

MINUTES

**Town of Wappinger
Zoning Board of Appeals
July 24, 2018
Time: 7:00PM**

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

Summarized Minutes

Members:

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

Others Present:

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

SUMMARY

Discussion:

Garth & Kathleen Bosman	Decision on August 14, 2018
Anthony & Angela Ferreira	Public Hearing on August 14, 2018 Site Visit on July 28, 2018
Joseph McGarry	Public Hearing on August 14, 2018 Site Visit on July 28, 2018
James & Patricia Chappas	Public Hearing on August 14, 2018 Site Visit on July 28, 2018

Mr. Galotti: **Motion to accept the Minutes from July 10, 2018 as amended.**

Mr. Haas: Second the Motion.

Vote: All present voted Aye.

Mr. Casella: The first item on the agenda for discussion is Garth & Kathleen Bosman. I ask that we move this to the end of the discussions because this project will have a lengthy discussion and we want to get the rest of the folks out of here. So we are going to start with the next variance.

Discussion:

Appeal No. 18-7649 (Area Variance)

Anthony & Angela Ferreira: 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 **20 feet** for the installation of an above ground 30' round pool, thus requesting a variance of **20 feet**.

The property is located at **26 Carroll Drive** and is identified as **Tax Grid No. 6257-02-905503** in the Town of Wappinger.

Mr. Casella: Good evening.

Mr. Domenguez: Adolino Domenguez, 83 Beaver Road, LaGrangeville, New York. Angela & Anthony Ferreira purchased the house in 1987 and being new homeowners they did not know that they needed a permit. They always wanted to put a new deck on their house and wanted to make it legal. So they went and got the deck permit and I got the final today. We also wanted to get a permit for the pool and the shed because they said I need 40 feet in the back and 20 feet on the side and I only have 20 feet. There's always been a pool there since 1987 and I think they've changed it twice. They haven't moved it and always had it in the same spot.

Mr. Galotti: For the record they are a neighbor of mind and I just want to say that won't affect any decision that I make.

Mr. Domenguez: I just want to make it legal so 4-5 years down the road if they wanted to sell it.

Mr. Casella: So Barbara there's no issue with the shed at all?

Mrs. Roberti: The shed is to the front and side of the house and because it's on a corner and the way the house is placed if I drew a line the shed makes it behind the front line of the house. The shed is okay and that was a typo and the shed is 9' x 10'.

Mr. Domenguez: I didn't know you guys were including the shed I thought it was just the variance for the pool.

Mrs. Roberti: It is.

Mr. Casella: Barbara, he doesn't need a variance for the shed only for the pool?

Mrs. Roberti: Yes. The Pool is all that is on the application.

Mr. Casella: On the application it says shed and pool.

Mrs. Roberti: I think he just kept following everything from his application. The homeowner might have felt that was his building permit application.

Mr. DellaCorte: I think you said the pool has been there since 1987?

Mr. Domenguez: Yes, they purchased house in 1987.

Mr. DellaCorte: Did they purchase the house with the pool there?

Mr. Domenguez: Yes, I think the only thing added to the property was the shed. The pool has always been there. I think they said they've only put two pools since they've been there and they haven't moved.

Mrs. Roberti: Just for the record they still needed a pool permit in 1987 even if they bought the house with the pool there they still needed a permit. Each time you change a pool you are still supposed to open a new permit. The fact that it's been there doesn't matter.

Mr. Casella: How did they get a CO before?

Mrs. Roberti: They didn't always walk in the back of the properties.

Mr. Casella: So basically you purchased the property and you didn't know the problem was there and you wanted to put a new deck in and you found out.

Mr. Domenguez: He just wants to make sure everything is legal.

Mr. Casella: Are they planning on selling the property any time soon?

Mr. Domenguez: He just wants to put everything at ease for himself.

Mr. Haas: We need to do a site visit.

Mr. Casella: We will do a site visit this Saturday around 9:00am. Will someone be there?

Mr. Domenguez: I could be there if you would like. Is it in the morning?

Mr. Casella: Yes, 9:00am.

Mr. Haas: Make sure you stake out the property.

Mr. Domenguez: I will have someone do a survey map of the lot to show where the lines are and the shed is.

Mr. DellaCorte: You can just mark it. You don't need a survey for that.

Mr. Domenguez: I made an appointment with the surveyor about two or three weeks ago. I don't know if he's done with it but I can call him. He's really busy right now.

Mr. Casella: Is there a fence there now?

Mrs. Roberti: The GIS picture shows the neighbor's fence on the property but that line is not accurate to measure off of. So we really don't know where the property line is.

Mr. Casella: So that's not accurate?

Mrs. Roberti: We don't know.

Mr. Horan: It looks like it's at a different angle than the property line.

Mr. DellaCorte: I would say do your best to mark it. Just put a couple of red marks on it.

Mr. Domenguez: On the property line?

Mr. Casella: Yes. We will set the public hearing for August 14th and the site visit will be this Saturday at 9:00am.

Mrs. Ogunti: I need to update your paperwork so if you could stop by in the office tomorrow after 10:00am I'll have it ready for you.

Mr. Domenguez: Okay, I'll be there.

Appeal No. 18-7650 (Area Variance)

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

-Where **35 feet** to the front yard property is required, the applicant can only provide **25' 4" feet** for the installation of a 6' x 9' porch, thus requesting a variance of **9' 6" feet**.

The property is located at **15 Pattie Place** and is identified as **Tax Grid No. 6158-04-866043** in the Town of Wappinger.

Mr. Casella: Good evening. Is there anyone here for this project?

Ms. Niemin: Good evening Lisa Niemin, from My Way Home Improvements. We are asking for a 9' 6" variance for a 6' x 9' front porch. The requirement is 35 feet to the front and we can only provide 25' 4" feet. I have a picture of the steps that are there now and they were there when they bought the house. They are concrete steps and they come out 6 feet. I can show you what it will look like.

Mr. Casella: Is that our copy?

Ms. Niemin: Yes, you can have it.

Conversation continues.

Mr. Casella: Are there any questions?

Mr. Haas: Basically you are making that larger?

Ms. Niemin: It's just going to come out a little bit and it's going to be in the same area.

Mr. Haas: Is this an enclosed porch?

Ms. Niemin: No, just a regular front porch. It's just a little too small.

Mrs. Roberti: So basically what's there is a small stoop or porch and they are making it bigger and they are only coming out another foot or two.

Mr. DellaCorte: That one is coming off?

Mr. Casella: That one is coming down and he's replacing with a brand new one.

Conversation continues.

Mr. Casella: Is this stake out already by any chance?

Ms. Niemin: No, it's not.

Mr. Casella: Could you mark it out so we can see how far it extends out?

Ms. Niemin: I could probably ask my husband to mark it out.

Mr. DellaCorte: Do you know where the property line is in the front?

Ms. Niemin: I don't really know where the property line is but the survey is attached to the file. I can ask the homeowner he might know where it starts.

Mr. Horan: It says the house is 34 feet from the property line?

Mrs. Roberti: The actual house.

Mr. Horan: So the front of the house is in the setback? This means the whole existing porch is in the setback. Your best bet is to measure from the front of the house.

Mr. Casella: So we are going to set a site visit for this Saturday around 9:45am and the public hearing for August 14th.

Ms. Niemin: Okay, sounds good. Thank you.

James & Patricia Chappas: Seeking an area variance Section 240-37 of District Regulations in an R20 Zoning District.

-Where **20 feet** to the side yard (left) property is required, the applicant can only provide **19 feet** for the construction of a 12' x 16' dining room, thus requesting a variance of **1 foot**.

-Where **20 feet** to the side yard (right) property is required, the applicant can only provide **15 feet** for the construction of an 18' x 36' bedroom, thus requesting a variance of **5 feet**.

The property is located at **47 Carroll Drive** and is identified as **Tax Grid No. 6257-04-817449** in the Town of Wappinger.

Present: Alfred Cappelli, Jr. – Architect for the Applicant

Mr. Casella: Good evening.

Mr. Cappelli: Good evening everyone Alfred Cappelli, architect representing Jim and Pat Chappas. As part of our application and hopefully you all have had an opportunity to review it. The plot plan we submitted as built and a preliminary sketch of what we are looking to do from a floor plan and architecture point of view. So you can have an idea as to the method to the madness. There are some photographs in your little package, a brief narrative as to what we are looking to do. Jim and Pat Chappas, I don't want to say that they are elderly but in the house by themselves and their children are going to move in. Their married daughter and her husband and four children are going to be moving into the house. This is not going to be a mother/daughter, not a second kitchen. We are looking to have the new younger family live upstairs and as you can see by the plan we are adding several bedrooms. We are adding a dining room and we are making the kitchen larger into the existing dining room. The elderly Chappas are going into the basement and we are going to make an apartment down there. That's the purpose of what we are looking to do here.

Mr. Cappelli continues his overview of the project.

Mr. Casella: So if I look at the picture you provided over the 2-car garage you are going over the second one by the basketball court?

Mr. Cappelli: Correct.

Mr. Casella: Are you going to put something right on the side of the basketball court like a wraparound as part of the proposed addition?

Mr. Cappelli: Yes, that's correct.

Mr. Casella: So the garage will stay as it is.

Mr. Cappelli: That's a budget decision.

Mr. Casella: Are there any other houses in the neighborhood that have similar design?

Mr. Cappelli: I don't know of any.

Mr. Casella: For the record I do know Jim Chappas.

Mr. Horan: How far is this going to hang out?

Mr. Cappelli: It is going to hang out about 6 feet and it's going to be posted up structurally carrying that. We will put a gator fence in the front and I'll be able to walk to the back yard so to speak.

Mr. DellaCorte: In the picture with the proposed addition as you are facing the garage, that addition including that structure is only the second floor?

Mr. Cappelli: Correct.

Mr. Casella: Bob, any questions for Al?

Mr. Haas: No.

Mr. Casella: Is it staked out?

Mr. Cappelli: We will make sure it is.

Mr. Casella: We will do a site visit on Saturday right after the other one and a public hearing on August 14th.

Mr. Cappelli: Second the Motion.

Appeal No. 18-7645 (Area Variance)

Garth & Kathleen Bosman: To vote on 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 for the Applicant

Mr. Casella: Before we begin I must mention that we do not have a full board tonight. Any decision we should make tonight it will be a final decision. Basically we only need three people to approve or deny so you have the opportunity to wait for a full board or you can go with the vote tonight. It is totally your choice.

Mr. DeFazio: On behalf of the applicant we would like to wait for a full board.

Mr. Horan: If that's the case we will just go into executive session.

Mrs. Roberti: We closed the public hearing on June 26th so we will be alright until August 14th. If we don't make a decision on that date then we will have to ask for an extension from the applicant.

Mr. Casella: So what do we do right now.

Mrs. Roberti: We are just going to adjourn the discussion.

Mr. Horan: Right now we are going to go into executive session. We can have a discussion now if you want.

Mr. Casella: One discussion point I want to be clear on. When we talked about the fence to 9 feet to me meant from the shed down to the street. Not the other side of the shed going to the right side.

Mr. DeFazio: That's correct. We modified the original application.

Mr. Casella: Okay, I just want to be clear on that.

Mr. Galotti: This plan shows 9 feet all the way around.

- Mr. DeFazio: That's not what it's going to be but I think she just wrote it that way. It's only from the garage.
- Mr. DellaCorte: The other item on the plan that was unclear to me and I believe we discussed that there is going to be one board and 9 feet tall.
- Mr. DeFazio: Yes. I think Mr. Bosman at the last public hearing said he's going to remove the 6 feet one that's there now and put one big 9 feet as oppose to having a 6 feet and 3 feet.
- Mrs. Bosman: That is correct.
- Mr. Horan: It will show two rails with red cedar verticals.
- Mr. McDermitt: I'm sorry I didn't understand you.
- Mr. Horan: Do you have this?
- Mr. McDermitt: I just got this tonight. My name is Michael McDermitt and I represented Mr. Lopane at the last meeting. After the last meeting I sent a letter to Mr. DeFazio to follow up from the last meeting.
- Mr. DeFazio: The public hearing is closed.
- Mr. McDermitt: I'm sorry can I address the board please?
- Mr. Casella: Jim, is that appropriate since the public hearing is closed?
- Mr. Horan: It's in your discretion if he wants to make it and it's not going to be part of the record.
- Mr. McDermitt: The point is if the public hearing was closed with the specific understanding that Mr. DeFazio and his client contact Mr. Lopane and me to discuss what type of fence. At the last meeting before that there was a specific directive from this board that my client speak with the Bosmans to try to work it. At that meeting they walked out and said go talk to my lawyer. I showed up at the last meeting and I understood there would be some attempt of the Bosman's to communicate with me and Mr. Lopane. What type of fence and show me what you have in mind. I sent them a letter and copied the

ZBA. I showed up tonight and this thing is put in front of me saying this is what we are doing and there was no discussion. Mr. Lopane put up a fence on his property.

Mr. McDermitt continues.

Mr. Horan: That's enough. The point is made and the applicant has requested an adjournment to get a full board to discuss it. We can look at the proposal and it was pretty straight forward.

Mr. McDermitt: I understand what you are saying but the point is that we are in good faith and I don't understand what's going on.

Mr. Horan: Again, it's up to the board.

Mr. McDermitt: I want the board to understand what the dynamics are that Mr. Lopane is here in good faith, he did what he promised to do and just shoved it in front of me and say we are done. There's no discretion and it is disgusting.

Mr. Horan: It's totally up to the board.

Mr. McDermitt: I work for a municipality and I know exactly what the rules are.

Mr. DellaCorte: I understand from one of our board members that he drove by and saw a gate and not a fence.

Mr. McDermitt: There is a gate.

Mr. DellaCorte: Do you have any pictorial evidence of what was put up?

Mr. McDermitt: There a gate along the fence and a square wire gate. The purpose is to keep people out of his property.

Mr. Galotti: Jim, is this discussion really appropriate with the public hearing being closed?

Mr. Horan: Realistically it's not germane to the application.

Mr. McDermitt: I think it is germane to the application because my client is an interested party in this matter. He's the adjourning property owner.

- Mr. Horan: Again, with respect to the fence, the action of neighboring property owner is immaterial as he's not an applicant before the board. The fence is for his protection and to protect his liability to keep trespassers off his land.
- Mr. McDermitt: Mr. Chairman, may I speak?
- Mr. Casella: I'll give you two minutes.
- Mr. McDermitt: What we have not heard from the Bosman's is how bad a neighbor Mr. Lopane is and that he has ATVs.
- Mr. Casella: You are making this personal.
- Mr. McDermitt: This is not personal.
- Mr. Casella: I want to keep this strictly to the variance itself.
- Mr. McDermitt: I understand that but we were told that the reason for this 9 feet fence is Mr. Lopane is allowing people on his property with ATVs.
- Mr. Haas: He didn't even know that they were coming on his property so he didn't allow it.
- Mr. McDermitt: Exactly. That was said at the last meeting and I remember exactly what was said. We were told this is the fence we are putting up so go pound sand. To put this monstrosity of a fence and have the bad side showing on my client's property. We are asking for relief in that respect.
- Mr. DeFazio: We are within the code for the fence it's the same fence that's there now but it's just going to be 3 feet taller. The reason we want to put it on is we don't want to look at people when they are standing there whether they are on his side or the other side of the gate it's for the safety of my client. It has no effect on their property. The powerline side has more effect on their property. Thank you.
- Mr. Casella: Thank you.
- Mr. DellaCorte: I recall in our discussions that there was some sort of reconciliation to be made and the parties were to

connect with each other. Jim, I guess that has no bearing at this time.

Mr. Horan: Again, the granting of the variance is at the discretion of the board.

Mr. DellaCorte: So It's unrelated to what he has done?

Mr. Horan: That cannot condition the grant of a variance based on the approval of an abutting property owner. That would per say be illegal. With respect to these drawings are these the configuration of the fence as it exists today?

Mr. DeFazio: Yes. It is just going to go up 3 feet along the posts.

Mr. Horan: Are going to put a rail at the top?

Mr. DeFazio: Yes.

Mr. Horan: So that's basically the proposal.

Mr. Haas:
Mr. Galotti:
Vote:
Motion to adjourn the application to August 14, 2018.
Second the Motion.
All present voted Aye.

Mr. Haas:
Mr. Galotti:
Vote:
Motion to go into Executive Session for legal advice.
Second the Motion.
All present voted Aye.

Mr. Galotti:
Mr. Haas:
Vote:
Motion to come out of Executive Session.
Second the Motion.
All present voted Aye.

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

Respectfully Submitted,

Adjourned: 8:02 pm

Bea Ogunti
Secretary
Zoning Board of Appeal

