

**MINUTES**

**Town of Wappinger  
Zoning Board of Appeals  
November 10, 2015  
Time: 7:00PM**

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

Summarized Minutes

**Members:**

Mr. Prager	Chairman	Present
Mr. Casella	Member	Present
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:**

Randolph School	-Granted Variance
Vincent Gesmundo	-Open & closed Public Hearing Decision to be made in 62 days

**Public Hearing:**

Frank Clavelin	-Granted Variance
Miroslaw Sulewski	-Granted Variance

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**Mr. Casella:**                   **Motion to approve the Minutes of October 27, 2015.**  
Mr. Johnston:               Second the Motion.  
Vote:                           All present voted Aye.

**Adjourned Public Hearing:**

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

Mr. Prager:                   Again, please state your name for the record.

Mr. Berg:                   Chris Berg, Berg & Moss Architects, PC. I'm the architect for the school.

Mr. Prager:                   I know you were here a couple of times, we added another variance and I know some of your dimensions weren't quite right. Please tell us again for the record what you want and why?

Mr. Berg:                   We were here for the Public Hearing and at that time our survey wasn't quite complete and now we have the survey.

Mrs. Roberti:               Chis, I know this might seem minor in trying to adjust the agenda the other day your numbers are slightly off. On the survey it says 45' 6" but on this page it's 45' 7".

Mr. Berg:                   It is 45.6 feet.

Mrs. Roberti:               So that would be the right numbers and it's for Variance No. 3. Just for the record if you could shrink this down and replace this page for us.

Mr. Berg:                   It says 45' 7".

- Mrs. Roberti: But your survey says 45'.6" so it's off by an inch.
- Mr. Horan: It's 6" which is 7 inches.
- Mr. Prager: So it's .6 feet. Okay, start with Variance No. 1 and tell us again what you want and why.
- Mr. Berg: The Library and Art Studio to be located in that location to be close to the Amphitheatre but we were restricted because of the typography and septic, we decided to build it in that location.
- Mr. Prager: I know it's been a while since we had our last meeting about this. We had a site inspection on this property and noticed the back property drops and there's nothing very close to the back of the property. So let's talk about Variance No. 2.
- Mr. Berg: Variance No. 2 is the existing shed that had not been filed previously so we are just making amends on that.
- Mr. Prager: Okay and Variance No. 3 is for the shed in the rear.
- Mr. Berg: That would be the same for the rear yard.
- Mr. Prager: Now for Variance No. 4.
- Mr. Berg: Variance No. 4 is a conversion that was done about 11 years ago. It was my understanding that came to the board and it was converted.
- Mrs. Roberti: I figure let's just do it while we do a clean sweep and legalize all of it.
- Mr. Berg: That was my mistake that on the diagram I did not indicate it but it's on the survey.
- Mr. Horan: For the board, it makes sense for the applicant to get the variances for the existing buildings that are within the setback. Should anything happen to the building it can be replaced where it is and you don't have to go through the nonconforming issues that way we put it on record. Going forward, the applicant is protected.
- Mr. Prager: I agree. Are there any questions on the board and/or anyone in the audience that would like to speak for or against this variance?

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

Mr. Casella:           Second the Motion.

Vote:                   All present voted Aye.

**Mr. Galotti:**           **Motion to grant the applicant the variance. I don't think the benefit can be achieved by any other feasible means and I don't believe it creates an undesirable affect to the neighborhood. I don't believe the request is substantial and I don't believe it creates an adverse effect to the environment.**

Mr. Johnston:           Second the Motion.

Vote:                   All present voted Aye.

Mr. Prager:            Let the record show that Mr. Galotti arrived at 7:13pm.

### **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. Casella:**           **Motion to open the Public Hearing.**

Mr. Johnston:           Second the Motion.

Vote:                   All present voted Aye.

Mr. Prager:            Please come up and briefly tell us what you want and why you want it.

Mr. Gesmundo:        Mr. Prager, that's the problem. Mr. So called Brown claims that my pigeons poops on his house, deck and in his pool, grass except for his head.

Mrs. Roberti:         You have to keep this professional.

Mr. Gesmundo:        I apologize. I submitted certain paperwork that shows when pigeon fly they do not poop and the paperwork I gave you explained that. I also explained to you that I only feed them ones. Once I get them out and feed them, they don't come back out for 23 hours later so if they poop, they poop in the coop. Mr. Johnston and Mr. Casella, you were on my property and you didn't see any poop there. I would also like to point out that I did ask you Mr. Prager to go on his property and when you go on his property to yell to me and say Mr. Gusmundo, let the birds out. Once I let the birds out and if they do poop or did poop as he claims, what would happen to my case? Common sense, I would lose my case. I asked you to do that because you keep saying I should prove that. Before you left, I asked if you wanted to see how fast they get in the coop and you said it was not necessary. None of my other neighbors showed up and I was told that he spoke to two people trying to talk them into coming to court but they didn't want to show up.

Mr. Prager: Let's not go into that.

Mr. Gesmundo: I just wanted to prove a point.

Mr. Prager: How long have you lived at that property?

Mr. Gesmundo: I've lived there for 40 years.

Mr. Casella: How long have you had the pigeons?

Mr. Gesmundo: I've had them for 25 years.

Mr. Prager: You've had that coop 25 years?

Mr. Gesmundo: Not that particular coop but a different coop in the backyard.

Mr. Johnston: Have you always had the same amount of birds?

Mr. Gesmundo: It varied, give or take 5 to 7.

Mr. Prager: Are there any other questions?

Mr. Gesmundo: May I mention something else if you don't mind? I was into pigeon when I was 15 years old in Manhattan, Harlem on 115<sup>th</sup> Street on 5<sup>th</sup> Avenue. I had three friends that were in their 40s and they worked in construction and they each had coops. The buildings in Manhattan are joined so you can walk from one coop to the other and together they had 175 birds. People walked around the streets on sidewalks and I've never heard of anybody getting pooped on and never saw any poop on the sidewalk. They don't poop outside for the same reason I told you Mr. Prager. You feed them ones and once they are fed, they are inside for 24 hours. So if they are going to poop, they are going to do it in the coop. That's why you have to clean a pigeon or chicken coop every two weeks or so. Can I say one other thing if I may?

Mr. Gesmundo continues to elaborate to justify why he should be granted the variance to keep his pigeons.

Mr. Prager: Do we have anyone in the audience who would like to speak for or against this variance?

Mr. Brown: My name is Earl Brown I live at 24 Robert Lane in Wappingers. I'm the one that brought this claim. This guy is lying he's only had these birds for a short length of time. He had them before and got rid of them so he just started. I took pictures of the damage and pigeon crap all over the place. There's pigeon poop on my deck, barbeque grill, pool, and all over the place. Many times I come out on my porch and they fly right in my face. When I tell them about it, I'm threatened. I cannot even have company outside because there's poop all over the place. I am sick to this and I almost lost it ones and I held myself back.

Mr. Casella: Do you have pictures with you?

- Mr. Prager: Yes, we got pictures in the mail.
- Mr. Johnston: Mr. Brown, how long have you lived next to Mr. Gesmundo?
- Mr. Brown: I've lived there for 17 years.
- Mr. Johnston: Had there always been pigeon poop there?
- Mr. Brown: He had them and he got rid of them and three years ago he brought them back.
- Mr. Johnston: Was it in 2011 or 2012? So there was a break where he didn't have them?
- Mr. Brown: Yes. That's what I was told by other people that he had pigeons before and they stopped him.
- Mr. Prager: Who stopped him?
- Mr. Brown: I don't know if it was the town but he stopped.
- Mrs. Roberti: There are no complaints and/or any violations on record for this address.
- Mr. Brown: That's what I was told.
- Mr. Prager: Anybody else in the audience who would like to speak for or against this variance?
- Mrs. Brown: Maria Brown, 24 Robert Lane, Wappingers Falls. I saw him build his coop three years ago. I've researched pigeons on the computer about all of the diseases from every state, county and country. I have grandchildren and when they are playing around, the pigeons go flying around them. They only come around our house and not the other houses in the neighborhood. Personally I think this is very disgusting.
- Mr. Gesmundo: I'm not sure where they got three years from. I've had those birds for 25 years on my back porch and then I built the coop.
- Mr. Johnston: Motion to close the Public Hearing.**
- Mr. Galotti: Second the Motion.
- Vote: All present voted Aye.
- Mr. Prager: We will make a decision with 62 days.

**Public Hearing:**

**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. 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: Mr. Clavelin please explain to us what you need and why.

Mr. Clavelin: Basically my neighbors allowed me to put my wood shed where it is and they didn't mind me doing it. You gave me a list and I mailed it to all of my neighbors and they all complied. I brought the affidavit of publication as well.

Mr. Prager: Bea, did you get anything from the neighbors?

Mrs. Ogunti: No, nothing at all.

Mr. Prager: We did go over for a site inspection and there was a wood shed in the back and to me there wasn't a different area you could put the shed. Anybody on the board has any question? Is there anyone in the audience that has any questions?

Mr. Blute: Jerard Blute, 24 Helen Drive. I'm just here to support my neighbor.

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

Mr. Johnston: Second the Motion.

Vote: All present voted Aye.

**Mr. Casella:** **Motion to grant the variance. Where the benefit can be achieved by any other means, it's the only feasible spot he can put it in his yard and it's been there forever. There's no undesirable change and the neighbor came up to say there's no issues with it. It's not really substantial and it's been there for a while and although it was self-created, there's no other spot to put it.**

Mr. Johnston: Second the Motion.

Vote: All present voted Aye.

**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. Casella:** **Motion to open the Public Hearing.**

Mr. Johnston: Second the Motion.

Vote: All present voted Aye.

Mr. Prager: Are all the mailings in order?

Mrs. Ogunti: Yes, they are.

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. Miroczek: I'm going to translate for my father-in-law so there's no misunderstanding.

Mr. Prager: Please state why you are here.

Mr. Miroczek: Obviously he was not granted the permission to build a nice entryway but it's easier for them to enter the house and sit down especially now with his wife's health. She had surgery on the knee so he built her this entryway now she can come out and sit on the bench. He basically put a roof over the stairs and expanded the concrete which is 6' x 6' and that is what's causing the problem.

Mr. Prager: At the last meeting and when we did the site inspection, we explained to you that this is not something we appreciate having done in the Town of Wappinger. It should have been taken care of and gotten a variance, well here we are you are still getting a variance. If this is granted, in the future, would you make sure that your father-in-law never does this again?

Mr. Miroczek: Yes sir. They appreciate the team coming out to inspect and taking so much interest and again I'm here to translate and I will make it clear to him.

Mr. Johnston: Was there a reason you didn't apply for a variance in 2013 when you were told it was being denied?

Mr. Miroczek: Again, he said he gave a plan to the office and he was hoping it would be approved and thought it would take some time for the office to work on it. He didn't understand the extent of what he was doing by building it. I think he had this image in his head that he put the paperwork and I'm not doing

anything wrong but he understands now. In other words, he gave a plan and assumed it would be approved.

Mr. Prager: Okay, I think he found out that's not the way things work.

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

Mr. Johnston: Second the Motion.

Vote: All present voted Aye.

**Mr. Johnston: Motion to deny the variance. He was told in 2013 he couldn't have it and it would set a precedent by allowing him to keep it. There's not an undesirable change to the neighborhood and it is somewhat substantial and it is self-created.**

Mr. Prager: No second.

Mr. Horan: Motion failed for lack of second.

Mr. Prager: So it's approved?

Mr. Horan: No, you have to have a motion to approve it.

**Mr. Galotti: Motion to approve the variance. Based on what we saw there and again you guys did something you weren't supposed to do. However, it's very tastefully done and it looks very nice. You did a great job. You have a lot of shrubs and hedges in front of the extension between you and the road in the area where you are asking for the variance. Based on those facts I am making a motion to grant the variance and I don't believe you could achieve that entrance any other feasible way. Based on all of the work, I don't believe it creates an undesirable effect to the neighborhood because it is a very good job. I don't believe the request is substantial in nature and it doesn't create any adverse effects to the environment. Based on that and the way the work was done, I am going to grant the variance.**

Mr. Casella: Second the motion with a condition that if this ever happens again, I won't approve it and I'm going to deny the variance. I think you know what you did was wrong and I agree with my colleague Bob Johnston that you knew it and you were told and you still did it anyway. However, it was tastefully done and it is a nice job and it does improve the aspect of the house. I'll second that motion but very disappointed that you guys knew about this and you did it anyway and you know you shouldn't have done it.

Roll Call Vote:

Mr. Casella	Yes
Mr. Galotti	Yes
Mr. Johnston	No
Mr. Prager	As you know, you did something wrong and as Mr. Galotti mentioned and I admit that it is a very beautiful job you did. It is really seen from the road and for those reasons I would go along and grant the variance. I'm going to say it one more time that I don't want to hear from you again.

Mr. Microzek: Thank you.

**New and Old Business:**

Mr. Prager: We have here the dates of our 2016 meetings and we need a motion to accept or make changes to them.

**Mr. Galotti: Motion to approve the submission dates.**

Mr. Casella: Second the Motion.

Vote: All present voted Aye.

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**Mr. Casella: I make a motion to adjourn this meeting.**

**Mr. Johnston: Second the motion.**

**Mr. Prager: All in Favor – Aye.**

Respectfully Submitted,

Adjourned: 7:55 pm

Bea Ogunti  
Secretary  
Zoning Board of Appeals