

MINUTES

**Town of Wappinger
Zoning Board of Appeals
September 26, 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	Absent
Mr. Travis	Member	Present

Others Present:

Ms. Valk	Conflict Attorney
Mrs. Roberti	Zoning Administrator
Mrs. Ogunti	Secretary

SUMMARY

Public Hearing:

Grace Bible Church	Public Hearing opened & closed Variance granted
James & Pamela Siegel	Public Hearing adjourned to October 10, 2017

Discussion:

Myers Corners Landing Subdivision	Variance granted
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Mr. Casella: Motion to accept the Minutes from September 12, 2017.
Mr. Johnston: Second the Motion.
Vote: All present voted Aye.

Public Hearing:

Appeal No. 17-7629 (Variance)

Grace Bible Church – Seeking an area variance Section 240-37 of the District Regulations in an R20 Zoning District.

-Where **75 feet** is required to the front yard property line on a State or County road, the applicant can only provide **39.4 feet** for the construction of a 924 sf. building expansion and a 720 sf. portico to the existing church, thus requesting a variance **35.6 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.)**, thus requesting a variance of **120 square feet**.

-Where **no more than two accessory structures shall be permitted in any 1-Family Residence District, the applicant is proposing 4 accessory structures to remain. There are 3 existing sheds and with the addition of a new 720 sf. garage, the total will be 4 accessory structures on one parcel.**

The property is located at **158 Myers Corners Road** and is identified as **Tax Grid No. 6258-03-393242** in the Town of Wappinger.

Present: Nicole Patti – LRC Group
Scott Harris – Pastor

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 explain to us again what you need and why you need it.

Ms. Patti: Good evening, Nicole Patti from the LRC Group. I'm representing Grace Bible Church and here with me is Pastor Harris from Grace Bible Church. We are requesting the three separate variances. The first one is the front yard setback variance. We are requesting this because in this zone the code requires a 75 feet front yard setback. We are looking to add an expansion to

the building of 920 sf. and a portico of 724 sf. which brings us closer to the front property line. At the smallest point it is 39.4 feet to the property line so we are requesting the first setback of 35.6 feet. The second variance is to add a proposed garage of 720 sf. and according to the Town's code we are only allowed 600 sf. so we are requesting a variance of 120 sf. The third variance is for the addition of the garage where there's already multiple accessory structures on the property. The Town's code currently permits two accessory structures on the property and this will be the fourth accessory structure. There is Certificate of Occupancy on the structures. So we are requesting the variance for the addition of the garage, the size garage and the setback of the addition to the building.

Mr. Prager:

Where is the existing two story building?

Ms. Patti:

This accessory structure is the carport. The second accessory structure is the shed and the third is the shed to the rear. The reason we chose this specific location is because this shed that's back here is so far away from the church and it has been broken into too many times and things stolen out of it.

Mr. Prager:

Where is the new one?

Ms. Patti:

The new garage is to the east of the existing carport.

Mr. Prager:

Is it where it is indicated as shed on the plan?

Mrs. Roberti:

It is the shed that is behind the proposed garage.

Ms. Patti:

I'm sorry there is another shed there as well.

Discussion continues.

Mr. Prager:

As far as I'm concerned 4 sheds is a lot. Before I go on any further, we got a letter from a resident that came in today.

Mr. Prager reads letter from Jim Fasulo, 12 Fenmore Drive, Wappingers Falls, NY.

See Mr. Fasulo's memo below:

Hi Ms Bea....I hope you received my email concerning the Grace Bible Church and, if not too much to ask, would you let me know that all went well, thanks, Jim. I forgot to ask if you wouldn't mind sending me a copy of the minutes of the church's appearance before the board as you mentioned this morning, again, thank you and it was very thoughtful of you to help me out

Mr. Prager: Pastor Harris would you like to comment on that?

Pastor Harris: I've been there 26 years and when we first moved in the church it would get water in the basement periodically. One year we had 6 inches of water. What was approved at that point was a very small swale behind the church and a 30 feet pipe and that was supposed to hold all the water. After we got the 6 inches of water in there I asked the contractor what we were to do and their suggestion was dig out a retaining pond. So they put one in but after we got another 4 inches of water about a year and a half later. We were doing the final painting that's when we got more water. We've had water problems for a long time and our goal was to get rid of the water and put it somewhere else hence the retaining pond. Our plan was to have a ballfield but we were told not to put it in. Our request is to still put it in and until there's a ballfield there it will still be an open field that can be used for anything. My son and his friends do like to work on cars and they do like to play. The field was going to be put in and open to the neighborhood. They will have to ask permission to use the field. My son is a volunteer fireman and he and his friends use that back field to play. When it gets a little loud I tell them to be quiet so I'm sorry if it disturbs them. I believe this is the gentleman who called the Town when we were doing the grading.

Pastor Harris continues.

Mr. Prager: Mrs. Roberti is there anything you would like to add?

Mrs. Roberti: Yes, a stop work order did go out and they did open a grading permit when they first started grading. We had gotten quite a number of complaints. We were waiting for quite some time for a final as built and when it finally did come in it showed gravel parking that was put in and was not part of the permit. At that point Bob Gray who is the engineer for the Town and I told them they need to go to the Planning Board at this point. At which time we

noticed that they would need the variance for the front and at the last meeting with the garage being added we noticed that they would need other variances. They just started with the Planning Board and I don't know what they will approve. Stormwater could be a big problem so I don't know how their plan is going to work out until all the engineering is done.

Mr. Johnston: When did you get the permit for the ballfield?

Pastor Harris: I got it about 4 years ago. The gentleman that was supposed to do the work for us wife got diagnosed with cancer. He did some of the work and then stopped work. I have not been involved with this I let our men handle it.

Mr. Johnston: You also said the ballfield is to be used by the community.

Pastor Harris: Yes.

Ms. Patti: Currently it is proposed to be in compliance with the Town code and right now it's for use by the church and their members. It is designed for church use so if someone in the community would like to use it, would be by special permission only.

Mr. Johnston: There is a school next door that has a ballfield.

Ms. Patti: That is the plan and we are before the Planning Board to review this ballfield.

Mr. Johnston: He did send a video if anyone wants to look at it.

Mr. Travis: So all of that is on your church property and not someone else's property?

Ms. Patti: Yes.

Mrs. Roberti: You did say that you would tell your son that around 11:00pm that it's enough? I just want to make sure that we are on the record for the noise code ends at 10:00pm.

Mr. Johnston: How old is your son?

Pastor Harris: That one is 23 years old.

Mr. Travis: Is the noise ordinance enforced by the code officers who don't work in the evenings and then by the local police?

Mrs. Roberti: If they have an issue we recommend the sheriffs.

Pastor Harris: To this point I haven't been asked anything about the noise. I'm more than willing to keep them quiet because I want to go to bed too.

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. Travis: Second the Motion.

Vote: All present voted Aye.

Mr. Casella: **Variance No. 1. Motion to grant this variance. The benefit cannot be achieved by any other feasible means. It is not an undesirable change to the character of the neighborhood. It does come a little bit further to the edge of the parking lot and it is somewhat substantial but I think it is going to be a nice improvement to the property. There are no adverse or physical effects to the environment.**

Mr. Johnston: Second the Motion.

Roll Call Vote:

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

Mr. Prager: Can I have a motion for the second variance.

SILENCE

Mr. Prager: Looks like there is no motion so it has to be denied.

Ms. Valk: You still have to vote on a motion but you make motion to deny it if no one seem incline to move forward.

Mr. Casella: Can we make a modification to this?

Ms. Valk: What type of modification then I can answer your question.

Mr. Casella: I understand there are 4 structures on the property and I want to reduce that. I want to deny it and make a motion to say what I think is appropriate for the site. I'm proposing instead of having 4 structures on the property to have 3 structures, remove the garden shed and then I will go ahead and make a motion.

Ms. Valk: If a majority of the board agrees with you I think they wouldn't need this variance then and they'll be down to 3 accessory structures.

Mrs. Roberti: We don't allow more than 2 accessory structures.

Ms. Valk: So they would still need it for one more.

Mr. Casella: So for the new structure would they need a variance?

Ms. Valk: You can ask the applicant if they would agree to such a change to it and then you can vote on that.

Pastor Harris: Whatever you would like. I just want to get a garage to lock things up in there.

Ms. Valk: So you are agreeing to remove that one shed?

Pastor Harris: Yes.

Mr. Travis: Variance No. 2. Motion grant this variance for the 720 sf. garage. I don't believe it is an undesirable change to the character of the neighborhood. The benefit cannot be achieved by any other feasible means. The request is not substantial in my mind and this will not create an adverse or physical effect to the environment.

Mr. Casella: Second the Motion.

Roll Call Vote:

Mr. Casella	YES
Mr. Johnston	NO
Mr. Travis	YES
Mr. Prager	YES

Mr. Casella: **Variance No. 3. Motion to grant 3 accessory structures on the property to include the new structure you are requesting. The garden shed must be removed. Could the benefit be achieved by any other feasible means, yes but we are asking him to remove one. It is not an undesirable change to the character of the neighborhood. The request is substantial and it does not have an adverse or physical effect to the environment. CONDITION: You must abide by the 10:00pm noise ordinance.**

Mr. Travis: Second the Motion.
Roll Call Vote: Mr. Casella YES
Mr. Johnston NO
Mr. Travis YES
Mr. Prager YES

Mr. Prager: Mr. Casella I believe the new proposed 24' x 30' garage would be acceptable to be built. In the meantime the garden shed has to be removed. I would like to add that you have neighbors and we don't want a racetrack at any time of the day or night. I would strongly suggest you ask your son not to do that.

Appeal No. 17-7630 (Variance)

James & Pamela Siegel – Seeking an area variance Section 240-37 of the District Regulations in an R20 Zoning District.

-Where **6 feet** to the side yard property line is required, the applicant can provide **3 feet** for an existing 8' x 10' shed, thus requesting a variance of **3 feet**.

-Where **10 feet** to the rear yard property line is required, the applicant can provide **3 feet** for an existing 8' x 10' shed, thus requesting a variance of **7 feet**.

The property is located at **16 Barbara Lane** and is identified as **Tax Grid No. 6156-02-546846** in the Town of Wappinger.

Present: Frank Cannizzaro – Representative for the Siegels

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

Mrs. Ogunti: Yes, they are.

Mr. Johnston: Motion to open the Public Hearing.

Mr. Travis: Second the Motion.

Vote: All present voted Aye.

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

Mr. Cannizzaro: Frank Cannizzaro.

Mr. Prager: Please explain what the Siegels want.

Mr. Cannizzaro: Mr. and Mrs. Siegel have a shed in the far left corner of the property and it has been there for some time and they are short on the measurements. They couldn't be present tonight because they had some problems with their house in Florida with the recent events. They asked me to represent them at this hearing tonight.

Mr. Casella: How long has the shed been there?

Mr. Cannizzaro: I don't know how many years it's been there but it's been there for a long time.

Mr. Prager: I believe the Siegels said at the last meeting about 30 years or they lived there for 30 years.

Mr. Cannizzaro: They've lived there for 30 years.

Mr. Johnston: Where is the property line? Is it by that fence?

Mr. Cannizzaro: There's a fence behind and next to it.

Mr. Johnston: Is that the property line?

Mr. Cannizzaro: I believe it's the property line.

Mr. Casella: There's a post there that looks like it goes on the neighbor's property. We couldn't tell. Does the fence go all the way around or an extension of the post in the back?

Mr. Cannizzaro: I'm not sure.

Mr. Casella: It certainly sounds like a variance is required from the existing fence and not the post so that's what we are trying to verify.

Mr. Travis: The concern I have is the 3 feet to the one property line because that's a possible violation of the building code with 5 feet fire separation to the property line. This applies to smaller sheds with a permit and I don't think that any shed is exempt from a permit in the Town of Wappinger. That's fairly costly and it needs to be fire

rated on both sides. I would be more comfortable if that was removed to provide the 5 feet.

Mr. Prager:

Looks like it is movable.

Mr. Johnston:

The space between the building and the fence line there seems to be debris or wood. It concerns me getting access around the entire structure.

Mr. Cannizzaro:

I can tell them. I didn't look that closely at it. I was just asked to stand in today. They are actually going to be moving from the house so I would like it to be within the guidelines allowed by the Town so there's no problem transferring the property. I'm the realtor helping to sell it so I didn't look that closely and I just wanted to help them in any way that I could.

Mr. Travis:

Is there a signed consent for you to represent them?

Mr. Cannizzaro:

Yes, I have it.

Mr. Travis:

Do you have a copy of it.

Mr. Cannizzaro:

Yes, I have it here. I'm being thrown to the wolves this evening.

Mrs. Roberti:

The owner already told us about this.

Mr. Johnston:

Is the shed not movable without destroying it?

Mr. Cannizzaro:

I was there a little while ago when I went to pick up these cards. I did not look at the foundation of the shed to see if it was movable. I don't know what kind of foundation it has. It is solid because he has two motorcycles in there.

Mr. Johnston:

Was there a building permit for the shed?

Mrs. Roberti:

The shed never had a permit this is how this all unfolded because they are selling so they paid a legalization fee. Usually when a shed or garage has to be legalized, they don't get plans for it.

Mr. Travis:

There's a plan in here but it is a 4' x 4' style foundation.

Mr. Johnston:

Do you know if it's on gravel or a slab?

- Mr. Cannizzaro: I don't really know but I can get the owner on the phone right now and ask him any questions if you want to do that.
- Mr. Travis: The question for them would be if there's any means of moving it. My concern is the proximity of the property line. If it is on the slab it is going to be difficult to move that without some work.
- Mr. Cannizzaro: I didn't look at it but they are looking for a variance because it is probably not that easy to move. What would you want me to do in their absence? They are not going to be back for a month or maybe longer.
- Mr. Travis: I just had that question and it will be up to the board.
- Mrs. Roberti: Mr. Cannizzaro, do you have a closing set?
- Mr. Cannizzaro: No.
- Mrs. Roberti: Do you think a month would be fair to adjourn this so they can be present and answer all of your questions?
- Mr. Cannizzaro: I'm not sure of the date that they will be coming back.
- Mr. Casella: Is time of the essence and is there a pending contract?
- Mrs. Ogunti: Originally they said November 14th would work for them.
- Mrs. Roberti: My question was will it hold up a closing but it's not holding up a closing.
- Mr. Prager: If you remember correctly the public hearing was going to be November 14th.
- Mrs. Roberti: Richie, I will make sure at that time we have an answer on the 5 feet rule.
- Mr. Travis: Will there have to be a modification and will you have to republish?
- Mrs. Roberti: No, only if you want to make the variance bigger. The other thing is do you look at the new code or does it fall under the old code.

- Mr. Travis: I know what NYS says as far as when existing structures are built and what you need to provide to building inspectors and what I accept is either signed documents, contracts or receipts from that date. It is normally to today's code unless I can make a reasonable assessment that this is done in a period of time. That would be a question for Susan or Brian.
- Mr. Prager: Let's just adjourn it and we don't have to wait until November. We can do it the next meeting if you get the information.
- Mr. Cannizzaro: So what you need to know if it is moveable and if it isn't moveable what is the next step?
- Mr. Johnston: Also, if they have anything regarding the shed, possibly when it was built.
- Mr. Cannizzaro: You want to know the year the shed was built, if it is moveable or not. When I get that information, what do I do with it?
- Mr. Casella: You come back to us.
- Mr. Johnston: Will you be able to do this by the next meeting or would you like us to adjourn this to November?
- Mr. Casella: Maybe you can make a phone call to them tonight.
- Mr. Cannizzaro: I'm sure I can get on the phone and ask them when it was built and what it was built on. If it can be moved are you going to request them to move it to a different location?
- Mr. Prager: Yes, to move it at least 2 feet.
- Mr. Travis: At least 3 feet off each property line. I'm not the building inspector here but I act in that same capacity somewhere else. I have concerns about these things because they are there for a reason especially when they are close to adjoining properties. There are reasons for separation like this.

Mr. Johnston: Whatever information you can get on that shed would be helpful.

Mr. Cannizzaro: I will find out from them and go and look to see for myself. I was just stepping in tonight and I didn't know you were going to ask these questions.

Mr. Casella: Will you need two weeks or a month to get back to us?

Mr. Cannizzaro: When is the next meeting?

Mr. Prager: October 10th.

Mr. Cannizzaro: October 10th at 7:00pm? So the information you will need is when it was built and is it moveable.

Mr. Prager: Yes.

Mr. Travis: I have to research the prior conditions of the code.

Mr. Cannizzaro: Lot of gray areas but I'll see what I can find out.

Mr. Casella: Motion to adjourn the Public Hearing to October 10th.

Mr. Johnston: Second the Motion.

Vote: All present voted Aye.

Discussion:

Appeal No. 17-7625 (Variance)

Myers Corners Landing Subdivision – Seeking an area variance Section 240-37 of the District Regulations in an R20 Zoning District.

-Where **20,000 square feet** is required for a lot in a subdivision, the applicant can only provide **13,409.8 square feet**, thus requesting a variance of **6,590.2 square feet**.

-Where **75 feet** is required for a lot in a front yard setback on a State or County road, the applicant can only provide **18 feet**, thus requesting a variance of **57 feet**.

The property is located on **Myers Corners Road** and is identified as **Tax Grid No. 6157-02-899988 (0.26 acres)** in the Town of Wappinger. (Povall)

Present: Bill Povall – Engineer

Mr. Prager: Good evening. This is a closed public hearing and I believe we just have to make a motion to either grant or deny it.

Mr. Johnston: Did you move the line over to the right.

Mr. Povall: What we are doing is taking this leg and adding it to the existing lot to make it compliant.

Mr. Travis: So that changes the numbers that are in the variance now?

Mr. Povall: Yes.

Ms. Valk: For the record the Planning Board granted a Negative Declaration on September 18, 2017.

Mr. Johnston: Motion to grant the variance. The benefit cannot be achieved by any other feasible means. It is not undesirable and will not alter the character of the neighborhood. I don't believe it will create any environmental hardships.

Mr. Casella: Second the Motion.

Roll Call Vote:	Mr. Casella	YES
	Mr. Johnston	YES
	Mr. Travis	YES
	Mr. Prager	YES

Mr. Casella: Motion to adjourn.
Mr. Johnston: Second the Motion.
Vote: All present voted Aye.

Respectfully Submitted,

Adjourned: 7:55 pm

Bea Ogunti
Secretary
Zoning Board of Appeals