

MINUTES

**Town of Wappinger
Zoning Board of Appeals
May 8, 2018
Time: 7:00PM**

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

Summarized Minutes

Members:

Mr. Prager	Chairman	Present
Mr. Casella	Co-Chair	Absent
Mr. DellaCorte	Member	Present
Mr. Galotti	Member	Present
Mr. Haas	Member	Absent

Others Present:

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

SUMMARY

Public Hearing:

Thomas & Dianna Naughton	Variance granted
Wappinger Hannaford CLYNK	Variances granted

Discussion:

Julio Carreras	Public Hearing on May 22, 2018 Site visit on May 12, 2018
Garth & Kathleen Bosman	Public Hearing on June 12, 2018 Site visit on May 12, 2018

Mr. Galotti: **Motion to accept the Minutes from April 24, 2018.**
Mr. DellaCorte: Second the Motion.
Vote: All present voted Aye.

Public Hearing:

Appeal No. 18-7643 (Area Variance)

Thomas & Dianna Naughton: - Seeking an area variance Section 240-37 of District Regulations in an R20 Zoning District.

-Where **40 feet** to the rear yard property is required, the applicant can only provide **31.55 feet** for the installation of an above ground 24' round pool, thus requesting a variance of **8.45 feet**.

The property is located at **43 Kent Road** and is identified as **Tax Grid No. 6257-01-359997** in the Town of Wappinger.

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

Mrs. Ogunti: Yes, they are.

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

Mr. Prager: Hi there. Please state your name for the record.

Ms. Naughton: My name is Dianna Naughton.

Mr. Prager: Even though we had a discussion and site inspection a couple of weeks ago, for the record we need to know what want to build in case someone in the audience has a question.

Ms. Naughton: We are installing a 24 feet above ground pool and we need 40 feet from the rear and we can only provide 31.55 feet to the rear of the property line. So we need a variance for 8.45 feet.

Mr. Prager: Like I said we had a site inspection. We saw exactly where you had it marked out on your property line and we understand why you need it. Tom, do you have anything you would like to add?

Mr. DellaCorte: I was just going to add that the typography doesn't lend itself.

Mr. Prager: You are still cutting into the hill.

Ms. Naughton: Yes, I just got the estimate today.

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

Mr. Galotti: Motion to close the Public Hearing.

Mr. DellaCorte: Second the Motion.

Vote: All present voted Aye.

Mr. Galotti: Motion to grant the variance. I don't believe the benefit can be achieved by any other feasible means due to the typography and the shape of the lot and you have a lot going on back there. It will not create any undesirable change to the neighborhood. The request is not substantial and whether the request will have any adverse effects to the environment, it will not.

Mr. DellaCorte: Second the Motion.

Roll Call Vote: Mr. Galotti YES

Mr. DellaCorte YES

Mr. Prager YES

Appeal No. 18-7641 (Area Variance)

Wappinger Hannaford CLYNK: - Seeking two area variances of Section 240-37 of District Regulations in an SC Zoning District.

-Where **75 feet** to the front yard property line is required, the applicant only provide **8 feet** for the placement of a CLYNK bottle return service structure in an existing Hannaford parking lot, thus requesting a variance of **67 feet**.

-Where **20%** maximum building coverage is allowed in a Shopping Center Zoning District, the applicant can provide **21.4%** for the placement of a CLYNK bottle return service structure, thus requesting a variance of **1.4%** increase in building coverage. On 05/09/2000, a variance to increase the building coverage to **21.3%** was granted. This variance is a **0.10%** increase from the previously approved variance.

The property is located at **1271 Route 9** and is identified as **Tax Grid No. 6157-02-653974** in the Town of Wappinger.

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

Mrs. Ogunti: Yes, they are.

Mr. Galotti: Motion to open the Public Hearing.

Mr. Dellacorte: Second the Motion.

Vote: All present voted Aye.

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

Ms. Nelson: Good evening. My name is Brandee Nelson and I'm with Tighe & Bond and I'm here representing Hannaford Brothers Company, LLC. In their application for area variances and for a CLYNK bottle return at the Hannaford in the Town of Wappinger. It's a 234 sf. structure and we've been working with the Planning Board with the siting issues. The preferred location as shown on our plan is from meetings and field visits with the Planning Board. The location is located in the yard setback and it is 8 feet from our property line.

Ms. Nelson continues her overview of the project.

Mr. Prager: We did get a memorandum from the Planning Board and something from the Town Planner based upon review of the SEQRA. We have a memo here from the Planning and Zoning Board secretary, Bea Ogunti directing her to send a letter with their positive recommendation. Anybody has any comments?

Mr. Galotti: No, I think we've seen and heard everything.

Mr. Prager: Is there anybody in the audience who want to speak for or against this variance?

Mr. Galotti: Motion to close the Public Hearing.

Mr. DellaCorte: Second the Motion.

Vote: All present voted Aye.

Mr. Galotti: Variance No. 1: Motion to grant the applicant this variance. We all have seen what you want to do there and the Planning Board has weighed in and there is really nowhere else you can put it. I don't believe the benefit can be achieved by any other feasible means and it certainly will not create any undesirable effect to the environment or neighborhood. The request is substantial and the request will not have any adverse effects to the environment and actually it is designed to improve the environment with a recycling center. The alleged difficulty is not self-created.

Mr. DellaCorte: Second the Motion.

Roll Call Vote: Mr. Galotti YES

Mr. DellaCorte YES

Mr. Prager YES

Mr. Galotti: **Variance No. 2: Motion to grant the applicant this variance. The benefit cannot be achieved by any other feasible means and it certainly is not going to create any undesirable effect to the environment. The request is substantial and will not have any adverse or physical effects to the environment.**

Mr. DellaCorte: Second the Motion.

Roll Call Vote: Mr. Galotti YES

Mr. DellaCorte YES

Mr. Prager YES

Ms. Nelson: Thank you very much.

Discussion:

Appeal No. 18-7644 (Area Variance)

Julio Carreras: Seeking an area variance Section 240-37 of District Regulations in an R20 Zoning District.

-Where **20 feet** to the side yard property is required, the applicant can only provide **10.1 feet** for the addition and alteration of a second story to an existing house, thus requesting a variance of **9.9 feet**.

The property is located at **26 Booth Boulevard** and is identified as **Tax Grid No. 6056-03-413390** in the Town of Wappinger.

Mr. Prager: Hi there. Most of your paperwork is all set but could you explain to us what you need and why you need it.

Mr. Carreras: How are you sir? I'm adding a second story for my fiancée and her children to come and live with me. They live in Pleasant Valley. I've lived in this neighborhood in the hamlet of Chelsea area for almost 35 years. I love the neighborhood.

Mr. Prager: Looks like you only have a little over half an acre.

Mr. Carreras: Yes, .56 acres.

Mr. Prager: Is this addition the same footprint of the house or is it going to be wider than the house?

Mr. Carreras: It's going straight up sir.

Mr. Prager: It won't be any closer than your 10.1 feet of your house. We will probably do a site inspection around 9:00am this Saturday. Could you mark the side of your property for us? We will set the public hearing for May 22nd.

Mrs. Roberti: I inadvertently didn't realize he needs a front yard setback too. Your house is nonconforming so it's nothing you did but I would like to add the front. You need 35 feet and you only have 27 feet so we will amend the application. Bea will amend your public hearing notice that you have to send out and you could pick it up tomorrow or she can email it to you.

Mr. Carreras: I can pick it up. What time should I come?

Mrs. Ogunti: You can pick it up at 9:30am.

Mr. Carreras: Thank you.

Appeal No. 18-7645 (Area Variance)

Garth & Kathleen Bosman: Seeking an area variance Section 240-21 F (1) of District Regulations in an R40 Zoning District.

-Where fences in required yards shall not exceed **6 feet** in height, the applicant is seeking fencing **9 feet** in height, thus requesting a variance of **3 feet**.

The property is located at **86 Ketchamtown Road** and is identified as **Tax Grid No. 6157-03-150311** in the Town of Wappinger.

Present: Anthony DeFazio – Attorney
Garth Bosman – Applicant
Kathleen Bosman – Applicant

Mr. Bosman: I'm Garth Bosman.

Mrs. Bosman: I'm Kathleen Bosman. We were here a few years ago. Our attorney was going to be here to explain everything. We have reached a settlement.

Mr. Bosman: There's a lot to it. He was going to be here but he's in court. It's an existing fence.

Mr. Prager: You gave us some pictures and we've seen it when we went by.

Mrs. Bosman: You did a site inspection when we were here with the variance application. At that time we were involved in

litigation and that has been reconciled. We would like to seek a 3 feet variance above the 6 feet fence. The pictures tell the story a little bit but we want it for our own privacy and enjoyment of our property. We are routinely disrupted by various people who we don't know.

Mr. Horan: Are you referring to the ATVs?

Mrs. Bosman: There are ATVs in the winter and snowmobiles.

Mr. Prager: What is the reason you want this fence higher?

Mrs. Bosman: For our privacy and enjoyment.

Mr. Bosman: Mr. DeFazio can explain what is going on.

Conversation continues.

Mrs. Roberti: Are there no trespassing signs?

Mrs. Bosman: There are no trespassing signs already.

Mr. Prager: Do you know who owns this property?

Mrs. Bosman: Yes, we know him.

Mr. Prager: What was the settlement again?

Mr. Horan: So the issue in the litigation was this garage?

Mrs. Bosman: Yes.

Mr. Horan: Which was used by the prior owner and multiple owners located on that property.

Mr. Prager: I remember that from the last time.

Mr. Horan: There was a dispute over that and some other issues. They entered into a stipulation and it is my understanding in talking with Mr. DeFazio as long as they own the house it can be used as a garage. In essence is the right to use the building and they don't get title to the land but they get the right to use the building so long as it stands.

- Mrs. Bosman: We can use it for our life and the life of our children and he can't do anything with it. We pay him \$1,000 a year for the license to use it and we have exclusive use.
- Mr. DellaCorte: Does it matter right now?
- Mr. Prager: No, I just wanted to know the background.
- Conversation continued.
- Mr. Horan: Was the ATVs an issue at the time of the litigation?
- Mrs. Bosman: It didn't come into any part of the discussion.
- Mr. Horan: Was that happening then?
- Mrs. Bosman: Yes, but not to the length it's happening now.
- Mr. DeFazio: Hi there, Anthony DeFazio for the applicant. I submitted to the Town Attorney a letter laying out the differences. There are three big differences between now and the prior application. The litigation is over and the neighbor dispute has come to an end and he's happy now. They have come to an agreement to rent the garage and if they need to move the garage to their property they have the right to do that. The Lopane's who own the property want to sell it and move on. The bigger issue is that Central Hudson has closed off an access path on the other side that a lot of ATVs were using to go up and down the Central Hudson property.
- Mr. DeFazio continues.
- Mr. Prager: Are there any questions?
- Mr. DellaCorte: I have a big question. What's about the 400 feet law that no one can ride close to your house? Why aren't we enforcing that?
- Mrs. Roberti: I didn't know that and that was one of my questions and would the owners consider putting a fence up since these people are trespassing or are they given permission to do this?
- Mr. DeFazio: I don't know if they can completely fence it off. They still might be able to go around and use as an access point.

Mrs. Roberti: Up until a few years ago we didn't have a law on ATVs but it became a very problematic enforcement issue.

Mr. Prager: Is the property owner local?

Mr. DeFazio: He lives in Westchester County.

Mr. Prager: It just surprises me that he even allows this to happen with the liability.

Mr. DeFazio: I think his father owns the property and it's been in the family for maybe 50 years. At one point they thought about developing it and another point about giving it to their kids.

Mr. Prager: I can't see how putting a fence that high is going to cut the noise down.

Mr. DeFazio: They also don't want people looking into their house. That's the bigger issue.

Mr. DellaCorte: I wasn't here two years ago for the variance. I'm not sure what you all are talking about and first of all is it even relevant?

Mr. Prager: What's relevant?

Mr. DellaCorte: About the past dispute.

Mr. DeFazio: It's just to explain why they are making a new application when the prior one was denied.

Mr. DellaCorte: That means nothing to me.

Mr. Horan: I believe the last application was vigorously opposed by the landlord.

Mr. DeFazio: It was for that reason.

Mr. DellaCorte: Is that Mr. Lopane?

Mr. Horan: Yes.

Mr. DellaCorte: What I'm trying to understand is whose property are we looking at on the other side of your fence with all this traffic on?

Mr. DeFazio: It's the Lopane's property but it's only their pathway into the 24 acres. After 50 feet it's Central Hudson. So it's really only 50 feet then you are looking at the powerlines.

Mr. Horan: I believe the Lopane's property goes behind their property on the other side of the powerlines.

Mrs. Roberti: I think there are wetlands there also.

Mr. DeFazio: Right. It's all wetlands and that's why I think he has 24 acres.

 Discussion continues.

Mr. Prager: Do you want to take a look at it again?

Mr. DellaCorte: I haven't seen it.

Mr. Prager: Pete, have you seen it?

Mr. Galotti: I've seen it.

Mrs. Roberti: Bob hasn't.

Mr. Prager: Bob will be here next week. Let's set a site inspection for this Saturday, May 12th after 9:30am. We are going to go to Chelsea first and then to your house.

Mr. Horan: The applicant would like to set the public hearing for June 12th.

Mr. Prager: Okay, we will set the public hearing for June 12th.

Mrs. Bosman: Okay, we will be there.

Mrs. Roberti: Bea is going to have the change the public hearing notice to the new date.

Mr. Horan: You can just email it to him.

Mrs. Ogunti: Yes, I made it for May 21st so I will change to June 12th and email to you.

Mr. DeFazio: Thanks.

Mr. Galotti:
Mr. DellaCorte:
Vote:

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

Respectfully Submitted,

Adjourned: 7:35 pm

Bea Ogunti
Secretary
Zoning Board of Appeals