

MINUTES

**Town of Wappinger
Zoning Board of Appeals
October 11, 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	Absent
Mr. Travis	Member	Present

Others Present:

Mrs. Roberti Zoning Administrator
Mrs. Ogunti Secretary

SUMMARY

Public Hearing:

James Davitt Variance Granted

Discussion:

Robert R. Harless	Public Hearing on October 25, 2016
Jacqueline Egan	Public Hearing on October 25, 2016
Thomas Glazer	Public Hearing on October 25, 2016
Dean Colombo	Public Hearing on October 25, 2016

Mr. Johnston: Motion to accept the Minutes of September 27, 2016.
Mr. Casella: Second the Motion.
Vote: All present voted Aye.

Public Hearing:

Appeal No. 16-7593 (Variance)

James Davitt: Seeking an area variance Section 240-37 of District Regulations in an R20 Zoning District.

-Where **20 feet** to the side yard property line is required, the applicant can only provide **10 feet** for the construction of a 2 car detached garage (**24' x 24'**), thus requesting a variance of **10 feet**.

The property is located at **13 Regency Drive** and is identified as **Tax Grid No. 6358-01-048647** in the Town of Wappinger.

Mr. Prager: Are all of the mailings in order.

Mrs. Ogunti: Yes, they are.

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

Mr. Prager: Mr. Davitt, please come on up. As you know we were at your house last Saturday to take a look at the property. For the record please state your name and address.

Mr. Davitt: James Davitt, 13 Regency Drive, Wappingers Falls.

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

Mr. Davitt: The existing garage that's under the house is too small and I want to build a detached garage to store a car, motorcycle and some other garden equipment. We shopped around and we were going to actually look for a shed but the sheds were so expensive. The garage was a lot cheaper so I decided to go that route.

Mr. Prager: Could you explain a little bit about the easement.

Mr. Davitt: I didn't realize what the dimensions were when the surveyor came and marked everything off. I then realized that where I put the garage was going to be only 10 feet off the property line and the Town requires 20 feet.

- Mr. Prager: Is that because of the easement?
- Mr. Davitt: Yes.
- Mr. Prager: You do have a very beautiful wall and you are going to be moving it 3 feet?
- Mr. Davitt: Yes, so the garage can move over to accommodate the 10 feet dimension on the one side. I believe the surveyor marked the new position of the wall.
- Mr. Johnston: What's the elevation of that slab? We are also dealing with an area in a flood zone.
- Mr. Davitt: I believe it's going to end up being 242.
- Mr. Johnston: Do you see that as a problem because of the area?
- Mr. Davitt: No.
- Mr. Prager: Mrs. Roberti, do you see this as problem?
- Mrs. Roberti: He may need flood insurance because it's a structure and if you are into the flood zone. The backyard does encompass a lot of the flood zone. The A zone wouldn't be that bad but you have a lot of AE zones which is the more severe zone with Sprout Creek behind you. Before you build, you might want to check with your insurance agent. For the record, on your Building Permit, it will say that you are aware.
- Mr. Johnston: Are you going to be at "0" with the easement?
- Mr. Davitt: It will be a few inches off the 10 feet. We are not going to pour the slab right on the 10 feet.
- Mr. Prager: Is there anyone in the audience who would like to speak for or against this variance?
- Mr. Johnston: I have serious concerns regarding the flood zone and because you are so close to the easement.
- Mr. Davitt: Okay.
- Mr. Johnston: Mr. Chair, we don't have a full board tonight.
- Mr. Prager: No, we don't. Do you think we should put it off?

Mr. Johnston: I think we should give him the option.

Mr. Prager: Do you want to wait until the next meeting for a full board?

Mr. Davitt: If it can't be approved now, then sure.

Mr. Casella: It doesn't necessarily mean that it's not going to be approved. It's just Bob's opinion and I'm actually going to make a motion to grant the variance.

Mr. Travis: Those considerations about building in the flood zone, there are requirements in the Building code and Town code for building in the flood zone. That's the concern of the Town engineer and the Building Department. From my stand point it's not a concern because I have faith that they will do their job as far as that goes.

Mr. Johnston: Motion to close the Public Hearing.

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

Mr. Casella: Motion to grant the variance and whether the benefit can be achieved by any other method, I don't think so. I think he's moved it in the right spot and off the easement by a couple of inches. It's not an undesirable change and you are going to get rid of the mound in the yard. It will make it look a lot nicer and you are going to redo the driveway which will be an improvement. It's not really substantial and it is kind of self-created but you are within the guidelines of the easement.

Mr. Travis: Second the Motion.
Roll Call/Vote:

Mr. Casella	YES
Mr. Galotti	ABSENT
Mr. Johnston	NO
Mr. Travis	YES
Mr. Prager	YES

Discussion:

Appeal No. 16-7594 (Variance)

Robert R. Harless: Seeking an area variance Sections 240-37 and 240-30 of District Regulations in an R-40 Zoning District.

-Where **no more than two accessory buildings shall be permitted in any 1-Family Residence District. No such accessory building shall have a footprint greater than**

600 square feet nor a height in excess of 20 feet. The applicant is proposing a 18' x 40' (720 sf.) storage building, thus requesting a **variance of 120 square feet.**

The property is located at **26 Birchwood Drive** and is identified as **Tax Grid No. 6256-02-883774** in the Town of Wappinger.

Mr. Prager: How are you Mr. Harless? You are probably new and have not been before the Zoning Board before. Tonight we are going to get whatever information that we can about your variance. If we feel we need more information we will let you know tonight or talk to our secretary. We also do site inspections and we will set a date for that. That said please tell us what you need and why you need it.

Mr. Harless: I started the project quite a few years ago and I have a carport now. I want to put another unit with that and close it all in and put a slab down.

Mr. Prager: Is it all aluminum?

Mr. Harless: The structure is steel and the covering will be aluminum.

Mr. Prager: I notice in these pictures there are a lot of things inside the structure.

Mr. Harless: I have some other projects that I want to work on and instead of leaving them in the yard which probably isn't good for the neighborhood. I figure I put this one up to put everything inside to keep the yard nice and clean. The extra 10 feet will give me more room and it doesn't encroach on any property line.

Mr. Casella: How big is the existing structure?

Mr. Harless: The footprint is a little under 18' x 20'.

Mr. Travis: Are the walls on that going to be from the manufacturer and will it match the roof structure or you are going to do something else?

Mr. Harless: No, I'm going to have a manufacturer come and do the wall. When I went for the permit back then, they required that it be re-engineered for snow load and wind load so this is extra heavily built.

Mr. Travis: So it meets the requirement of the NYS Building Code.

- Mr. Johnston: So the variance request is for the side?
- Mr. Casella: Since it is a large structure that's 18' x 40' and 18' x 20', can you not fit everything in the 18'x 20' structure? Why another 20 feet?
- Mr. Harless: So I can have more storage space. I have other projects I want to work on and I don't want to leave it on the driveway or the road.
- Mr. Travis: Is the only structure you have right now on the property?
- Mr. Harless: Yes, other than a small wood thing I put together that's falling down.
- Mr. Travis: Essentially, he would be allowed to have a second one if it wasn't attached anyway because it's under the 600 sf. or less and you are allowed two.
- Mr. Johnston: I know you have one there already, can you make the next one smaller and still accomplish what you need to get done?
- Mr. Harless: Of course, the manufacturer will do whatever I want from them. I could probably add 12 feet to fit into the 600 sf. but my thought was why not ask for a variance and go that route first and see if it's allowed. Why not do it ones and make it bigger.
- Mr. Prager: Give us an idea what you plan on putting in there.
- Mr. Harless: Vehicles that I work on and not for business and other personal things.
- Mr. Prager: How many vehicles do you have on your property?
- Mr. Harless: I have four and two of them fit in the garage now.
- Mr. Prager: Is that garage attached to the house?
- Mr. Harless: It's an attached garage and I have one that's outside right now that I want to get out of the yard. I have other projects that I'm working on and I like to work with my hands and mind.
- Mr. Prager: What type of projects?

Mr. Harless: I work on vintage stock cars. I have log splitters and a trailer.

Mr. Prager: We will take a look at it.

Mr. Casella: Could you stake it out for us?

Mr. Harless: I have the property line staked out already.

Mr. Prager: We will schedule the site inspection on Saturday, October 22nd and the Public Hearing will be on October 25th.

Mr. Harless: Thank you.

Appeal No. 16-7595 (Variance)

Jacqueline Egan: Seeking an area variance Section 240-37 of District Regulations in an R40 Zoning District.

-Where **50 feet** to the rear yard property line is required, the applicant can only provide **35 feet** for the construction of a **12' x 12'** deck, thus requesting a variance of **15 feet**.

The property is located at **4 Sherwood Heights** and is identified as **Tax Grid No. 6258-04-668440** in the Town of Wappinger.

Mr. Prager: Hi there, please start by giving us some information about what you want and why you want it. Is the deck there now?

Mrs. Eagan: No, it's not there.

Mr. Prager: Okay, that's a good thing in your favor. Explain why you need it.

Mrs. Eagan: At the back of my house on the left is a 12' x 12' concrete patio and I would like the deck to match it in length. Also, I need the deck because my husband is in a wheelchair and he cannot walk. I would like to have him outside to get some fresh air. I think the previous owner at one time had a swimming pool that he filled in so the ground is all lumpy

Mr. Prager: The slab that you have there now is it a step down?

Mrs. Eagan: Yes, it is lower and from the French window where we would wheel him out there is a little ramp that goes down to it.

Mr. Prager: Will the deck be brought up even with the French door?

Mrs. Egan: Yes, it's like 18" from the door.

Mr. Johnston: This way you can wheel him right out.

Mrs. Egan: There's no other way that I can get him outside.

Mrs. Roberti: It should be 50' to the rear, it's R40. So instead of 5 feet, it's 15 feet. Her property is on the corner so the house was placed back so it didn't leave much room for a rear yard.

Mr. Prager: If it's okay with you we will set the site inspection for Saturday, October 22nd and the Public Hearing for October 25th.

Appeal No. 16-7596 (Variance)

Thomas Glazer: Seeking an area variance Section 240-37 of District Regulations in an R20 Zoning District.

-Where **40 feet** to the rear yard property line is required, the applicant can only provide **36 feet** for an existing **26' 6" x 5'** deck, thus requesting a variance of **4 feet**.

The property is located at **27 Split Tree Drive** and is identified as **Tax Grid No. 6158-04-929450** in the Town of Wappinger.

Mr. Prager: Good evening.

Mr. Michaud: Blake Michaud, Bershire & Hathaway Realtors.

Mr. Prager: Please tell us why this happened?

Mr. Michaud: The deck was put on around 1980 and for some reason it's too close to the back line.

Mr. Prager: Was it put there by the Glazers?

Mr. Michaud: Yes.

Mr. Casella: So the issue now is you want to sell the house?

Mr. Michaud: Yes.

Mr. Prager: Barbara, are the dimensions correct?

- Mrs. Roberti: He needs 4 feet for the variance but for the record, Mr. Glazer just passed away and his sons are trying to sell the house and all of them live out-of-state.
- Mr. Prager: Will there be anyone there when we go to look at the property?
- Mr. Michaud: There's no one currently living in the house.
- Mr. Travis: Has the building inspector verified that this was built in 1980?
- Mrs. Roberti: They never took a permit out.
- Mr. Travis: This has tracks finish on it and those are requirements that are current from the 2003 code on the post.
- Mrs. Roberti: They are trying to legalize and there are two other issues.
- Mr. Travis: So the building inspectors haven't seen it yet?
- Mrs. Roberti: Right. There are a few other items that she will be looking at. There's a generator with an open permits.
- Mr. Cerrone: My name is James Cerrone. My wife and I are the prospective buyers of this location and currently live across the river. We are looking to move here and we were attempting to expedite the situation. We've been trying to buy this house since July and we have been going back and forth. We have a locked in interest through a mortgage company and it's about to expire. We have already extended this rate and the extension is only good through the next week or two. We had a home inspection done of the house and he advised us that everything was fine based on his evaluation was of the site.
- Mr. Travis: It just doesn't have a CO from the Building Department. It's beyond us and I can sympathize with your situation. Procedurally, we can't set the Public Hearing for tomorrow and this is unfortunately how the process works as far as timeframe goes.
- Mr. Cerrone: I understand.

- Mrs. Roberti: Things like this have come up in the past so you can talk with your attorney who can deal with their attorney. I've know them to put up escrow at the closing. They have opened up the permits so it has started. You can have enough escrow up so if anything needs repair, there's money there to cover it.
- Mr. Cerrone: There's a structure on the top of the deck which is an all season room or porch. If part of that deck needs to be removed, it could run into issues with that addition of the house as well.
- Mr. Travis: She's not saying remove. The Building Department is not in a habit of holding up closings. What she's saying is there may be a way if you work out something with your attorney and the seller's attorney to say we can close with these issues. That may be a route to take and possibly get to the closing quicker.
- Mr. Cerrone: I completely understand what she was saying. I guess if we will have an issue with the CO we would have an issue with buying the house at that point because that's the selling point of the house.
- Mrs. Roberti: There's a lot of hardship on both sides, what I can do is ask the building inspector to go out this week to at least do the inspection on the deck.
- Mr. Casella: If there's an approval on October 25th, then you can move quickly on that.
- Mr. Prager: That will be okay with us.
- Mrs. Roberti: We will just need something from your attorney stating that regardless once you take ownership you will continue with this process which is being funded by the seller.
- Mr. Cerrone: I'll get something in writing from our attorney.
- Mrs. Roberti: Call me tomorrow and we will work with you to see what can be done.
- Mr. Cerrone: I appreciate that.

Mr. Prager: We are going to do the site inspection for Saturday, October 22nd and set the Public Hearing for October 25th.

Appeal No. 16-7597 (Variance)

Dean Colombo: Seeking an area variance Section 240-37 and 240-30 of District Regulations in an R-40 Zoning District.

-Where **75 feet** to the front property line is required on a state or county road, the applicant can only provide **70 feet** to the front property line for a shed to be on side of driveway, thus requesting a variance of **5 feet**.

-Where **No accessory structure is permitted in the front yard, the applicant is seeking a variance to allow a 10' x 14' shed to be placed in their front yard.**

- The property is located at **6 Lor-Mar Court** and is identified as **Tax Grid No. 6258-02-875575** in the Town of Wappinger.

Mr. Prager: Mr. Colombo, come on up.

Mr. Johnston: Do you live on the corner lot?

Mr. Colombo: I live at the corner of Lor-Mar and Myers Corners.

Mr. Johnston: Is the shed there already?

Mr. Colombo: No.

Mr. Johnston: Will the shed be even with the house?

Mr. Colombo: No, the shed will be between the two garages behind the front of the house.

Mrs. Roberti: This is a little confusing. They have two fronts.

Mr. Prager: If you would be so kind to draw here where you are going to put it.

Mr. Colombo: Right here. We want to put it there but set back may be 9 to 10 feet.

Mr. Prager: Okay.

Mr. Johnston: So it will not go past what is considered the front of your house?

Mr. Colombo: No.

Mrs. Roberti: Because it's on the side, he also needs a variance for being in a front yard.

Mr. Prager: So you are right at the corner of Myers? Is there any reason why you can't put it in the back of the house?

Mr. Colombo: It slopes down a lot and there are a lot of trees there. We filled it with crushed rocks not realizing that was the front yard.

Mr. Prager: We are going to do the site inspection for Saturday, October 22nd and set the Public Hearing for October 25th.

Mr. Colombo: Thank you.

New & Old Business:

Catherine Pendzuk, 20 Valley Road – site visit

Mrs. Roberti: Mrs. Roberti gives an update on her visit to Mrs. Pendzuk's residence. The property is in really good shape and it's not in disrepair considering the age of it. Mr. Harten has cleaned up a lot and he got rid of all of the boats and trailers.

Mr. Prager: Why can't he get rid of both of these things and put a shed in there?

Mrs. Roberti: He is willing to put three 8' sections of stockade fence in front of this so from the road you might see the top in the winter but you won't really see it.

Mr. Travis: Has this been written up as property maintenance code violation?

Mrs. Roberti: No. My point is he's cleaned up 80% of the stuff that's out there. If he puts stockade fence in front of it where you look down, it will hide it. I'm just giving you some options and you can still say no.

Mr. Johnston: What's about the shed in the back?

Mrs. Roberti: He wants to keep it because it's really a solid shed.

Mr. Johnston: It will still be three sheds.

Mr. Prager: My point is we have to make sure we are not giving him something that we denied somebody else like Mrs. Oliveri.

Mrs. Roberti: It was in her front yard and she had 7 sheds.

Mr. Prager: You also could not see it.

Mr. Johnston: So he's not asking for more just what's there right now.

Mrs. Roberti: Yes.

Mr. Prager: What do you think his neighbor in the back will think about this? When he was here he said it was a disgrace.

Mrs. Roberti: I looked at it and you looked at it as well, it's not in disrepair. It's just a metal shed. Was there other stuff and garbage there that the other guy looked at: Possibly, but it's not there now.

He would like a little more time to keep cleaning up so he asked if we could adjourn it to November 15. Would it help to put the fence in front of it or should he wait until you make your decision?

Mr. Casella: He should wait. There's no sense in him putting it up now.

Mrs. Roberti: You should probably schedule another inspection for November 12th before he comes back on November 15th.

Mr. Casella:

Motion to adjourn.

Mr. Johnston:

Second the Motion.

Vote:

All present voted Aye.

Adjourned: 7:50 pm

Respectfully Submitted,
Bea Ogunti
Secretary
Zoning Board of Appeals