

**MINUTES**

**Town of Wappinger  
Zoning Board of Appeals  
August 25, 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:**

Mrs. Roberti	Zoning Administrator
Mrs. Ogunti	Secretary

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**SUMMARY**

**Adjourned Public Hearing**

Stewart's Shops Corp. #325	Adjourned Public Hearing to October 27, 2015
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**Public Hearing**

Terry & Carol Glass	-Granted Variance
Cyrus & Sandra Tompkins	-Granted Variance
David Plaza	-Granted Variance
Vincent Gesmundo	-Public Hearing on September 8, 2015

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**Mr. Johnston:**           **Motion to approve the minutes for August 6 and 11, 2015.**  
Mr. Galotti:            Second the motion.  
Vote:                     All present voted aye.

**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:             Mrs. Roberti could you explain for the record what we are trying to do here.

Mrs. Roberti:           The Stewart's Shops has been on hold with the Planning Board and your board, at this time a gentleman who is part of the application seems to have taken an assignment. We need to get another submittal from him and his new attorney before we can make a decision, so I respectfully ask that this gets adjourned to October 27, 2015.

**Mr. Johnston:**           **Motion to adjourn the Public Hearing to October 27, 2015.**  
Mr. Galotti:            Second the motion.  
Vote:                     All present voted aye.

**Appeal No. 15-7564 (Variance)**

**Terry & Carol Glass:** Seeking an area variance Section 240-37 of District Regulations in an R-40 Zoning District.

-Where the **code states...in no case shall Accessory Structures have a footprint greater than 600 square feet nor a height in excess of 20 feet.** The applicant is proposing an **addition to his garage for a total of 780 square feet**, thus requesting a **variance of 180 square feet.**

-Where **50 feet** to the rear yard property line is required, the applicant can only provide **25 feet** for the construction of a **26' x 30'** detached garage, thus requesting a variance of **25 feet.**

-Where **25 feet** to the right side yard property line is required, the applicant can only provide **15 feet** for the construction of a **26' x 30'** detached garage, thus requesting a variance of **10 feet.**

The property is located at **3 Montfort Road** and is identified as **Tax Grid No. 6358-01-158534** in the Town of Wappinger.

Mr. Prager: Are the mailings in order?

Mrs. Ogunti: Yes, they are.

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

Mr. Galotti: Second the motion.

Vote: All present voted aye.

Mr. Prager: Mr. Glass, come up and tell us a little bit about what you need. We did inspect the property on Saturday while you were at work.

Mr. Glass: We need a variance of 15 feet for the side, the back and we also need 25 feet to build a garage. The way the house is located, that's the only spot we could put it and the septic system in the front takes up most of the yard.

Mr. Prager: Thank you for marking it out so clearly for us. I can understand why you want it there. Are there any questions on the board?

Mr. Galotti: There's a shed there now.

Mr. Glass: I will be taking the shed down once the garage is built. I don't have anywhere to put my stuff right now so I'm using it as storage.

Mr. Prager: Is there anyone in the audience who would like to speak for or against this variance?

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

Mr. Galotti: Second the motion.

Vote: All present voted aye.

**Mr. Galotti:**                   **Motion to grant the applicant all three variances. I don't believe the benefit can be achieved by any other feasible means and I don't see it proposing an undesirable change to the neighborhood or detriment to any nearby properties. I believe the request is substantial, however, I don't believe it will have an adverse effect to the environment.**

Mr. Johnston:               Second the motion.  
Vote:                         All present voted aye.  
Roll Call:                   Mr. Galotti – Aye.  
                                  Mr. Johnston – Aye.  
                                  Mr. Prager – Aye.

**Appeal No. 15-7563 (Variance)**

**Cyrus & Sandra Tompkins:** Seeking an area variance Section 240-37 of District Regulations in an HM Zoning District.

-Where **25 feet** to the rear yard property line is required, the applicant can only provide **20 feet** for a **14' x 23'** existing 3 season room, thus requesting a variance of **5 feet**.

The property is located at **3 Leskow Circle** and is identified as **Tax Grid No. 6356-01-250947** in the Town of Wappinger.

Mr. Prager:                   Are the mailings in order?

Mrs. Ogunti:                Yes, they are.

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

Mr. Tompkins:             Cyrus Tompkins.

Mr. Prager:                Again, please tell us what you need and why you need it.

Mr. Tompkins:             A 3 season room was built and we are 5 feet short of the property line so I'm looking for a variance of 5 feet in the rear.

Mr. Prager:                I know you had mentioned that you have lived there since 1988?

Mr. Tompkins:             Yes, since 1988.

Mr. Prager:                When did you say that was built?

Mr. Tompkins:             About 7 years ago.

Mr. Prager:                Mrs. Roberti, I gather that he would have to get a permit?

Mrs. Roberti:              He has opened the permit but because of the setback, he got denied. If this gets approved, he goes back to the building department to legalize it.

Mr. Prager: As you know we were there to inspect the piece of property on Saturday. Is there anyone in the audience who would like to speak for or against this variance?

Mrs. Tompkins: I'll speak for it, we want it.

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

Mr. Galotti: Second the motion.

Vote: All present voted aye.

**Mr. Johnston: Motion to grant this variance. I don't believe it is substantial, and it's only 5 feet. I don't believe there's any other feasible means to accomplish it and I don't believe it is an undesirable change to the neighborhood. I don't believe it has any physical effects to the environment.**

Mr. Galotti: Second the motion.

Vote: All present voted aye.

Roll Call: Mr. Galotti – Aye.

Mr. Johnston – Aye.

Mr. Prager – Aye.

**Appeal No. 15-7546 Variance**

**David Plaza**: - Seeking an area variance Section 240-37 of District Regulations in an R-40 Zoning District.

-Where **25 feet** to the side yard property line is required, the applicant can only provide **11.5 feet** for a proposed garage, thus requesting a variance of **13.5 feet** for the construction of a **24' x 24'** detached garage.

The property is located **194 Old Ketchamtown Road** and is identified as **Tax Grid No. 6156-01-332986** in the Town of Wappinger.

Mr. Prager: Are the mailings in order?

Mrs. Ogunti: Yes, they are.

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

Mr. Plaza: My name is David Plaza and I live at 194 Old Ketchamtown Road.

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

Mr. Galotti: Second the motion.

Vote: All present voted aye.

Mr. Prager: Again, explain to everybody what you need and why you need it.

Mr. Plaza: We need a garage because we both are disabled and we need to put our cars in and not have them out during the winter with the snow. The distance from my deck to my neighbor's fence is only 25 feet and it's not enough space. If I can get the 11.5 feet variance there, I will be able to put the

garage there. I've already spoken to my neighbor and she's fine with it as long as I have the space and it's not right up on the fence.

Mr. Prager: We were out there on Saturday for an inspection and I understand. I know there was a question that was brought up at the discussion that night about why you wanted it there. I see you wouldn't have room in the back. Bob, Peter, do you have any questions?

Mr. Galotti: Are you going to lose the garden over there?

Mr. Plaza: Yes, my wife's garden, and as long as that's alright, everybody in the world is okay.

Mr. Galotti: You know what they say, a happy wife a happy life.

Mr. Johnston: There's nowhere else you can put it? Can you put it in the back?

Mr. Plaza: No, if you put it in the back and we get a snow like we did, we won't be able to get it out of the way. We both have back problems so snow shoveling is a problem for us.

Mr. Prager: Is there anyone in the audience who would like to speak for or against this variance?

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

Mr. Galotti: Second the motion.

Vote: All present voted aye.

**Mr. Galotti: Motion to grant the applicant the variance. I don't believe the benefit can be achieved by any other feasible means and it will not create an undesirable change to the neighborhood or any nearby properties. I don't believe the request is substantial and it will have no adverse effects to the environment.**

Mr. Johnston: Second the motion.

Vote: All present voted aye.

Roll Call: Mr. Galotti – Aye.

Mr. Johnston – Aye.

Mr. Prager – 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. Prager: What we do here for the discussion is get a feel of what you need and if we need additional information from you before the public hearing, we will ask that you get it to our secretary so we can see it. Please explain what you need to us.

Mr. Gesmundo: Mr. Prager, I have a 4 x 4 feet coop in the back of my yard. I've had it for 15 years and have been living there for 38 years. There's one neighbor that we don't get along and we are far from friends and that's what this is all about.

Mr. Prager: Does he live right next to you?

Mr. Gesmundo: Yes, I live at 22 Robert Lane and he lives at 24 Robert Lane. My neighbor is a liar and he's saying that the pigeons poop on his house and in his yard. I wish there was someone here that knew about pigeons and can attest to the fact that I know what I'm talking about.

Mr. Prager: It might be wise to get someone to come and speak in your favor that knows about pigeons.

Mr. Gesmundo: I think I have enough proof here and there are certain things I would like to mention to you.

Mr. Prager: That's fine and that's why you are here.

Mr. Gesmundo: Mr. Prager if you don't mind me asking, from the time you get up in the morning until the time you go to bed, how many times do you eat?

Mr. Prager: About three times.

Mr. Gesmundo: It might be four, right?

Mr. Galotti: Usually three and sometimes two.

Mr. Gesmundo: Sometimes two, three, four or five if you count the snacks. I have homing pigeons and these are not the fowl pigeons that you see in the streets. My point is you only feed pigeons ones and I feed mine at 2pm in the afternoon and I let them out for about 45 minutes.

Mr. Galotti: You let them out where?

Mr. Gesmundo: I let them out of the coop and a couple of them might fly around. If I want to get them back in the coop, it takes about a minute and a half to get them in because they are hungry and they only eat ones. At 2:30pm in the afternoon they are in the screened in area and they are eating and drinking. At 8:00pm when it gets dark, you close the coop and they are inside the coop. Anyone with common sense knows that the food in their bodies does not stay in their intestines for the next three days. Just like chickens, you go in their coop, you see the poop but they are different because they eat more than pigeons. The point is they are in the coop all night and they are eating and pooping in the coop. In the morning before I go to work, I open the coop and the screen from early in the morning until late in the evening. Keep in mind that they have not eaten for 24 hours so common sense will tell you that if they are going to poop, it's going to be in the screen and the coop. I have proof that tells you that when birds fly, they don't poop while they are flying. The only birds that poop while flying are the feral pigeons that sit on the telephone lines. When homing pigeons fly, they put their feet to the back covering their anal so they don't poop when they fly.

Mr. Prager: When you mentioned before that you open the coop at 2:30pm and they come back.

Mr. Gesmundo: No, I open the coop at 2:00pm and they come out and a couple will fly but the rest will look for grit because it helps them to digest the food.

Mr. Prager: So when they come back, is it like 45 minutes later?

Mr. Gesmundo: No, they come back like 5 minutes later and again, just a few will fly.

Mr. Prager: When do you close the coop again?

Mr. Gesmundo: I close the screen about 45 minutes later.

Mr. Prager: We are going to do a site inspection this Saturday because I don't understand.

Mr. Gesmundo: Okay, you have a 4 x 4 feet coop and then you have the screen, that's how you train birds. They come out of the coop and come to the screen and they look around and familiarize themselves with the neighborhood. If you don't do that, you are going to lose them as soon as they come out.

Mr. Prager: How big is the screen?

Mr. Gesmundo: The screen is a little bigger than the coop. The coop is 4 x 4 feet and the screen is 4 x 7 feet.

Mr. Prager: So it's like a runway?

- Mr. Gesmundo: Yes, exactly. When I want to get them in I go out there with the food and they actually follow me because it's conditioning. I shake the containers and they know that it's food so they follow me to the coop and it takes less than a minute to get them back in the coop. I want to make a point, the feral pigeons that are out there live 3 to 4 years and the homing pigeons live 14 to 15 years. So there's a big difference between the birds that live on the outside and the homing pigeons. The homing pigeons are just like a pet. Where I live there are dogs who bark all day long.
- Mr. Prager: Could we have copies of the materials that you have there?
- Mr. Gesmundo: Yes, we made copies.
- Mr. Johnston: How many pigeons do you have?
- Mr. Gesmundo: I have 20 pigeons. I do this as a hobby and I'm not impacting on anybody's life. What I would ask is that you speak with anybody that has pigeons and you will find that I'm telling you exactly the truth. These pigeons do not crap in my pool or his pool, or his roof or my roof. They just don't do that.
- Mr. Johnston: Are you involved in racing pigeons?
- Mr. Gesmundo: No, I was a little bit when I was in Manhattan and then when I was in the Bronx. Back in the 1960s that was a big thing with the pigeons but you don't see that anymore. People had 50-60 pigeons on rooftops. One thing I want to mention, myself and two other people had 50 and the other three guys had 125, 150 and 175 and they were roofs that were joined. When I yell over and say Freddy start fight, we would all chase the birds and they would fly and eventually they get together. What you want to see is who broke away and how many came back to you. As 16 year old kids, we never lost any and that was a big deal to us. You are talking about almost 200 birds, not ones did someone say they got pooped on their head.
- Mr. Johnston: Is there some place else you could have the coop? Somewhere that has two acres in compliance with zoning.
- Mr. Gesmundo: No, these are not like horse that you go visit, these are pigeons and they are your pets that you have in your own backyard. I did visit Barbara and told her to have one of her people go on my neighbor's property and yell, okay Vinny let them out now. I would like to see how much poop lands in his backyard. I can assure you there will be none. I'm not a 14 year old kid and I've been with pigeons for a long time.

- Mr. Johnston: So there's really nowhere else that's in compliance with the zoning code that you could go visit your pigeons?
- Mr. Gesmundo: No, not really. Most of my family is in the Bronx, some in White Plains so it's not something that I can get in my truck and go visit. Mr. Johnston, this is like having a pet.
- Mr. Galotti: They need daily care.
- Mr. Gesmundo: It's like a cat or dog, they both need daily care. They have to be fed and washed. My pigeons take a bath in the dish I leave out in the summer time. If I could do that, trust me I would have and won't be wasting my time coming here and paying \$250.00. Believe me, I'm not making any money out of this and I'm not using them for food.
- Mr. Prager: When you let these pigeons out, how far do they go?
- Mr. Gesmundo: They don't go too far Mr. Prager. They just fly around.
- Mr. Prager: Do they fly past your neighbor's property or they just fly around or go two houses down?
- Mr. Gesmundo: No, what they do is circle half way over his house and mine and then they go over the street level.
- Mr. Prager: How about your neighbor on the other side, do they go over his house?
- Mr. Gesmundo: No.
- Mr. Prager: They don't go over his house, just this one guy's house?
- Mr. Gesmundo: Just his house. Believe me if these pigeons poop on his house, I would have gotten rid of them.
- Mr. Prager: I guess I'm confused and obviously I don't know pigeons. Why are they just going over your neighbor's house?
- Mrs. Roberti: Is the coop on the side of the neighbor that's complaining?
- Mr. Gesmundo: On the side?
- Mrs. Roberti: Is it on the side of your backyard or in the middle of your backyard or is it next to your other neighbors?
- Mr. Gesmundo: It's in the middle. When pigeons fly, you don't tell them to only go here or there.

Mr. Prager: I'm just questioning why they fly only over your neighbor's house not the other direction.

Mr. Gesmundo: It's simply because he's the closest to me compared to the others. That's the only reason. I have three houses across the road from me and they don't even go next to their house. If you are looking from the front of my house, he is to the left and the neighbor to the right has not complained because they don't even go to their property. It's just him because he's the closest. The truth is he and I are not friends, we are enemies.

Mr. Prager: Let me play devil's advocate here. What if we denied this, what would you do?

Mr. Gesmundo: Besides being extremely disappointed, I would have to get rid of them. Let me give you a little story if I may. Fifteen years ago and I wish the people were here today, I would point them out to prove my point. I had a parrot in my basement that I was training and one day I let her out and she was flying all over the neighborhood. One day we got a call and they said Vinny, your parrot is all the way here a block and a half away. My wife and I went to get the parrot. Her name was baby. I had peanuts in my hand and I said come down baby, about a minute and a half, she came down on my shoulder. My wife and I were walking back to the house and we are 10 feet apart and the bird flew from my shoulder onto my wife's shoulder. The neighbors said OMG in awe and if they were here they would speak on my behalf. My point is it's just not pigeons I know quite a bit about birds, and parrots are not that easy to train. Pigeons are much easier.

Mr. Prager: I'm going to make the public hearing for the next meeting which is September 8, 2015. We will also do a site inspection on Saturday, August 29, 2015.

Mr. Gesmundo: When you are there, could you have someone on his property.

Mr. Prager: We cannot go on his property.

Mr. Gesmundo: Why?

Mrs. Roberti: It's illegal to go on someone else's property.

Mr. Gesmundo: Barbara, but I'm trying to prove a point.

Mr. Prager: We can't do that.

Mrs. Roberti: He's not part of this action.

Mr. Johnston: You are seeking the action.

Mr. Gesmundo: As I mentioned to Barbara, another way to prove my point other than feeding them every 24 hours, is to have someone on his property to tell me to let them out. This way you will see whether they pooped on his porch or his head.

Mr. Prager: Is it too early at 9:00am to let them out?

Mr. Gesmundo: I will feed them a little earlier to make up for that.

Mr. Prager: We can see it from your property but we cannot go on his property.

Mr. Gesmundo: Please understand that the only reason I brought that up is to prove a point.

Mrs. Roberti: Tomorrow, feed them at 1:00pm and Thursday, feed them at 12:00pm and Friday, feed them at 10:00am this way they will be ready at 9:00am on Saturday.

Mr. Gesmundo: I'm not sure if you've talked to the gentleman already but if you do, he will tell you they poop all over the place.

Mr. Prager: No, we haven't but I'm sure he will be here at the Public Hearing.

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

**Mr. Casella: Second the motion.**

**Mr. Prager: All in Favor – Aye.**

Respectfully Submitted,

Adjourned: 7:42 pm

Bea Ogunti  
Secretary  
Zoning Board of Appeals

