

**MINUTES**

**Town of Wappinger  
Zoning Board of Appeals  
October 27, 2015  
Time: 7:00PM**

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

Summarized Minutes

**Members:**

Mr. Prager	Chairman	Present
Mr. Casella	Member	Absent
Mr. Johnston	Member	Present
Mr. Galotti	Member	Present

**Others Present:**

Mr. Horan	Attorney for Town
Mrs. Roberti	Zoning Administrator
Mrs. Ogunti	Secretary

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**SUMMARY**

**Adjourned Public Hearing:**

Stewart's Shops Corp. #325	-Adjourned Public Hearing to December 8, 2015
Randolph School	-Adjourned Public Hearing to November 10, 2015
Vincent Gesmundo	-Adjourned Public Hearing to November 10, 2015

**Public Hearing:**

Cheung Chingfai	-Granted Variance
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**Discussion:**

Frank Clavelin	-Public Hearing on November 10, 2015
Miroslaw Sulewski	-Public Hearing on November 10, 2015

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**Adjourned Public Hearing:**

**Appeal No. 15-7544: (Variance)**

**Stewart's Shops Corp. #325:** Seeking an area Variance of Section 240-52(A) & 240-52(E) of District Regulations in a CC Zoning District. The applicant is currently before the Planning Board for an amended site plan and Special Use Permit to add a gasoline filling station to the existing Stewart Shop.

-Where **1000 feet is required** from a residential district, the applicant can provide **200 feet**, thus **requesting a variance of 800 feet** to allow issuance of a Special Use Permit for a proposed gasoline filling station.

-Where **2,500 feet is required** between gasoline filling stations, the applicant can provide **1,425 feet**, thus **requesting a variance of 1,075 feet** to allow issuance of a Special Use Permit for a proposed gasoline filling station.

The property is located at **2048-2054 Route 9D** and is identified as **Tax Grid No. 6056-02-776904 & 6056-02-783920** in the Town of Wappinger.

**Mr. Johnston:** Motion to open the Public Hearing.  
**Mr. Galotti:** Second the Motion.  
**Vote:** All present voted Aye.

**Mr. Prager:** Let the record note that there's no one here to speak for or against this.

**Mr. Johnston:** Motion to adjourn the Public Hearing to December 8, 2015.  
**Mr. Galotti:** Second the Motion.  
**Vote:** All present voted Aye.

**Appeal No. 15-7562 (Variance)**

**Randolph School:** Seeking the following four (4) area variances pursuant to Section 240-58 (C) and 240-37 of District Regulations in an R-20/40 Zoning District.

-Where the minimum setback from adjacent residential properties shall be twice that otherwise required in the district in which the property is located.

-Where **100' 0"** rear yard setback required, the applicant can only provide **51' 0"**, thus requesting a variance of **49' 0"** for the construction of a **2000 square feet** accessory building for the library and arts studio.

-Where **50 feet** to the side yard is required pursuant to Section 240-58 (C), the applicant can provide **11' 5"** to the side yard for a **12 x 24 sf.** existing shed, thus requesting a variance of **38' 7" sf.**

-Where **100 feet** to the rear yard is required pursuant to Section 240-58 (C), the applicant can provide **42' 8"** to the rear yard for an existing **12 x 24 sf.** shed, thus requesting a variance of **57' 4"**.

The property is located at **2467 Route 9D** and is identified as **Tax Grid No. 6157-01-216814** in the Town of Wappinger.

**Mr. Galotti:** Motion to open the Public Hearing.  
**Mr. Johnston:** Second the Motion.  
**Vote:** All present voted Aye.

**Mr. Johnston:** Motion to adjourn the Public Hearing to November 10, 2015.  
**Mr. Galotti:** Second the Motion.  
**Vote:** All present voted Aye.

**Appeal No. 15-7565 Variance**

**Vincent Gesmundo:** - Seeking an area variance Section 240-37 / 240-5 of District Regulations in an R-20 Zoning District.  
-Where 2 acres are required for farm animals, the applicant can only provide .36 of an acre for pigeons, thus requesting a variance of 1.64 acres.  
The property is located **22 Robert Lane** and is identified as **Tax Grid No. 6158-04-950110** in the Town of Wappinger.

**Mr. Galotti:** Motion to open the Public Hearing.  
**Mr. Johnston:** Second the Motion.  
**Vote:** All present voted Aye.

**Mr. Johnston:** Motion to adjourn the Public Hearing to November 10, 2015.  
**Mr. Galotti:** Second the Motion.  
**Vote:** All present voted Aye.

**Public Hearing:**

**Appeal No. 15-7566 (Variance)**

**Cheung Chingfai:** Seeking an area variance Section 240-37 of District Regulations in an HM Zoning District.  
-Where **75 feet** to the front yard property line is required to a county and state road, the applicant can only provide **7.5 feet** to the county road for an existing **10' x 16'** shed, thus requesting a variance of **67.5 feet**.  
-Where **75 feet** to the front yard property line is required to a county and state road, the applicant can only provide **11 feet** to the county road for an existing **8' x 12'** shed, thus requesting a variance of **64 feet**.  
-Where accessory structures must comply with all minimum yard setback requirements for buildings, but in no case shall they be permitted in the front yard, the applicant is requesting a variance for encroachment into front yard.  
The property is located at **2358 Route 9D** and is identified as **Tax Grid No. 6157-01-059624** in the Town of Wappinger.

**Mr. Johnston:** Motion to open the Public Hearing.  
**Mr. Galotti:** Second the Motion.  
**Vote:** All present voted Aye.

**Mr. Prager:** Are all the mailings in order?

**Mrs. Ogunti:** Yes, they are.

**Mr. Prager:** We did do a site inspection and we have an idea of what's going on but for the record, tell us what you need and why you need it.

Ms. Chingfai: The two sheds were replaced for the ones that were taken down because of the water work the town was doing from 2012 to 2013. After that work was done, they said I could just get another one so I thought I could put another one in the same area and that's when the problems started.

Mr. Prager: What happened to the other two sheds?

Ms. Chingfai: It's a 2-door garage.

Mr. Johnston: Was it a 2-car garage?

Ms. Chingfai: It was not that big.

Mr. Horan: It was a very old structure.

Mr. Prager: Barbara, do you have anything to add?

Mrs. Roberti: The town did give her permission to put another structure but she needed a permit and then the second one which rang the bell.

Mr. Prager: Did you get all of the permits that you needed?

Ms. Chingfai: Yes.

Mr. Horan: Just for the record, these sheds are farther away from the property line than the old garage was.

Mr. Prager: Like I mentioned before, we did have a site inspection and saw what you were talking about.

**Mr. Johnston: Motion to close the Public Hearing.**

Mr. Prager: Second the Motion.

Vote: All Present voted Aye.

**Mr. Johnston: Motion to grant this variance and I don't believe it's an undesirable change to the character of the neighborhood or nearby properties. It is somewhat substantial but it also was not self-created.**

Mr. Galotti: Second the Motion.

Roll Call Vote: Mr. Galotti Yes

Mr. Johnston Yes

Mr. Prager Yes

**Discussion:**

**Appeal No. 15-7567 Variance**

**Frank Clavelin:** Seeking an area variance Section 240-37 of District Regulations in an R-20 Zoning District.

-Where **10 feet** to the side yard property line is required, the applicant can only provide **3 feet** for an existing **13' x 13'** wood shed, thus requesting a variance of **7 feet.**

The property is located **21 Helen Drive** and is identified as **Tax Grid No. 6158-02-721813** in the Town of Wappinger.

Mr. Prager: Good evening Mr. Clavelin. What we do here is you tell us what you need and why you need it and if it looks like we need additional information from you, you can bring it to the Public Hearing. Please mention your name again for the record.

Mr. Clavelin: Frank Clavelin.

Mr. Prager: Tell us what you need and why you need it.

Mr. Clavelin: It was brought to my attention that my wood shed is in violation. Before I staked and built the structure, I asked my neighbors, Joan and Dave for their permission to build it and they had no problem with it. Since this was brought up, I spoke with them again and informed them that they would be getting letters for a Public Hearing. No one seemed to have a problem with it. There's no room on my property to put anything elsewhere. A couple of years ago I was in violation of having a 5' x 8' shed that was already built also and I ended up having to take it down because there wasn't enough room between their house and mine because of fire code reasons.

Mr. Prager: When did you put this shed up?

Mr. Clavelin: About 7 years ago.

Mr. Prager: Do you have sides on it?

Mr. Clavelin: No. Originally I had a tarp on it and it really didn't look attractive so I threw some plywood on it. I built it from some pressure treated lumber.

Mr. Prager: We will do a site inspection about 9:00am on Saturday. I would like you to mark the property line so make sure you know where that line is. Do you have a regular site plan for your property?

Mr. Clavelin: I did when I purchased the property and there was no survey on the property. Between my neighbor and I, we basically eyeballed it.

Mr. Prager: Do you think you can dig that up?

Mr. Clavelin: I can try to locate it.

Mr. Prager: Are you going to be there on Saturday?

- Mr. Clavelin: Yes.
- Mr. Prager: Okay, we will take a look at it and make copies for you.
- Mr. Clavelin: It's odd because all the plots there are pie shaped so it's hard to see.
- Mr. Johnston: Is it just dirt floor or concrete?
- Mr. Clavelin: It is 4, 6' x 6' posts that I put stones on. It was basically just grass and whatever pressure treated plywood I had I just laid it down just to stack my wood.
- Mr. Prager: We will make the Public Hearing for November 10, 2015 and we have some paperwork for you.
- Mr. Clavelin: So I just mail this out to my neighbors?
- Mrs. Roberti: You are actually going to mail out copies of the legal notice in there to your neighbors, certified return receipt and there are instructions in there for you to follow.
- Mr. Clavelin: I can't just knock on their doors and speak to them?
- Mr. Roberti: No. You need the return receipt cards to prove you sent it. This protects you that a year from now if a new neighbor moves in and he doesn't like it, you did everything legally and it's a legal structure that can stay up.
- Mr. Clavelin: Okay. I know that the codes have changed and I was under the assumption that if there is no roof and no foundation to a building, it is not considered an actual structure. If the roof were to be taken off, would that make a difference?
- Mr. Horan: Under the town zoning code, it's considered to be a structure. For the purpose of the Uniform Building Code as far as meeting the building code requirements for construction, it's not subject to NYS Building Code. But it is subject to the town zoning code with respect to the setbacks and things of that nature, so that's the distinction. Under the NYS Building Code, sheds larger than 12' x 12' with a roof requires they comply with the building code as far as snow load, construction requirement and foundation requirements. However, they don't have to comply with the building codes but they have to comply with the town zoning codes as far as setbacks.
- Mr. Clavelin: I'm 13' x 13' and I missed it by a foot.
- Mr. Horan: We don't have a minimum size for structures.

**Appeal No. 15-7568 Variance**

**Mirosław Sulewski:** Seeking an area variance Section 240-37 of District Regulations in an R-20 Zoning District.

-Where **35 feet** to the front property line is required, the applicant can only provide **29 feet** for an existing **6' x 6'** front porch, thus requesting a variance of **6 feet**.

The property is located **1 Pippin Lane** and is identified as **Tax Grid No. 6258-04-543077** in the Town of Wappinger.

Mr. Prager: Please come up and state your name for the record.

Mr. Sulewski: My name is Mirosław Sulewski and I have my son-in-law Chris Miroczek here with me.

Mr. Prager: Looks to me like you might be on the corner lot?

Mr. Sulewski: Yes.

Mr. Prager: Which side of your house is that?

Mr. Miroczek: It's the Pippin Lane side.

Mr. Johnston: How big is your porch?

Mr. Sulewski: It is 6' x 6'.

Mr. Prager: Okay, that's why you are 29 feet. I just want to make sure what we are talking about here. Is the porch on it now?

Mr. Miroczek: It is on it and basically he built the entryway. Prior to that, you would just come into the living room and they were losing a lot of heat. He's a grounds maintenance which is a very physical job and he walks in with his dirty boots every day and his wife is annoyed with that. So he decided to build the entryway and it's nothing spectacular, just a standard entryway to the living room.

Mr. Prager: Is it built right now?

Mr. Miroczek: Yes it is built already.

Mr. Prager: When did you build it?

Mr. Miroczek: The inspector was there in September so he's not sure when he built it.

Mr. Prager: In other words you have a building permit?

Mr. Miroczek: He has a couple of receipts.

Mr. Prager: Do you know anything about this Barbara?

Mrs. Roberti: I believe it was 2013 the gentleman open permits for the porch and the rear deck. I denied it for the same reason he's here tonight. He came back in

and amended the permits taking the porch off so they can issue the permit for the rear deck. I don't know if he started right away in 2013 but apparently he was just getting finish now when our Building Inspector, Sal went out to do the final on the patio that's when he saw that he had constructed the porch.

Mr. Prager: In other words you built this porch without any permission to do it?

Mr. Miroczek: Correct. He didn't have permission to build it in the first place.

Mr. Johnston: In 2013 it was denied because you weren't going to be allowed to put a porch on?

Mr. Miroczek: Correct. He was told that he couldn't build it.

Mr. Johnston: But he built it anyway.

Mr. Prager: Why did you do it?

Mr. Miroczek: He still felt he needed it for the convenience so he decided to build it. Like I said, the job he has he comes in with dirty boots and felt the need to build it.

Mr. Johnston: So I understand, he felt the need to have it. He was told he couldn't have it in 2013 but he built it anyway.

Mr. Miroczek: Correct.

Mr. Prager: We are going to do a site inspection on Saturday around 9:15am. Are you going to be there?

Mr. Miroczek: We are going to have someone there who speaks English properly.

Mr. Prager: Quite frankly I'm not too happy that you went ahead and built it. We'll see what happens. He has a pretty good chance that he could tear this down.

Mr. Horan: Mr. Chairman if I might. Under the circumstances he would have had the opportunity to apply for a variance then and because of the language barrier.

Mr. Miroczek: My father-in-law is a very hard worker and I know he pays you a lot of visits, that's the type of person he is. His wife just had knee surgery and I personally am happy that he has the proper entryway. I know the law is the law but to come from the outside with muddy boots inside the living room is not good. I hope you consider and when you look at his property, he maintains it so well and this is the best maintained property on the block. I know the topic is separate.

Mr. Prager: He had the opportunity in 2013 to get the proper variance and he should have done it then.

Mr. Miroczek: I understand.

Mr. Prager: We have some paperwork for you. Just remember you have to put it in the mail.

**New and Old Business:**

Gas Stations: Discuss whether to recommend changes to the zoning code in regard to setbacks.

Discussion took place regarding gas station and zoning codes. The board asked our attorney to look further into this.

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**Mr. Johnston: I make a motion to adjourn this meeting.**  
**Mr. Galotti: Second the motion.**  
**Mr. Prager: All in Favor – Aye.**

Respectfully Submitted,

Adjourned: 7:55 pm

Bea Ogunti  
Secretary  
Zoning Board of Appeals