impact on the neighborhood? As Mrs. Campbell said, we are not changing any of the physical environment. This will be a private common driveway. As Ms. Campbell said, you will have a better emergency vehicle access.

Mr. Horan: Frankly, I agree with some of the frame work. The difficulty here is that this is different than any other variance that the Zoning Board of Appeals hears. There are a number of ways to approach this issue. Under 280-A it looks at all 3 boards at the same time. The Town Board, Planning Board, and the Zoning Board has jurisdiction over road access. The laying out of roads is left to the Planning Board; for new roads. The first part of 280-A is an official map and we don't have one. If Easter Road was on an official map of the town, this would have been an easier question. Another section of 280-A talks about a plat; Easter Road pre dates the Planning Board. Easter Road is shown on a filed map in the County Clerk's Office which arguably met the standard. It appears that the lots were created prior to the existence of Easter Road. There are some references to right away. There is some question to whether the right away on its creation but I think over time the showing on the plats there is an easement by prescription for all of the lots along Easter Road to use it as a private road. We get to the other issue under 280-A, a determination has been made in the past that a building permit could be issued because it was on a plat filed in the

County Clerk's Office prior to the establishment of the Planning Board. Easter Road has to be suitably improved for access to the property, particularly for emergency vehicles. Under our town code suitably means by highway standards. Graham and I have had conversations about this. We do not have standards for private roads or maintenance for private roads. I think we are deficient in the code because other municipalities have addressed this. I do agree that 2 or 3 residents on Easter Road should not be burdened with the maintenance. We all agree that Easter Road does need improvement; the bridge and some of the other areas. Because of the topography and some of the steepness, there really isn't much grading you can do. The applicant has raised the issue that there is not a maintenance agreement in place for Easter Road that it would be burdensome for the applicant. The Common Law says where there is no maintenance agreement in place; the deeds and the properties are silent, all the properties along there have to ratably contribute to the maintenance of the right away. All the residents along Easter Road would share the cost of improvement. That would be helpful if we had town legislation. With respect to the applicant, there is ability for them to engage the other property owners for contribution for the improvements that are to be made. We all agree that the bridge and certain areas on Easter Road need improvement. The other issue of concern is the applicants now indicate they wish to have 3 lots of the common driveway. I have some concerns because right now the plan that was submitted shows that the driveway crosses over 7 different lots. The question would then become as an issue with respect to going forward, what controls could be placed on the lots that are not included. If this was an application before the Planning Board, for the establishment of a Town Road, you could combine those lots and you could do a reverse subdivision and make them into 3 separate lots. We can't do that. As it appears to be on the plat that was submitted, it looks like going around the pond, the driveway goes on to Leggiero property in the right away. It then goes on to Surbrize and then over the 2 Campbell lots. Leggiero's access has been noted. There is a question on how the Surbrize lot would play out here. This goes back to there are 3 boards that have jurisdiction over this application. An application under 280-A state that the Town Board creates what is called an open development area. This typically deals with a number of lots; which don't have direct access to an existing town road. The typical area variance is for one lot but in this case it is multiple lots. Does the board have any questions?

- Mr. Prager: Mr. Kellner, do you know what this is going to cost you? Do you know what is involved putting in a common driveway?
- Mr. Kellner: We already agreed to driveway standards for the length of the road from Circle Drive to my property. We estimated about \$30,000. Most of the grading work has already been done; maybe a little topping off and then it can be paved.
- Mr. Prager: What is the width of the paved driveway?
- Mr. Foster: 18 feet. The problem I am seeing is that this is not near to what the common driveway law calls for. A common driveway must prove access to a town road and none of these lots have access to a town road. I have been involved with this for about 10 to 15 years. I have all kinds of different estimates; no one wants to fix the bridge. I have heard from \$50,000 to \$90,000. I don't know where these numbers are coming from. The town engineer already said if they match the existing box culvert going under River Road, which I went down and measured myself, which is a 5 x 6 culvert. If they match that culvert with a pipe going under Easter Road, that would be sufficient.
- Mr. Prager: To take place of the bridge, correct.
- Mr. Foster: Correct. A 89 X 59 arch pipe would take the place of a 5 x 6 box culvert. That sells in galvanized at \$125.00 a foot and \$150.00 for aluminized. If you are saying you need 40 feet of pipe, which would be from end to end, plus end sections, you are looking at my cost and buying from my vendors, \$5,000 to \$6,000 for the pipe. Where \$50,000 or \$90,000 estimate is coming from, I don't know. Say we go across the Campbell property, in itself is a non-conforming parcel. It does not have 50 feet of frontage to a town road. If you continue to let that culvert deteriorate, there will be no access to any lot on Easter Road. If in 20 years the Campbell's move, the new owner my shut down the common driveway and there would be no access to Easter Road. I think the logical thing is to fix the culvert. I am estimating 10,000 to 15,000 dollars. I have never seen a design or an engineering drawing only estimates. It is a filed map and a subdivision. We have a road, we have access. Just fix the road and everybody would be happy.
- Mr. Kellner: Would you agree that there is an old bridge there?
- Mr. Graham: Yes, you take it out and put in a box culvert.

- Mr. Kellner: We have gotten estimates for the removal and taking away of the bridge. The estimate was about \$20,000 because it is a large bridge. It is about 16 or 17 feet long and 12 feet wide. It is a big heavy structure.
- Mr. Prager: With all this paper work, I have never seen any estimates.
- Mr. Kellner: We can get those to you. \$20,000 is just for the removal. The next problem is getting the culvert in such a way that you don't raise up the road way too much. Putting in a culvert requires putting a top on it. You would need to raise up the sides and there is a lot of filling to do. The road way comes down to bridge because there is a depression in the earth. The wash comes through and it is deep there. You would need to bring in a lot of fill to fill in that culvert. Then you would need to make a roadway over the culvert. The culvert themselves cannot handle any loading. That would involve some cost too. You have to put in abutments to hold the roadway. To do all that we have had estimates between \$50,000 and \$90,000.
- Mr. Adams: I will be asking for an adjournment so our excavator can be here. He had another job and could not make it tonight.
- Mr. Prager: What does our town engineer say? Do we need that or not need that.
- Mr. Foster: We would have to ask Mr. Gray.
- Mr. Adams: I can get a written estimate in advance and we can set up a time.
- Mr. Foster: They do not need a concrete deck.
- Mr. Prager: Let the engineer determine that.
- Mr. Adams: It doesn't address the maintenance.
- Mr. Prager: Either Barbara or Susan, someone needs to contact our town engineer to see what we need for the culvert.
- Mrs. Roberti: I'll have him write you something.
- Mr. Prager: Mr. Foster talked about black topping all of this (Pointing to the map). Do you know what it is going to cost you?

- Mr. Kellner: We don't think it is going to cost as much as the bridge.
- Mr. Prager: I think you should get an estimate.
- Mr. Kellner: I called a company in Poughkeepsie and they quoted me about \$21,000.
- Mr. Prager: Oil and stone or blacktop?
- Mr. Kellner: Oil and stone.
- Mr. Foster: The specks call for blacktop.
- Mr. Prager: We will have to straighten that out before we even think about this.
- Mr. Galotti: Stone and blacktop costs between \$5 and \$6 a square foot to install. That is not grading just installing the blacktop.
- Mr. Prager: You say there is a maintenance agreement in place now and who is that with?
- Mr. Kellner: With the Campbell's; it takes in all the properties on the east side of Easter Road.
- Mr. Prager: It does not involve anyone down below. As far as the town, if you are going to have a maintenance agreement you should have one for everyone on that road. That is my feeling.
- Mr. Kellner: (Pointing to the map) the lot on the end, the Sayke property, they are on River Road they just use River Road.
- Mr. Prager: I'm talking from the bridge on up.
- Mr. Kellner: 783 and 765 is not on the agreement. (Pointing to the map)
- Mr. Prager: If this gets granted, they would be on the maintenance agreement?
- Mr. Kellner: Are you suggesting they would be using the easement?
- Mr. Prager: Yes, definitely.
- Mrs. Campbell: We don't have a problem with that.

Mr. Prager: You are talking about another easement. What is going to stop others to ask for easements?

Mrs. Roberti: Mrs. Campbell's property has a grading permit that does not include this driveway. The driveway was put in, in violation of the grading permit. The town has not taken a position on it until this is settled. Then that would need to be engineered to make sure that her property with that driveway, which now has to be 18 feet wide, can still take care of the storm water; the two basins where originally there to hold and then dispel the water.

Mr. Campbell: My name is Peter Campbell. I can extend the height of the berm and increase the volume inside the drainage feature.

Mrs. Roberti: For the record, there is a violation and that is another issue.

Mr. Campbell: Violation or open permit?

Mrs. Roberti: You have an open permit to create those two basins. Nowhere on that permit did you have permission to bring in that volume of dirt to create that road. When I brought it to Mrs. Campbell's attention she said she couldn't remove it because it would be in violation with the Kellner's. After discussing it with town personal, we decided due to this situation, to have her remove it, with the thought this may go through, we would just have a wait and see attitude. If this doesn't go through, you will be bring it up to town standards.

Mr. Prager: We are not even done with the building of this temporary driveway.

Mr. Prager: Mr. Foster, other than the culvert, what needs to be done to Easter Road to make it so we can get up to Mr. Kellner's property.

Mr. Foster: You would need to bring in some millings or item 4 and make it a minimum of 14 feet wide right up to the top of the hill. This would be a minimum standard for a private road.

Mr. Prager: If Mr. Kellner decides to put the culvert in, what else needs to be done?

Mr. Foster: Item 4, preferably millings.

Mr. Prager: For the whole stretch?

- Mr. Foster: You would need to bring them in and grade them off. Bob Gray could give you an estimate of the cost. I think putting in a bridge would cost less than the driveway. The common driveway doesn't even come close to the common driveway law.
- Mr. Prager: Let's talk to Mr. Gray and ask him what he thinks need to be done to make this road passable.
- Mr. Horan: The discussions in the past from the Campbell property up, I understand there are drainage issues on the road.
- Mrs. Campbell: That was fixed years ago.
- Mr. Horan: What was done to fix that?
- Mr. Campbell: Above the pond there is a drainage ditch. The drainage will not be totally fixed until we get the road in.
- Mr. Horan: Regardless what happens here concerning the access, whether the culvert is installed or the easement is granted, that doesn't eliminate any of the other requirements.
- Mr. Kellner: According to the plan, Mr. Gray spoke with the engineer Ernie Martin, he gave him a full set of specifications that he wanted to see on Easter Road. That how this plan was developed; Mr. Gray also toured the property and made comments.
- Mrs. Campbell: That is a long road and it would take a lot of gravel.
- Mr. Prager: My concern is everyone else on that road.
- Mrs. Campbell: There is already that one easement that takes 3 people out of the mix. The person on the bottom uses River Road. There are 2 people left and we are willing to allow them to use this easement for safety reasons.
- Mr. Prager: Mr. Adams, you keep saying 3 lots and I see 7 lots. How did you get to that number?
- Mr. Adams: Only 3 lots would be eligible for certificates of occupancy if this common driveway would be granted. The other lots would have to come in on their own to seek their own certificate of occupancy.

- Mr. Galotti: About a year ago, we received a letter from Bob Gray. It says, prior to a variance application being granted, the outstanding issues on the Campbell property must be completed.
- Mr. Adams: I think the outstanding issues on the Campbell property have already been discussed.
- Mrs. Roberti: When did you bring in the dirt to make that temporary road?
- Mrs. Campbell: About 2 ½ years ago.
- Mr. Roberti: This letter is a year old and wasn't it last spring you had some wash out?
- Mrs. Campbell: That was 3 years ago.
- Mrs. Roberti: This letter is stating that there are still things that need to be done on your property.
- Mrs. Campbell: He didn't realize that we already took care of the drainage issue.
- Mr. Galotti: The letter also states that there is sediment in the pond. He is very specific in his letter saying that these issues have to be corrected before this application can be considered. Have they been taken care of?
- Mr. Campbell: Not totally corrected. I pursued getting the bottom thing down. I had a topographical map down. The completion of that permit was denied. A variance is waiting on me getting this done. I also did not have guidance on how to complete this. I asked and got an extension for that permit. At a meeting it was said that the road has nothing to do with this permit.
- Mrs. Roberti: We have a little of the chicken and the egg thing. They brought in a final as built that doesn't meet the grading permit because they brought in all that soil to build the road. We don't know at this time if that soil and that temporary driveway is going to stay as permanent. Bob and I would wait for the outcome of this to see what is going to happen to their storm water. If this was to pass, everything would have to be engineered. They will have to build this up and pave it.
- Mr. Prager: Is there anyone in the audience that would like to speak?

Ms. Toth: My name is Clara Toth and I live at 20 Easter Road. It is the 2nd property coming in from River Road. I am on the other side of the bridge. Since I am at that end and when I bought the property I was told it was a private road. I was told everybody had to chip in and fix the road. That was fine with me and I'm willing to chip in now. The Town of Poughkeepsie has a bus serves that helps disable people and they refuse to come in on that road. Last year I got a letter from the fire department saying they would not send a truck in there because they are afraid of the bridge. Why won't the town take over the road?

Mr. Prager: Unfortunately that is the problem with private roads.

Mr. Horan: Under Town Law Section 200, where the residents along a private road can petition the Town Board and ask the town to take over the road.

Ms. Toth: The road is in terrible condition.

Mr. Prager: We have seen it.

Mr. Horan: Graham and I had a conversation concerning the maintenance of private town roads. There are other private town roads that have similar issues. This is something we should consider.

Ms. Toth: It would be very nice. I would rather have the road fixed. If that road is approved, we are at the bottom and would have to pave the road to get there.

Mrs. Kellner: Let's try to apply some common sense. Historically everyone that lived on Easter Road came up from River Road and crossed the bridge or they used Leggiero's access. Leggiero's deed stipulated that certain people...

Mr. Prager: Is that a legal deed?

Mrs. Kellner: Thank you for asking that question because we have a situation that the Kellner's are also on that deed giving us the right to use that roadway. When Subrize owned Leggerio's property, my husband had a verbal maintenance agreement. Is it legal? He never wrote it on the deed. Subrize sold it to Bosch then sold it to Leggerio. My husband had a verbal maintenance agreement with Bosch also. In 1986 it was written on the deed. There was a verbal agreement that we could use that easement; plus the maintenance

agreement. We would access our property that way. We preferred not to go over the bridge because we didn't want to drive over other people's property to get to the bridge. Now all of a sudden Leggerio is uncooperative and she doesn't want to do a maintenance agreement. We have made a good faith effort with her to get a maintenance agreement. Can you regulate us at this point in time to get a maintenance agreement? We cannot force her hand. Our house burnt down and we have plans to rebuild. 70% of the house will be the same foot print of the previous house. The town classifies it as a new build. As far as I am concerned it is a rebuild. Do we have legal access? We are grandfathered. The road was there and we had a verbal agreement. Again we spent \$70,000 and that came out of our building fund. I spoke to Chris from the Fire Department and told him to access the road from the Leggerio's property. It is not on the map or GPS, there is a whole spider web of problems. Was it the responsibility of Bosch to put it on the deed? Probably. Everybody has made a good faith effect to correct this wrong. We don't use the bridge and every effort has been made to rebuild our house. When the town would not acknowledge our legal access, by Leggerio's, because of our misfortune, are we responsible for the cost of the whole road. I don't think so. The Campbell were nice enough to step up to the plate. This will also benefit the other people.

Mr. Prager: I understand what you are saying.

Mr. Horan: With the issue of the grandfathering the Leggerio easement out to Circle Drive, Mr. Adams and I have gone through some of the property records and according to the assessor's record there is a land hook between the 100 foot Leggerio lot and another lot that goes out here (Pointing to the map). The deed history shows that it was created back in 1961 by Martinet which is now the Leggerio piece. It also show the when Bosch sold it he move two separate lots into one. That small piece that goes out to Circle Drive was never a town road. It was never on a Plat as far as we can tell. To qualify under 280-A it either has to be a town road shown on a plat and approved by the Planning Board or shown on a plat prior to the Planning Board. For the purpose of our law, if you are requesting access by any other means you are now in essence a driveway because you are no longer a town road or a private road. The reason why the application here, Mr. Gray has made a determination that it needs to be paved as a driveway is because it seeking access by means other than that shown on the original

plat for Easter Road.

Mr. Prager: Easter Road would have to be paved.

Mr. Foster: If it was a driveway, as long as it remains a private road we could have an item 4 base. I believe the applicant has spent more on the consultants and still has nothing. I think the bottom line is the road needs to be fixed. If \$70,000 was put into the culvert, the Kellner's would be living in their house now. I think the bottom line is we need to fix the bridge and fix the road.

Mrs. Kellner: Why are you making us responsible for the bridge when other people are involved?

Mr. Foster: I am following the rules of the town. Your access has clearly been Easter Road.

Mrs. Kellner: The easement by prescription has always been the Leggiero's. We have lived in that house for 40 years and have maintained the road.

Mr. Foster: A hand shake agreement does not go with the deed. If the Campbell's sell their home, the new owners could cut that right off.

Mr. Prager: In reading a lot of these documents, there have been a lot of meeting about this and there has been no resolution. We have to get this straighten out and find the cheapest and safest way to fix this. Is there anyone new that would like to say something?

Mr. Prager: You are going to get some information from your excavator and information from the town engineer. I am going to adjourn this until February 11th.

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

Mr. Johnston: I make a motion to go into executive session.

Mr. Galotti: Second.

Mr. Prager: All in favor?

Board: Aye.

- Mr. Galotti: I make a motion to come out of executive session.
- Mr. Rexhouse: Second.
- Mr. Prager: All in favor?
- Board: Aye.
- Mrs. Roberti: The format of the minutes came up at the Planning Board meeting and the Planning Board has agree that the Public Hearing will still be typed out. New business, discussions and conceptual can do a synopsis and type the audio is available at the Town Clerks office. Do you want your minutes to stay in the same vain as they are now?
- Mr. Prager: Yes.
- Mr. Johnston: I make a motion to adjourn this meeting.
- Mr. Galotti: Second.
- Mr. Prager: All in favor.
- Board: Aye.

Respectfully Submitted,

Susan Rose, Secretary
Zoning Board of Appeals