

MINUTES

**Town of Wappinger
Zoning Board of Appeals
February 7, 2017
Time: 7:00PM**

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

Summarized Minutes

Members:

Mr. Prager	Chairman	Absent
Mr. Casella	Co-Chair	Present
Mr. Johnston	Member	Present
Mr. Galotti	Member	Absent
Mr. Travis	Member	Present

Others Present:

Mr. Horan	Town Attorney
Ms. Valk	Conflict Attorney
Mrs. Roberti	Zoning Administrator
Mrs. Gale	for Mrs. Ogunti (Secretary)

SUMMARY

Public Hearing:

Jamie Bulson & Kim Ortega	Variance granted
Jose Matute & Carmy Guangalli	Variance granted
Christopher Antal	Variance granted

Discussion:

Suey Wa Ng	Public Hearing on February 28, 2017
Louis & Kristen Ruperto	Public Hearing on February 28, 2017
Smart Subdivision	Public Hearing on March 14, 2017
33 Middlebush Road	Further discussion on February 28, 2017

Mr. Johnston: Motion to accept the Minutes from January 10, 2017.
Mr. Travis: Second the Motion.
Vote: All present voted Aye.

Public Hearing:

Appeal No. 17-7606 (Variance)

Jamie Bulson & Kim Ortega:

2 Middlebush Road: Seeking an area variance Section 240-37 of District Regulations in an R20/40 Zoning District.

-Where **50 feet** to the rear yard property line is required, the applicant can only provide **5 feet** for a garage, thus requesting a variance of **45 feet**.

-Where **25 feet** to the side yard property line is required, the applicant can only provide **10 foot** for a **24' x 24'** garage, thus requesting a variance of **15 feet**.

-Where **10 feet** to the rear property line is required, the applicant can only provide **3 feet** for a shed, thus requesting a variance of **7 feet**.

-Where **75 feet** to the front yard property line is required, the applicant can only provide **5 feet** for a shed, thus requesting a variance of **70 feet**.

The property is located at **2 Middlebush Road** and is identified as **Tax Grid No. 6157-01-242792** in the Town of Wappinger.

Mr. Casella: Michelle, are all the mailings in order?

Mrs. Gale: Yes, they are.

Mr. Casella: Jamie, please come up and tell the audience know what you need and why you need it.

Mr. Bulson: Good evening. I'm seeking a variance for a proposal to build a 24' x 24' garage and relocate the shed.

Mr. Casella: Bob and I had a chance to look at the property and we know that you are having the shed on the far left removed to the far right. I know you plan on putting a new garage to the side and there's very little area back there to do a whole lot with it. So we understand the reason for the variance.

Mr. Johnston: We also discussed building a smaller garage than the 24' x 24'.

Mr. Bulson: You talked about shifting another 5 feet from the property (a total of 10 feet) and shrinking down 5 feet. So it will be like 19' x 24' for the garage.

Mr. Casella: We talked about 24' x 20' for the garage.

Mr. Johnston: Originally it was 24' x 24' on the application and we discussed 24' x 20' which would bring it further away.

Mr. Casella: Correct and the variance would be smaller.

Mr. Bulson: I have a question about the shed where it says 75 feet from the front yard, I can provide 5 feet.

Mr. Travis: It's because you have two front yards.

Mr. Casella: You have one on Route 9D and the other on Middlebush Road.

Mrs. Roberti: Are we reducing the garage size at the same time?

Mr. Johnston: Yes, we are reducing it to 24' x 20'.

Mr. Johnston: Motion to close the Public Hearing.

Mr. Travis: Second the Motion.

Vote: All present voted Aye.

Mr. Johnston: Variance No. 1 (where 50 feet is required to the rear, the applicant can provide 5 feet): Motion to grant the first variance. The benefit cannot be achieved by any other feasible means. It is not an undesirable change to the character of neighborhood. It is somewhat substantial but I don't believe it has any adverse or physical impact to the environment. Motion granted with the condition that the garage is reduced to 24' x 20'.

Mr. Travis: Second the Motion.

Roll Call Vote: Mr. Johnston YES

Mr. Travis YES

Mr. Casella YES

Mr. Johnston: Variance No. 2 (where 25 feet is required to the side, the applicant can provide 10 feet): Motion to grant the second variance. There is no other way that the applicant can achieve the benefit. It is not an undesirable change to the character of neighborhood. It is however substantial but I don't believe there will be any adverse or physical impact to the environment. Motion granted with the condition that the garage is reduced to 24' x 20'.

Mr. Travis: Second the Motion.
Roll Call Vote: Mr. Johnston YES
Mr. Travis YES
Mr. Casella YES

Mr. Johnston: **Variance No. 3 (where 10 feet is required to the rear, the applicant can provide 3 feet): Motion to grant the third variance and there is no other way that the applicant can achieve the benefit. It is not an undesirable change to the character of neighborhood. It is however substantial but I don't believe there will be any adverse or physical impact to the environment.**

Mr. Travis: Second the Motion.
Roll Call Vote: Mr. Johnston YES
Mr. Travis YES
Mr. Casella YES

Mr. Johnston: **Variance No. 4 (where 75 feet is required to the front, the applicant can provide 5 feet): Motion to grant the third variance and there is no other way that the applicant can achieve the benefit. It is not an undesirable change to the neighborhood. It is however substantial but I don't believe there will be any adverse or physical impact to the environment.**

Mr. Travis: Second the Motion.
Roll Call Vote: Mr. Johnston YES
Mr. Travis YES
Mr. Casella YES

Appeal No. 17-7607 (Variance)

Jose Matute & Carmy Guangalli: Seeking an area variance Section 240-37 of District Regulations in an R40 Zoning District.

-Where **75 feet** to the front yard property line is required on a state or county road, the applicant can only provide **64 feet** for the construction of a new single family residence, thus requesting a variance of **11 feet**.

The property is located at **375 Old Hopewell Road** and is identified as **Tax Grid No. 6257-04-559400** in the Town of Wappinger.

Mr. Casella: Michelle, are all of the mailings in order?

Mrs. Gale: Yes, they are.

Mr. Johnston:

Motion to open the Public Hearing.

Mr. Travis:

Second the Motion.

Vote:

All present voted Aye.

Mr. Casella:

Good evening Mr. Cappelli.

Mr. Cappelli:

Good evening. The existing house is going to be removed down to the foundation and reconstructed. The existing house is 69 feet from Old Hopewell Road where 75 feet is required. There is a front which we are going to center on the building to create a 64 feet setback to front of that porch, thus requiring the 11 feet variance. We will also be adding a few additions in the back.

Mr. Casella:

Why do you want to use the existing foundation? We looked at it and it's falling apart.

Mr. Cappelli:

The owner started doing some work there and in his opinion, he put a substantial amount of money in there so he wants to leave it there. We are going to try to do the best we can from an engineering point of view.

Discussion continues.

Mr. Casella:

Is there an existing septic system there now?

Mr. Cappelli:

Yes, there is. The owner is guessing that it's under the driveway.

Mr. Casella:

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

Ms. Farrauto

Hello, my name is Marianna Farrauto, 381 Old Hopewell Road. I live directly across from this property and we are in favor of them building a house there. The man who owned it before passed away and we were very close friends and very upset the house has to be torn down. It's been there since 1830 but clearly it's not suitable anymore so we have no problem with him going a little closer to the road.

Mr. Casella:

Thank you very much.

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

Mr. Johnston: **Motion to grant the variance. The benefit cannot be achieved by any other feasible means. It is not an undesirable change to the character of the neighborhood and it actually will be an improvement. I don't believe it will cause any adverse or physical impact to the environment.**

Mr. Travis: Second the Motion.
Roll Call Vote: Mr. Johnston YES
Mr. Travis YES
Mr. Casella YES

Appeal No. 17-7608 (Variance)

Christopher Antal: 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 **8 feet** to replace existing stairs, wrap around deck and install shower downstairs, thus requesting a variance of **12 feet**.

-Where **35 feet** from the front yard property line is required, the applicant can only provide **30.2 feet** to replace existing stairs, wrap around deck and install shower downstairs, thus requesting a variance of **4.8 feet**.

The property is located at **10 Marlerville Road** and is identified as **Tax Grid No. 6157-01-091682** in the Town of Wappinger.

Mr. Casella: Michelle, are all of the mailings in order, Michelle?

Mrs. Gale: Yes, they are.

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

Mr. Casella: Just want to let you know that there are only three board members here today so if all three members do not vote yes, your variance would be denied. I wanted to let you know ahead of time. With that said, please tell us what you want and why you need it.

Mr. Antal: Good evening everyone. I'm Chris Antal and I live at 10 Marlerville Road. The existing concrete steps entering my front and back door are crumbling so I built over them. Instead of building one step, I built a

wraparound deck with stairs instead to access both the front and back. The issue is I built it without getting the approval from the Town and there's less than the required distance from the deck to my neighbor's yard.

Mr. Johnston: I believe it is still under construction, correct?

Mr. Antal: Yes.

Mr. Casella: You bought the house in 2004 and you want to make the downstairs another living room?

Mr. Antal: Yes, there's already a permit that I took out and closed.

Mr. Casella: You have a shed in the back as well, right?

Mr. Antal: There's an existing shed.

Mr. Casella: Is that coming down or is it staying?

Mr. Antal: It's staying.

Mr. Casella: Barbara, do we know if he has a permit for the shed?

Mrs. Roberti: I don't know off the top of my head but I can check.

Please note that Barbara checked and there's a shed amnesty granted Oct. 6, 2003.

Mrs. Roberti: Did you put the shed in?

Mr. Antal: The one in the back was there when I moved in.

Mr. Casella: You may or may not be grandfathered in so we want to make sure as we go through your variance that you have a permit for the shed in the back.

Mr. Antal: I can move it if I have to. It's not a big deal. I've already moved it ones.

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

- Ms. Rupani: Hi, my name is Catherine Rupani and I live at 12 Marlorville Road. I have nothing against someone improving their home obviously. My concern is that I would like a real estate agent take a look to see how it might impact the future sale of my property which is next door.
- Mr. Casella: Typically, we don't get into that level of detail to specifically have a real estate agent come to look at his property.
- Ms. Rupani: Not his property but mine property to see how that might impact the visual aspect. It's a reasonable size structure to the side of the house.
- Mr. Casella: I certainly understand your concern and if you want to do that on your own, you can but that's not really going to decide whether we grant or don't grant the variance.
- Mr. Rupani: Even if it impacts the neighbor's value?
- Mr. Casella: I'm hoping it's going to make your property value go up. His property needs a lot of work and it is going to make the whole neighborhood significantly better.
- Mr. Horan: Typically, from an evidentiary point of view, the effect is basically speculative and it's very hard to quantify what effect that improvement will have on adjoining properties. The market conditions in general will affect things more than that. The case law indicates that diminution in value is not properly something to be considered. However, if you want to look at the issue of screening but I don't know how the site works as far as screening.
- Mr. Antal: I don't quite understand what you mean by screening.
- Mr. Horan: Screening would be a fence or a bush or something like that.
- Mr. Casella: So the condition would be putting a fence or shrubbery or something?
- Mr. Horan: Right, that's the way to get rid of the visual impact.

- Mr. Casella: We could dictate as to what the fence would look like.
- Ms. Rupani: That would be amicable to me.
- Mr. Antal: There's a chain link fence there.
- Ms. Rupani: There's a fence already there but that doesn't block it. It looks really nice but my point is what would happen if I were to sell in the future?
- Mr. Johnston: Do you have any suggestions as to screening?
- Mr. Antal: The only screening I can do is put a fence that you can see through like a chain link fence.
- Ms. Rupani: No, I was thinking of something that I don't have to see through.
- Mr. Horan: It's not appropriate to order screening on somebody else's property I don't think.
- Ms. Rupani: I wasn't asking for screening on his property.
- Mr. Horan: No, on your property.
- Mr. Johnston: You can't authorize him to put something on your property.
- Ms. Rupani: That's my only concern.
- Mr. Casella: Does it look a lot nicer now?
- Ms. Rupani: The entrance looks nice. I don't know what that does to this procedure.
- Mr. Casella: We will take it into account once we figure out what we are going to do here.
- Ms. Rupani: I certainly don't want you to have to tear it down because that will be a lot of work to tear it down.
- Mr. Casella: Mr. Antal, I would like you to work with your neighbor to come to some type of a solution.
- Mr. Antal: Yes, I will. I like my neighbor.

Mr. Johnston:
Mr. Travis:
Vote:

Motion to close the Public Hearing.
Second the Motion.
All present voted Aye.

Mr. Travis:

Motion to grant the applicant the variance. I don't believe the benefit can be achieved by any other means. It's not an undesirable change to the character of the neighborhood. The request is somewhat substantial and I don't believe it will cause any adverse or physical impact to the environment. Based on the location of the deck, I believe this is a self-created difficulty.

Mr. Johnston:
Roll Call Vote:

Second the Motion.
Mr. Johnston YES
Mr. Travis YES
Mr. Casella YES

Discussion:

Appeal No. 17-7610 (Variance)

Suey Wa Ng – 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 **15 feet** for the installation of a 24" above ground round pool and an **8' x 6'** deck, thus requesting a variance of **5 feet**.

The property is located at **2 Sylvia Drive** and is identified as **Tax Grid No. 6257-02-804738** in the Town of Wappinger.

Mr. Casella:

Good evening. Ms. Ng, please come up and tell us what you want and why you want it.

Ms. Ng:

I would like to install a 24 feet above ground pool on the side yard and since I have a corner lot, I only have a certain area I can put the pool and I'm short 5 feet.

Mr. Casella:

One of the things I was looking at on the map was where you want to put the pool is approximately 11 feet behind the house. If you moved it 5 feet closer to the house, you won't need a variance.

Mr. Johnston:

Do you have a pool there already?

Ms. Ng:

I had a pool when we bought the house but it was on the other side.

- Mr. Johnston: Will this one be directly behind the house?
- Ms. Ng: Yes, it will be behind the garage. I did not know that the corner lot was considered two front yards.
- Mr. Johnston: Have you considered possibly a smaller pool and have you bought the pool already? Do you have the property marked out where you are going to put the pool?
- Ms. Ng: No not yet but I will put a mark on the lawn so when they come out on Saturday they can see where the pool will go.
- Mr. Casella: Are you well and septic or sewer?
- Ms. Ng: I have sewer.
- Mr. Casella: Where is your well?
- Ms. Ng: I do not have a well.
- Mr. Casella: So you have municipal water?
- Ms. Ng: Yes.
- Mr. Casella: We would like to do a site visit to see if you could move the pool a little bit closer. There's nothing there today?
- Ms. Ng: There's nothing there.
- Mr. Casella: I would like you to consider moving it closer.
- Mr. Johnston: For now if you could just mark a big circle where the pool will go.
- Mr. Casella: Do you know where the back of your property line is?
- Ms. Ng: There is a fence there.
- Mr. Johnston: Will 9:00am on Saturday work for you?
- Ms. Ng: That's fine.
- Mr. Casella: So your Public Hearing is scheduled for February 28th and the site visit will be on February 11th at 9:00am.

Appeal No. 16-7611 Variance

Louis & Kristen Ruperto: Seeking an area variance Section 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 an addition of 1296 square feet for a 36' x 36'** detached garage, thus requesting a **variance of 696 square feet.**

The property is located at **22 Vorndran Drive** and is identified as **Tax Grid No. 6357-01-082881** in the Town of Wappinger.

Mr. Casella: Good evening. Please come up and tell us what you want and why you want it.

Mr. Ruperto: Good evening. Actually, there's no accessory apartment in what I'm trying to do. Basically, the garage is going to be 36' x 36' and I'm going to have engineering trusses on it. I am probably going to add storage trusses.

Mr. Casella: So there's no accessory apartment on it and that's incorrect?

Mr. Ruperto: Correct. I have almost 11 acres and I'm pretty secluded from everybody and if you are coming up my road, my driveway is on the left. Before you get to the house it's a little bit bigger and I have three cars and I would like to do some mechanic work on them. I won't be doing any work for anyone else. I do some woodwork and I want to do that in the garage.

Mr. Johnston: Do you have well and septic?

Mr. Ruperto: I have city water and sewer.

Mr. Ruperto reviews his plan with the board.

Mr. Johnston: Will it have stairs?

Mr. Ruperto: No stairs. There will be a little storage truss in the back.

Mr. Johnston: Will you have electricity and water?

Mr. Ruperto: Yes, that's the intent and I just want a little sink.

Mr. Johnston: How high is it going to be?

- Mr. Ruperto: It's going to be 17 feet from the peak to the bottom.
- Mr. Casella: Are you going to do this yourself?
- Mr. Ruperto: Yes.
- Mr. Johnston: My concern is putting water and electricity in there. Sometimes people get carried away.
- Mr. Ruperto: I've been planning this for a while and I want to do it right.
- Mr. Johnston: How long is your driveway?
- Mr. Ruperto: Roughly 600 feet.
- Mr. Johnston: Is there a reason why you want that garage that big?
- Mr. Ruperto: I wanted it bigger. I sized it down for cost reasons. I basically wanted to fit two cars front and back in it. I have a tractor, motorcycle, my truck and my wife's car.
- Mr. Casella: If we asked you to do something smaller, would you be agreeable to it?
- Mr. Ruperto: You can't see it from anywhere. I have 11 acres of property. I have a plow and a lot of equipment and the driveway is huge.
- Mr. Casella: We will have a site visit on Saturday around 9:30am and the Public Hearing on February 28th. Please mark it out for us.
- Mr. Ruperto: Right now I have it staked out around the shed that I have there and the shed is going to be demolished.
- Mr. Johnston: Will you be there on Saturday?
- Mr. Ruperto: Yes, I'll be there.
- Mr. Casella: Thank you.
- Mr. Ruperto: Thank you very much. I will see you Saturday.

Appeal No. 17-7609 (Variance)

Smart Subdivision – Seeking an area variance Section 240-20B of District Regulations in an R40 Zoning District.

-Where **50 feet** is required for the length of a flag lot driveway, the applicant can only provide **25 feet** at the narrowest point, thus requesting a variance of **25 feet**.

The property is on 2.059 acres and is located at **191 River Road North** and is identified as **Tax Grid No. 6056-01-241913** in an R-40 Zoning District in the Town of Wappinger. (Hudson Land Design) (Cantor)

Present: Richard Cantor – Attorney for applicant
Jim Horan – Attorney for Town
Rebecca Valk – Conflict Attorney for Town

Mr. Casella: Good evening Mr. Cantor.

Mr. Cantor: Good evening. For the record, my name is Richard Cantor and I'm here on behalf of the applicant, Wendy Smart. Wendy has pending before the Planning Board a 2-lot subdivision.

Mr. Cantor gives an overview of the project.

The project engineer is here and would like to give a brief overview of the project.

Mr. Casella: Please state your name for the record.

Mr. Bodendorf: My name is Mike Bodendorf, Hudson Land Design architect for the applicant. What we want to do here is put a flag lot in the back to maintain the minimum 125 feet. In order not to ask for two variances, we made Lot 1, 125 feet and we were able to bring the flag out to 50 feet along the building envelope. Both lots are served by Town water and they were on wells but they installed the new waterline on River Road North. There's an existing pool house with water service.

Mr. Bodendorf continues an overview of the project.

Mr. Johnston: What's the brick wall near the corner where the second driveway goes around?

Mr. Bodendorf: It used to be a greenhouse.

Ms. Smart: It's already gone.

- Mr. Johnston: It's just the brick floor that's there now?
- Ms. Smart: Yes.
- Mr. Casella: You used to have a change/bathing house in the back as well?
- Mr. Bodendorf: Yes, that will be removed obviously.
- Mr. Cantor: During the proceedings before the Planning Board, Mike was able to establish to the satisfaction of Bob Gray, the Town Engineer that this proposed flag lot works. It can be graded out and you can safely drive back and forth and there are no drainage issues. We can provide the documentation that we provided to the Planning Board.
- Mr. Casella: If you could, I would appreciate that.
- Mr. Cantor: A couple of housekeeping points, it's my understanding and subject to being corrected by Barbara or Becky that the Town Zoning Code provides that the ZBA shall request an opinion or recommendation from the Planning Board on variance applications. I would ask that you adopt a brief motion to send to the Planning Board asking for their recommendation as provided in the code. The next Planning Board meeting is on March 6th and at that meeting, they have indicated that they are going to adopt a negative declaration with the Planning Board serving as the Lead Agency. As a matter of law, your ZBA cannot act one way or the other until the SEQRA process is completed. This will be freed up for action once you have your public hearing and a negative declaration. When do you meet next?
- Mr. Casella: Our next meeting is February 28th.
- Mr. Cantor: What would be the next meeting after that?
- Mrs. Roberti: The next meeting would be March 14th.
- Mr. Cantor: I would ask that you consider scheduling a Public Hearing for March 14th.
- Mr. Johnston: What's the length of the second driveway?
- Mr. Bodendorf: The driveway is about 465 feet.

Conversation continues.

Mr. Cantor: Other than thanking you for your courtesy and your time if you would consider adopting a brief motion to ask for the recommendation of the Planning Board.

Mr. Johnston: Motion to respectfully request the Planning Board to render an opinion in this matter.

Mr. Travis: Second the Motion.

Vote: All present voted Aye.

Mr. Casella: We will schedule the Public Hearing on March 14th and the site visit on March 4th around 9:00am. We will need you to stake out the area.

Mr. Bodendorf: Does it need to be done by surveyor or it can be done by an engineer.

Mr. Casella: I don't care as long as the property line is marked.

Mr. Cantor: Thank you and good night.

Appeal No. 16-7598 (Use Variance)

33 Middlebush Road: Seeking use variance Section 240-37 of District Regulations in an R20/40 Zoning District.

-The applicant intends to utilize the existing 6,766 sf. commercial structure as a contractor's storage facility with accessory offices on 1.75 acres in a Residential Zoning District. The applicant intends to combine the two lots into one to extinguish the property line between parcels. The property was originally purchased with the building on it to renovate and use as a church. The building has been in existence since the 1950s.

The property is located at **33 Middlebush Road** and is identified as **Tax Grid Nos. 6157-01-414840 (.88 acres) and 6157-01-396837 (.87 acres)** in the Town of Wappinger.

(Cappelli)

Present: Al Cappelli – Architect for the applicant

Mr. Casella: The last time we spoke, I thought you were going to buy the one piece of property. Now you want to buy two?

Mr. Horan: The two came as a packaged deal.

Mr. Casella: I thought you only needed one?

- Mr. Cappelli: I only needed one.
- Mr. Casella: So if you don't buy the first one, you can do whatever you want to do?
- Mr. Horan: He has to buy the second piece of property.
- Mr. Cappelli: I'll buy both but I'm not even sure I need both. I don't even want to dissolve the property line if you don't want me to.
- Mr. Horan: To the extent he doesn't include the second lot, do we have jurisdiction to put on the other lot?
- Mr. Johnston: So let's concentrate on the second lot.
- Mr. Horan: This is a use variance and you are not changing the zoning on the second lot. Whatever use it will be is for whatever purposes there are. This is the discussion we had with the applicant and one of Al's concerns. As it's drafted, there's a discussion about extending the use variance to extend to the second lot. That would be needed if the applicant needs to put parking, septic systems or drainage systems or the commercial structure on a residential lot. The law says if I have a commercial use in a commercial district that's zoned properly and it abuts a residential district, anything associated with the commercial use is not permitted in the residential district. If I have a commercial use I can't put the parking lot for the retail use on a residential property. The concern that was raised previously was by extending the use variance to the abutting property you could put a parking lot or expand it. Because of the configuration of the building he's not really going to be putting anything over that way. He doesn't need to include it in the application and he doesn't need not to include it in the application.
- Mrs. Roberti: Since the building is on the property line and it is nonconforming and he'll own both, doesn't he have to combine them so that meets the setback?
- Mr. Cappelli: I would have to get an area variance and we already know we have a problem with a front setback.

- Mrs. Roberti: Right, you have no setback on the side.
- Mr. Cappelli: Again, it's the flavor of the board. The applicant could go either way and I'm trying to make it the path of least resistance.
- Conversation continues.
- Mr. Johnston: Mr. Horan, if we are just talking about the one lot, the second lot will remain residential?
- Mr. Horan: Yes. For the purposes of the use variance, that lot remains a residential lot and it just means you are allowing a use for purposes of the variance. You are not changing the zoning on the lot.
- Mr. Casella: At any point and time he could build a house on it if he wants to?
- Mr. Horan: He could build a house on it. He's not changing and you are just adding one permitted use. By granting a use variance, you are not changing the zoning of this piece from residential to commercial.
- Mr. Casella: If you bought the second lot, what are you proposing to do with it?
- Mr. Cappelli: Right now I haven't even spoken to the applicant but I'm thinking down the road if he can build a house there then build a house there. He can't do anything with it from that commercial entity point of view. There's the hurdle just from the wetlands and maybe other hurdles from zoning issues. Once we get out of this hurdle, I will speak with him to see if we could squeeze a house on there.
- Mr. Horan: Or it goes back to the County in back taxes.
- Mrs. Roberti: Your initial argument that for the return of investment for \$325,000 if he could get a house on both lots then he makes a nice return.
- Mr. Cappelli: I did a comparison analysis for two lots and I'm not sure that I could because of the wetlands situation. That's a burden that I don't know he can overcome.

- Mr. Horan: One of the issues with respect to the lot and if you are going to dissolve the lot line, if he's going for a site plan approval, he can just go for a subdivision to eliminate the lot line and consolidate the two lots. Eliminating the lot line all it does is reduces the tax bill.
- Mr. Casella: One of the issues we talked about was for instance you have big trucks or tractors, that turn is very hard to get into to do that. Not sure what time of day you are going to try to do that, it's a lot of heavy traffic on Middlebush Road. I'm not sure when you say you are going to have contractor storage facility. Does that mean you are going to have a warehouse to put supplies in or are you going to have heavy vehicles dropping things off? That will become an issue.
- Mr. Cappelli: We are talking about mom and pop type of contractors and we talked about renting and occupying the space. I cannot suggest what size vehicles are or are not going to go in there. I don't know what size vehicles.
- Mr. Johnston: Vehicles and equipment mostly come on tractor trailers.
- Mr. Cappelli: We are not fabricating anything in there and I'm not sure that we will have big trucks in there.
- Mr. Casella: I want to see this thing move forward but I just want to make sure that safety issues are being addressed here.
- Mr. Horan: You will be moving the front door, correct?
- Mr. Cappelli: The front overhead door is two curb cuts down and the front overhead door on the left is being eliminated because that doesn't make any sense at all. There's a curb cut on the right that goes to the parking lot that will remain. Those are new curb cuts were just put in by the County.
- Mr. Casella: He cannot tell us whether there will be big vehicles or not going in and out of there.

- Mr. Horan: If you had a house there and somebody brought a moving truck, you would have the same issue.
- Mr. Casella: It's a onetime event.
- Mr. Horan: What if he gets a refrigerator delivered?
- Mr. Cappelli: If you want to consider that other lot and have a horseshoe driveway going behind the building and suggesting one way in and one way out. I wouldn't want to do that since people might be parking on the side.
- Mrs. Roberti: Al, I don't mean to cut you off but to bring up those conditions is a little out of your area and until this gets to planning and you do stormwater and all your other issues at that point that may not be feasible. To think of that as a possible condition might not work.
- Mr. Casella: I don't want to grant the variance until we hear from the Planning Board because they may have the same issues that we have.
- Mrs. Roberti: They can't stop them.
- Mr. Horan: I don't think it's fair to you to have to go through a site plan process with the Planning Board. What would be appropriate in this situation is ultimately the Planning Board would get it is to do a conceptual review. You could refer it to the Planning Board for comments. That would make a lot of sense. There's no point in getting a variance and going to the Planning Board and they having issues on both sites.
- Mr. Casella: So your proposal is getting the variance before purchasing the property?
- Mr. Cappelli: Something like that.
- Mr. Horan: It could just be a letter from us saying here's what we are looking at so you are not going to have a formal application before the Planning Board which is going to solicit comments from them.

- Mr. Cappelli: We are not going to get any meat and potato from the design professionals. If there's no escrow, there's no application so what's the point?
- Mrs. Roberti: You could do a conceptual review and have the board weigh in.
- Mr. Cappelli: I have no objections doing that. Again, I'm wasting more money and we are talking about a use variance.
- Mr. Horan: I think the applicant meets the standards for a use variance and that doesn't mean he can put up anything he wants.
- Mr. Johnston: I think it will be a problem with multiple tenants.
- Mr. Cappelli: Right now, only 5 tenants.
- Mr. Horan: Even if he had one it doesn't necessarily matter. The issue for 5 is the issue for one with respect to the traffic issues and everything else. There might be more traffic and probably change the parking load.
- Mr. Travis: What would the dimension be for the bay?
- Mr. Cappelli: Maybe each bay would be 30-40 feet wide.
- Mr. Horan: What's the dimension of the building?
- Mrs. Roberti: The building is 53 feet wide and 120 feet long and the back is 65 feet.
- Mr. Cappelli: That's my configuration.
- Mr. Horan: How close is it to the wetlands in the back?
- Mr. Cappelli: They are local wetlands. I'm not worried about the wetlands because they can be manipulated.
- Mrs. Roberti: Technically, it's half of the building when you go on GIS.
- Mr. Cappelli: You say if the use variance is granted, the Planning Board has to give you approval?
- Mr. Horan: No, they can't deny you for that permitted use.

- Mrs. Roberti: Will you be able to get enough parking?
- Mr. Cappelli: There are no parking regulations. It's one of those things we are going to come up with what's reasonable. I don't believe you have any parking regulations.
- Mrs. Roberti: Storage, utility and other similar commercial uses is one per employee but not less than 1 per 1,000 sf. of gross floor area.
- Mr. Johnston: I think the full board should think about this.
- Mrs. Roberti: You also should look to do a Public Hearing so the neighbors can weigh in.
- Mr. Casella: We would like to have a full board in order to make a decision and then a Public Hearing after that. I'm assuming everybody will be here in a couple of weeks. So let's make it on February 28th with a full board and make a decision.
- Mrs. Roberti: For the record, should I find out that we do not have a full board, I'll call you and just take you off the agenda.
- Mr. Cappelli: That's fine. We put a summary together on January 19th so you may want to read that and feel comfortable with the fact that the building is there. The character of the neighborhood is what it is and we are not altering that. It's a tough situation and if they didn't let the building go vacant and the use continued, it could have been a full bloom operating glass warehouse or whatever.
- Mr. Horan: If it was occupied as a church which was the intent that would have taken them out of that grandfather as well. The character of the neighborhood really takes into account the building that's there. The applicant has a pretty good chance of meeting all those burdens. The question becomes what does he get? He doesn't want to go back to what was there before and it doesn't make sense to go back to what was there before.

- Mr. Cappelli: We are looking for a low impact type of use. If there's water and sewer there why not let us put apartments or a lot there. I can never get the septic system in given the constraints there. The applicant is looking for an investment and he is not going to wait much longer.
- Mr. Travis: Is there a mortgage on the property?
- Mr. Cappelli: I don't know if there's a mortgage.
- Mrs. Roberti: Eddy doesn't have much of a choice.
- Mr. Cappelli: No, but part of what I'm concerned about is we get the zoning variance and we are told your time ran up guys and we are taking the property back and now it's worth another \$70,000.00. The current owner could remarket it to somebody else and my guy gets the boot and Eddy has a valuable asset. I don't want that to happen. I expressed my concern to Jim and Al. I don't trust anybody. So we will see you in a couple of weeks and we'll see what we can come up with.
- Mr. Horan: I think it makes sense to get the Planning Board as part of the public hearing process and we will put it on the record to solicit input for the Planning Board.
- Mrs. Roberti: You should consider a conceptual for March 6th at the next Planning Board meeting.
- Mr. Cappelli: I'll do it anytime you want but that night is a tough night for me at the Planning Board. I have other items before them.
- Mrs. Roberti: I thought you wanted it on the record for the public hearing here?
- Mr. Horan: No, I wanted to open the public hearing and we solicit comments, circulate to Dutchess County Planning because it's required since it's on a county road.
- Mrs. Roberti: This already went to Dutchess County Planning and it's a matter of local concern.
- Mr. Horan: I would also send it to DPW.

Mr. Cappelli: You guys really don't have workshops per say. If you want to get Bob Gray, the new chairman and a group of people together from the Planning Board and have a discussion, I'm all for that.

Mr. Horan: This is one of the issues with respect to what would happen with the Planning Board parking and other matters. There's a delicate tradeoff in that the more work you require on the site, the more disturbance and impact it's going to have. If the applicant said he's not going to make any changes would be a much easier process.

Mr. Casella: We will see you at the next meeting on February 28th.

Mr. Cappelli: Thank you very much.

Mr. Johnston:

Mr. Travis:

Vote:

Motion to adjourn.

Second the Motion.

All present voted Aye.

Respectfully Submitted,

Adjourned: 8:39 pm

Bea Ogunti
Secretary
Zoning Board of Appeals