

MINUTES

**Town of Wappinger
Zoning Board of Appeals
May 23, 2017
Time: 7:00PM**

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

Summarized Minutes

Members:

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

Others Present:

Mrs. Roberti	Zoning Administrator
Mrs. Ogunti	Secretary

SUMMARY

Public Hearing:

James & Edith Rawley	Variance granted
Old Hopewell Commons	Variance granted
Timothy Stinson	Variance granted

Mr. Casella: **Motion to accept the Minutes from May 9, 2017.**
Mr. Johnston: Second the Motion.
Vote: All present voted Aye.

Public Hearing:

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: Bea, are all the mailings in order?

Mrs. Ogunti: Yes, they are.

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

Mr. Prager: Mr. Rawley, come on up. Please state your name for the record and tell us where you live.

Mr. Rawley: James Rawley, 19 Booth Boulevard, Wappingers Falls, NY.

Mr. Prager: As you know we were at your property to take a look at it so if you would be kind to tell us what you need and why you need it.

Mr. Rawley: Because of our zoning and our residence being in an R40 Zoning District, we would like to put an in ground pool in our back yard. We didn't have enough room that's why we need a variance. The purpose for the pool is for family gatherings and hopefully to attract grandchildren.

Mr. Prager: We were out there for a site inspection and there's not too much property where you can put this pool. I believe it is all woods behind you but if you could explain to us what's behind it.

Mr. Rawley: Behind us is the Palumbo property that's zoned commercial until a certain back portion of our property where the shed is. There's also wetlands back there.

Mr. Prager: Are there any questions from the board? Is there anybody in the audience who would like to speak for or against this variance?

Mr. Johnston: Motion to close the Public Hearing.

Mr. Casella: Second the Motion.

Vote: All present voted Aye.

Mr. Galotti: Motion to grant the applicant the variance. You really don't have too many options to achieve what you want to do. The benefit cannot be achieved by any other feasible means. It does not create an undesirable change to the neighborhood or any nearby properties. The request is substantial however it does not create an adverse effect to the character of the neighborhood.

Mr. Casella: Second the Motion.

Roll Call Vote:

Mr. Casella	YES
Mr. Galotti	YES
Mr. Johnston	YES
Mr. Travis	YES
Mr. Prager	YES

Appeal No. 17-7615 (Variance)

Old Hopewell Commons: Seeking an area variance Section 240-37 of the District Regulations in an HB Zoning District.

-Where a minimum of **2 acres** is required in an HB Zoning District, the applicant can only provide **0.74 acres** for the realignment of Sgt. Palmateer Way and Old Hopewell Road, thus requesting a variance of **1.26 acres**.

The property is located at the corner of **Sgt. Palmateer Way and Old Hopewell Road** and is identified as **Tax Grid No. 6157-02-542585** in the Town of Wappinger.

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

Mrs. Ogunti: Yes, they are.

Mr. Prager: Good evening.

Mr. Johnston: Motion to open the Public Hearing.

Mr. Casella: Second the Motion.

Vote: All present voted Aye.

Mr. Prager: Good evening, please be kind to state your name.

Mr. Lynch: Dennis Lynch from M. A. Day, Engineering representing Old Hopewell Commons. We are currently before the Planning Board and we are proposing the development of 6.45 acres parcel. It's located at the corner of Sgt. Palmateer Way and Old Hopewell Road. It used to be the former LaFonda Del Sol. Through the process we've met with the Town, County and State to remedy the existing problem that occurs with the proximity of the road and Route 9. What developed out of that meeting was to realign the road to line up with the existing exit at Southside Plaza. As far as the dedication to the Town, once they set that it would meet the 2 acre requirement. Right now it's .74 acres so we would need a variance for it and that's why we are here.

Mr. Lynch continues his overview of the project.

Mr. Prager: By realigning that road looks like it will become a better area. Is that the road that comes from the Hark Plaza?

Mr. Lynch: Yes. It's directly across from that entrance.

Mr. Prager: Are there any questions?

Mr. Johnston: If it is granted will the old road be dedicated to your client?

Mr. Lynch: Right now we are working through that with the Town Board. It's currently owned by the State and it will go from the State to the County then to our client if that even occurs. Right now we are proposing to not us that property at all. In the event that becomes available it would be a lesser variance.

Mr. Galotti: We've heard from the State and they are highly in favor of this.

Mr. Lynch: The State, County and DCDPW are in favor of the project.

Mr. Prager: Yes, I was going to read this into the record and then you can ask questions but hopefully this will answer them. This one is from NYS Department of Transportation and it reads NYSDOT wishes to express our enthusiastic support of the realignment of the intersection of Old Hopewell Road and Old Route 9 in the Town of Wappinger.

We have another one from Dutchess County Department of Public Works and it reads DCDPW wishes to express strong support for the road realignment of the intersection of Old Hopewell Road and Old Route 9 in the Town of Wappinger.

- Mr. Prager: Here's another one from the Town of Wappinger Highway Department and it reads they have reviewed a letter from Robert Belkind, P.E. Commissioner of Public Works. They strongly support the realignment of Old Hopewell Road and Old Route 9 in the Town of Wappinger. This letter is from the Highway Superintendent Vincent Bettina and it reads I agree with the Commissioner that this realignment will provide operational efficiency and safety providing additional stacking on Old Hopewell Road and prevent conflicting movements that now results on Route 9 and Old Hopewell Road intersection.
- Bea, I believe you have these letters so please put them in your records.
- Mrs. Ogunti: I do.
- Mr. Prager: Is there anyone in the audience who would like to ask any questions about this variance?
- Mr. Byer: Marc Byer, 2 Cayuga Drive. I would like to know how close this proposed road is to the entrance of the project is going to be?
- Mr. Lynch: We are going to relocate this road here....
- Mr. Byer: I understand that part but where's the entrance to the project? Is it going to be on this new road?
- Mr. Lynch: Yes.
- Mr. Bostwick: Robert Bostwick, 165 Old Hopewell Road. This has been going through many different cycles and here we are again. This plan to relocate and while it has letters from the State, County and the Town I would like to know what studies has been done and where they are published. They are not going to get rid of the problem we have at Old Hopewell Road and Old Route 9.
- Mrs. Roberti: This is in front of the Planning Board at this time so traffic studies, environmental studies and anything of that nature would be held at the Planning Board which you all will be invited to a Public Hearing. This variance is simply for the lot size of the second smaller lot.
- Mr. Munoz: Angel Munoz, 110 Curry Road. How big a structure is actually allowed on that property if you allow this variance?

- Mrs. Roberti: The building will depend on the setbacks and density and the building will be designed to fit that lot. On a commercial piece of property, the setbacks are a lot smaller than residential pieces. This is in the HB Zoning District so the building will work within the confines of that building and they will need more variance. At this time they are not proposing any others.
- Mr. Munoz: Right now there's no proposal for a structure on the property?
- Mr. Prager: No.
- Mrs. Roberti: Right now they haven't gone through architectural and they are just showing the 2,850 sf. one story building and that meets the setbacks. It also has enough room for parking and still meets the buffers. That could change when they get to the Planning Board. At this point the variance is for the size of the lot and you need to two acres in an HB Zoning District and putting the road through it becomes undersized, which is the reason for the variance.
- Mr. Munoz: Thank you.
- Mr. Bostwick: So the section they are proposing to put a commercial building is going to stay HB but the other side of the project they are going to request for residential zoning?
- Mrs. Roberti: No, it stays HB. In HB Zoning District, you are allowed to have mixed use residential or commercial component. There is a building up front that will have commercial component in it.
- Mr. Bostwick: So it's not 4 buildings of residential?
- Mrs. Roberti: No, you only need one component. So you can have multi-family as long as you have one retail, office and service business component.
- Mr. Bostwick: For clarification purposes, the fact that they are putting a road in there the developer will not be responsible for maintaining that road so that will fall on the Town or County. Correct me if I'm wrong but it looks like it will be two lots.
- Mrs. Roberti: It will be two lots and that's the reason for this variance because the smaller lot that's being created by the road is undersized that's why it needs a variance. The bigger lot which will stay commercial has a commercial entity.

- Mr. Bostwick: So basically we are looking at 2 commercial entities and a residential going in there and that small commercial entity is what's going to allow them to then build the residential in an HB.
- Mrs. Roberti: Correct.
- Mr. Bostwick: Interesting. Thank you.
- Mr. Kaelin: Good evening. Richard Kaelin, 4 Cayuga Drive. I see plans here and I was not listening and perhaps you went over it. How many residential units are there going to be?
- Mr. Lynch: There will be 44 residential units.
- Mr. Kaelin: So 44 new residences?
- Mr. Lynch: Yes.
- Mr. Kaelin: I haven't heard what type of commercial there is going to be. There's a big difference between a doctor's office and a movie theatre in terms of the volume. The problem there now is I can't get out of my neighborhood although the former chairman, Robert Valdati got signs put up. We get high volume from the train station and that road is already over packed. It can take you 20 minutes driving through Hughsonville at 5:00pm. Is it going to require lights at one or both ends of this? Is it going to create a conflict at the entrance/exit at Hark Plaza?
- Mr. Prager: Those questions that you are asking are pertaining to the Planning Board. Am I correct Mrs. Roberti?
- Mrs. Roberti: Yes.
- Mr. Prager: This board is interested in the variance for the size of that lot. The question you are asking we cannot answer.
- Mr. Kaelin: The area is already overburdened and that road is overstressed for traffic especially for certain key times of the day. Adding more burden to it I just don't see it to be a reasonable spot for this.
- Mr. Prager: If this does get granted it will go before the Planning Board and that's the type of things that has to be brought up there.

- Mr. Kaelin: What's the purpose of this hearing?
- Mr. Prager: It's for the acreage on the small parcel because of the road coming through there.
- Mr. Kaelin: So it's for this lower most south east parcel?
- Mr. Prager: Yes.
- Mrs. Roberti: If the applicant would decide not to change the road which has been asked for by the State, County and Town he could get a building permit rather quickly. He could go through the Planning Board and finish what he's doing.
- Mr. Kaelin: It's been asked for by the State, County and Town to accommodate.
- Mrs. Roberti: No, what he's asking for is to change the intersection because it's a dangerous intersection and this is their last chance if this gets developed. That's what was asked.
- Mr. Galotti: At the developer's expense.
- Mr. Kaelin: I just don't know that that road can handle any more volume especially more houses.
- Mr. Munoz: We are cutting a large parcel up and you are going to have less than one acre remaining here and that's what they are seeking approval for.
- Mr. Johnston: Plus the road.
- Mr. Munoz: Your proposal is going to put a commercial structure there. It seems so small to put a commercial structure there. You should keep the road where it is and let them do whatever they want with the property without dividing it. Please put my opposition in that I don't like this and it's such a small piece of property so leave it as the two acres.
- Mr. Sena: Nicholas Sena, 1 Cayuga Drive. I'm the property that's closest to this new road that's going to be built. I would just like to reiterate what my last two neighbors talked about with the traffic problem. There are major accidents and I've been here since 1998. In the last year there have been three major accidents affecting me and my property. Recently at 9:30pm a

car coming east hits a telephone pole and all of the neighbors come out and it knocks the power out. Central Hudson came and nobody got hurt, thank God. Easter Sunday 2006, a car flips over in my backyard. Last November a guy pulls out right into my bushes and I had to call the State Troopers. He was drunk and he stunk on drugs or whatever he was doing. In 2014, a car gets rear ended at Cayuga and burst into flames and the lists goes on. Watching the intersection as it is now and there are not accidents like what happens at Cayuga. I just want to make you guys aware before this happens but it sounds like the State, County and Town are in favor of having Sgt. Palmateer Way moved is a really bad decision.

Mr. Prager: Again, I would just like to say that if it gets passed this evening we will make sure that information gets to the Planning Board. They are the ones that have to deal with traffic and things like that.

Mr. Campbell: Carl Campbell, 125 Curry Road. My property is in the back. I basically have two questions. The road would be maintained by whom?

Mr. Lynch: The road will be dedicated to the Town.

Mr. Campbell: Currently, I believe it is maintained by the State?

Mr. Lynch: The State has a portion of it about 100 feet and the Town own the rest.

Mr. Campbell: I believe .74 acres is significantly smaller than the normal minimum lot size of 10%. Is that their best offer? Is there any way that would be able to be in line with the normal zoning? Is there a reason it has to be that small instead of moving things down even further? I just wanted to get this by you, the traffic people and the engineers as to why that is the best way to do this.

Mr. Lynch: This is the actual right-of-way of the location that we are proposing and to accommodate the traffic turning radiuses are required to get trucks in there.

Mr. Campbell: I see you are talking about the feedline driveway into the other section. In any rate, it does seem like a very large variance and I'm very concerned about that.

Mr. Prager: Thank you very much.

- Mr. McGovern: Good evening, Jim McGovern, 18 Cayuga Drive. My concern is this new roadway you are talking about south of the fire hydrant that's there on the Toyota property?
- Mr. Lynch: This is the entrance going into the Toyota dealership.
- Mr. McGovern: No, I'm talking about over here and the fire hydrant is at the edge of your property, right? Is there going to be a left and right turn lane coming out of Sgt. Palmateer Way onto Old Hopewell Road?
- Mr. Lynch: We are proposing two only.
- Mr. McGovern: You think you are going to make the road better by changing it from what it is now? I've been a firefighter for Hughsonville for 6 years and I've never come to a serious accident at this intersection. I'm a bus driver for the Wappinger Central School District and it's a pain sitting at that light trying to get out but there's nothing dangerous about it. With what you are trying to do, cars are going to cut each other off. If you want to make this intersection better, put a white line west of Sgt. Palmateer Way and tell people not to go pass it or have a Sheriff or Trooper sit there and get people that don't comply. People will stop doing it and Sgt. Palmateer Way won't get backed up. That's going to solve your problem. What you are doing here is this road is going to have a sharp turn, graded and you are going to lose a turning lane.
- Mr. Prager: Thank you.
- Mr. Campbell: He is absolutely right. Losing a turning lane would be a serious problem in that area. Your decision tonight is going to directly affect everything that goes on there. Since we all live in this neighborhood other than when we come here you don't necessarily have to deal with that. Within 2,000 feet of that intersection you have 108 private residences that eventually will be affected.
- Mr. Stinson: It seems like every time I come here there's something else I have to talk about. Tim Stinson, 12 Cameli Drive, how much grade are you going to take down? You are going to make this building leveled with this, correct?
- Mr. Lynch: This is actually that grade now?
- Mr. Stinson: So you are going to dig into that hill?

- Mr. Lynch: No.
- Mr. Stinson: No, the hill that's here. There's a hill here. When LaFonda was there you entered through the basement and you could exit through the first floor.
- Mr. Lynch: There's going to be some grading here.
- Mr. Stinson: How much is that hill going to take away from your property?
- Mr. Lych: Well, we don't have a building plan right now.
- Mr. Stinson: This is a questions day if you want to ask questions if they are going to give you some type of variance. This is not a Planning Board question. It's a building question.
- Mr. Galotti: I think it is a Planning Board question.
- Mr. Stinson: I understand but I'm just saying you have that hill there.
- Mr. Galotti: The issue that's before us tonight is simply the lot size variance but there's a whole lot of steps and approvals that's going to have to take place before this gets to that point. The bulk of your questions will be answered during that approval process. It's a long way down the road before it comes to fruition. We are the first step on the wheel.
- Mr. McGovern: Jim McGovern, 18 Cayuga Drive. You stated that the existing Sgt. Palmateer Road will be dedicated back to the owner of the property? Correct? The State will give it to the County, the County will give it to the Town and the Town will give it to the owner of the development. Is that correct?
- Mr. Lynch: That is correct.
- Mr. McGovern: How is anybody going to access Sgt. Palmateer Memorial Park once that's given to a private owner?
- Mr. Lynch: That will be addressed when this comes to fruition. As far as the site plan if that is dedicated back it will be dedicated spots to that park from that parcel. There will be a deed restriction for a certain amount of parking that will be specifically for that park.

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 based on all of the valid comments from the neighbors tonight. Again, our hearing tonight is for the lot size. The benefit cannot be achieved by any other feasible means and it is not going to create an undesirable effect to the neighborhood. It is substantial in nature however the variance will not create an adverse effect to the neighborhood. The comments we got from the State, County and Town were highly in favor of the realignment. Again, there will be other studies to come but the preliminary information provided to us was highly in favor of the realignment.**

Mr. Johnston: Second the Motion.
 Roll Call Vote: Mr. Casella: (YES) Knowing that there are a lot of complaints and that this is going to be brought to the Planning Board in the final stage for approval, I would say yes to the variance.
 Mr. Galotti: (YES)
 Mr. Johnston: (YES)
 Mr. Travis: (NO)
 Mr. Prager: (YES) I have to agree with Mr. Casella that there are a lot of thing that really have to be looked into especially with the road and the traffic but I agree to go with the variance.

Appeal No. 17-7616 (Variance)

Timothy Stinson: Seeking an area variance Section 240-37 of the District Regulations in an R40 Zoning District.

-Where **10 feet** to the side yard property line is required, the applicant can only provide **2 feet** for the installation of a **10' x 12'** pre-fab shed, thus requesting a variance of **8 feet**.

The property is located at **12 Cameli Drive** and is identified as **Tax Grid No. 6157-01-443804** in the Town of Wappinger.

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

Mrs. Ogunti: Yes, they are.

Mr. Casella: **Motion to open the Public Hearing.**
 Mr. Johnston: Second the Motion.
 Vote: All present voted Aye.
 Mr. Prager: Hi there, please state your name for the record.

Mr. Stinson: Tim Stinson, 12 Cameli Drive, Wappingers Falls. I have a shed that I want to put on my property aesthetically for the

neighborhood and also the appearance of the neighborhood. So that spot would be the most convenient place to put it for the power equipment that I want to store in it.

Mr. Prager: Yes, we did a site visit and there's really no other place to put it.

Mr. Travis: Is that a prefab shed?

Mr. Stinson: It can be a prefab shed and I also have a contractor who offered to build it.

Mr. Travis: Have you spoken with the building inspector at all because that's close to the property line and it has to be fire rated.

Mr. Stinson: I will probably have to put a sheet rock in. I have no problem doing that.

Mr. Travis: What's about the right side of the garage?

Mr. Stinson: That's the only spot in the backyard that we really have.

Mrs. Stinson: There's a patio built there and there are plantings we just did.

Mr. Stinson: There was a shed there when we first moved in and it shrunk the whole backyard. That's the only piece we have that's private from the neighborhood if we wanted to have a party or something.

Mr. Johnston: If there was a problem behind that shed, will someone be able to walk through there?

Mr. Stinson: Yes, there will be more than enough room. I can actually move it forward if needed to. I have a feeling that once the property gets sold that shed will come down because the shed is about 30 years old. I was actually going to move it onto my side because I was in a discussion with Barbara and she said that would be a possibility. As I started to inspect the shed, the bottom was rotted.

Mr. Prager: Are there any questions?

Mrs. Stinson: No, I'm happy I have brand new plantings on that side and it would look prettier on the other side.

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

Mr. Johnston: **Motion to grant the applicant the variance. The benefit cannot be achieved by any other means. I don't believe it is undesirable to the neighborhood. It is somewhat substantial however I don't believe it will create any physical or environmental effects to the character of the neighborhood.**

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

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

Respectfully Submitted,

Adjourned: 7:45pm

Bea Ogunti
Secretary
Zoning Board of Appeals