

Mr. Galotti: **Motion to accept the Minutes from February 7, 2017.**
Mr. Johnston: Second the Motion.
Vote: All present voted Aye.

Public Hearing:

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. Prager: Bea, are all of the mailings in order?

Mrs. Ogunti: Yes, they are.

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

Ms. Ng: Suey Wa Ng, 2 Sylvia Drive.

Mr. Prager: I know there was a discussion a couple of weeks ago and unfortunately, I wasn't here. So if you would for the record and anybody in the audience tell us what you need and why you need it.

Ms. Ng: My property is on a corner lot and I was told that I have two front yards so my pool had to be in a certain area. I need 20 feet on the side and I only have 15 feet so I need 5 feet variance.

Mr. Prager: What's going on with the deck?

Ms. Ng: It will be a deck by the pool.

Mr. Prager: We did the site inspection. Are there questions?

Mr. Johnston: Are you taking down the old pool?

Ms. Ng: Yes, I will be taking down the old pool that was on the side.

- Mr. Johnston: Also, your electrical wires I believe would have been directly over the pool?
- Ms. Ng: Originally I wanted to so that's why I moved it closer to the yard. There's more sun on the other side.
- Mr. Prager: Is there anyone in the audience who would like to speak for or against this variance?
- Mr. Mansfield: I would like some clarification because this is my neighbor.
- Mrs. Roberti: Excuse me sir, please give us your name and address.
- Mr. Mansfield: My name is Kurt Mansfield from 24 Alpert Drive and I abut Ms. Ng's property at the rear. I'm hearing side yards and I don't know where this pool is going to go. Is there any plot plan or map that I can look at?
- Mr. Horan: It's going to be right about here. Is that you back there?
- Mr. Mansfield: That's me right there.
- Ms. Ng: I believe this is my garage here, so the pool will be right there.
- Mr. Mansfield: Is there a survey that shows how many feet from the house to the property line?
- Mr. Johnston: It is 50 feet from that line back to the house. So it would be 11 feet from the property line to where the pool is.
- Mr. Mansfield: How much is it from the property line and the home?
- Mr. Johnston: It is 50 feet from the property line.
- Mr. Mansfield: What is the setback?
- Mr. Johnston: I believe it is 20 feet.
- Mr. Mansfield: I don't understand how it can't be made because 24 feet plus 20 feet is 44 feet.
- Mrs. Roberti: It can't be up against the house.

Mr. Mansfield: The front of the house faces Sylvia Drive.

Mrs. Roberti: Sir, in zoning when you are on two streets, they are both fronts.

Mr. Mansfield: This is the front and this is the rear.

Mrs. Roberti: Let me finish please. You get a side and a rear and you get to choose if there's nothing else there. She chose this to be her side and she can never change that and this is her rear. With all corner lots, they get to choose and it's not which way the house faces.

Mr. Mansfield: From what I'm understanding there's 40 feet there regardless whether we call it a rear or a side?

Mr. Johnston: Does it have to be 11 feet off the house?

Mrs. Roberti: It has to be at least 6 feet and if she wants to put a deck.

Mr. Travis: The reason I think she increased it to that is because of the electrical wires the way that they run from Alpert Drive.

Mr. Mansfield: How come the pool couldn't be moved in the opposite direction of the wires?

Mr. Johnston: The wires run from Alpert Drive to the rear yard.

Mr. Mansfield: The wires run from the corner back about 10 or 11 feet to the house. If the pool was configured more to the left you would not have any encroachment on the wires and you would have your setback.

Mr. Johnston: I don't believe you will have the setback.

Mrs. Roberti: To meet that, they would have to move the pool to the house by 10 feet.

Mr. Prager: It won't matter whether they went to the right or left.

Mr. Mansfield: Of course they would. You are going to avoid the wires. My concern is I'm the next door neighbor and I'm going to have noise there. Directly opposite that is my master bedroom window. I would rather the pool equipment be located remote.

Mr. Travis: I don't think 5 feet will make much of a difference on the noise.

Mr. Mansfield: Maybe the pool equipment can be on the house side of the pool.

Ms. Ng: It could be on the side of the deck. I don't have a problem with that.

Mr. Travis: It could be between the pool and the house.

Mr. Johnston: Do you have electric already for the pool?

Ms. Ng: No, I'm going to do that.

Mr. Horan: Is there a fence on the property line.

Ms. Ng: No.

Mr. Mansfield: There's a fence along my side of the property but it won't meet the specification for pool.

Mr. Prager: Is the fence on or in your property?

Mr. Mansfield: I'm told that it is on my property.

Mr. Galotti: So it is your fence?

Ms. Ng: It is his fence.

Mr. Johnston: Would you be willing to putting a couple of trees to create some barrier?

Ms. Ng: I'm going to put a privacy fence.

Mr. Johnston: How high will the fence be?

Ms. Ng: The fence will be 6 feet around the property.

Mr. Johnston: How high is the pool going to be?

Ms. Ng: I believe 52 inches.

Mr. Mansfield: I just got blessed with a 6 feet fence. I believe if I could put a fence in, I could only put a 4 feet fence in.

Mrs. Roberti: That's not true.

Mr. Mansfield: Do you have a survey for her property?

Mr. Prager: No, I do not have a survey. Do you have a survey Ms. Ng?

Ms. Ng: I do have a survey but I don't know where I put it.

Mr. Mansfield: I think it needs to be staked. We really don't know any of these measurements at this point.

Mr. Prager: You are right. I always like to see the survey.

Mr. Mansfield: If a survey is presented, we will go forward from there.

Mr. Prager: I agree with you.

Mr. Travis: Do you have a concern about the fence?

Mr. Mansfield: If my fence is going to be used as a barrier, it wouldn't qualify.

Mrs. Roberti: I just want to clarify. She doesn't need a fence around the pool as long as it is 52 inches high.

Mr. Mansfield: I understand that as long as the ladder folds up. The question remains is how are you going to access this deck?

Mrs. Roberti: It will have to have a self-locking gate.

Mr. Mansfield: I know the requirements very well.

Mr. Travis: That's up to the building inspector that he enforces that.

Mr. Mansfield: I understand but where is this deck going to go?

Mr. Travis: If you are looking at the back of her house it's on the right side of the pool.

Mr. Mansfield: No, that must be the side of her house.

Mr. Travis: No, if you are looking out, it's the rear of her house.

Mr. Mansfield: So the deck is going to front the Alpert Drive side.

Mrs. Roberti: Yes.

Mr. Mansfield: It seems nice and country.

Mr. Travis: Unless there was a fence along the entire property line, it wouldn't be private.

Mr. Mansfield: Well, there isn't.

Mr. Travis: I don't know if that's a consideration in the zoning code.

Mrs. Roberti: No, it isn't.

Mr. Mansfield: Is this a standard zoning code or Wappinger zoning code?

Mr. Horan: It is Wappinger zoning code.

Mr. Prager: So if you could bring us the survey.

Mr. Mansfield: Is it going to be staked?

Mr. Prager: Sure.

Mrs. Roberti: Wait, if she has a survey no one needs to go out and stake it. I just want to clarify that.

Mr. Prager: I just want the survey.

Mr. Mansfield: How are they going to know where to put the fence if it's not staked?

Mr. Prager: With measurements from the survey.

Mr. Mansfield: Who is qualified to do that at the road?

Mr. Prager: Certainly not us.

Ms. Ng: My fence is going to be over here and this is still my property.

Mr. Mansfield: Maybe we can have a complete site plan the next time we meet.

- Mrs. Roberti: I just want to clarify that she doesn't have to have a fence and it's going to be her choice whether she does it this year or next year.
- Ms. Ng: Or whether I do it or don't do it.
- Mr. Mansfield: The question is how am I assured that it's put in the right place?
- Mr. Travis: The building inspector will be responsible for ensuring the fence is placed properly.
- Mrs. Roberti: No. In the Town of Wappinger, you do not need a permit to put a fence up. You need to put it on your property and we are not surveyors and we do not go out. So if someone feels it's on their property, it's a civil matter.
- Mr. Mansfield: It's real easy to go from sticks to draw a line.
- Mr. Travis: I understand that but it's not the way the building department does it here.
- Mr. Mansfield: So it's possible for someone to put a fence on someone else's property.
- Mr. Prager: Do you know where your property line is?
- Mr. Mansfield: I believe so.
- Mr. Johnston: If you stake out your property, you will know where your property line is.
- Mr. Mansfield: I don't need to put a fence in.
- Mr. Johnston: I understand but if you stake out your property line, she will know where to put her fence.
- Mr. Mansfield: I'm not the one asking the board to do something.
- Mr. Johnston: I understand that.
- Mr. Prager: What we are asking is for a little cooperation from you.
- Mr. Mansfield: I don't know that I have the ability to find the line on the road side. I would opt for a surveyor.

Ms. Ng: I'll go home and look for it again.

Mr. Mansfield: Maybe someone can come out and find the stick.

Mrs. Roberti: Is this for the fence? I'm just trying to clarify what we are talking about. Is it for the pool or the fence?

Mr. Johnston: I believe we are discussing the fence.

Mr. Horan: The fence isn't before the board.

Mrs. Roberti: The fence is irrelevant tonight.

Mr. Horan: Under the code a fence that's less than 6 feet high is allowed in New York.

Mr. Mansfield: So less than 6 feet.

Mr. Horan: Correct, 6 feet or less.

Mr. Mansfield: I heard two different things.

Mr. Horan: If it's 6 feet or less it's permitted in New York up to the property line.

Mr. Mansfield: So somebody has to prove where the property line is.

Mr. Horan: Nobody has to prove anything. We don't require a building permit for a fence. If she installs a fence on your property, it's trespassing and you can go to Supreme Court and press charges.

Mr. Mansfield: It seems ridiculous to have to do that.

Mr. Horan: We don't require a permit so we can't force her to get one under the code. We do have setback under the Town of Wappinger zoning code which is authorized by New York State Town Law.

Mr. Mansfield: Thank you.

Mr. Horan: You are welcome.

Mr. Prager: So where do we stand with this?

- Ms. Ng: I'm going to go home and look again. It's over 30 years and I don't know where I put it.
- Mr. Travis: Have you reviewed your files in the building office?
- Mrs. Roberti: Yes, and we did not have it there. Since there was a fence on the property line and prior building permits, everything was in line with those measurements.
- Mr. Horan: Do you know when the house was built?
- Ms. Ng: The house was built in the 70s.
- Mrs. Roberti: At this point, she was told if you required a survey and these measurements aren't substantial enough for you she knew she had to find it. Since the building permits prior showed the 50 feet and he has a fence there that said 50 feet.
- Mr. Horan: The rear of the house says 50 feet.
- Mrs. Roberti: That's what she based her measurements on.
- Mr. Prager: I always feel much comfortable with a survey.
- Mr. Galotti: What will the survey actually show?
- Mrs. Roberti: It's just going to show 50 feet from the house.
- Mr. Galotti: Is it going to have any impact on whether we grant or deny this variance?
- Mr. Johnston: It would be more information.
- Mr. Prager: Motion to adjourn to the Public Hearing to March 14th.**
- Mr. Johnston: Second the Motion.
- Vote: All present voted Aye.

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. Prager: Bea, are all of 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: Good evening. Please state your name for the record.

Mr. Ruperto: Lou Ruperto.

Mr. Prager: We did do a site inspection but for the record, please state your name and tell us what you need and why you need it.

Mr. Ruperto: I'm looking to construct a 36' x 36' garage and it's over the size requirement for the Town of Wappinger. It will be next to my house and I will try to make it blend in as much as possible to match the façade and landscape. It will be for three cars and a workshop area in the back.

Mr. Prager: As I mentioned earlier, I missed the last meeting but I believe when this originally came through there was going to be a second story on it.

Mr. Ruperto: It came out in the paperwork that I was going to have a second story but it was never my intention to have an accessory building.

Mr. Prager: So there won't be an apartment or anything like that?

Mr. Ruperto: There will be a 6 feet deep storage truss in the back so I will get 6 feet of storage at the peak.

- Mr. Prager: Why would you need it that big?
- Mr. Ruperto: I have an older camero, my truck and my wife's SUV, the tractor for the property and plow. I would like to put a lift in the middle so I can work on my car. I wanted it bigger but due to constraints and costs I thought that size fits the property nicely. It's an open area and I think it will suit my needs the best.
- Mr. Johnston: Are you going to construct it yourself?
- Mr. Ruperto: Yes.
- Mr. Johnston: Do you work out of your home?
- Mr. Ruperto: No, I have a separate company out of my home. I'm a master plumber down in Westchester and to take the test I needed to be incorporated and carry insurance. So I incorporated myself out of my home so that I could pick up the insurance and the business to apply to take the master plumber test. I passed the test and I have my license and that was about a year ago. That was the reason for the incorporation of the house.
- Mr. Johnston: Is there any reason we couldn't make it smaller?
- Mr. Ruperto: There a hundred reason why it could go smaller or bigger but I settled on that size because I can fit three cars.
- Mr. Johnston: It's two times the size that's allowed.
- Mr. Ruperto: I have 11 acres of property and I don't think it's overly intrusive. I have the tractor and the plow which takes up a whole bay.
- Mr. Travis: He could essentially have two 600 sf. assessorry structures.
- Mrs. Roberti: Then it would be separated.
- Mr. Ruperto: I don't want two garages and I plan to stay there for a while and I've done a lot of work on the house. I'm into woodworking and I like to work on my car.
- Mr. Johnston: How long is your driveway?

- Mr. Ruperto: It's about 700 feet.
- Mr. Travis: Is it going to match the house?
- Mr. Ruperto: Yes, it will and it's my number one precedence.
- Mr. Galotti: Do you really need 36 feet and three bays?
- Mr. Ruperto: You just can't fit three cars side by side with less than 12 feet.
- Mr. Johnston: How big did you say the garage is going to be?
- Mr. Ruperto: It's going to be 36' x 36' and the dimension will be 32' x 33' by the time you get to the siding.
- Mr. Prager: How many acres?
- Mr. Ruperto: It is 10.89 acres.
- Mr. Prager: We don't have a full board here tonight and I just want to give you that option. I don't know if you want to wait for a full board or not.
- Mr. Ruperto: I said what I had to say so for me it won't make a difference.
- 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 your benefit can be achieved by any other feasible means. Does it create an undesirable change to the neighborhood, I don't think so because of the way the property is setback. The**

request is super substantial however it does not create any adverse effects to the character of neighborhood. Under those circumstances, I will grant the variance.

Mr. Travis:
Roll Call Vote:

Second the Motion.

Mr. Galotti YES

Mr. Johnston NO

Mr. Travis YES

Mr. Prager YES (normally I would say no but tonight I will say yes because of the size of the property.)

Miscellaneous Discussion:

Mr. Horan:

We've been getting a lot of these variances. This one is a larger than most but again it is very large property. One of the things regarding accessory structures is the maximum size. The accessory structures are really geared to smaller lots in the Town and the size doesn't necessarily make sense. A lot of municipalities and towns will limit the size of the accessory structures as percentage of the lot area.

Mr. Prager:

That makes a lot of sense.

Mr. Horan:

That's one of the things we don't have in our code. We don't have building coverage provision in residential districts. We don't have impervious coverage which is something I think we should discuss. It is one thing to have a 600 sf. accessory building on a 40' x 20' lot. It is totally something else to have a 600 sf. building on an 11 acres lot. If this was a farm and a barn, it would be totally permitted.

Mr. Ruperto:

It would have been cheaper for me if that was the case.

Mr. Horan:

For the more rural lots in the town, it's something we should look at as far as tying the maximum size of the accessory structure to the zoning district.

Mr. Prager:

If you owned an acre or two acres, I would not go with it.

Mr. Travis:

We are not making that clear when we grant these variances.

Mr. Horan: The issue here with respect to this variance is the substantial nature of it. It seems odd that it's a substantial variance that cannot be seen from any of the neighboring properties.

Mrs. Roberti: Tying in to this I've had a lot of concerns that the variances are becoming over 100% on different things. From what I'm seeing your residents think that this is just a fee in the town and you are giving variances and you very rarely deny them. Howie feels this way from years of doing this should be like the 10, 20, 30 rule. Any variance application ever taken should stress this. To say yes to 10 people and say no to others they get annoyed as you can see.

Discussion continues.

Mr. Johnston: How do we get the Town Board to correct zoning instead of the ZBA basically dealing with zoning?

Mrs. Roberti: For example, this woman with the pool. She has a backyard which is long and unfortunately, houses are put in places that don't afford for a pool to have a huge backyard. I don't want to see the town reduce the setback minimally to accommodate everyone. We have to have some perimeter. When Bea and I talk to people I tell them there's a good chance you are not going to get this. Many times you don't see the people because we talk them out of it. This isn't a given, you have to show a hardship besides the money you are going to spend. You could go through all of this and cannot get it and you have viable options. Some people will say I want to spend the money because this is what I wanted and that's their right according to the code.

Mr. Horan: The setback doesn't typically become an issue for the board for the most part except for the weird lots. Corner properties are always a problem.

Mr. Prager: I've mentioned this number of times that I would like to see a survey then there is no confusion. The first time we got the application it was not completed and now we don't even have a survey.

Mr. Travis: What is the rear yard setback in that zone?

- Mrs. Roberti: The rear yard setback is 50 feet.
- Mr. Horan: The pool is going where she calls her rear yard.
- Mr. Prager: It doesn't matter where that pool goes.
- Mr. Travis: She is still going to need the 15 feet.
- Mrs. Roberti: She couldn't find the permit herself but from the house permit it said it was 50 feet to the rear.
- Mr. Horan: Did we always have that choose your yard provision?
- Mrs. Roberti: Yes, we've always had it.
- Mr. Horan: In many codes you have two front yards and two rears.
- Mr. Prager: What's his name?
- Mrs. Ogunti: Kurt Mansfield.
- Mr. Prager: What's his address?
- Mrs. Ogunti: His address is 24 Albert Drive.
- Mrs. Roberti: She knew she might need to produce a survey with measuring to his fence which he even stated was the property line.
- Mr. Horan: In the building department, do we go out and check after this stuff is built whether or not it meets code?
- Mrs. Roberti: Yes, we go out before the CO. We do not check fences.
- Mr. Prager: If she cannot find her survey, we are not going to make her engineer a survey.
- Mr. Horan: The question is will we have the building department go out and check the measurements. If we have documentation that shows how far the house is from the property line in the subdivision or building file and then you measure off the house.

Mrs. Roberti: That's what I used. For some people you have to have a survey and sometimes we have enough information that it makes sense.

Mr. Horan: Right now I'm suing somebody that have a fence which is 3 feet on the neighbor's property and I can't close a real estate deal. The fence is on my client's property and the buyer won't take it off.

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

Respectfully Submitted,

Adjourned: 8:03 pm

Bea Ogunti
Secretary
Zoning Board of Appeals