

MINUTES OF THE TOWN OF WAYNE
ZONING BOARD OF APPEALS
October 14, 2014

The meeting opened at 6:30 PM with a roll call of the members.

MEMBERS:	PRESENT	ABSENT	LATE ARRIVAL
Bill Feinstein, Acting Chair	<u>X</u>	—	—
Greg Blessing	<u>X</u>	—	—
Candy Dietrich	<u>X</u>	—	—
Wayne Hand	—	<u>X</u>	—

ALSO PRESENT:	
Gill Harrop, Code Enforcement Officer	
Carlo DiRisio	Ralph Dubendolfer
James Thomas	Bob Canfield
Glenn Neu	Rich Hamula
Marty Reasoner	Nancy Reasoner
Tom Nagle	

MINUTES:

Mr. Blessing made a motion to approve both the July 10, 2014 and August 14, 2014 minutes as presented, seconded by Ms. Dietrich.

A roll call vote was taken.

	<u>Aye</u>	<u>Nay</u>	<u>Abstain</u>	<u>Absent</u>
Bill Feinstein	<u>X</u>	—	—	—
Greg Blessing	<u>X</u>	—	—	—
Candy Dietrich	<u>X</u>	—	—	—
Wayne Hand	—	—	—	<u>X</u>

Ayes-3. Abstain-0. Absent-1. Nays-0.

Both minutes were approved.

NEW BUSINESS:

USE VARIANCE APPLICATION NO. 03V14: James Thomas. Property located at 9559 Eagle Rock Trail, Town of Wayne. Request relief to build a garage in an R-2 district. 6.3

Mr. Thomas stated he would like to build a residential garage on his property located in the R-2 district and is seeking a Use Variance.

Mr. Feinstein opened the public hearing.

No one was present to express any concern.

It was noted that 11 letters were sent to the neighboring properties with 1 received back from Genevieve Stewart stating she had no objection.

Mr. Feinstein stated upon review of the application and conferring with Counsel from the Association of Towns, a garage, according to the current land use regulations is by definition an accessory use.

Mr. Feinstein then read and stated the following:

- Read the definition of accessory use and garage from the Land Use Regulations.
- Read the four part test questions imposed by New York State for Use Variances that required the applicant to demonstrate among other things, proof that he or she cannot receive a reasonable return on each and every permitted use that also include those allowed by a special use permit.
- Stated that a Use Variance has a much higher of burden of proof to justify building a garage by itself rather than what is allowed in the R-2 district.
- Stated the Zoning Board of Appeals had a legal obligation to uphold the Land Use Regulations.
- Stated one recourse is for the applicant to address their concerns about the application to the Town Board.

Upon further discussion, Mr. Thomas stated he would like to table his application until he met with the Town Board.

Ms. Dietrich made a motion to table Use Variance No. 10V14, seconded by Mr. Blessing.

An aye or nay verbal vote was taken. Ayes-3. Nays-0.

USE VARIANCE APPLICATION NO. 11V14: Carlo DiRisio. Property located at 8274 Ridge Rd., Town of Wayne. Request to construct storage shed without a primary use. 6.2

Mr. DiRisio stated the following:

- He bought 17 wooded acres for hunting and would like to put up a storage shed for his tools and camping gear rather than toting them back and forth from home.
- At a later date he would like to build something larger.

Mr. Feinstein opened the public hearing.

No one was present to express any concern.

Ms. Kurtz stated 5 letters were sent to the neighboring property owners, with no responses received back.

Mr. Neu was present to discuss the Planning Board's intent for accessory building and stated the following:

- He agreed the definition for a private garage both attached and unattached needs to be more definitive.
- He questioned when an applicant is seeking a variance, what regulations are they varying from.

Mr. Feinstein stated the difference is principal use versus principal structure and referred to Section 6.2.6 of the Land Use Regulations. Further noting, the Zoning Board of Appeals is held to the current regulations until they are amended by the Town Board.

As no one else expressed any concern about this application, the public hearing was closed.

Mr. Blessing stated the applicant could place a smaller shed on the premises without going for a permit.

Mr. Harrop stated the following:

- The applicant could place a 5 ft. by 10 ft. (50 sq. ft.) storage shed without a building permit if it met all the setback requirements.
- The Zoning Board of Appeals is an appellate court that interprets the Land Use regulations.

Upon discussion, Ms. Dietrich made a motion to table Use Variance No. 11V14. As there was no second motion made, Ms. Dietrich withdrew her motion.

After discussion, Ms. Dietrich made a motion to approve Use Variance No. 11V14, seconded by Mr. Feinstein.

Mr. Feinstein noted that item number 4 of the Use Variance questions could not be met, as the applicant bought the property prior to any shed on the property.

Upon further discussion, a roll call vote was taken.

	<u>Aye</u>	<u>Nay</u>	<u>Abstain</u>	<u>Absent</u>
Bill Feinstein	—	X	—	—
Greg Blessing	—	X	—	—

Candy Dietrich X — — X
Wayne Hand — — — X

Ayes-1. Abstain-0. Absent-1. Nays-2.

Use Variance Application No. 11V14 for a 12 ft. by 16 ft. storage shed was denied.

Mr. Feinstein left the meeting at 7:00PM.

VARIANCE APPLICATION NO. 09V14: Marty Reasoner. Property located at 9427 Crystal Beach Rd., Town of Wayne. Request tear down existing cottage and garage and replace with a new cottage on the same footprint on 3 sides. Applicant is seeking 4.5 ft. of relief on the southwest side of the property.

Mr. Reasoner was present to state the following:

- He wanted to tear down the existing cottage and garage and replace it with a new cottage.
- He needed to maintain as much distance on the Northern boundary for an existing tree and to allow for any necessary maintenance to his existing break wall and storm sewer.
- The lot that he would be encroaching on is an unbuildable vacant lot.
- Removal of the old garage would improve both green and open space.

No one was present to express any concern about this application.

Ms. Kurtz stated 15 letters were sent out; with 5 responses received back stating they had no objection to this request. (Letters on file).

Upon completion of the Area Variance Findings and Decision sheet, Ms. Dietrich made a motion to approve application as submitted and subject to existing land use regulations, seconded by Mr. Blessing.

The application was approved.

Mr. Reasoner then signed the variance responsibilities and conditions sheet.

As there was no further business, Mr. Blessing made a motion to adjourn, seconded by Ms. Dietrich. Ayes-2. Nays-0. The meeting was adjourned at 7:25PM.

Sincerely,

Maureen Kurtz