

MINUTES

**Town of Wappinger
Zoning Board of Appeals
February 11, 2014**

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

Summarized Minutes

Members:

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

Others Present:

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

SUMMARY

Mousa Nesheiwat	Variance Granted
Michael Goodwin	Adjourned until March 11th
Aaron Kellner & Krystal Campbell	Adjourned until February 25th

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-----Here
Bob Johnston-----Here
Peter Galotti-----Absent

Mr. Prager: The first item on tonight's agenda is the acceptance of the minutes from January 28th. Do I have a motion to accept these minutes?

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

Mr. Johnston: Second.

Mr. Prager: All in favor?

Board: Aye.

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

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. Prager: Are all the mailings in order?

Ms. Rose: Yes sir.

Mr. Prager: Can I have a motion to open the Public Hearing?

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

Mr. Rexhouse: Second.

- Mr. Prager: All in favor?
- Board: Aye.
- Mr. Nesheiwat: I need to get the c/o for my house and this was a very difficult lot to work with.
- Mr. Prager: Why wasn't the porch on the original drawings?
- Mr. Nesheiwat: My understanding was and so was my engineer that the variance was for the house. The calculation was from the house; that is where the confusion came from.
- Mr. Prager: We did have a site visit. You really have no back yard and we did get the letter from your neighbor giving you permission to clear the back yard. Did you plant some trees?
- Mr. Nesheiwat: I did tell them that I would clean up and plant some nicer trees.
- Mr. Prager: The only thing that I worry about is the property line. We would like to make sure, if the property was sold to someone else, that the new owners would know where their property line is. We were thinking about the same trees that you already planted on the other lot.
- Mr. Nesheiwat: I can plant some boxwood bushes.
- Mr. Prager: Is there anyone in the audience that would like to speak for or against this variance?
- Mr. Prager: Hearing none from the audience, does anyone on the board have any questions?
- Mr. Johnston: Did you have a subcontractor build those steps?
- Mr. Nesheiwat: When we poured the foundation, we also poured for the steps. We had it inspected and I thought everything was alright.
- Mrs. Roberti: Just for clarification, when the preliminary plot plan came in for the house, this house was going to be a rehab for an existing old house. He had to come in with new plans as he was starting from scratch. The stairs were not on the preliminary, just the box house. The first round of variances was for the front setback and the rear setback. The interim plan only showed the house again. Then he

came in for his final as built and to get his c/o and that is when the steps were being shown and that is when we discovered he needed this variance.

Mr. Horan: For the record, in reference to the prior variance it would be important to note the number of the prior variance.

Ms. Rose: The prior variance is 13-7483.

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

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

Mr. Casella: Second.

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

Mr. Casella: I make a motion to grant this variance with a stipulation. I want bushes planted on the property line so when the property is sold the new owners know where their property line is. 5 to 6 5 gallons boxwood bushes.

Mr. Prager: Barbara, do you need a cash bond?

Ms. Roberti: Yes, it will be inspected to make sure these have been planted and then the bond will be returned.

Mr. Nesheiwat: How would that work with the c/o?

Mrs. Roberti: It would be a condition on the c/o. It will also be noted that a bond has been put into place with the town so those buyer know that there is something that has to be put in.

Mr. Horan: When they are put in, the bond will be refunded.

Mr. Rexhouse: Second.

Mr. Prager: Roll call vote:

Ms. Rose:	Al Casella	Aye
	Brian Rexhouse	Aye
	Bob Johnston	No
	Howard Prager	Aye

Mr. Prager: Next item on the agenda is another Public Hearing:

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 **Appeal No. 13-7509**

Mr. Prager: Are the mailings in order?

Ms. Rose: Yes sir.

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

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

Mr. Johnston: Second.

Mr. Prager: All in favor?

Board: Aye.

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

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

Mr. Goodwin: My name is Michael Goodwin.

Mr. Prager: We did have a site visit.

Mr. Prager: (Looking at the map) please explain why you need this. Also explain where the black top ends. Is the person that owns that back lot, did he put that in?

Mr. Indorf: Not that I know of. We did have a survey done.

- Mr. Goodwin: Since I have owned the property, the driveway has always been there. He is making a mess down there and I sent him a letter.
- Mr. Prager: (Pointing to the map) please come up here. This is the road and this is the driveway.
- Mr. Horan: Is there an existing driveway?
- Mr. Goodwin: That is an existing driveway. (Pointing to the map)
- Mr. Prager: (Pointing to the map) this is where the house is going to go?
- Mr. Goodwin: Yes.
- Mr. Johnston: (Pointing to the map) it is all undeveloped from here on in?
- Mr. Goodwin: The whole driveway is proposed. (Pointing to the map) that is a private road back there.
- Mr. Horan: I don't know if all of Dugan Lane was accepted by the town. At looking at the Town Clerk's records, back in the 60's, down towards this part of Dugan (Pointing to the map) it was a private road and the property owners along the road got a petition up to have the town accept the road. The Planning Board started in 1962 and the plat was done prior to that. There was no typical subdivision process. Back then the requirement was, if you wanted to sell property you have to file the plat in the County Clerk's office. The question becomes and I haven't found anything. Did you have a title search done on this property?
- Mr. Goodwin: Yes.
- Mr. Horan: Is there any reference to a map being filed in the County Clerk's office?
- Mr. Goodwin: I have that information but I haven't looked at it in a while.
- Mr. Horan: If you can get us the title search, it would be helpful. There are two issues here. One is whether or not this is a town road. There is a quick claim deed referenced in the Town Clerk's office. It seems to have stopped in one particular place. Where it is I don't know. The quick claim deed can go over to Martin Drive. Is it used?
- Mr. Goodwin: Not really but there are telephones that go down there.

- Mr. Horan: That may indicate that it was a town road because the telephone poles, under New York State Corporation Law, the utilities have the right to put poles in the town's right away without an easement. Did you buy this at a tax sale?
- Mr. Goodwin: Yes. (Pointing to the map) this road may not have been deeded to the town. We may own all the way out to here. We could have a maintenance agreement from the road that we would take care of it.
- Mr. Horan: True. The second issue is how good does the road have to be. If the town doesn't own it, and it is a private road, we could consider it as a driveway and you don't have to improve it to town standards. There may be a right away in the future. I don't see an issue with granting you the right to build. There are other lots along here (Pointing to the map). I believe there was an application to build on one of these two. There is an old ZBA application, which I will look up. It is one of these two (Pointing to the map). One in the 70's and one in the 80's.
- Mr. Goodwin: These both look like 70's houses. I could go back to Barger to get some more information and then we can schedule another meeting.
- Mr. Horan: We can move it out a month. I don't have an issue granting the building permit. The road is going to be the issue.
- Mr. Goodwin: We don't have a problem maintaining the road.
- Mrs. Roberti: Graham states that they maintain the road up to the black top.
- Mr. Casella: How would you maintain the road?
- Mr. Goodwin: It is a family member and it is written in the deed.
- Mr. Horan: My suggestion would be that where the town maintenance would end put a cul de sac and then a driveway to the house.
- Mr. Casella: So they can get emergency vehicles up there.
- Mr. Prager: In the past it was not done and if an emergency they can get in but would have to back out all the way. I know we have a letter from the chief of the Fire Department and the one thing he is

recommending is a cul de sac. You know that road because if you get a large truck up there it is almost impossible to back out.

Mr. Indorf: Would that be our responsibility if it is a town road?

Mr. Prager: Everybody is thinking that portion of the road is not a town road.

Mr. Johnston: On that Dugan Lane, I noticed that no signs were posted for snow ordinances. I noticed that there are sign on all other town roads.

Mr. Horan: There has to be a map someplace. On paper roads that don't go through, the town does not accept more roads than it needs.

Mr. Indorf: If we make the road wide enough for fire trucks, for everyone else on that road, they would have to now back out of the other driveways. For us to put a big cul de sac in for the last lot down there we have to figure this out.

Mr. Horan: The lot next door is developed.

Mr. Indorf: The lot on both sides.

Mr. Horan: I'm going to ask Graham if he wants a cul de sac or put the road all the way to Shady Brook and I pretty much know the answer.

Mr. Indorf: We are thinking of a driveway 12 or 14 foot wide.

Mr. Horan: The driveway would have to comply with the town's specifications. The question is where does the town road end. (Pointing to the map) if this is the end of the town maintenance you have to have an agreement with this owner of this lot.

Mr. Indorf: (Pointing to the map) this driveway ends here.

Mrs. Roberti: Does this gentleman have two driveways?

Mr. Indorf: No.

Mr. Goodwin: What we were going to ask if we could have maintenance agreement to where the driveway starts here. (Pointing to the map).

Mrs. Roberti: Let's look up his house permit and this house and see if they just kept extending the road.

- Mr. Prager: The quality of the black top didn't look the same.
- Mr. Goodwin: He does have heavy trucks on it.
- Mr. Prager: That could be it.
- Mr. Goodwin: I sent him a letter to let him know he has to get his stuff off my property because he has been dumping on it.
- Mr. Indorf: He is also dumping on town property.
- Mr. Prager: (Pointing to the map) it is safer coming in from Dugan Lane.
- Mr. Horan: (Pointing to the map) I would say put a cul de sac here, a town from here and a driveway here.
- Mr. Indorf: We would have to do it to the town's standards or will we get a break from the town because it wouldn't pay to build the house.
- Mr. Prager: What are we going to do now?
- Mr. Horan: We are going to have the owner provide the title search to the property and I will ask the Town Clerk to find the quick claim deed for Dugan Lane.
- Mrs. Roberti: I will check on those other two lots to see when they were approved and if they extended the road.
- Mr. Horan: Depending on how good the title search is, they should have done a street search to see if Dugan Lane is a town road.
- Mr. Utter: My name is William Utter and I live a 25 Elm Place. My property is in the back.
- Mr. Horan: Is that a private road?
- Mr. Utter: Yes. I am really here to get information.
- Mrs. Roberti: Did you build your house?
- Mr. Utter: My father did.
- Mrs. Roberti: Do you know if he needed a variance to build that driveway?

- Mr. Utter: I can find that out.
- Mrs. Roberti: Do you have a maintenance agreement with the other people on Martin?
- Mr. Utter: We all chip in and pave when it is needed.
- Mrs. Roberti: So it is more of a gentleman's agreement.
- Mr. Utter: Yes.
- Mr. Indorf: Who plows the road?
- Mr. Utter: My father.
- Mr. Johnston: I make a motion to adjourn this until March 11th.
- Mr. Casella: Second.
- Mr. Prager: All in favor?
- Board: Aye.
- Mr. Prager: The next item on the agenda is an Adjourned Public Hearing on:

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: Can I have a motion to open the Adjourned Public Hearing?
- Mr. Johnston: I make a motion to open the Adjourned Public Hearing.
- Mr. Casella: Second.
- Mr. Prager: All in favor?

Board: Aye.

Mr. Horan: I think we should discuss the correspondence we have received.

Mr. Prager: We have a time line from our Zoning Administrator, Barbara Roberti and it is dated January 24, 2014. It is for 80 Easter Road building permits. There are a number of letters I would like to get into the record. (Mr. Prager reads time line—a time line is attached to these minutes and is available upon request.)

Mr. Johnston: Who took out the permit to fix the bridge?

Mrs. Roberti: I couldn't find it. I looked for it because I thought it would be important to see who took it out. Since it would not be Mr. Kellner's grid, I couldn't find a grid that had it.

Mr. Prager: Why did Mr. Adams questioned Leigh?

Mr. Horan: Because of your relationship with Leigh, he was concerned about you being prejudice.

Mr. Prager: I'm not prejudice.

Mr. Horan: As we discussed, I don't feel there is a conflict in anyway. For the record, this morning Mr. Adams requested an adjournment of this evenings meeting because of miscommunication concerning Leigh. I sent him an e-mail on February 3rd indicating that I had no problem with him retaining Leigh but Mr. Adams had not read my e-mail. We then received an e-mail from Mr. Kellner stating he was going to get an estimate from a contractor, Stony Kill Excavators, and he still wanted to be on. I would, for the record, go over some of the things that were omitted from the ZBA meetings. In Mr. Kellner's letter dated 3-26-13 building department meeting we had agreed to the terms outlined in Bob Gray's letter, we were given two alternatives. One to re-grade the slope and add some fill and two was to repair the bridge culvert. We chose option one. In choosing option 1 it was subject to obtaining a variance from this board. They have come up with a preconceived notion that based on that letter they have an entitlement to the variance. Bob Gray makes it clear, that if they obtain the variance they need to do certain things and if they don't get the variance they would need to fix the culvert. As I have said along, I think it would be permissible to have the board say you can have the variance and get access over the Campbell property and you still have to fix the culvert. I

don't think it is necessarily off the table and they would be upset if that is one of the conditions. One of the things that has become evident is there is more going on here and Bob Gray's letter makes it clear that the cost here for the culvert repair is approximately \$35,000. I had a conversation this afternoon with Bob Gray concerning his letter and one of the issues Mr. Kellner pointed out in the past is how expensive it would be. I don't know who he spoke to or if he spoke to anyone at all. One of the facts that Bob Gray pointed out is that the stream is a Class C stream. Which means it is not regulated by the DEC. If you have a regulated stream, in those cases the DEC has a fairly detailed stream disturbance process. Since this is a Class C stream, the applicant has the ability to go in with a backhoe dig out the stream and replace the bridge with two appropriate sized culvert pipes. Then fill over those culvert pipes. If it was a regulated stream, you would need something with an open bottom. From an engineering point of view, a circular shape is much stronger than an arch shape. You have the ability to put two pipes next to each other which you could not do if this was regulated. That reduces the cost because you don't have a big span. Bob Gray did point out that the joists on the bridge are high and go deep into the stream flow and that probably has a chance to catch logs and debris and that may have caused some of the damage that is there. Bob Gray is of the opinion that replacing the bridge with two culverts would be a better idea. Bob's letter states that HDPE, which is a plastic pipe, has a modest cost. With respect of \$35,000 being the cost of that culvert, there are ten lots on Easter Road, nine are behind the bridge. If you split it up, you have \$4,000 a lot; which is not that expensive of a cost. Bob Gray did say that the estimates that were thrown around were for precast concrete bridges. This would have to be trucked to the site and place in with a crane. Another issue which is very troubling, which has been stated over and over again by the Kellner's, is that Easter Road is grandfathered. The whole point of 280-A of the town law is that there is no such thing as grandfathering for the access for the structure. You cannot put a structure on a substandard road. The requirement that the road be improved applies to whether it is a town road or a private road. In respect to Mr. Kellner, if this is a town road that was badly maintained and if his house was still standing he could petition the town to maintain the road but here it is a private road. It doesn't matter how long the road existed, it doesn't get grandfathered, it needs to get suitable improved. The question to this board is what is suitable improved. It becomes difficult, it is a private road and we don't have specifications for a private road. It doesn't make

sense to have it brought to the standards of a town road. Our town code 240-20 requires that a building be on a street approved in accordance with town code specifications. It doesn't say town driveway specifications. The town had the ability to require Easter Road be improved to highway standards even though we didn't own it. We were cutting you a break and you continue to be stupid. It is not grandfathered. At looking at the drawings that were submitted, the applicant had said that they were willing to expand the driveway from 12 feet to 18 feet which is common driveway standards. In looking at the plot plan that was submitted, there is an issue where the driveway crosses the Campbell property boundaries out to Circle Drive on the map prepared by Ernie Martin. In the northern corner of the property, the driveway is shown on the plat as being 12 feet wide, from edge of pavement to edge of pavement. As that crosses on to Circle Drive, that 12 foot wide pavement takes up all of the frontage that this lot has on Circle Drive. The Campbell's only have 20 feet of frontage at an angle. You can't get any more than a 12 foot driveway without going onto an adjoining lot. The board then has a question with respect to the width of the driveway and driveway permits. The town code requires a driveway permit whenever a new driveway is constructed or repaired. In this case, they are preparing some repair to the driveway. No driveway permit has ever been issued for the Campbell lot or the Leggerio lot. Mrs. Kellner has made great show in talking about how the access over Leggerio is grandfathered and it is, as it stands. No new permit is required as long as it stays as it is. With respect to the Leggerio lot, I referenced this the last time because I didn't have the deeds in my possession, I asked Jon Adams to provide to me the deed that created the strange lot that is now out on River Road, that is now owned by Leggerio. That lot was created in 1961 and I will scan it and get it into the record; it is the lot that is 35 feet in the front and 100 and some in the back.

Mr. Prager: Who is this owned by?

Mr. Horan: It is owned by Leggerio. That is the small lot that is on Circle Drive. It was created by taking a piece from Joseph Gadapee and Marjorie Gadapee which I believe is this lot (Pointing to the map) I believe is to the south; on the opposite side from the Campbell Lot. It is not on Circle Drive. (Pointing to the map) lot 5 is Hernandez and the strange Leggerio lot is, the lot going out to Circle Drive, is in front of that lot, or just a portion of it. It looks like the piece was the piece that was cut from here. Just to get

a driveway from Easter Road. I think the Martinent owned

Mr. Prager: Who owns lot 5? It is just a little lot.

Mr. Horan: Lot 5 is now Hernandez. (Pointing to the map) in the memo I just gave you there is a listing.

Mrs. Roberti: Leggerio is lot 5, Hernandez is lot 4, Sabrize is lot 6.

Mr. Horan: Unfortunately they do not match up.

Mr. Prager: I noticed that.

Mr. Horan: What happens is, if you look, lot 1 is still lot 1. Toth has a 1 acre lot. On the original plat that was a 1/2 acre lot. Toth is lot 2 and 3.

Mrs. Roberti: According to this lot 4 is Hernandez, lot 5 is Leggerio, lot 6 is Sabrize, lot 7 is Campbell now.

Mr. Prager: Toth should be 2, right?

Mr. Horan: Toth is actually 2 and 3. Burns is also an acre. Nothing matches up.

Mrs. Roberti: Lot 1 got enlarged from Toth.

Mr. Prager: Kellner should be lot 9.

Mrs. Roberti: That would be 8 and 9. Lot 6 and 7 is Campbell.

Mr. Horan: Lot 6 is 3 different lots.

Mrs. Roberti: Kellner owns 2 lots and Sabrize isn't that big now.

Mr. Horan: Originally there were 9 lots shown on the plat and there are 10 lots out there now. With respect to the deeds, the lot on Circle Drive goes with Martinent. At one point in time, mother and daughter, Lucy and Carmen, owned the adjacent lots. The lot that goes out to Circle Drive was a separate tax lot up until 1995 when it was combined. There is a deed in 1983 that says the two lots of Donald Sabrize and Sabrize transferred that lot to Bosch who transferred it to Leggerio. At one point in time that was owned by Donald Sabrize.

Mrs. Roberti: This map show Sabrize cut in half. Mr. Kellner brought this map in

back in '11.

Mr. Casella: There is a dirt road that is always being blocked off; just tell Mr. Kellner to buy the property put the road there, it's a private road anyway, it would probably be cheaper than what you are going through now.

Mr. Horan: The deed chain that I have seen, the only two lots that have a right to cross out to Circle Drive over that piece is Hernandez and Leggerio. The deeds says those two lots can use that piece of land to get out to Circle Drive.

Mr. Casella: My point is that the dirt road, near Leggerio, there is already something there, it is deeded to come out to Circle Drive and it connects to Easter Road, why would you not buy that piece of road, it is a small piece and put a road in. It's got to be cheaper than anything else that is being done here today.

Mrs. Roberti: It only gives approval for two lots to use it.

Mr. Horan: The issue becomes, they would still need a variance.

Mr. Prager: Just fix the road and be done with it. From a safety stand point, the person on the other side of that bridge has a heart attack and the ambulance cannot go over that bridge. They would have to go all the way up to Circle Drive and then came back down. Look at how much time that takes.

Mrs. Roberti: And that is if the EMT's can find it.

Mr. Horan: And frankly, the cost to repair that bridge would be less than what Leggerio would want for that property.

Mr. Casella: So if he fixes the bridge, he would only need to put down item 4.

Mr. Horan: The issue is not the item 4, it is the grading. The other issue is, he has the right to seek contribution from the other property owner on Easter Road and he has never tried to do that. If these people cooperated, we wouldn't be here.

Mr. Prager: That is the problem.

Mr. Casella: Has Mr. Kellner asked for an extension from the insurance

company?

Mrs. Roberti: He has repeatedly.

Mr. Casella: And?

Mrs. Roberti: They stated on the record, back in November and again at the last meeting, that their drop dead date is sometime this April. In my timeline, the letter Mrs. Kellner wanted me to sign, as a town official, that we were holding them up. But from 2006 to 2011, you did not see them and if they were having issue where were they.

Mr. Horan: From the timeline, in 2006 they approached the town and the town told them the bridge needed to be fixed. He did not propose an alternative.

Mr. Rexhouse: I think this all has to do with the conflict they have with Leggerio. The proposed way Bob Gray is suggesting is less costly.

Mr. Prager: And it is the right way of doing it.

Mr. Rexhouse: It will take care of the woman down below who states she is willing to participate.

Mr. Prager: I would like copies of those deeds to be part of the record.

Mr. Horan: One of the issues that Mr. Adams has raised in his memo, regarding whether or not they had the right to use Easter Road; there is a deed, from the filed map 2332, was filed by a Mr. Gavin and a Hudson Shannon Development Corp. (Mr. Horan reads deed—which is attached to these minutes). At this point Kellner owned the property originally at the time this map was filed. Kellner said the house was built in 1954 and this map was filed in 1951 and according to the map his father already owned the property. This map is confirming an existing right away.

Mr. Prager: We will need those maps in the record too.

Mrs. Roberti: June 29 2004, when the fire burnt the house down, Mr. Kellner was taken to the hospital and he stated that he did not have insurance on the house. There was an emergency meeting with the Town Board that night with a resolution, because the building inspector at that time felt the house was unsafe; and at a cost to the town of \$1,600 the resolution approved it to be taken down and bill Mr.

Kellner. The question is what insurance did he fight for all these years or was it a misspoken statement at the time he was going to the hospital. Jim, correct me if I am wrong, if they come through Campbell property and they are not creating a road but a driveway the common driveway law, which has only been on the books for a few years, only allows three lots. Each lot has to show and demonstrate that they have an alternative means, which is technically Easter Road but then it would be more than 3 lots.

Mr. Horan: I don't think the Campbell driveway is within the towns regulations. They would have to be in compliance with the regulations or get a variance from this board. 240-100 deals with says driveway alignment, specify 240-100 C:

§ 240-100 Driveways.

A.

General. For reasons of fire protection, on-site and off-site vehicular and pedestrian traffic safety, as well as to provide for possible future road widening or other improvements, all new driveways and sidewalk crossings entering onto any street shall comply with all requirements of these regulations and shall be subject to the approval of the Superintendent of Highways, except where such are part of a use subject to special permit or site development plan approval by the Planning Board, in accordance with Article VII and Article IX.

B.

Driveway grades.

(1)

One-family residences. The maximum grade for any new driveway for a one-family dwelling shall be 12% except that where it can be demonstrated to the satisfaction of the approving authority that, because of practical difficulty or unreasonable hardship affecting a particular property, the construction of a driveway shall be permitted, provided the increase in driveway grade is the minimum increase required and further provided that in no case shall such driveway grade be permitted to exceed 15%. No driveway serving a single-family dwelling shall have a grade in excess of 4% within 35 feet of the center line of the traveled way of the street or within 10 feet of the right-of-way line of the street, whichever distance is greater.

(2)

All other uses. The maximum grade for new driveways for uses other than one-family dwellings shall not exceed 7%, except that the approving authority shall have the same power to permit increased grades here as in § 240-100B(1) above, provided that such grades in no case exceed 10%. No driveway serving a use other than a single-family dwelling shall have a grade in excess of 3% within 50 feet of the center line of the traveled

way of the street or within 25 feet of the property line of the street, whichever distance is greater. The Planning Board may require increased platform areas of this type in situations where, because of the nature of the proposed use, substantial traffic volumes are anticipated.

(3)

All positive grade driveways shall continue at positive grade to the point of connection to the paved roadway to prevent ponding.

[Added 8-5-2002 by L.L. No. 10-2002]

C.

Driveway alignment and location. Any driveway entering onto a street shall be located and aligned in such a way as to create the minimum possible traffic hazard. The platform portion of the driveway, as required by § **240-100B** above, shall be aligned at approximately right angles at the street. Access to all off-street parking and loading facilities serving multifamily and nonresidence uses shall be not less than 20 feet in width and shall be connected to the street with a radius return at each corner of not less than 15 feet.

D.

Sight distance. Clear visibility shall be provided in both directions at all exit points so that the driver of an automobile stopped on the platform portion of any new driveway will have an unobstructed view of the highway for a reasonable distance (commensurate with the speed and volume of traffic on such highway) and so that the driver of an automobile traveling on the highway shall have a similar view of the automobile in the driveway.

E.

Driveways and access roads shall be so designed so as to provide Fire Department apparatus access to within a distance of 75 feet or less of the structure that may be called upon to be protected, and such driveways and access roads shall be designed so as to meet the following requirements:

[Amended 9-24-2001 by L.L. No. 5-2001; 8-5-2002 by L.L. No. 10-2002]

(1)

Driveways under 500 feet long shall have a minimum width of 12 feet; driveways over 500 feet long shall have a minimum width of 12 feet and, in addition, shall have a fifty-foot by twelve-foot pull-off every 500 feet to accommodate a forty-foot-long piece of fire-fighting apparatus.

(2)

The driveways shall have and maintain an overhead clearance of 15 feet, free of any obstructions such as tree branches, personal light poles, utility wires, etc.

(3)

The driveway base shall be sufficient to support a thirty-ton fire-fighting apparatus.

(4)

No turns shall be of such a degree as to prevent access of Fire Department apparatus.

...Here you have two driveways on top of one another. (Mr. Horan reads the town code) We require 50 feet of frontage on a town road and Campbell has 20 feet. I also did a search to see if Mr. Gavin every made an offer of dedication of Easter Road to the town and it doesn't seem to be.

Mr. Prager: Can I have a motion to go into Executive Session for receipt of legal advice?

Mr. Johnston: I make a motion to go into Executive Session.

Mr. Rexhouse: Second.

Mr. Prager: All in favor?

Board: Aye.

Mr. Prager: Can I have a motion to come out of Executive Session.

Mr. Johnston: I make a motion to come out of Executive Session.

Mr. Rexhouse: Second.

Mr. Prager: All in favor?

Board: Aye.

Mr. Prager: I make a motion to have Al Casella Acting Chairman. Do I have a second?

Mr. Johnston: Second.

Mr. Prager: All in favor?

Board: Aye.

Mr. Prager: Do I have a motion to adjourn this meeting?

Mr. Johnston: I make a motion to adjourn this meeting.

Mr. Casella: Second.

Mr. Prager: All in favor?

Board: Aye.

Respectfully Submitted,

Susan Rose, Secretary
Zoning Board of Appeals



EASTER ROAD
TIMELINE FEB 2014.p