

**MINUTES**

**Town of Wappinger  
Zoning Board of Appeals  
January 12, 2016  
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
Ms. Valk	Conflict 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 March 8, 2016

**Public Hearing:**

Peter & Lindsey Toia -Variance Granted

Vincent Gesmundo -Variance Denied

**Discussion:**

Laura Hamedl -Public Hearing on January 26, 2016

RJA Holdings, Inc./Route 9D Project -Public Hearing on January 26, 2016

**Mr. Johnston: Motion to approve the Minutes of December 8, 2015.**  
Mr. Casella: Second the Motion.  
Vote: All present voted Aye.

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

**Mr. Johnston: Motion to adjourn the Public Hearing to March 8, 2016.**  
Mr. Casella: Second the Motion.  
Vote: All present voted Aye.

**Public Hearing:**

**Appeal No. 15-7569 (Variance)**

**Peter & Lindsey Toia:** Seeking an area variance Section 240-30 (B) 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 a **garage for a total of 960 square feet**, thus requesting a **variance of 360 square feet.**

The property is located at **40 Montfort Road** and is identified as **Tax Grid No. 6358-03-265295** in the Town of Wappinger.

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

Mr. Galotti: Second the Motion.  
Vote: All present voted Aye.

Mr. Prager: Are the mailings in order?

Mrs. Ogunti: Yes, they are.

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

Mr. Toia: My name is Peter Toia.

Mr. Prager: Mr. Toia, for the record please tell us what you need and why you need it. I know we had the discussion months ago.

Mr. Toia: I'm looking to put a garage on my property. I have three cars that I'm keeping in storage in Westchester County. I want to build a 3-car garage so I can store them on my property. This is an ideal size garage kit and it's exactly what I need.

Mr. Prager: We did do a site inspection when we met with you. Is there anyone in the audience who would like to speak for or against this variance? Are there any questions from the board?

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

Mr. Galotti: Second the Motion.  
Vote: All present voted Aye.

**Mr. Casella: Motion to grant the applicant the variance. The benefit cannot be achieved by any other means to the applicant. It will not produce an undesirable change in the character of the neighborhood. We visited the property and you did a nice job taking all the trees down and you have plenty of room. The other storage there is not really substantial and the request does not have any adverse effects on the environment. Even though it is self-created, the way it is positioned will be an attribute to the property.**

Mr. Johnston: Second the Motion.  
Vote: All present voted Aye.

**Discussion:**

**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. (Public Hearing opened and closed 11/10/15)

Mr. Prager: Read the Findings & Decision.

Mr. Gesmundo, with all that reading, I just wanted to make sure that everyone is on the same page and since this is a non-conforming use and you've had the pigeons before that date, you are going to be allowed to keep them. We will need a motion to either grant or deny the application because of the substantial variance and because it's a non-conforming use, the pigeons can be kept.

Mr. Galotti: Do you understand that?

Mr. Gesmundo: Yes and if there are any questions, please ask me before you make a decision.

Mr. Casella: No, I think we are good.

**Mr. Casella: Motion to deny the application because it is a substantial variance and the keeping of pigeons may be continued as a dimensionally non-conforming use that was permitted in the zone prior to the adoption of Local Law 3 of 2012.**

Mr. Galotti: Second the Motion.

Roll Call Vote:

Mr. Casella: Yes

Mr. Galotti: Yes

Mr. Johnston: Yes

Mr. Prager: Yes

Mr. Horan: For the record, as a non-conforming use, the use cannot be expanded and can only continue in its current state. If the use is ceased, it cannot be established again.

Mr. Gesmundo: Mr. Prager, I would like to bring one little thing to your attention. My neighbor, Mr. Brown bought a bird caller that imitates a hawk attacking which is not a good thing. What can be done about that?

Mr. Casella: I think that's a dispute between you and your neighbor.

Mr. Prager: I would rather not get into this. You know the way the world is, everybody is in turmoil. It's getting to the point where you and your neighbor need to straighten out whatever your problems are or get it done legally. It's not good for you and not good for your neighbor. From what I hear, you are bothering the people here in the office, this has got to stop. You need to grow up and start living with your neighbor or move.

**Appeal No. 16-7572 (Variance)**

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

-Where **10 feet** to the rear yard property line is required for a shed under 200 sf, the applicant can only provide **4 feet** for an existing **10' x 12'** shed, thus requesting a variance of **6 feet**. The property is located at **61 Scott Drive** and is identified as **Tax Grid No. 6257-02-736541** in the Town of Wappinger.

Mr. Prager: Ms. Hamedl, please come up and tell us what you need and why you need it.

Ms. Hamedl: I have a shed on my property that I want to keep but it's not up to code. The inspector came by and said it's 6 feet off from the back property line. Therefore, I need a 6 feet variance.

Mr. Prager: How long have you owned the property?

Ms. Hamedl: I've owned it for 25 years.

Mr. Casella: How long has the shed been there?

Ms. Hamedl: I don't recall when.

Mr. Prager: Approximately when did you install the shed?

Ms. Hamedl: About 20 years ago.

Mr. Johnston: Let the record show that Ms. Hamedl is a family friend but that should have no bearing on my judgment.

Mr. Prager: What we normally do is come out to inspect the property to see exactly what you are talking about.

Ms. Hamedl: The inspector was there.

Mr. Johnston: Not from the Zoning Board.

Mrs. Roberti: We discovered the shed did not have a permit, that's what started this.

Mr. Prager: Since we have to render the decision, we like to see what we are talking about.

Ms. Hamedl: Okay.

Mr. Prager: So we will be there this Saturday around 9:00am. You don't have to be there for this.

Mr. Casella: Is your yard fenced in and can we find the property line?

Ms. Hamedl: Yes, it is.

Mr. Prager: Please mark out physically where your property line ends by Saturday when we get there.

Ms. Hamedl: There's a fence that goes around the property.

Mr. Prager: Okay, we will see since I don't know if the fence is within your property line.

Ms. Hamedl: The fence is a foot in.

Mr. Horan: According to the survey, it looks like it's on the line.

Mr. Prager: It does say chain fence. Is the fence in the back also?

Ms. Hamedl: The chain fence was on the side when we moved in.

Mr. Prager: We will look at it when we are there on Saturday. We will set the Public Hearing for January 26, 2016.

Mr. Prager: Next thing on the agenda is an Interpretation. Before we start on it, I would like a motion to go into Executive Session.

Mr. Casella: Before we go into Executive Session, I would like to say Congratulations to Mr. Prager for being re-appointed Chairman. Also Congratulations to Mr. Galotti for being re-appointed to the Zoning Board of Appeals. So Congratulations to both of you.

**Mr. Johnston: Motion to go into Executive Session.**

Mr. Casella: Second the Motion.

Vote: All present voted Aye.

**Mr. Casella: Motion to come out of Executive Session.**

Mr. Johnston: Second the Motion.

Vote: All present voted Aye.

**Interpretation:**

**Appeal No. 16-7571 (Interpretation)**

**RJA Holdings, Inc./Route 9D Project:** Seeking an Interpretation of the Determination from the Zoning Administrator in regards to whether the revised application of R.J.A. Holdings, Inc. falls within Section 5 of Local Law #1 of 2015 which states, as follows: The zoning amendment herein shall not apply to any property for which an application for site plan or sub-division approval has been properly filed with the Town of Wappinger as of the effective date of this local law. The property is located at **2054 Route 9D** and is identified as **Tax Grid No.6056-02-783920** in the Town of Wappinger.

Mr. Prager: We have information here from RJA Holdings. Ms. Valk, is there anything else we really need to do here? I know we can set the Public Hearing for this.

Ms. Valk: You want to establish the amount of the escrow.

Mr. Prager: Yes, I would like to establish an escrow in the amount of \$2,000.00 for this Interpretation prior to the Public Hearing.

Ms. Cobb: Mr. Chairman, I'm the attorney and the applicant is here as well. I believe there's an escrow that's being held for the variances. In the event we don't need to use that, would it be possible to transfer from that escrow?

Mrs. Roberti: I don't think we have escrow on the variance. We have escrow on the planning application.

Ms. Cobb: Okay.

Mrs. Roberti: We just can't transfer.

Mr. Prager: No, this will be in addition to that. We will schedule the Public Hearing for January 26, 2016.

Ms. Cobb: I don't know if you've had the chance to look at the papers that we submitted.

Mr. Prager: I looked at whatever was gathered and sent to us.

Ms. Cobb: One of the things that Barbara had raised was her concern about the addition of the building with there being a separate building as oppose to using the Stewart's building. She was also opposed to the second entranceway. We proposed the second entranceway because we are 90% sure DOT will not approve it but we just want entranceway. When it comes down to the building, as a board, is that a concern to you in making your determination? Will it make sense for us to propose an alternative plan that had for example a kiosk so the building was removed?

Mr. Prager: I didn't give it any thought. We could talk about that at the Public Hearing.

Ms. Cobb: Okay. I didn't know if you would need visual.

Mr. Prager: You might want to have that with you. It won't hurt.

Ms. Valk: I would recommend to the extent that you have the authority to modify as Zoning Administrator if they are looking for a scale down version before the Public Hearing.

Mrs. Roberti: So you are saying that they should recommend that scale down version before the Public Hearing?

Ms. Valk: If they wish this board to consider it in making its determination.

Mr. Prager: Do you want to submit an alternative plan? What I'm getting at is do you have time to do it in two weeks?

Ms. Cobb: In our ideal world, I think the application that was submitted to the board before is the same application so it would warrant an interpretation that is the same plan. If the board was considering the size of the building and render it a new and different plan, then I would like the opportunity to have that avenue explored.

Mr. Cantor: I think the Public Hearing needs to be on the interpretation of Barbara Roberti and the application you submitted. If you want to submit a different application to Barbara and get her determination and if you are not happy with it, then you are not happy with it. This upcoming Public Hearing is limited to what was submitted to Barbara and her determination.

Mr. Galotti: I agree.

Mr. Prager: Again, the Public Hearing is scheduled for January 26, 2016.

**New and Old Business:**

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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: 7:50 pm

Bea Ogunti  
Secretary  
Zoning Board of Appeals