

**MINUTES**

**Town of Wappinger  
Zoning Board of Appeals  
October 8, 2019  
Time: 7:00PM**

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

Summarized Minutes

**Members:**

Mr. Casella	Chairman	Present
Mr. DellaCorte	Member	Present
Mr. Galotti	Member	Absent
Mr. Haas	Member	Absent
Mr. Shah	Member	Present

**Others Present:**

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

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**SUMMARY**

**Adjourned Public Hearing:**

479 All Angels Hill Road Apartment House	Variances Granted
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**Public Hearing:**

Keith & Mary Beth Barrack	Variance Granted
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**Discussion:**

Anthony Bottini	Public Hearing on October 22, 2019 Site Visit on October 12, 2019
Tibor Daranyi, Jr.	Public Hearing on October 22, 2019 Site Visit on October 12, 2019
Lisa A. Lear	Public Hearing on October 22, 2019 Site Visit on October 12, 2019

**Video of the October 8, 2019 Zoning Board of Appeals Meeting:**

<https://www.youtube.com/watch?v=6S14bJ2TkzY>

**Mr. DellaCorte:** Motion to accept the Minutes from September 24, 2019.  
Mr. Shah: Second the Motion.  
Vote: All present voted Aye.

**Adjourned Public Hearing:**

**Appeal No. 19-7673 (Variance)**

**479 All Angels Hill Road Apartment House:** Seeking an area variance Sections 240-56 (B) and 240-56 (C) (D) of the District Regulations in an HM Zoning District.

-Where there shall be no increase in the number of permitted dwelling units resulting from additions made after 1962, the applicant is seeking a variance of building additions constructed after 1962.

-Where a minimum lot of **40,000 sf.** is required, the applicant can provide **22,098 sf.**, thus requesting a variance of **17,902 sf.**

-Where there shall be no more than one dwelling unit for each **20,000 sf.** of lot area, the applicant can only provide **22,098 sf.**, thus requesting a variance of **37,902 sf.**

The property is located at **479 All Angels Hill Road** and is identified as **Tax Grid No. 6357-03-210027** in the Town of Wappinger.

Present: Andrew Milliken – Architect  
Abbey Josiah – Applicant

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

Mr. Milliken: Good evening. It was requested that we offer a three apartment building as opposed to four dwelling apartment. We are showing three viable apartments.

Mr. Casella: So you are going to have one in the ceramic area, one in the back and two car garages and another one upstairs?

Mr. Milliken: Correct.

Mr. Casella: I understand the one in the back there's an area for handicap parking?

- Mr. Milliken: Actually there's one in the front.
- Mr. DellaCorte: One of them becomes a two story?
- Mr. Milliken: Yes, that's the way the space is layout now.
- Mr. Casella: Are you all set with the septic and well?
- Mr. Milliken: Correct.
- Mr. Casella: Any water pressure issues?
- Mr. Milliken: We are going to drill a well.
- Mr. Casella: We all have seen the place a number of times now. Are there any questions from the Board before we make a motion? Is there anyone in the audience who would like to speak for or against this application?
- Mr. DellaCorte:** **Motion to close the Public Hearing.**  
Mr. Shah: Second the Motion.  
Vote: All present voted Aye.
- Mr. Horan: With respect to the second variance regarding no more than one dwelling unit for each 20,000 square feet. The original variance was requested for four dwelling units and since they went to three the variance drops from 57,902 square feet to 37,902 square feet. So that's more compliant with the code.
- Mr. Casella: I would like to handle this in two separate variances.
- Mrs. Roberti: There are three variances.
- Mr. Casella: By the way there are three of us here so you need all three votes to be approved so it's up to you if you want to proceed or not.
- Mr. Milliken: I think we responded to the Boards suggestions.

**Mr. DellaCorte:** **Motion to grant the applicant all three of these variances. Whether the benefit can be achieved by any other means, I don't think so. This will not cause an undesirable change to the neighborhood. The request is substantial. The variance will not cause any physical or environmental effects because the footprint is there. The difficulty is not self-created.**

Mr. Shah: Second the Motion.  
Roll Call Vote: Mr. Shah YES  
Mr. DellaCorte YES  
Mr. Casella YES

**Public Hearing:**

**Appeal No. 19-7685 (Variance)**

**Keith & Mary Beth Barrack:** Seeking an area variance Section 240-37 of the District Regulations in an R40 Zoning District.

-Where **25 feet** to the side is required, the applicant can provide **11.5 feet** for the construction of a 24' x 24' detached garage, thus requesting a variance of **13.5 feet**. The property is located at **4 Glenbrook Court** and is identified as **Tax Grid No. 6258-01-401980** in the Town of Wappinger.

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

Mrs. Ogunti: Yes, they are.

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

Mr. Shah: Second the Motion.  
Vote: All present voted Aye.

Mr. Casella: Good evening. Please come up and state your name and address for the record.

Mr. Barrack: Good evening. Keith Barrack, 4 Glenbrook Court. I would like to construction a 24' x 24 garage it's connected but it is not attached to the house.

Mrs. Roberti: It's a breeze way.

Mr. Barrack: Yes, it's a breeze way.

Mr. Casella: We went out and saw your property. There was a previous garage that is now an apartment.

Mr. Barrack: I have an elderly mother so I made my 2-car garage into an apartment. She has had two strokes so this would benefit her having a garage as well. In inclement weather she doesn't get out of the car that easily so that's really the mean purpose.

Mr. Casella: Are there any questions from the Board?

Mr. DellaCorte: No, I did bring up the subject about the shed we saw on the site.

Mrs. Roberti: The shed is legal.

Mr. DellaCorte: Sorry to scare you like that.

Mr. Casella: Are there any questions from the audience?

Mr. Shah: I'm concerned as to how you are going to get into the garage since your driveway is separate. Will your driveway be modified?

Mr. Barrack: I'm going to widen the driveway a little bit but the existing driveway still goes there. The way the existing driveway goes to the garage, you couldn't really go in the way they did that. It's now going to be straight entering the garage.

Mr. DellaCorte: It did look peculiar.

Mr. Barrack: There is a big rock there and I didn't want to blast it out. It was very tough to pull in there.

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

Mr. Shah: Second the Motion.

Vote: All present voted Aye.

**Mr. DellaCorte:** Motion to grant the applicant the variance. The requested variance will not produce an undesirable change to the neighborhood. There will be no substantial detriment that would be created to nearby properties. There is no other feasible means to get this variance granted. The variance is substantial. This variance will not have an adverse physical or environmental effect on the neighborhood. The allege difficulty is self-created but not detrimental.

Mr. Shah: Second the Motion.  
Roll Call Vote: Mr. Shah YES  
Mr. DellaCorte YES  
Mr. Casella YES

Mrs. Roberti: For the record, when we read the definition of an accessory structure that's connected by a breeze way, in the code there are some conflicts.

Mr. Horan: What the code basically says is for purposes of determining the setbacks. If a garage is connected to the building by a breeze way the setback for the connected garage would be the same as for a house. You would not use the setback for a garage or another accessory building.

Mrs. Roberti: Or say that it's another accessory building in the front yard and by attaching it he avoids that. We err on the side of the resident and we will amend that so it's cohesive in the next round of codes revision.

**Discussion:**

**Appeal No. 19-7686 (Variance)**

**Anthony Bottini:** Seeking an area variance Section 240-37 of District Regulations in an R40 Zoning District.

-Where **no accessory structure is permitted in the front yard, the applicant is requesting a variance to allow for an in ground pool, hot tub and water feature in the front yard.**

The property is located at **7 Carmel Heights** and is identified as **Tax Grid No.: 6258-04-772231** in the Town of Wappinger.

Present: Bob Juliano – Representative for applicant

Mr. Casella: Good evening Mr. Juliano.

- Mr. Juliano: Thank you Mr. Chairman. If I may approach and hand you additional pictures.
- Mr. Casella: Yes.
- Mr. Juliano: I'm Bob Juliano, I am the Regional Executive for Bottini Fuel and I do all the property management for them. I wrote a letter why we want a pool in the front of this property. It is an in ground pool but I first want to show you the pictures. Picture 1 shows 7 Carmel Heights so you can't see the pool from the road. Picture 2 will show you the height of the pole and that's where the pool will be below that pole.
- Mr. DellaCorte: Is the pole what has the white plastic covering it?
- Mr. Juliano: Yes, it's about 12 feet high. Picture 3 you will see a better look at the wall system from the road and you cannot even see the pool or the hot tub in the front.
- Mr. Casella: It says here the water feature will be in the front but I notice on the drawing it's in the back.
- Mr. DellaCorte: You have two retaining walls?
- Mr. Juliano: Yes, there are two retaining walls one on the bottom and one on the top. Picture 4 will show you on top of the grade where the pool will go. There are trees in the back so you won't see it from the property. Very small backyard.
- Mr. Shah:  
Mr. Juliano: What you are showing on the right, is that the pool?  
Right. Picture 5 is showing the height of the property and very nice landscaping. Picture 6 is on the top facing away from the pool. Picture 7 again just shows you the height area from the road.
- Mr. DellaCorte: Mr. Juliano, could you go back to Picture 6?
- Mr. Juliano: Absolutely.
- Mr. Casella: That's looking from where that white pole is looking out.
- Mr. Juliano: Exactly.

- Mr. DellaCorte: Towards the other side of the house?
- Mr. Juliano: If I'm standing from the pole I'm looking out. There's another picture that's clearer. I just wanted to show the elevations. Picture 8 on the right side, that's the front door. To the left will be the pool and that's the front door of the home.
- Mr. Casella: Is that a small fence to the side on the left?
- Mr. Juliano: That's just like a split rail fence and I don't know why it's there but we can take that down. Picture 9 is where the pool is going to go by that white pole.
- Mr. Casella: Is that the back yard?
- Mr. Juliano: No, that's the front yard. Picture 10 is the back and here's why we can't put the pool in the back. There are water trenches back there. I just want to give you an idea how small a back yard that is. There is also a retaining wall and trees in the back.
- Mr. Casella: Where is the retaining wall in Picture 10?
- Mr. Juliano: You see the bird houses, to the right is the retaining wall. That's the back of the retaining wall. Picture 11 is the side going around. What I want to show here is the smallest of the backyard. Picture 12 if you look real close you can see the water level.
- Mr. DellaCorte: I can't make that out. Are you talking about inside the drain?
- Mr. Juliano: Yes, inside the drain. The water level is up to that point and there are three of them.
- Mr. Casella: How much property does he own behind the bird houses?
- Mr. Juliano: I have to look at the site plan. I have it here.
- Mrs. Roberti: Bob, while we are on Picture 14, where is the water feature going?
- Mr. Juliano: The water feature will be by the wall.



Mrs. Roberti: Is it going to be behind the bird houses?

Mr. Juliano: Yes.

Mrs. Roberti: Is it just a long water feature? Is it a fountain?

Mr. Juliano: We reduced the square footage of the water feature. I am not requesting any variances for the pool and the hot tub because I don't need it. All I'm asking is for the pool to be in the front of the house.

Mrs. Roberti: On this plan it shows the pool in front of that white pole.

Mr. Juliano: Correct, it's in that area. I have 30' 9" to the side line and it is required 25 feet in an R40 Zoning District but I'm not looking for that.

Mr. Juliano continues.

Mr. Casella: If you don't mind I would like you to come up to the dais and show us on this plan.

Discussion continues.

Mr. Casella: For our site visit could you mark where everything is going so we can have a real idea?

Mr. Juliano: Absolutely.

Mr. Casella: Are you going to have a fence around the pool?

Mr. Juliano: Yes, a deer fence.

Mr. Casella: Barbara, Jim, do you have any questions?

Mrs. Roberti: Included in the final as built, you are showing a swale and a catch basin right in the front. Whereabouts do you want to put the pool?

Mr. Juliano: Barbara, I haven't seen that yet but I did do a site visit. I walked around the property.

Mrs. Roberti: This might be under and my point is you just can't dig that out.

Mr. Juliano: We might have to relocate.

Mrs. Roberti: This is your front yard so this has to be looked at. You called out a deer fence. The fence has to be something I cannot push.

Mr. Juliano: It will be an approved deer fence. We found online a fence that protects the deer from coming in.

Mrs. Roberti: You still have to put a fence. Those retaining walls will not be considered a fence.

Mr. Juliano: The retaining walls in the front are well over 48 inches.

Mrs. Roberti: They are lower than the pool. You need a 48 inch high fence completely surrounding this pool.

Mr. Juliano: There are retaining walls in the front.

Mrs. Roberti: You need something up on the same grade as the pool.

Mr. Juliano: Putting another fence on the top will look horrible.

Mrs. Roberti: You want it in the front yard so it has to have a fence.

Mr. Juliano: I was thinking the retaining wall would be on the front side and not in the rear.

Mr. Casella: When I was talking about a fence, I meant a fence around the pool.

Mrs. Roberti: Right. If the pool was in the rear yard some people choose instead of fencing in the pool and the pool deck, they will fence from the house to the side and around. They will need alarms on all of the doors. In this case they will need alarms on every door to the house.

Mr. Juliano: I won't want to put a fence around the pool because of looks.

Mrs. Roberti: A fence will be required around the pool or the entire yard.

Mr. Juliano: What Barbara is saying is probably correct.

- Mrs. Roberti: Kids can climb on trees and they can climb retaining walls. So you need a fence that protects the children in the neighborhood from getting to that pool.
- Mr. Juliano: The fence will be an approved deer fence that's going around the property.
- Mrs. Roberti: We will need to see that and where it says it is code compliant. All of the gates will have to be self-closing and self-locking. In the back do you have a new retaining wall at the end of the driveway?
- Mr. Juliano: Yes.
- Mrs. Roberti: Where there's a path, you will also have to show a gate to the driveway? How tall is that new retaining wall? Is the fence on top of the retaining wall?
- Mr. Juliano: The fence is on top of the retaining wall.
- Mrs. Roberti: So that if you are in the back yard you have a 4 feet fence.
- Mr. Juliano: Yes.
- Mrs. Roberti: You have to investigate the fence.
- Mr. Juliano: Mr. Bottini is getting up there in age and he wants a pool. He never had a pool. We feel this is a hardship.
- Mr. DellaCorte: Do they reside there today?
- Mr. Juliano: Yes.
- Mr. Casella: We would like you to stake out where the pool, hot tub and water feature will go. You also want to check on the fencing requirement.
- Mr. Juliano: Absolutely.
- Mr. Casella: We will set the site visit for Saturday, October 12<sup>th</sup> and the Public Hearing on October 22<sup>nd</sup>.
- Mr. Juliano: Tomorrow I will have Fox Pools mark it out.
- Mr. Casella: We will be there around 9:00am on Saturday.

- Mr. Juliano: Thank you.
- Mrs. Roberti: Bob, have your engineer look at this swale and catch basin in the front yard. This could be a problem for you.
- Mr. Juliano: I will get on that tomorrow, Barbara.
- Mr. Horan: With respect to the hot tub, it is very close to the front. If it could be moved back behind that projection it wouldn't need a variance.
- Mr. Juliano: I think moving the hot tub is okay, it will sink and you won't see it.
- Mr. Horan: The way it's shown on the drawing if you moved it a foot you wouldn't need a variance.
- Mr. Juliano: The hot tub will be under 140 feet.
- Mrs. Roberti: We are talking about forward of the house.
- Mr. Juliano: So if I moved it back I'll be okay?
- Mrs. Roberti: I'm more worried about the pool in the front yard.
- Mr. Horan: It is shown on that as built. That may have moved but it doesn't show the catch basin in the back. It shows the swale.
- Mr. Juliano: You will see when you do your site visit. There is a swale in the back that goes into those three drains.
- Mrs. Roberti: It comes around the front and you can't remove that unless Christian can re-engineer it that it is still acceptable to our engineer.
- Mr. Juliano: Thank you very much.

**Appeal No. 19-7687 (Variance)**

**Tibor Daranyi, Jr.**: Seeking an area variance Section 240-37 of the District Regulations in an R20 Zoning District.

-Where **20 feet** to the side is required, the applicant can provide **7 feet** for the construction of an 8' x 12' deck, thus requesting a variance of **13 feet**.

The property is located at **24 Booth Boulevard** and is identified as **Tax Grid No. 6056-03-415397** in the Town of Wappinger.

- Mr. Casella: Good evening. Please tell us a little bit about what you want and why you need it.
- Mr. DellaCorte: I just need to make a statement that Tibor and Erica are my neighbors and we are friends. It won't affect my decision either way.
- Mr. Daranyi: Good evening. I've been living in this house since 1994. My dad bought the house with the deck on it. Previously we had a 9' x 12' deck back in 2000 but that was old and rotting away so we took it down. We haven't had a deck there for the past 13 years. I would like to put a deck there. This time it will be an 8' x 12' deck there. For now we have a sliding door to nowhere and it's a 9 feet drop. Mommy is 90 years old and we would like to have some of her years that's left to spend outside. My wife and I would like to enjoy the outside like we use to. That's the reason why we want the deck.
- Mr. Casella: So basically it is a smaller footprint than you had before.
- Mr. Daranyi: Yes.
- Mr. Casella: How long has the deck been gone?
- Mr. Daranyi: It's been gone 13 years. Since 2003.
- Mr. Casella: We need to make a quick site visit out there. Could you stake it out so we can have an idea where the deck is going to go?
- Mr. Daranyi: You can see where it is going because previously we had bricks underneath the deck. The bricks are still there.
- Mr. DellaCorte: When we come out we need to see where the property line is and how far you are from the property line.
- Mr. Daranyi: I believe I have 20 feet from the house. Do you need 20 feet from the end of the deck to the property line or from the house to the property line?
- Mr. DellaCorte: From the deck to the property line.

Mr. Daranyi: I don't know exactly where the property line is.

Mrs. Roberti: Right by your survey, if you go from the front of your house to your neighbor this survey shows you have 15 feet. So if you take a tape measure from the front of your house that's 15 feet from the property line. It is probably the same thing in the back of the house. Where the door is just show it coming out 8 feet and that will give them that visual.

Mr. Daranyi: Okay.

Mr. Casella: Thank you Barbara. We will set up a site visit on Saturday and the public hearing on October 22<sup>nd</sup>.

**Appeal No. 19-7688 (Variance)**

**Lisa A. Lear**: Seeking an area variance Section 240-37 of the District Regulations in an R40 Zoning District.

-Where **25 feet** to the side is required, the applicant can provide **20 feet** for the construction of an 8' x 38' deck, thus requesting a variance of **5 feet**.

The property is located at **7 Lor Mar Court** and is identified as **Tax Grid No. 6258-02-845602** in the Town of Wappinger.

Mr. Casella: Good evening. Please tell us what you are about to do here.

Ms. Lear: The deck is like a cat walk. There's the kitchen and the deck. There's a sunroom in the back that's why it is small. It is very narrow so they call it a cat walk. I cannot even do anything out there. The deck that's there now is pretty useless and rotted now.

Mr. Casella: So you have an existing deck?

Ms. Lear: Yes, that's been there. It is old and I was going to replace it when I bought the house almost 30 years ago. Every 5 years I stain it now it is in very bad shape and I need to widen it to be able to put a table there. There's no houses behind my house. It's all woods.

Mr. Casella: Will the deck be the same size?

Ms. Lear: No, it is 38 feet long but I want it a little wider.

- Mr. Shah: So it is 38 feet long but how wide is it going to be?
- Ms. Lear: About 4 feet wider. I would like to put chairs and a table away from the door so for right now it is not very functional.
- Mr. DellaCorte: Just looking at the drawings, I'm a little bit confused. I am just going to ask you again. It's existing, it's coming out 4 feet wide by 38 feet long.
- Ms. Lear: Yes.
- Mr. DellaCorte: Are you going to make it 8 feet wide?
- Ms. Lear: I'm making it a total of 8 feet wide.
- Mr. Casella: She's making it 8 feet wide and keeping the length the same.
- Ms. Lear: It's the whole length of my house.
- Mr. DellaCorte: I understand that part.
- Ms. Lear: The deck goes the whole length and I'm making it just a little bit wider and not doubling it.
- Mrs. Roberti: The deck now is 5' x 38' and you are adding 3 feet to make it more functional. So it's going to be 8 feet wide and 38 feet long.
- Mr. DellaCorte: Okay, I understand now. Thank you.
- Mr. Horan: The survey shows 28 feet to be the rear left corner of the house. The front corner maybe 29-30 feet.
- Mr. DellaCorte: The drawing that we have, was it done by the builder? It's a little bit difficult to look at the way they drew it.
- Ms. Lear: Do you want me to come up?
- Mr. DellaCorte: Yes, if you would.
- Discussion continues.
- Ms. Lear: Whoever put that deck on did a terrible job.

Mr. DellaCorte: Thank you.

Mr. Casella: We are going to set a site visit for Saturday and the public hearing for October 22<sup>nd</sup>.

Mr. Shah: If you could just mark all four corners where the deck is going. This way we know what you are talking about.

Mr. Horan: Is there a fence on the property?

Ms. Lear: Not really. There's chicken wire in the back and you can't call that a fence. I used to have a picket fence but that came down.

Mr. DellaCorte: You are looking for a side yard variance so the side should be marked so we can walk off your measurements to where the deck is going to be.

Ms. Lear: He's not going to come between now and Saturday. So if this is my house here, and the deck is here, you want me to put the marker to the extra 3 feet?

Mr. Casella: We want to see how you got to the 20 feet.

Ms. Lear: They looked at the survey.

Mrs. Roberti: Lisa, if you would take a tape measure and go from the corner of your house and take it 28 feet and either spray paint the line or ribbon on a stick. That will let them know where your property line is. That's what they are really looking for.

**Mr. DellaCorte:** **Motion to adjourn.**  
**Mr. Shah:** Second the Motion.  
**Vote:** All present voted Aye.

Respectfully Submitted,

Adjourned: 8:12 pm

Bea Ogunti  
Secretary  
Zoning Board of Appeals