

MINUTES

**Town of Wappinger
Zoning Board of Appeals
July 11, 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:

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

SUMMARY

Public Hearing:

Jerard & Valerie Owen	Variance granted
David Barnard	Variance granted

Discussion:

33 Middlebush Road	Variance granted based on written Decision by Jim Horan
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Mr. Casella: Motion to accept the Minutes from June 27, 2017
Mr. Galotti: Second the Motion.
Vote: All present voted Aye.

Public Hearing:

Appeal No. 17-7618 (Variance)

Jerald & Valerie Owen: Seeking an area variance Section 240-30 of the District Regulations in an R20 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 the replacement of an old garage damaged by storm with a 24' x 30' (720 sf.) new garage and a 12.6' x 8.6' shed**, thus requesting a variance of **120 square feet**.

The property is located at **148 Widmer** Road and is identified as **Tax Grid No. 6258-01-225680** in the Town of Wappinger.

Mr. Prager: Bea, are all of the mailings in order?
Mrs. Ogunti: Yes, they are.
Mr. Prager: Good evening. Please come up and state your name for the record.
Mr. Owen: Jerald Owen, 148 Widmer Road.
Mr. Prager: We had a site inspection but for the record, please tell us what you need and why you need it.
Mr. Owen: I just want to comply with the location of the shed that's been there for the last 17 years. I would also like to get approval for a garage that has collapsed and I would like it larger to accommodate all of the things we have on our property that are not in the garage.
Mr. Prager: If I remember correctly there is another building, is that something you are going to take down and get rid of?
Mr. Owen: Yes.
Mr. Prager: Have you started getting rid of all of the other things?
Mr. Owen: We consolidated some of the stuff already.
Mr. Prager: Barbara, have you been out there to verify this?
Mrs. Roberti: I haven't been here for a week so I have to go by.

Mr. Prager: If we give any approval tonight there will have to be conditions.

Mrs. Roberti: He is to pull everything that's in the back buffer area.

Mr. Prager: We talked about it and I think you understand that we just want everything neat.

Mr. Owen: Yes, I understand and we actually made the property aesthetically better than when we moved in and we continue to do so.

Mr. Johnston: Could you tell us which structures you have taken down?

Mr. Owen: I haven't taken anything down because there's stuff that needs to go in the new garage.

Mr. Johnston: What stuff is going to go in there?

Mr. Owen: Right now you can't see anything there that's going to be taken down.

Mr. Casella: There are a number of trucks there.

Mr. Owen: There's a canvas tent that will be down, there's a truck body that is going to leave the premises and that stuff will go in the garage. There's a small accessory shed in front of the collapsed garage that is going to go as well.

Mr. Prager: I'm just questioning some of these numbers here.

Mrs. Roberti: We have no idea.

Mr. Prager: Okay then Mr. Owen please come up and tell us what these numbers mean. Did they reference what the numbers and pictures are?

Mr. Owen: When Ernie Martin first did this he did submit pictures and I think they were the views that he submitted.

Mr. Prager: They should put numbers on these then. Do we have original of these?

Mrs. Ogunti: Yes, we do in the file up there. We have pictures in there as well.

Mr. Horan: They look like detail numbers.

Mr. Prager: Yes, they do.

Mr. Horan: Probably related to wetlands analysis.

Board members reviewing survey map and having discussion.

Mr. Horan: This probably went to the DEC.

Mr. Johnston: How many of those structures are coming down if this were to be approved?

Mr. Owen: The collapsed one is coming down.

Conversation continues.

Mrs. Roberti: What's back here now?

Mr. Owen: There's a truck and a canvas tent with my classic car in it.

Mrs. Roberti: That's it?

Mr. Owen: That's it.

Mrs. Roberti: Is everything registered?

Mr. Owen: I have a boat.

Mrs. Roberti: You can't keep it in the buffer.

Mr. Owen: What do you mean by the buffer?

Mrs. Roberti: This is the buffer and I'm going to give you a wetland permit for the buffer.

Mr. Horan: Isn't that a State buffer?

Mr. Prager: What was next to the boat?

Mr. Owen: There's a camper there.

- Mrs. Roberti: He's going to need a wetlands permit for that corner. It's a buffer.
- Mr. Horan: If he has a DEC waiver to use it then he's allowed to put things there because that's what we control.
- Mr. Owen: I will do whatever you want.
- Mr. Horan: If DEC says he can use the buffer then he can use the buffer because it's their buffer and not ours.
- Mrs. Roberti: Not the boat but you can get rid of the tent, car and whatever else you have there.
- Mr. Owen: I have my camper and my boat.
- Mrs. Roberti: You can only have one.
- Mr. Owen: I can't have my camper and boat?
- Mrs. Roberti: According to the code you can only have one on a residential lot.
- Mr. Owen: The camper is registered and insured. It's the trailer that's 15 feet long and I'm selling it.
- Mrs. Roberti: Then you don't need it.
- Mr. Owen: I know. I'm sorry but there was a point where I thought this is ridiculous.
- Mrs. Roberti: The code reads outdoor storage: one auto trailer or one unoccupied recreation vehicle or one boat or one other single vehicle owned by the residents of the premises.
- Mr. Owen: Even though it's registered, insured and you use it?
- Mr. Horan: Regardless of the size of your lot.
- Mr. Owen: It's a good thing that I'm selling it.
- Mr. Horan: That's that crazy provision.
- Mr. Travis: I don't know if I'm missing something here. There's a small shed here and the code says two accessory

structures each needing 600 sf. So why does this small shed have nothing to do with the variance. The variance is just for the size of the bigger one?

Mrs. Roberti: Yes.

Mr. Prager: I thought we were legalizing that shed?

Mrs. Roberti: It's only in the body for what the permit is for. He has a CC on the shed.

Mr. Prager: That's why I questioned this at the last meeting.

Mrs. Roberti: That's why I printed everything and brought all the paperwork with me.

Mr. Prager: So it really doesn't mean anything.

Mrs. Roberti: It's just the way the building permit was written so it's just the garage that needs a variance.

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

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. The benefit cannot be achieved by any other feasible means. It will not create an undesirable change to the neighborhood. In fact it will actually improve it by taking down the old one and putting a new one there. The request is substantial and it will not create any adverse effects to the environment.**

Conditions:

- 1. Removal of canvas tent**
- 2. Removal of truck body**
- 3. Removal of small accessory shed**

Mr. Travis: Second the Motion.

Roll Call Vote:

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

Appeal No. 17-7620 (Variance)

David Barnard: Seeking an area variance Section 240-37 of the District Regulations in an R20 Zoning District.

-Where **10 feet** to the rear yard property line is required, the applicant can only provide **5 feet** for the construction of a **10'x 20'** pre-fab shed, thus requesting a variance of **5 feet**. The property is located at **17 Daisy Lane** and is identified as **Tax Grid No. 6158-02-877892** in the Town of Wappinger.

Mr. Prager: Bea, are all of 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: Good evening. Please state your name for the record and tell us what you need and why you need it.

Mr. Barnard: I'm seeking approval for an external 10' x 20' shed for storage purposes to the rear property line and I only have 5 feet.

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

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

Mr. Johnston: Second the Motion.

Vote: All present voted Aye.

Mr. Johnston: **Motion to grant the variance. There is really no other feasible means to accomplish what the applicant wishes to accomplish. I don't believe it's undesirable to the character of the neighborhood. It is substantial regarding the numbers but I don't believe it will cause any other adverse physical or environmental effects now that it's moved up to 5 feet.**

Mr. Casella: Second the Motion.

Roll Call Vote:

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

Discussion:

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.

Present: Alfred Cappelli – Architect

Mr. Horan: As a point of procedure before you get to the decision, the first action the board needs to take is to adopt the Negative Declaration. The public hearing has been closed. With respect to the Environmental Assessment Form for purposes of the SEQRA review the applicant had prepared a Part 1 short EAF dated September 1, 2016. I had reviewed and it has the appropriate information regarding the project. Based on that I prepared for the board a Part 2 & 3 of the short EAF which is sitting on the dais and environmentally no changes are proposed to the building. The only question is will the proposed action be a material conflict within the adopted land use plan or zoning regulations. Here it's a use variance and I checked "No" because realistically it is a continuation of a nonconforming use which is now being permitted under the zoning as a permitted as a variance. Rather than permitted by a nonconformity. As far as the zoning of the property goes, it's not materially making any changes.

Part 3: The use variance requested is permit uses that are consistent with the historical uses of the property. This commercial building was constructed prior to zoning and is located on a busy County highway in addition to Wappinger Middle School located in the rear of the property. Permitting commercial use by a variance for a commercial building that has historically been used for commercial purposes is not inconsistent with the zoning of the Town. No increase in the footprint of the building is being requested. That's basically the reason for the negative declaration. So the board should first act to adopt the negative declaration.

Mr. Casella: **Motion to adopt the Negative Declaration.**
Mr. Johnston: Second the Motion.
Vote: All present voted Aye.

Mr. Horan: The chairman can just sign it and it remains in the ZBA files.

Mr. Prager: You spelled my name wrong.

Mr. Horan: I'm sorry. You can just cross that off. I put extra "e's" in there.

Mr. Prager reads the Decision.

Mrs. Roberti: I just have one correction. On the first page instead of 4,400 sf. it should be 6,766 sf.

Mr. Prager: Whereabouts?

Mrs. Roberti: It's only on the first page and then we will have to change on the application and the EAF.

Mr. Horan: Where is that from?

Mrs. Roberti: This is from AI after his application he went out and measured.

Mr. Cappelli: I think on the tax map it was 4,400 sf. and I physically went out there and measured it and it was larger than you guys have it on your record.

Mrs. Roberti: I just want to fix the numbers before you go to the Planning Board to make sure everything is okay.

Mr. Horan: That's fine. I took it off the application.

Mr. Galotti: **Motion to grant the application the variance based on the Decision Mr. Prager read.**

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

Mr. Johnston:

Mr. Galotti:

Vote:

Motion to adjourn.

Second the Motion.

All present voted Aye.

Respectfully Submitted,

Adjourned: 7:40 pm

Bea Ogunti
Secretary
Zoning Board of Appeals