

## MINUTES

**Town of Wappinger  
Zoning Board of Appeals  
December 12, 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            |

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## **SUMMARY**

### **Public Hearing:**

|                  |  |
|------------------|--|
| Matthew Doran    | Variance denied – 60 days to remove                      |
| Virginia Wentink | No show – Public Hearing postponed to<br>January 9, 2018 |

**Mr. Johnston:** Motion to accept the Minutes from November 28, 2017.  
**Mr. Galotti:** Second the Motion.  
**Vote:** All present voted Aye.

**Public Hearing:**

**Appeal No. 16-7605 (Variance)**

**Matthew Doran:** Seeking an area variance Section 240-30B of the District Regulations in an R20 Zoning District.

-Where **25 feet** to the side yard property line is required, the applicant can only provide **4 feet** for a **24' x 30'** carport, thus requesting a variance of **21 feet**.

-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 a **24' x 30' (720 sf.)** carport, thus requesting a variance of **120 square feet**.

The property is located at **19 MacFarlane Road** and is identified as **Tax Grid No. 6157-04-684305** in the Town of Wappinger.

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

**Mrs. Ogunti:** Yes, they are.

**Mr. Prager:** May I have a motion to open the Public Hearing.

**Mrs. Roberti:** The applicant is not here yet.

**Mr. Lamos:** May I ask a question?

**Mr. Prager:** Not right now. We will have to see if the applicant comes. What about Wentink.

**Mrs. Ogunti:** She's not here yet either. I don't know what's happening since they all brought their affidavits and mailings in yesterday.

**Mrs. Roberti:** They all came in yesterday so they knew they had to be here tonight.

**Mr. Prager:** Unfortunately, we need to open the Public Hearing before we entertain any questions.

**Mrs. Ogunti:** Let me check to make sure the doors are unlocked.

**Mr. Lamos:** I'm also here in reference to that. My name is Rick Lamos and I'm a neighbor of Mr. Doran.

- Mr. Prager: Hang on one second and wait until Bea comes back.
- Mr. Lamos: Can you tell me if this is something that has been rejected and is being appealed?
- Mr. Prager: No.
- Mr. Casella: They are just here for the appeal and nothing has been rejected yet. All we did was have a site visit.
- Mr. Lamos: I thought this already had a permit. I didn't realize it didn't.
- Mr. Prager: This gentleman just has a question and I don't think it has anything to do with the public hearing. Please state your name for the record.
- Mr. Lamos: I'm Rick Lamos and I'm a neighbor. I got this notice of the hearing yesterday at 4:00pm and it's not okay with me. It is absolutely ridiculous.
- Mr. Prager: Is it because of the mail?
- Mrs. Roberti: It should have been mailed two weeks ago.
- Mr. Lamos: According to my stamp, it was mailed on December 4<sup>th</sup>.
- Mr. Prager: On the 4<sup>th</sup> of?
- Mr. Lamos: December. My problem is that I don't know what the constraints are. Should I have been notified well in advance? What I was told by Bea and the supervisor's secretary was that the mail goes to Albany now and that's not our problem. That's absolutely ridiculous.
- Mrs. Roberti: It has to be published 5 days before a meeting. This was published last week and the paper comes out on Tuesday in the Southern Dutchess News. It has to be sent to every neighbor certified return receipt requested. I don't think there's a time limit to be notified but I can look it up.
- Mr. Lamos: My problem is even if you are going with what your guidelines are you can mail it one week in advance and that should take care of it. Assuming that Bea is correct and I'm sure she is that the mail goes to Albany and you have no control over it. Then you have to change that to two weeks in advance.

- Mrs. Ogunti: Sir, I did tell you that we don't have any jurisdiction over the Post Office. They may have made several attempts to deliver the mail.
- Mr. Lamos: I was there when they delivered the three letters to the people on my street so I know when they delivered it. Also, I don't know why Mr. Doran is on the return address.
- Mrs. Roberti: That is how it's done. The person who is applying for the variance has to send it out and the green cards goes back to them.
- Mr. Lamos: Bea told me you send it.
- Mrs. Ogunti: No, I would not have said that to you. I know what the process is. I told you that the applicant mails the Public Hearing notice out and the green and white receipt is their proof of mailing.
- Mr. Lamos: Maybe I misunderstood you.
- Mrs. Ogunti: You didn't give me a chance to explain it to you. You were yelling at me on the phone.
- Mrs. Roberti: The applicant goes to the Post Office to mail this and she pays for the certified return receipt and that proves to the Town that on December 4<sup>th</sup> she mailed them which was 8-9 days ago. We can't control when the post man comes to your door. I think 8-9 days is a little ridiculous but we are not US Post Office.
- Mr. Lamos: You have to make an adjustment then and when does he have to have it to me by? What's the actual timeframe?
- Mrs. Ogunti: What's your actual concern?
- Mr. Lamos: The concern here is that I got this 8:00pm last night.
- Mrs. Ogunti: When I spoke with you earlier today you said it was 4:00pm.
- Mr. Lamos: The Post Office delivered to me at 4:00pm yesterday afternoon which gives me 27 hours. What if I wanted to bring a lawyer or something? Nobody is telling me how early Mr. Doran has to mail this to me before the meeting.

- Mr. Casella: First of all this is a discussion and it does not mean that we are going to give an answer tonight. I'm not sure why you are getting so upset. You got it a little later than you expected. Bea and Barbara are doing the job they are supposed to do.
- Mr. Lamos: You are defending yourselves and that's okay but it's obvious that the system doesn't work. This is nothing like the mail truck was in an accident. When does Mr. Doran have to mail this out to me? How much time before the meeting? Can anybody answer that question?
- Mr. Prager: No.
- Mr. Lamos: That's including the Town supervisor who was going to talk to their lawyer. I've been 45 years in this Town and I'm sorry to see how it's been run. Do you have any concern?
- Mrs. Roberti: I can only tell you that...
- Mr. Lamos: I should go to the Post Office.
- Mrs. Roberti: No, I was going to say that I have personally been here for 17 years and for 17 years it has been this way.
- Mr. Lamos: That doesn't make it right.
- Mrs. Roberti: We've never had a problem.
- Mr. Lamos: We've had slavery for 200 years and we decided not to do that.
- Mrs. Roberti: We never had a problem with the mail until they closed the Newburgh station.
- Mr. Prager: Enough with the argument. We understand that you are upset with it and there's not much we are going to be able to do about it until we find out a little more about it.
- Mr. Lamos: I would think you would be concerned about it. Your citizens are getting notified for meetings 24 hours before the meeting.
- Mrs. Roberti: Here's what the law says: A Public Hearing shall be scheduled.....it must be published in a newspaper designated by the Town at least 5 days before the scheduled meeting date. Which it was, it was published last Tuesday.
- Mrs. Robert continues to read the local law.

Everything in here was taken care of.

Mr. Lamos: Apparently, I'm the only one that has a concern about the way it should be. So the people who get this certified letter have 10 hours to make up their minds?

Mr. Johnston: No sir, it didn't go to the Town it was mailed to you. Is that correct?

Mr. Lamos: Correct.

Mr. Johnston: You have been given prior notice of the hearing, is that correct?

Mr. Lamos: Yes, but you have to sign for this letter and my neighbors didn't.

Mr. Johnston: That's at the request of the Post Office, correct?

Mr. Lamos: I don't know.

Mr. Johnston: It is certified mail and the postman is the one you gave the card to when you signed it, right?

Mr. Lamos: Right.

Mr. Johnston: The applicant put it in at least 8 days prior and I would assume 8 days would seem like a reasonable amount of time for a letter to go from her house to your house.

Mr. Lamos: Not if your whole staff tells me that the mail goes to Albany now.

Mr. Casella: We don't have control over the Post Office.

Mr. Lamos: You have control over how early that he has to send this out, that you do have control over.

Mr. Casella: You have the notification and you are here tonight so I assume you are going to talk later on tonight. When we open it up for public discussion I assume you will voice your concerns.

Mr. Lamos: Thank you fellows and I am very disappointed in the way the Town is being run. I live here for 45 years and I am the only one here and the staff walks in at 7:01pm for a 7:00pm

meeting. Yeah you are on time but there's not much interest in what's going on. If you were offended, I apologize.

Mr. Prager: Ms. Garcia, what happened that you are 15-20 minutes late?

Ms. Garcia: I'm sorry sir.

Mr. Prager: You can be sorry all you want. The last time you didn't mail out the notices and this time you are late.

Ms. Garcia: I apologize, I had no way of calling you and I didn't know whether the office was opened and I was working. I had to beat traffic to get here so I apologize.

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

Mr. Johnston: Second the Motion.

Vote: All present voted Aye.

Mr. Prager: Could you come up please? Please state your name for the record.

Ms. Garcia: Adrianne Garcia.

Mr. Prager: Explain what you need and why you need it.

Ms. Garcia: The need for the carport is mostly for me.

Mr. Prager: Why is that?

Ms. Garcia: I'm a diabetic and I need it mostly for the summer. We also need the carport to work on the service truck so we are not directly out in the heat. My garage is very small so I cannot fit my car or the service truck in it.

Mr. Prager: If I remember correctly at the last meeting you mentioned that it was built approximately 2016.

Ms. Garcia: I believe so.

Mr. Prager: You did not have permit for it and you just put it there.

Ms. Garcia: Like I explained I had no idea and it was a birthday gift and I did not know that I had to come to Town Hall and ask for a variance or permission. If I had known that I had to go through all of this I would have bought a pair of pajamas.

- Mr. Prager: Did you build it yourself?
- Ms. Garcia: No sir. We had a company come in and installed it.
- Mr. Prager: Is the company from this area and is it a reputable company?
- Ms. Garcia: It came from a carport company in Pennsylvania and it was a crew of people that built it.
- Mr. Prager: Anybody on the board has any questions?
- Mr. Travis: I wasn't at the last meeting so my question might be redundant.
- Mr. Prager: Nothing happened at the last meeting. The mailings never went out.
- Mr. Travis: In a prior meeting I had asked that you speak with the building department to investigate the fire separation distance which is 5 feet from a structure to a property line. You are asking for a variance that is 4 feet from your property line. I was reluctant for a variance that violates the uniform code. Were you able to have a discussion with the building department to look into that?
- Ms. Garcia: No. You said you were going to come by to take a look at it and you would call me to let me know.
- Mr. Travis: I went by and looked from the street because I wanted to see what the structure looked like.
- Ms. Garcia: It's not as high as the house. It's lower.
- Mr. Travis: The concern for fire distance is for the protection is for neighboring properties.
- Mr. Prager: Anything else?
- Mr. Travis: No.
- Mr. Prager: Bob?
- Mr. Johnston: No.
- Mr. Prager: Anybody in the audience 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: Before I make this motion, I just want you to know that we as a board we follow a criteria that we have to weigh against a variance whether it's acceptable or not acceptable. We are charged with enforcing the variance code. That being said, I make my motion.

**Mr. Galotti:** **Motion to deny the applicant the variance. The benefit can be achieved by other means. Is it an undesirable change to the neighborhood? I believe it is an undesirable change and the nearby properties. Is the variance substantial? Yes, it is substantial. Is it self-created? Yes, it is.**

Mr. Casella: Second the Motion.  
Roll Call Vote: Mr. Casella Yes, to deny  
Mr. Galotti Yes, to deny  
Mr. Johnston Yes, to deny  
Mr. Travis Yes, to deny  
Mr. Prager Yes, to deny

Ms. Garcia: Can I just say something?

Mr. Prager: You can't unfortunately the decision has been made but you can say anything you want. I thought it is an overwhelming structure.

Ms. Garcia: What if I cut it down and do something else?

Mr. Prager: Hopefully you will be taking it down within a certain amount of time. Normally it is 30 days, am I right Mrs. Roberti?

Mrs. Roberti: Yes, it is.

Mr. Prager: That will have to be taken down within 30 days.

Ms. Garcia: Can I ask for more than 30 days? This is our busy season and I don't have that time.

Mr. Prager: Unfortunately, you will have to get someone to come and take it down. That's the law.

Mr. Garcia: What's about the people across the street that are constantly going in and out with cars? There is supposedly some sort of

car wash and repair shop. The police have been there continuously.

Mr. Prager: That's not what we are here to decide tonight. We are here to talk about your structure and that's the only thing we are talking about.

Ms. Garcia: So you need 5 feet in between the houses for the carport to stay up?

Mr. Travis: For any accessory structure on the property. There is a complaint process in the building department and those complaints are investigated. The department is capable of addressing those problems if you have them. I think their policy is you come in and submit a written complaint if you have other concerns in the neighborhood.

Mr. Prager: Mrs. Roberti, do you have any comments?

Mrs. Roberti: It's not just the 5 feet from the side you need to have it 20 to 25 feet from your side. Even if you cut it down a couple of feet you will still need a variance. Gentlemen, how tall would you say this was?

Mr. Johnston: About 25 feet.

Mr. Galotti: Mr. Chairman if I may make a suggestion only because of the time of year that it is. It's December and we are going into the winter. Would the board entertain extending the 30 days for some period of time?

Mr. Prager: How much time are you looking at?

Mr. Galotti: If you think about it, 30 days is in January and it is still winter and February we still have winter. I would say 60 days.

Mr. Prager: That's fine with me.

Mr. Casella: As long as we have an end date.

Mr. Travis: I don't have a problem with that.

Mr. Casella: So 60 days from today.

Ms. Garcia: So I have 60 days to tear it down?

Mr. Johnston: We just extended it double what it should be.  
Mrs. Roberti: She has until February 12, 2018 to have the carport removed.  
Ms. Garcia: Okay, I can't argue with you.

**Appeal No. 17-7635 (Variance)**

**Virginia Wentink:** – Seeking an area variance Section 240-37 of the District Regulations in an R40 Zoning District.

-Where **25 feet** to the rear yard property line is required, the applicant can only provide **19 feet** for a **12' x 26'** addition to be used as master bedroom and bathroom, thus requesting a variance of **6 feet**.

The property is located at **6 Fieldstone Boulevard** and is identified as **Tax Grid No. 6257-10-256670** in the Town of Wappinger.

Mr. Prager: Looks like Virginia Wentink is not here so we will put this off until the January 9<sup>th</sup> meeting.

Mrs. Ogunti: I will reach out to her tomorrow and update the new public hearing notice to reflect the January 9<sup>th</sup> date.

**Mr. Galotti:** **Motion to postpone the Public Hearing to January 9, 2018.**  
**Mr. Casella:** Second the Motion.  
**Vote:** All present voted Aye.

Mr. Johnston: Mr. Chairman if I may. This is my last meeting and I would like to thank Barbara Roberti and Bea Ogunti for their help and guidance regarding zoning including all the members of the board.

Mrs. Ogunti: We are going to miss you.

Mrs. Roberti: Remember us on the next board.

Mrs. Ogunti: Remember where you came from.

Mr. Casella: Remember your roots.

Mr. Travis: I was wondering when the re-org meeting is?

Mr. Casella: I believe they are looking at January 6<sup>th</sup>.

- Mrs. Roberti: We thought it was January 3<sup>rd</sup> because we cancelled the Planning Board meeting to accommodate. That's late we've always had it on New Year day.
- Mr. Casella: I know it is scheduled for January 3<sup>rd</sup> unless you hear differently.
- Mrs. Roberti: So if they don't appoint anyone until April, the sitting members just come.
- Mr. Travis: That won't be a problem?
- Mrs. Roberti: No, because no one has been replaced. We've had this happen in the past.
- Mr. Travis: I just want to make sure because I don't know how official it has to be or not be.
- Mr. Prager: I was a full year before they even bothered to do it.
- Mr. Travis: Okay.
- Mr. Casella: Before we adjourn I just want to say a couple of things. I want to thank Bob for being on the ZBA with us and I wish you well on your next assignment. I would also ask our secretary to send a letter to the Town Board reappointing Mr. Prager as Chairman of the ZBA.
- Mrs. Roberti: I am going to send an email tomorrow that the Planning Board and Zoning Board of Appeals Christmas Party is next Monday at 6:00pm at Double O.
- Mr. Casella: What's about Logobardi's?
- Mrs. Roberti: They are closed on Mondays. It's \$20.00 per person. I will just need to know by Friday because I will need to give them a headcount.

**Mr. Johnston:**  
Mr. Galotti:  
Vote:

**Motion to adjourn.**  
Second the Motion.  
All present voted Aye.

Respectfully Submitted,

Adjourned: 8:03 pm

Bea Ogunti  
Secretary  
Zoning Board of Appeals