

MINUTES

**Town of Wappinger
Zoning Board of Appeals
June 28, 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
Mr. Travis	Member	Present

Others Present:

Mrs. Roberti	Zoning Administrator
Mrs. Ogunti	Secretary

SUMMARY

Adjourned Public Hearing:

Concetta Olivieri	Variance No. 1 – Denied
	Variance No. 2 – Denied
	Variance No. 3 – Approved

Discussion:

Michael & Lynne Colley	Site Visit on July 2, 2016 Public Hearing on July 12, 2016
Joseph & Arlene Capozzoli	Site Visit on July 2, 2016 Public Hearing on July 12, 2016

Mr. Casella: **Motion to accept the Minutes from June 14, 2016**
Mr. Johnston: Second the Motion.
Vote: All present voted Aye.

Adjourned Public Hearing:

Appeal No. 16-7584 (Variance)

Concetta Olivieri: Seeking an area variance Section 240-37 and 240-30 of District Regulations in an R-20 Zoning District.

-Where **No accessory structure is permitted in the front yard, the applicant is seeking a variance to allow a 14' x 28' shed to be placed in their front yard.**

-Where **75 feet** to the front property line is required on a state or county road, the applicant can only provide **20 feet** to the front property line for the construction of a **14' x 28'** shed, thus requesting a variance of **55 feet**.

-Where **no more than two accessory buildings shall be permitted in any 1-Family Residence District, the applicant has 4 additional sheds,** thus requesting a **variance for 5 sheds to remain.**

The property is located at **207 Old Hopewell Road** and is identified as **Tax Grid No. 6157-02-668575** in the Town of Wappinger.

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

Mr. Prager: A couple of people were missing from the last time we did this appeal that's the reason why we adjourned it. Any of the members that were not at that meeting have any question for Mrs. Olivieri?

Mr. Johnston: Is there a reason why you need that many sheds?

Mrs. Olivieri: They are not really full sheds. There were two when I bought the property. The rest are open and not sheds.

Mr. Johnston: I believe they are considered structures.

Mrs. Olivieri: They are tents. Before we put the tents up, I called and asked for permission. This was before your new rules.

Mr. Johnston: Who did you ask permission of?

Mrs. Olivieri: Whoever was at the Town at that time said yes, we have no problems with tents. They are actually Indian tents.

The reason we need to put this shed in the front 1) nobody came to the meeting to complain; 2) no visibility from the road to my property. I cannot put it on the two acres I have on the side because I would have to cut down a lot of trees. Those trees provide me with privacy from Rent All Center which is constantly changing.

Mr. Johnston: Why do you need so many structures?

Mrs. Olivieri: We have a lot of equipment that we store and to keep it from the weather. That's why we have the structures.

Mr. Prager: Does that answer your question?

Mr. Johnston: That answers my question.

Mr. Galotti: So you have a total of 5 sheds and this will be 6 or you have a total of 4 and this will be 5?

Mr. Prager: When we were at the site inspection, I drew on my map 5 sheds in the back not including the one in the front. That's what I have. Am I correct?

Mrs. Olivieri: Correct.

Mr. Johnston: Are they still there?

Mr. Olivieri: We are going to consolidate everything in the new shed.

Mrs. Olivieri: One extra one was knocked down so that actually wasn't a shed. We feed the turkeys back there and now the turkeys have babies and we are still feeding them. Plus the birds and the squirrels and everything else that comes over there. Plus my white skunk, he's not mine but he visits.

Mr. Johnston: As of this moment, how many sheds are on your property?

Mr. Olivieri: As of right now, there are 5 sheds in the back.

Mr. Prager: Then one more which is 6.

Mr. Johnston: I believe you said you are going to take down those two tents?

Mr. Olivieri: If I take them down, I will need a place to put the stuff.

Mr. Galotti: So we have two issues. Too many structures and in order to even think about granting a variance for another shed, the other structures have to be eliminated. Correct?

Mrs. Olivieri: That's what he said he wants to do but he can't until this is all over.

Mr. Johnston: The other issue is about having a structure in front of your house.

Mrs. Olivieri: My house is way back.

Mr. Johnston: I understand that, having a structure between your house and the road.

Mrs. Olivieri: First of all, Tire King is not 80 or 100 feet back. Neither is Mr. King's property or Mr. Rizzo's property. Everybody is close to the road. Mrs. Roberti was worried about them coming to do the road.

Mrs. Roberti: First of all, I wasn't worried as much as the code states that if you are on a State or County road, you have to be 75 feet back from anything that you build. That's not from the road but from your property line.

Mrs. Olivieri: From the typography of the property, it goes down and there's a gas pipe, water run off pipe from across the street from a big pond. This goes across my property and all the way down to BJs.

Mr. Johnston: How much property do you have?

Mrs. Olivieri: I have 5 acres. Nobody can see my property from the front.

Mr. Johnston: Motion to close the Public Hearing.

Mr. Galotti: Second the Motion.

Vote: All present voted Aye.

Mr. Galotti: Motion to deny Variance No. 1. I believe the benefit can be achieved by placing the shed in another location. Placing it close to the road would be a detriment to the surrounding properties. The variance is substantial and the physical effects to the neighborhood would be adverse.

Mr. Johnston: Second the Motion.

Roll Call Vote: Mr. Casella: DENIED

Mr. Galotti: DENIED
Mr. Johnston: DENIED
Mr. Travis: DENIED
Mr. Prager: DENIED

Mr. Johnston: Motion to deny Variance No. 2 (75 feet to the front property line) for the same reason Mr. Galotti denied Variance No. 1 for the accessory structure to the front property line.

Mr. Casella: Second the Motion.
Roll Call Vote: Mr. Casella: DENIED
Mr. Galotti: DENIED
Mr. Johnston: DENIED
Mr. Travis: DENIED
Mr. Prager: DENIED

Mr. Casella: Motion to change the number of sheds on the property for Variance No. 3. Right now you can feasibly do with 3 sheds on the property, the 14'x28' which you want; the 15'x30' which is the existing and the 10'x12' which is behind. I would also suggest that the 14'x28' is not in the front of the property but in the rear of the property. Allow 3 sheds to remain and 4 months to clear up and remove additional sheds.

Mr. Johnston: Second the Motion.
Roll Call Vote: Mr. Casella: APPROVED
Mr. Galotti: APPROVED with conditions
Mr. Johnston: APPROVED with conditions
Mr. Travis: APPROVED with conditions
Mr. Prager: APPROVED with conditions & only 3 sheds on the property.

Discussion:

Appeal No. 16-7585 (Variance)

Michael & Lynne Colley: Seeking an area variance Section 240-37 of District Regulations in an R-20 Zoning District.

-Where **20 feet** to the side property line is required, the applicant can only provide **15 feet** for a **15'x20'** oval above ground pool, thus requesting a variance of **5 feet**.

The property is located at **4 Davis Drive** and is identified as **Tax Grid No. 6257-02-897513** in the Town of Wappinger.

Mr. Galotti: For the record, the Colley's are personal friends of mine.

- Mr. Prager: Please come on up and tell us what you need and why you need it. We will probably set up a site inspection and set up a Public Hearing at the next meeting which is in two weeks.
- Mrs. Colley: The existing deck and pool were starting to become unsafe so we decided to take it down. We still want a pool and a deck. We are looking at a smaller pool and less decking around it with a larger upper deck. The upper deck was a little bit smaller. The way the property line is laid out if we put the deck out farther away, it's going to be close to the property line.
- Mr. Prager: Yes, we have a plot plan of your property. The pool that's on it now, is that the original pool?
- Mrs. Colley: That's the original.
- Mr. Prager: Is the new pool going to be larger than that?
- Mrs. Colley: The pool is going to be smaller and the deck around the pool is going to be smaller.
- Mr. Prager: Is it going to be smaller than what you have there now?
- Mrs. Colley: Yes. There's an upper deck right off the house and steps down to the lower deck where the pool is. That's the part that's going to be larger.
- Mr. Galotti: So the existing is going?
- Mr. Colley: Right, the new deck will be on the back side of the house.
- Mr. Johnston: So the upper deck is going to be big and the lower deck smaller?
- Mr. Colley: Right. The original pool is 30' x 15' and the new pool is going to be 20' x 15'.
- Mr. Prager: How long have you lived there?
- Mr. Colley: About 22 years. When we bought the house, there were COs on everything but the variance laws have changed that's why we are here.
- Mr. Prager: I'm going to set a site inspection for this Saturday. What we normally do is be there around 9:00am. Is the old pool there now?

Mr. Colley: No. What's there is a clearing where the old pool was.

Mr. Prager: Are you going to be there around 9:00am?

Mrs. Colley: Yes.

Mr. Prager: What I would like you to do is mark out the side property line to show us where your property really is.

Mr. Colley: There are a line of pine trees that borders the property line on our side of the property line. When we first moved in, our neighbors had a fence that ran to the other side of the pine trees.

Mr. Prager: As long as we know where your property line is.

Mr. Casella: So you are basically asking for the variance for the upper deck, yet it says here that the lower deck is part of your application. Will you have to come back for another variance?

Mrs. Colley: No. That was in the original application and I think I spoke to Bea and Barbara and they said if we got better drawings and a better idea. We talked about it and figured out what we want it to look like.

Mr. Colley: The new deck is going to be on the other side of the pool at least 35 feet from the property line.

Mr. Prager: Who is installing it?

Mrs. Colley: We are.

Mr. Prager: You are going to do it yourself?

Mrs. Colley: My brother is going to help him.

Mr. Prager: Okay.

Mr. Colley: Does that answer the question?

Mr. Prager: As far as I'm concerned. Again, the site inspection will be at 9:00am on Saturday and the Public Hearing is set for July 12, 2016.

Mr. Colley: Thank you.

Appeal No. 16-7586 (Variance)

Joseph & Arlene Capozzoli: Seeking an area variance Section 240-37 of District Regulations in an R-20 Zoning District.

-Where **20 feet** to the side yard property line is required, the applicant can only provide **13 feet** for the installation of a **24' x 52"** above ground pool, thus requesting a variance of **7 feet**.

-Where **40 feet** to the rear yard property line is required, the applicant can only provide **8 feet** for the installation of a **24' x 52"** above ground pool, thus requesting a variance of **32 feet**.

The property is located at **28 Daisy Lane** and is identified as **Tax Grid No. 6158-02-855950** in the Town of Wappinger.

Mr. Prager: Hi there. Please state your name?

Mr. Capozzoli: Joe Capozzoli.

Mrs. Capozzoli: Arlene Capozzoli.

Mr. Prager: Please tell us a little about what you need and why you need it. Is it a new pool?

Mr. Capozzoli: Yes.

Mrs. Capozzoli: The previous owners had an existing pool but their pool is no longer there so we would like to put a pool there.

Mr. Johnston: How long have you lived in the house?

Mrs. Capozzoli: Two years.

Mr. Prager: It's a good size pool.

Mrs. Capozzoli: We have a disabled daughter and we try to give her as much therapy as we can in the summer. If you had a Town pool, I would go there.

Mr. Johnston: Could you tell us where the pool will be on this map?

Mrs. Capozzoli: I gave a plot plan.

A group discussion took place regarding the location of the pool.

Mr. Johnston: The house is 13.1 feet away from the property line?

Mr. Capozzoli: Right.

Mr. Prager: What we are going to do is have a site inspection this Saturday around 9:30am. What I will need you to do it mark your property line. We will set your Public Hearing for July 12th.

Mrs. Capozzoli: Thank you.

New and Old Business:

Stewart's Shops #325

Mr. Prager read Robert Macho's and Rebecca Valk's letters into the record.

Mr. Johnston: Are you in any sort of negotiation with Stewart's regarding the purchasing of the property?

Mr. Macho: Yes.

Mr. Casella: How close are you?

Mr. Macho: Basically, we talked back and forth and without the variance which is on my property where the pumps will be going, nobody's looking to talk about anything or be a part of. That's why I'm looking for an adjournment.

Mr. Prager: The application along with all of the paperwork we got is from Stewart's.

Mr. Johnston: I believe at the last meeting you were requested to get some sort of acknowledgement of negotiation in writing which we did not receive.

Mr. Prager: Even your letter states they are not going to.

Mr. Johnston: That's correct.

Mr. Macho: I don't see why we cannot adjourn it to the next meeting so we can at least continue with the negotiation.

Mr. Johnston: We are trying to find out what standing you have to even bring the application. As of right now, you don't own the property. Stewart's was the applicant.

- Mr. Macho: I'm in the middle of negotiation between two people.
- Mr. Prager: I would have thought that if they were in negotiation, they would have had a letter from them stating that they were in negotiation with you. It doesn't look like they are interested in going ahead with this. It doesn't look good to me.
- Mr. Cantor: Lawyers use the term "without prejudice" and you might consider a resolution that dismisses the application without prejudice. Considering its reinstatement if you get authority from Stewart's. That kind of edges the bet and gets it off your agenda and leaves an opening in case Stewart's shows up and says we withdraw our withdrawal.
- Mr. Prager: You've been in contact with Stewart's I assume by your letter. What did they say? We asked you to get a letter here from Stewart's stating "Yes" or "No".
- Mr. Macho: I understand and you are asking me something that I cannot get Stewart's involved to tell you what we are talking about. I don't know how to put it.
- Mr. Johnston: Is there a reason why Stewart's won't give you anything just to say that you are in discussions?
- Mr. Casella: Did they give you any indication that they are willing to come to the table at all? How concrete is that because right now we've seen your letter and we have a letter from them on file. What would make us to believe that you have anything more substantial that says we are definitely trying to negotiate, "guys please give me a continuance"?
- Mr. Macho: I don't see the harm in you giving me another shot at this.
- Mr. Galotti: The next meeting is on July 12th.
- Mr. Prager: What are you going to be able to tell us on July 12th?
- Mr. Macho: I will have some answers for you.
- Mr. Prager: I'm ready to dismiss this tonight as far as I'm concerned.
- Mr. Galotti: If we dismiss this in two weeks, the building just sits there and nothing happens to it or we can come to some

resolution to this whole issue. Two more weeks is not going to make or break us.

Mr. Johnston: Mr. Macho, this has been going on a long time. I hope things can work out for you so I will agree with Mr. Galotti to give you two more weeks. That should be the end of it one way or the other.

Mr. Galotti: I make a motion that we grant a stay.

Mrs. Roberti: You don't have to because at the last meeting you did adjourn it to July 12th with the condition that if you didn't have the letter you would dismiss it. If you don't dismiss it, you will still have the adjourned Public Hearing on July 12th.

Mr. Prager: We are basically going against what we said two weeks ago. We haven't gotten the letter so we should dismiss it.

Mr. Casella: I'm willing to give him a break and wait another two weeks. So you have until July 12th.

Mr. Galotti: I agree with him.

Mr. Travis: I was not here for most of this but what is the issue with dismissal?

Mrs. Roberti: On April 15, 2015, we made a lot of changes to Local Law No. 1 in the Town. We changed some zones and we changed uses in different zones. This particular zone it's a CC, Conservation Commercial Zone. We took out the ability to put in a gas station or a car repair.

Mr. Travis: Was this application prior to that?

Mrs. Roberti: There was a clause in the law that states if anybody that had a formal application before the board could move forward. Stewart's company had a formal application that was already approved to go forward so they got to continue. If this is withdrawn, they are done. They are still before the Planning Board and technically it is sitting in limbo because of here. If you dismiss it without prejudice, they could still go back to the Planning Board and ask to come back here again.

Mr. Cantor: Also, Stewart's letter said they were withdrawing their Planning Board application. So unless they go back to the Planning Board and say we withdraw our withdrawal.

Mrs. Roberti: Basically, if it's withdrawn from the Planning Board, what's the point of moving forward?

Mr. Macho: I suppose two weeks isn't going to hurt anything.

Mr. Casella: **Motion to adjourn.**
Mr. Johnston: Second the motion.
Vote: All present voted Aye.

Respectfully Submitted,

Adjourned: 7:46pm

Bea Ogunti
Secretary
Zoning Board of Appeals