

## **MINUTES**

**Town of Wappinger  
Zoning Board of Appeals  
June 12, 2018  
Time: 7:00PM**

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

Summarized Minutes

### **Members:**

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

### **Others Present:**

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

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## **SUMMARY**

### **Public Hearing:**

Garth & Kathleen Bosman	Public Hearing adjourned to June 26, 2018
Michael & Danielle Faust	Variance Granted

### **Discussion:**

Patricia Campbell	Public Hearing on July 10, 2018 Site Visit on June 23, 2018
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**Motion to accept the Minutes from May 8 & 22, 2018.**

## Second the Motion.

All present voted Aye.

**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.

**Motion to open the Public Hearing.**

## Second the Motion.

All present voted Aye.

The attorney for Mr. Bosman asked that we adjourn this public hearing to June 26, 2018 since he is not going to be available tonight. I am going to allow the public hearing to proceed because notifications were sent out to the public. We are going to hear your comments and we will then adjourn it and the decision will be made on June 26<sup>th</sup>. I will now entertain a motion to open the public hearing.

**Motion to open the Public Hearing.**

Second the Motion.

All present voted Aye.

Is there anyone in the audience who would like to speak for or against this variance? When you come up please state your name and address for the record please.

Good evening, my name is Page Cowley and I live at 108 Ketchamtown Road. I am actually a returning resident because I have a childhood cabin in the woods that my dad built so I am very familiar with that stretch of property. I've written a letter for the record and I've made a copy for everyone. I will read it in for the record.

Ms. Cowley reads her letter.

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**NICHOLAS & PAGE COWLEY**

Woodlands Cottage  
108 Ketchamtown Road, Wappingers Falls, New York, 12590



June 12, 2018

Howard Prager, Chairman  
Town of Wappinger Zoning Board & Appeals  
Town Hall  
20 Middlebush Road  
Wappinger Falls, New York

Re: Appeal No. 18-7645 86 (Area Variance)  
86 Ketchamtown Road

Dear Chairman Prager,

We are writing in support of our neighbors, Garth and Kathleen Bosman at the above address. We are in favor of granting the application to raise their existing fence by an additional 3 feet. As both of our properties share a common boundary, the Central Hudson Power overhead utility lines, we also share a common problem of ATV riders and off road motor bikes using the Central Hudson maintenance roads as a public bike trail. While we only hear the noise, the Bosman's also have a visual intrusion impacting privacy and private enjoyment.

We believe that the increased height in the fence on their property boundary will not detract from the character of the neighborhood or negatively affect property values in the neighborhood. We hope that you will be in support of their request for a variance and approve their application.

Sincerely yours,

A handwritten signature in dark ink, appearing to read "Nicholas &amp; Page Cowley". The signature is fluid and cursive, with the last name "Cowley" being more prominent.

Nicholas & Page Cowley

Mr. Casella:

Thank you. Is there anyone else?

Ms. Schouten:

Hello, my name is Penny Schouten and I live at 118 Ketchamtown Road. It's two lots from the Bosman's and I have lived there for 52 years and I have a 30 acres farm. The problem with the 4-wheelers and trespassers has been constant for the past 20+ years. I am here in support of the Bosman's for their petition to have a higher fence. I completely understand all of the issues of being harassed by them and I just feel bad that they have to do it.

Mr. Casella: Thank you. Is there anybody else in the audience who would like to speak?

Ms. Gauzza: Good evening. My name is Janine Gauzza and I live at 223 Ketchamtown Road. I'm a little bit further than them but I do travel on the road daily. I have seen the ATVs cut through the road many times. I nearly hit one of them. I know it's a problem in the area. Not only am I an area resident so are our children and our families. I have been to their residence when this is happening so I've seen it firsthand. It is very distracting. They are trying to have a nice normal life and it is loud and noisy, visual constantly and kids yelling and so forth. The height of the fence would be an extreme benefit to them.

Ms. Gauzza continues.

Mr. Casella: Thank you very much. Is there anybody else?

Ms. Zerafa: Good evening. My name is Melissa Zerafa and I live at 43 Woodland Court. We actually have a lot of kids in our neighborhood and I understand that there are a lot of activities as far as the ATVs. The kids have room and they don't need to go up there. They are causing disruption for the Bosman's and that's something they should be able to protect themselves against. They have young children and they want to be able to have parties with their children. They don't want their children to be in any danger with the ATVs flying through. I am really in support of this fence and I think it's their property and they should be able to enjoy it just as I enjoy my property on Woodland Court with a million ATVs that are in their own yards.

Ms. Zerafa continues.

Mr. Galotti: Thank you.

Mr. Casella: Is there anybody else?

Mr. Michael Lopane: We are the Lopane's. Is this for the variance?

Mr. Casella: Yes, it's for the Bosman's property.

Mr. Michael Lopane: It didn't say where the fence is going and what portion of the property it's going on.

Mr. Casella: Could you come up please.

Mr. Michael Lopane: I'm Michael and this is Joseph Lopane, Sr. and he is the owner of the property.

Mr. Casella: Is this your father?

Mr. Michael Lopane: Yes.

Mr. Joseph Lopane: Do we know where the fence is intended to go?

Mr. Casella: The fence is already up all they are doing is extending the height from 6 feet to 9 feet.

Mr. Michael Lopane: So it's an existing fence.

Mr. Casella: Yes.

Mr. Michael Lopane: We would ask the board to probably decline it because it would be an eyesore at the entrance of our property. We are probably going to sell or develop it in the future. To put a 9 feet fence is out of character. I guess it's just that section along the driveway.

Mr. Casella: There are a couple of sections from the shed itself over to the left and of course on the other side of the shed and it goes down the back into their yard. We are familiar with it and we went to see it ourselves.

Mr. Joseph Lopane: It is out of character and an eyesore. It's not going to be very nice going there.

Mr. Galotti: Have you done anything to deter the traffic? Are there any signs with no trespassing? Their sole purpose is to protect their property.

Mr. Joseph Lopane: They are going over the powerline.

Mr. Casella: No, they are not.

Mr. Haas: So they are using your property to access and the powerline is gated off by Central Hudson.

Mr. Joseph Lopane: What area are they going over there?

Mr. Haas: They are going through your property.

Mr. Casella: Just to the other side of the fence. They are not going to the other section by Central Hudson.

Mr. Michael Lopane: They say people are going through with ATVs.

Mr. Joseph Lopane: I have never seen it.

Mr. Casella: You can see the tracks from the ATVs.

Mr. Joseph Lopane: Are they coming from the back of the powerline?

Mrs. Roberti: Let me show you pictures.

Mr. Joseph Lopane: Where are these people coming from? Are they from the neighborhood?

Mr. Haas: They do not have your permission?

Mr. Joseph Lopane: This is the first time I'm seeing it and what is this?

Mr. Casella: That's the fence.

Mr. Joseph Lopane: I've never seen this. What is this? Is that a roadway?

Mr. Horan: Yes, that's Ketchamtown Road.

Mr. Casella: They had a 12 feet fence and they were asked to take it down.

Mr. Joseph Lopane: A 9 feet fence is not going to stop the people from going through with their ATVs.

Mr. Galotti: The purpose of the fence is to give these folks privacy from the kids when they are there.

Mr. Joseph Lopane: They can plant trees and get the screening they are looking for.

Mr. Galotti: They would have to plant some pretty high trees.

Mr. Joseph Lopane: With a 9 feet fence it doesn't look natural like the property looks right now.

Mr. Galotti: Actually, the board and the wood they used actually fit well and blends in very nicely.

- Mr. Joseph Lopane: Not a 9 feet fence, only a 6 feet fence. If they want screening, they should plant trees. That's what we do every day. We plant trees for people for screening.
- Mr. Haas: Did you give these people permission to ride ATVs on your property?
- Mr. Joseph Lopane: I didn't give anyone permission to ride there. Nobody is supposed to be there.
- Mr. Michael Lopane: These look like motorcycle tracks.
- Mr. Joseph Lopane: We could put a gate up but they are coming through the back.
- Mr. Casella: They are coming through the front.
- Mr. Joseph Lopane: We are going to stop that. It's very simple.
- Mr. Michael Lopane: This is the first I've seen of those motorcycles. The one you see there is my nephew. We've heard that a lot of people hunt over there.
- Mr. Joseph Lopane: We are going to close it up. I'm going to put up a fence this way nobody goes in and out. I will put up a 4 feet fence not a 9 feet fence. I've never heard of anything like this. We don't have a prison over there.
- Mr. DellaCorte: Jim, what happens now? The land owner here is saying he's willing to make some changes and yet we have the Bosman's here who want their change. So where do we go from here?
- Mr. Horan: There is no way you can compel the adjacent property owner to do anything. It's his property. In some respect there is no way to ensure that the fence on the adjacent property would go up. Arguably, the Bosman's have a complaint potentially a nuisance and legally this is a very complicated situation. That becomes something that's very difficult to control and legally you can't necessarily tie the Bosman's hands with respect to their variance based upon some potential action upon the third party. We are going to adjourn the meeting anyway.

- Mr. Casella: One of the things I think that we should consider is the owners of the property talk to the Bosman's again and see if they can potentially come to an agreement blocking off the entrance. Maybe he can come to an agreement next week and come back on June 26<sup>th</sup> if you can. We have to make a ruling on the variance before us.
- Mr. Horan: As the other neighbors noted, it's a problem. It basically is a public nuisance.
- Mr. Michael Lopane: We just thought they wanted to put the fence up to block their property. This is the first I've ever heard or seen of that picture before. I can understand them being upset.
- Mr. Casella: Would you be willing to talk to the Bosman's and see if you can work something out? If not, the meeting will be back on the agenda for June 26<sup>th</sup> and if you cannot come to an agreement then we will make our ruling. I want to give you an opportunity to try to work something out. We are going to adjourn the public hearing to June 26<sup>th</sup>.
- Mr. Joseph Lopane: Thank you.
- Mr. Casella: Before I adjourn the public hearing, is there anyone else who would like to speak?
- Ms. Cowley: My family bought the property that my father built and we have a companion type of situation that mirrors the same property as the Bosman's with the exception of your roadway. We put bollards along the side of the property and we flagged it and put streamers and wire as we were doing construction and tearing down rocks, etc. The issue is we put a gate up and several times the gate had been rammed and actually run over. We are replacing it this summer with a split rail fence. Now that we've seeded and planted and made it look nice. My point is the fence does not stop these ATVs from coming in. It is a recreational area for these kids and it's dangerous. A gate isn't necessarily a solution.
- Ms. Cowley continues.
- Mr. Casella: Thank you. Anybody else wants to speak?

- Ms. Schouten: I would just like to say that trees will not work and I don't think it's fair to give them the expense of putting those in when they already have the fence there. These kids are harassing us. I invite you to come and sit on my front porch any day in the afternoon when they are driving up and down the road they call me names, they give me the finger so I have the same problem and I'm trying to keep them off my land. It is a really big problem and they have little kids and they don't need to see beer drinking and who knows what else. I would encourage you to support the fence.
- Mr. Galotti: I think we all understand and putting some type of physical barrier is one thing but enforcing it is another thing.
- Ms. Schouten: It is the country and it's a country looking fence. It's not like they are building a concrete wall like my chain link fence.
- Mr. Galotti: I agree with you.
- Ms. Schouten: Thank you.
- Ms. Gauzza: I don't mind the fence being there and it's a really nice street and I'm not bothered and I'm not concerned about my property value. I am concerned about the fact about a gate there because when you want to pull into that property as the property owner, you are going to have to stop. It's a very tiny shoulder on a decent size curb so you have to stop and obstruct traffic to unlock your gate. Our school bus stop is at the end of the street. When my kids are sitting there I worry about it and I'm on the phone with the transportation department all the time. To have a vehicle obstructing traffic poses a greater concern in my humble opinion.
- Mr. Casella: When we were there we saw people pulling up. There's a spot where you can park and pull off from there. It's enough space and it's actually off the road. One of our guys parked in there to test it out.
- Ms. Gauzza: Is it right where the gate will be?
- Mr. Haas: I'm a little confused is this gate going to be on the Lopane's access? Is that the gate you are talking

about? So you are assuming that people will go in and out of the gate?

Ms. Gauzza: I'm concerned that somebody accessing the property through the gate would park on the edge of the road while opening the gate.

Mr. Haas: Isn't that an issue with sight?

Mr. Casella: Not in that particular location because you can see down the road.

Mr. Michael Lopane: Has anybody called the police on this and are these people local that are going on the property?

Mr. Casella: That's just it. We don't know who they are. We just assumed you allowed them on your property. Not until tonight we find out you didn't give them permission.

Mr. Joseph Lopane: I'm just wondering. Are they from the area? We are going to put a gate up.

Mr. Casella: Before you put the gate up I suggest you try to work something out with the Bosman's first. If that does not work with the gate, we will come back on June 26<sup>th</sup> and take a look at the variance. I would appreciate if you could try to work something out first.

Mr. Joseph Lopane: Thank you.

**Mr. Galotti:** **Motion to adjourn the Public Hearing to June 26, 2018.**

Mr. DellaCorte: Second the Motion.

Vote: All present voted Aye.

### **Appeal No. 18-7646 (Area Variance)**

**Michael & Danielle Faust:** Seeking an area variance Section 240-37 of District Regulations in an R40 Zoning District.

-Where **50 feet** to the rear yard property is required, the applicant can only provide **34.2 feet** for the installation of a 22' x 45' in ground pool, thus requesting a variance of **15.8 feet**.

The property is located at **225 River Road** and is identified as **Tax Grid No. 6056-01-344935** in the Town of Wappinger.

Mr. Casella:                      Good evening. Mike, come over and tell us what you want to do with the variance.

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

Mr. Galotti:                      Second the Motion.

Vote:                              All present voted Aye.

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

Mrs. Ogunti:                      Yes, they are.

Mr. Faust:                      Michael Faust, 225 River Road North. We are looking to put in an in ground pool in the back left corner of the property. We need a 50 feet setback from the rear and we only have 34.2 feet. If we put a pool there it won't be seen by the neighbors. I've sent the letters to the neighbors and have spoken to them personally and they seem to be fine with it.

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

Mr. Galotti:                      Barbara, it is 34.2 feet to the water and he's going to put a deck around the pool.

Mrs. Roberti:                      The decking doesn't count because it's on the ground so we measure to the edge of the road.

Mr. Casella:                      If there are no further questions, I'll entertain a motion to close the public hearing.

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

Mr. DellaCorte:                      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's not going to create an undesirable effect to the neighborhood and in fact it has a green massive screening. The request is substantial and will not create an adverse physical or environmental effect to the character of the neighborhood.**

Mr. DellaCorte:                      Second the Motion.

Roll Call Vote:                      Mr. Galotti                      YES  
    Mr. DellaCorte                      YES  
    Mr. Haas                              YES  
    Mr. Casella                              YES

Mr. Casella:                                I just want to say that I know Mike personally and my relationship has no effect on my decision.

**Discussion:**

**Appeal No. 18-7647 (Area Variance)**

**Patricia Campbell:** Seeking an area variance Section 240-37 of District Regulations in an R20 Zoning District.

-Where **20,000 square feet** is required, the applicant can only provide **19,998 square feet** for the creation of a new lot, thus requesting a variance of **2 square feet**.

The property is located at **114 New Hamburg Road** and is identified as **Tax Grid No. 6057-02-996645** in the Town of Wappinger.

Present:                                        Dennis Lynch – Engineer

Mr. Lynch:                                    Good evening, Dennis Lynch with M. A. Day Engineering. I'm representing the applicant and we are here for an area variance. The lot is 39,998 square feet and they are looking to subdivide the parcel. Right now it's an existing 2-story home with a garage in the back. This is located in New Hamburg and approximately 400 feet northwest of the intersection of Route 9D and New Hamburg Road. We are proposing to subdivide the property.

Mr. Lynch continues his overview of the project.

Mr. Haas:                                      So you are asking for a 2 feet variance?

Mr. Lynch:                                    Yes, I rounded it up to 2 feet.

Mr. Horan:                                    What do you show for the right-of-way for New Hamburg Road? At this point I believe New Hamburg Road is 66 feet wide and not 50 feet wide.

Mrs. Roberti:                                How does it affect this?

Mr. Lynch:                                    I have the original survey which shows but at one point they had changed that.

Mr. Horan:                                    How many parcels to the corner?

Mrs. Roberti:                                There are three houses between.

Mr. Horan:                                    New Hamburg Road was originally created as the New Hamburg turnpike and was layout for lots and width. When we

ran the water main down New Hamburg Road we had some platting. It may effect things but just confirm in the deed that it takes into account a 66 feet height width rather than a 50 feet height width. So that's really the only issue.

Mr. Lynch: Okay.

Mr. Casella: So what happens if it goes 66 feet height width rather than 50 feet?

Mr. Horan: He would probably move it so that one lot will be 20,000 feet.

Mrs. Roberti: At this point we shouldn't set a public hearing and hold it in July to give you chance to look at it.

Mr. Horan: Look in the deed and see if there's a reference to New Hamburg turnpike. If there's a reference on the deed you may be okay. We've had a few people on New Hamburg Road who thought they had more property than they actually did. I believe this is within the boundaries but shoot me an email. I have some of the deed work and I'll see what I come up with.

Mr. Lynch: Okay.

Mrs. Roberti: So you can set the public hearing for the first week in July. If the status stays the same Bea can send in the public hearing notice for this application. If he finds in the next two weeks he needs a larger variance, he can come back on June 26<sup>th</sup> and tell you what the change is. He can come on June 26<sup>th</sup> and tell you what his change is and still have his public hearing the first week in July.

Mr. Casella: However, if everything is okay he can come in on June 26<sup>th</sup>?

Mrs. Roberti: He won't have to come in on June 26<sup>th</sup> he will just have his public hearing on July 10<sup>th</sup>.

Mr. Galotti: Ultimately, Jim the impact is if their right-of-way is wider it will reduce the square footage.

Mrs. Roberti: Then he comes in on June 26<sup>th</sup>

Mr. Horan: What would happen is you slightly move the lot line so that one lot stays at 20,000. My recollection was that a number of the properties were on the south side of the road and showed it as 66 feet in that area. The deeds weren't consistent and some

people made assumptions that were not correct. I want to correct it as soon as possible.

Mr. Casella: So we will have the public hearing on July 10<sup>th</sup> and site visit on Saturday, June 23<sup>rd</sup>. Would you be available to be there or stick the property out by any chance?

**Mr. Galotti: Motion to set the Public Hearing for July 10, 2018.**

Mr. DellaCorte: Second the Motion.

Vote: All present voted Aye.

**Appeal No. 18-7648 (Area Variance)**

**Keith & Elizabeth McGowan**: Seeking an area variance Section 240-37 of District Regulations in an R20/40 Zoning District.

-Where **45 feet** to the rear yard property line is required, the applicant can only provide **35 feet** for a 24' above ground pool, thus requesting a variance of **10 feet**.

The property is located at **153 Old Hopewell Road** and is identified as **Tax Grid No. 6157-01-476587** in the Town of Wappinger.

Mr. Casella: Good evening. Please tell us a little bit about what you are looking for.

Mr. McGowan: My name is Keith McGowan. We have about 3.6 acres and I might be off a little bit. The house that was built about 10 years ago was built all the way to the back of the property. So I have a tremendous front yard and no backyard. The variance is 45 feet setback and the only area that is buildable in. We've explored every other option. There are wetlands in the front and side of the house. There's no other location to put this pool other than what we selected which is the least amount of impact.

Mr. Casella: Are there any questions? Would you be available this Saturday for a site inspection?

Mr. DellaCorte: We can do it on June 23<sup>rd</sup>?

Mr. Casella: Do you have it marked out already?

Mr. McGowan: I will need to redo it. The rain washed away all of the circles.

Mr. Casella: You think you can have this done before June 23<sup>rd</sup>?

Mr. McGowan: Yes.

Mr. Haas: I assume we can drive down the driveway?

Mr. McGowan: Yes.

Mr. Casella: So we will be there on Saturday, June 23<sup>rd</sup> and the Public Hearing will be on June 26<sup>th</sup>.

Mr. McGowan: Will chalk do for the marking?

Mr. Casella: Yes, chalk should be just fine. Will we be able to see it in the back of your property?

Mr. McGowan: Yes, but it is overgrown.

Mr. Haas: You can hang a ribbon.

Mr. McGowan: Okay, thanks.

<b>Mr. Galotti:</b>	<b>Motion to adjourn.</b>
Mr. Johnston:	Second the Motion.
Vote:	All present voted Aye.

Respectfully Submitted,

Adjourned: 8:10 pm Bea Ogunti  
Secretary  
Zoning Board of Appeals