

**MINUTES**

**Town of Wappinger  
Zoning Board of Appeals  
April 25, 2017  
Time: 7:00PM**

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

Summarized Minutes

**Members:**

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

**Others Present:**

Mr. Horan	Town Attorney
Mrs. Roberti	Zoning Administrator
Mrs. Ogunti	Secretary

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**SUMMARY**

**Public Hearing:**

Wayne & Cindy DeMuro                      Variance Granted

**Discussion:**

James & Edith Rawley                      Site visit on April 29, 2017  
Public Hearing on May 23, 2017

William & Christina Butler                      Site visit on April 29, 2017  
Public Hearing on May 9, 2017

**Mr. Johnston:** **Motion to accept the Minutes from April 11, 2017.**  
**Mr. Galotti:** Second the Motion.  
**Vote:** All present voted Aye.

**Public Hearing:**

**Appeal No. 17-7612 (Variance)**

**Wayne & Cindy DeMuro:** 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 installation of a **20' x 28'** garage, thus requesting a variance of **10 feet**.

The property is located at **16 Ervin Drive** and is identified as **Tax Grid No. 6258-03-134032** 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: Mr. DeMuro, please come up and state your name. for the record and kindly explain to us what you need and why you need it.

Mr. DeMuro: Wayne DeMuro.

Mr. Prager: I know we had a discussion a couple of weeks ago and we did a site inspection but for the record please tell us what you need and why you need it.

Mr. DeMuro: I want to build a garage so I can store my lawnmower and to do work in it instead of the garage inside my house. My wife is complaining about the gas fumes from the lawnmowers. If I had it 20 feet from my property line it would be almost halfway behind my house and it won't be aligned with the driveway. If I get the variance for the 10 feet it would align with the driveway.

- Mr. Prager: I noticed it's narrower to the property for sure.
- Mr. Johnston: Have you thought about maybe a smaller garage?
- Mr. DeMuro: No, I didn't. If I had to I would try again and downsize it.
- Mr. Johnston: How long have you owned the house?
- Mr. DeMuro: I have had the house for 8 months.
- Mr. Johnston: So you knew the size of the property when you bought it?
- Mr. DeMuro: Yes. In my prior house I did have a garage outside of the house and that was where I worked on my car. When I bought the house I wanted to start the procedure right away but between selling the house and buying this one and then moving was too much so I didn't. If I can do it I'll do it and if I can't I just can't.
- Mr. Galotti: You are not just 20 feet wide you are also 28 feet deep?
- Mr. DeMuro: Yes, 28 feet deep.
- Mr. Johnston: Even if you made it smaller it won't make it any smaller on the lot.
- Mr. Prager: Is there any way you can move it over about 5 feet?
- Mr. Johnston: Can you move it over by 3 feet?
- Mr. DeMuro: If I move it over by 3 feet the side of the garage and the end of my house will probably be right on the line. If I did that and with the big snow we just had, I will plow the snow right in my backyard from my driveway. My driveway is approximately 70-80 feet long.
- Mr. Galotti: Has his next door neighbor weighed in at all?
- Mrs. Ogunti: No.
- Mr. Prager: Is there anyone in the audience who would like to speak for or against this variance?

- Mr. Spinelli: Good evening, my name is Michael Spinelli and I am the property owner on 13 Blackthorn Loop which is where I received the registered letter for this meeting. My concern here is we have no specs and I know it is 20' x 28' but I don't know how high it is. At this point I ask that the committee just enforce the zoning law because at this moment my wife and I do not want to grant the variance.
- Mr. Prager: Could you give us some information on the height of the garage?
- Mr. DeMuro: I believe it is 15 feet to the peak.
- Mr. Johnston: There's not going to be a second floor or any rafters?
- Mr. DeMuro: No.
- Mr. Prager: What's behind your house?
- Mr. DeMuro: It's his house and his neighbor, Charlie.
- Mr. Johnston: Are there trees at the back of your property?
- Mr. DeMuro: Yes, there are pine trees.
- Mr. Prager: Are you able to see his house from your property?
- Mr. Spinelli: Sure. As the gentleman said his house was built 8 months ago so for 31 years I've had the pleasure of looking across my yard all the way to Ervin. I know that's progress and I get that, however I don't know if I really want to see another large structure in my backyard. Ultimately all real estate gets sold and I don't want to get into any type of disagreement with the potential buyer.
- Mr. Johnston: Is the distance from the back of this gentleman's property to where this structure would be is within code?
- Mrs. Roberti: It meets the 40 feet requirement.
- Mr. Johnston: Even if he cut this in half and moved it back you will still see a structure.

Mr. Spinelli: I would but I'm willing to live with 20 feet. Let's be honest if everything was without issue I wouldn't be here right now.

Mr. Johnston: The building will still be allowable because he has 20 feet from the property line to where it would start.

Mr. Spinelli: Maybe I misread that. It's saying that it's going to be within 10 feet of the property line.

Mr. Horan: On the side and not the back.

Mrs. Roberti: This is his survey and your property is one of these back here so it's going to be to the side of his house and there's 40 feet before it gets to your backyard. Where he's asking for the variance is for the side.

Mr. Spinelli: So why am I here?

Mrs. Roberti: By state law everyone that abuts the property front, rear and the side needs to be notified.

Mr. Spinelli: If that's the case then it has nothing to do with the 20 feet to my property line. I have no issue now. Can I leave now?

Mr. Prager: Thanks for coming.

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

Mr. Johnston: Second the Motion.

Vote: All present voted Aye.

**Mr. Galotti: Motion to grant the applicant the variance. I don't believe the benefit can be achieved by any other feasible means. I don't believe it creates an undesirable change to the character of the neighborhood. The request is substantial in nature however I don't think it will create any environmental effects to the neighborhood.**

Mr. Johnston: Second the Motion with a condition that you plant 6 feet high and 6 feet across shrubs along the back of the property line.

Vote: Roll call vote:

Mr. Galotti YES

Mr. Johnston YES

Mr. Prager YES

Mrs. Roberti: This condition will have to be met before you get the CO.

Mr. DeMuro: Do you need plans?

Mrs. Roberti: You have the approval so it goes back to me but until you have plans the building inspector cannot approve it.

Mr. DeMuro: I'll talk to the builder tomorrow to get some plans drawn up. Thank you very much.

**Discussion:**

**Appeal No. 17-7612 (Variance)**

**James & Edith Rawley**: 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 **17' 6"** for the installation of a **17' x 33' x 6'** kidney shape in ground pool, thus requesting a variance of **32' 4"**.

The property is located at **19 Booth Boulevard** and is identified as **Tax Grid No. 6056-03-462505** in the Town of Wappinger.

Mr. Prager: Good evening. Please state your name for the record.

Mr. Rawley: James Rawley and Edith Rawley.

Mr. Prager: Tell us what you need and why you need it.

Mr. Rawley: A couple of years ago we put an addition on our house and even though our children have grown and moved away people have asked why you are putting an addition to your house. It's pretty much for the same reason why we want to put an in ground pool. We had a pool for many years and it was getting old so we took it down for the addition. We would like to do an in ground pool because it would add to the beauty of our property and to the neighborhood as well as future grandchildren and family gatherings. We are going with an in ground pool because we feel that an above ground pool will hinder our view of the surrounding woods and take away from the beauty of our house.

- Mr. Johnston: How long is your driveway?
- Mr. Rawley: My driveway is 220 feet.
- Mr. Johnston: There's nowhere else to put it?
- Mr. Rawley: No, I don't think so because of where our septic is in the front and there's a stream that cuts through the driveway that was the reason the builder built the house so far back.
- Mr. Johnston: How high is the stone wall?
- Mr. Rawley: About 2 feet. It's just a boundary.
- Mr. Prager: I will schedule a site inspection for this Saturday at 9:00am
- Mr. Rawley: We had the pool guy pin where it will be.
- Mr. Prager: I'm assuming the property line is your back wall?
- Mr. Rawley: When I measured it with a measuring tape it went just beyond the stone wall.
- Mr. Prager: Will you be there on Saturday?
- Mr. Rawley: Yes, we'll be there.
- Mrs. Ogunti: I set the public hearing for May 23<sup>rd</sup> because they will be away for the May 9<sup>th</sup> meeting.
- Mr. Rawley: Thanks everyone.

**Appeal No. 17-7614 (Variance)**

**William & Christina Butler**: Seeking an area variance Section 240-37 of the District Regulations in an R40 Zoning District.

-Where **50 feet** to the rear yard property line is required, the applicant can only provide **36 feet** for the construction of a **16' x 32'** deck around an above ground pool, thus requesting a variance of **14 feet**.

-Where **50 feet** to the rear yard property line is required, the applicant can only provide **42.33 feet** for an existing **16 x 32 feet** pool, thus requesting a variance of **7.67 feet**. A pool alarm rated ASTM F 2208 must be activated once pool is filled with water, electrical inspection and certificate of compliance is required before using the pool.

The property is located at **86 Brothers Road** and is identified as **Tax Grid No. 6358-03-040316** in the Town of Wappinger.

- Mr. Prager: Good evening. Please state your name for the record.
- Mr. Berta: Michael Berta, architect for the applicant. The pool is existing as you can see by the google earth and the pool has been there for a couple of years. Now that the ground has settled they are trying to figure out what to do with the property. They are looking to put a deck around the entire pool.
- Mr. Johnston: Was the deck preexisting?
- Mr. Berta: Yes. The deck that's on the house has been there for a while.
- Mr. Johnston: Is the deck around the pool?
- Mr. Berta: No.
- Mr. Prager: How long has the owner had this house?
- Mr. Butler: We bought the house in July 2005.
- Mr. Prager: Was the pool there then?
- Mr. Butler: No, the pool was put in last summer.
- Mr. Prager: So the pool was put in 2016.
- Mr. Butler: Yes and it still technically has a building permit on it.
- Mrs. Roberti: Just so you are aware, they came in last year for a pool permit and it was approved for a different location where it met all the sides and rear setbacks. It was only when they came in for the deck and Mr. Berta had done such a very nice plan that I realize that the pool was not in conformance with the rear yard and for whatever reason it got moved by the pool people.
- Mr. Butler: Honestly I couldn't tell you, we told him how and where we wanted it and we didn't want it parallel to the house. We did want a little bit of an angle.



Mr. Berta: You will see it when you do your site visit. I think they angled it to go with the existing contour because it's an above ground pool but it's the type that could get buried. It's high on one side and then it falls down nicely around the other side.

Mr. Prager: Is this deck going all around it and do you have a drawing?

Mr. Butler: Yes, we are going to put the deck around it and no we do not have the drawing yet.

Mr. Prager: Do you have an idea what the steps are going to look like?

Mr. Berta: It's on the site plan. I haven't had the chance to do the actual deck drawing yet. The size and shape is on this plan.

Mr. Johnston: Who is installing your pool?

Mr. Butler: Under the Sun Improvements.

Mr. Prager: In the rear could you stake it out for us so we know exactly where it is. Is there a fence or something?

Mr. Butler: There is no fence.

Mr. Prager: We will do a site inspection this Saturday around 9:30am and your public hearing is scheduled for May 9<sup>th</sup>. Make sure you stake out where the 36 feet is for the deck.

Mr. Butler: Okay.

**Miscellaneous:**

Mr. Prager: I would like you to write a letter to the Town Board that we recommend raising the fees for a variance application.

Mrs. Ogunti: Do you have an amount in mind?

Mrs. Roberti: I think it would be helpful because they will turn around and say Mrs. Roberti what's a good amount?

Mr. Prager: What is it now?

Mrs. Ogunti: It is \$250.00 for residential and \$500.00 for commercial.

Mr. Prager: Let's double it. It should be \$500.00 for residential and \$1,000.00 for commercial.

Mr. Galotti: Is it \$500.00 for someone who wants to put a pool in?

Mr. Prager: Yes.

Mr. Galotti: That's pretty steep. I think we should charge \$400.00 for residential.

Mr. Prager: Bea, could you draft a memo to the Town Board but send it to us first to review before you send it out.

Mrs. Ogunti: Please repeat exactly what you guys are asking for.

Mrs. Roberti: The ZBA is recommending that the Town Board increase the fees for residential variance to remain at \$250.00 for any variance of 10% or less. This is to be increased to \$500.00 for residential variance for anything over 10%. Commercial variance is to be increased to \$1,000.00.

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

Respectfully Submitted,

Adjourned: 7:40 pm

Bea Ogunti  
Secretary  
Zoning Board of Appeals