

**TOWN OF STONY POINT
Zoning Board of Appeals
Minutes April 17, 2014**

PRESENT:

Mr. Anginoli
Mr. Keegan (absent)
Mr. Casscles
Mr. Vasti
Mr. Fox
Mr. Porath

ALSO PRESENT:

Steve Honan, Attorney
William Sheehan, Building Inspector

Chairman Wright

Chairman Wright: Good evening. I see by the clock it is 7:00 PM. I will call this meeting of the Zoning Board of Appeals of the Town of Stony Point to order; please rise for the Pledge of Allegiance.

We have four items on the agenda; the first two will cover our decisions. The first one is the request of Alicia Pagan.

Request of Alicia Pagan – App. #14-03

A variance from the requirements of the Town of Stony Point Zoning Code Chapter 215, Article V, Section 15A h.1-6: Less than required rear setback, required 20 feet, provided 15.1 feet for a rear addition at 18 River Road, Stony Point, New York.

Section 21.09 Block 1 Lot 17 Zone RW

*****MOTION: Mr. Anginoli offered the following resolution; seconded by Mr. Vasti.**

In the Matter of Application #14-03 of Alicia Pagan for review of the Building Inspector's interpretation of the Zoning Code and variances from the requirements of Chapter 215, Article V, Sections 15A h.1-6, of the Stony Point Zoning Code, to permit the construction, maintenance and use of an addition to the rear of a single family home with less than required rear setback, providing 15.1 feet whereas 20 feet are required, on premises located at 18 River Road in the Town of Stony Point, designated on the Tax Map as Section 21.09, Block 1, Lot 17, in Zoning District RW.

The premises which are the subject of this application are located at 18 River Road in the Town of Stony Point in an RW Zoning District.

The applicant is self represented and the following documents were placed into the record and duly considered:

Application; Building Inspector's denial letter, dated 2/28/14; survey and plot plan for Proposed Addition, dated December 9, 2013, by Robert E. Sorace, PLS.

Additionally, members of the Zoning Board of Appeals personally visited the applicant's property and viewed it and the neighboring properties on March 30, 2014.

WHEREAS, the proposed action is a Type II action under the regulations promulgated pursuant to the New York State Environmental Quality Review Act; and

WHEREAS, a public hearing was held on April 3, 2014, and the testimony of the following persons was duly considered: applicant.

WHEREAS, all the evidence and testimony was carefully considered and the Zoning Board of Appeals has made the following findings of fact:

The applicant is the owner of the subject parcel which contains a single family home. The applicant desires to construct a one story addition on the rear of the home. The addition is needed to accommodate the applicant's growing family.

No objections have been received to the request from the adjacent property owners.

WHEREAS, this Board has examined the written documentation and reviewed the testimony with respect to the applicant's request for a variance, and, pursuant to the requirements of section 267-b.3 of the Town Law, hereby finds that the benefit to the applicant if the variance is granted outweighs any detriment to the health, safety and welfare of the neighborhood or community by such a grant, and has made the following findings and conclusions in that regard:

(1) "whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance":

There is no evidence presented that the proposed variances would produce any undesirable change in the character of the neighborhood or a detriment to any nearby properties. To the rear of the applicant's property is the North Street Sewage Treatment Plant of the Town of Stony Point, and there has been no objection from the Town.

(2) "whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance":

There is no evidence presented to this Board that the benefits sought could be achieved through any other means.

(3) "whether the requested area variance is substantial":

The variance sought is not substantial.

(4) "whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district":

There is no evidence before this Board of any adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

(5) "whether the alleged difficulty was self-created":

The alleged difficulty was self-created insofar as the applicant seeks to voluntarily add an addition to the premises.

NOW, THEREFORE, BE IT RESOLVED, that the application for a variance as set forth above, is hereby approved and the Building Inspector is hereby directed to issue to the applicant a Building Permit upon compliance with the terms and conditions of this resolution and with all other applicable laws, rules and regulations.

Upon roll call, the vote was as follows: Mr. Anginoli, yes; Mr. Keegan, absent; Mr. Casscles, yes; Mr. Vasti, yes; Mr. Fox, yes; Mr. Porath, yes; and Chairman Wright, yes.

Chairman Wright: Next item on the agenda is the request of James Coyle.

Request of James Coyle – App. #14-02

A variance from the requirements of the Town of Stony Point Zoning Code Chapter 215, Article V, Section 15A D.1-4; Less than required Front Yard/Front Setback – required 50 feet, provided 38 feet (CORNER LOT) for a side and rear deck and Chapter 215, Article V, Section 15A D.1-4; Less than required Front Yard/Front Setback – required 14.7 feet, provided 7 feet for a front porch and steps at 5 Lakeview Drive, Tomkins Cove, New York.

Section 10.01 Block 1 Lot 51 Zone RR

*****MOTION: Mr. Vasti offered the following resolution; seconded by Mr. Casscles.**

In the Matter of Application #14-02 of James Coyle for variances from the requirements of Chapter 215, Article V, Sections 15A d.1-4, of the Stony Point Zoning Code, to permit the construction, maintenance and use of a front porch and steps to the front of a single family home with less than required front yard/front setback, providing 7.0 feet, whereas 14.7 feet are required, and to permit the construction, maintenance and use of a side and rear deck to a single family home with less than required front yard/front setback, providing 38 feet, whereas 50 feet are required (Corner Lot), on premises located at 5 Lakeview Drive, Tomkins Cove in the Town of Stony Point, designated on the Tax Map as Section 10.01, Block 1, Lot 51.

The premises which are the subject of this application are located at 5 Lakeview Drive, Tomkins Cove in the Town of Stony Point in an RR Zoning District.

The applicant is self represented and the following documents were placed into the record and duly considered:

Application; Building Inspector's two (2) denial letters, dated 2/26/14; "Survey For Coyle", dated December 12, 2001, by Anthony R. Celentano, PLS, and: construction plans designated "Alterations & Additions" of Elizabeth Parks Architect, dated January 2014.

Additionally, members of the Zoning Board of Appeals personally visited the applicant's property and viewed it and the neighboring properties on or about March 30, 2014.

WHEREAS, the proposed action is a Type II action under the regulations promulgated pursuant to the New York State Environmental Quality Review Act; and

WHEREAS, a public hearing was held on April 3, 2014, and the testimony of the following persons was duly considered: applicant.

WHEREAS, all the evidence and testimony was carefully considered and the Zoning Board of Appeals has made the following findings of fact:

The applicant is the owner of the subject parcel which is a corner lot and contains a two story single family home. The applicant desires to construct a front porch to the front of the home and a rear deck on the rear which will extend to the side of the home. The area to the side of the home is also considered the front yard/front setback due to the parcel being a corner lot.

No objections have been received to the request from the adjacent property owners.

WHEREAS, this Board has examined the written documentation and reviewed the testimony with respect to the applicant's request for a variance, and, pursuant to the requirements of section 267-b.3 of the Town Law, hereby finds that the benefit to the applicant if the variance is granted outweighs any detriment to the health, safety and welfare of the neighborhood or community by such a grant, and has made the following findings and conclusions in that regard:

(1) "whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance":

There is no evidence presented that the proposed variances would produce any undesirable change in the character of the neighborhood or a detriment to any nearby properties.

(2) "whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance":

There is no evidence presented to this Board that the benefits sought could be achieved through any other means.

(3) "whether the requested area variance is substantial":

The variance sought is not substantial.

(4) "whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district":

There is no evidence before this Board of any adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

(5) "whether the alleged difficulty was self-created":

The alleged difficulty was self-created insofar as the applicant seeks to voluntarily add a front porch and a deck to the rear and side of the existing premises.

NOW, THEREFORE, BE IT RESOLVED, that the application for a variance as set forth above, is hereby approved and the Building Inspector is hereby directed to issue to the applicant a Building Permit upon compliance with the terms and conditions of this resolution and with all other applicable laws, rules and regulations.

Upon roll call, the vote was follows: Mr. Anginoli, yes; Mr. Keegan, absent; Mr. Casscles, yes; Mr. Vasti, yes; Mr. Fox, yes; Mr. Porath, abstain; and Chairman Wright, yes.

Chairman Wright: The third item on the agenda is the request, and this is the continued Public Hearing, of Frances Aquino.

Request of Frances Aquino – App. #14-01

A variance from the requirements of the Town of Stony Point Zoning Code Chapter 215-VIII-40 - Storage and residing in a RV in front yard/setback, for an RV parked in the front yard/setback, located at 64 Beach Road, Stony Point, New York.

Section 15.20 Block 1 Lot 15 Zone R1

We have Mr. Sheehan here because I/we had a couple of questions about this application from the previous meeting. Mr. Sheehan, we just have some questions for you. Can you come up so we can swear you in and clear up some of the questions we had.

Please state your name for the record.

William Sheehan, Building Inspector

Chairman Wright: "Do you swear the testimony you are about to give, is truthful?"

Mr. Sheehan: Yes, it is.

Chairman Wright: Does anybody from the Board have any questions?

Mr. Casscles: I do. Bill, we seem to have a little problem figuring out exactly what the violation was the other day – at the last meeting. Could you explain exactly what the violations are?

Mr. Sheehan: The violation was storage and living in a RV.

Mr. Casscles: Parked in the front setback is one part of it and the living in it was the other part, right?

Mr. Sheehan: No; no setbacks.

Mr. Casscles: I thought it said somewhere in there it was parked in the front setback?

Mr. Sheehan: No, it's not an area variance; it's a use variance.

Mr. Casscles: Okay, so then having it actually on the lot is no problem?

Mr. Sheehan: No, it is a problem. You cannot store an RV or a recreational vehicle on a undeveloped lot. That is #1.

Mr. Casscles: Okay, and you considering this an undeveloped lot?

Mr. Sheehan: Well there is nothing on the lot and you cannot live in it. Therefore, it is a prohibited use. The difference between this and say, for example, the RV that was before you a couple of months ago that was in the front setback on Jay Street, I think it was; an RV is allowed in a residential zone, accessory to a structure, to a home as long as it is stored in the side or the rear. Since he was storing it in the front, that was an area variance. Since this is a prohibited use it is a use variance and the one on Jay Street, obviously the living end, wasn't part of the application.

Mr. Casscles: So if there had been a house on that lot and where it was parked it would have been in the front setback?

Mr. Sheehan: Well I don't know exactly where it was parked. If there was a structure on the property – a house, she would be allowed to store an RV as long as it met the setbacks; not in the front, but not for living. So that's the difference between this...that's what makes this a use variance versus an area variance. Now obviously, as you know, a use variance has a different threshold than an area variance.

Mr. Casscles: Well that explains my portion of it. I am clear now.

Mr. Vasti: Mr. Sheehan, I'm sure you are familiar with modulares, temporary structures, for example at schools or commercial properties sometimes purchased on a lease basis...

Mr. Sheehan: Correct.

Mr. Vasti: because they need additional space. Is there any possibility if, let's say the ties were removed off this RV and it was put on blocks or some sort of an underlayment masonry blocks, or whatever, that it would fall into that category of a temporary modular dwelling?

Mr. Sheehan: Well, no. A modular...the definition of a modular is a structure that is transported on a trailer – a manufactured home or trailer is transported on its on chassis and wheels. That’s the difference under the Building Code between a modular and so forth. A modular has to be set on a foundation or a permanent structure. A trailer will be rolled in, they set it up on blocks, take the wheels off. Even if this was considered, I hate to use the word “trailer”, but it is easier for explanation that would be a prohibited use also, because you could not put a trailer on...it’s not zoned for trailers. You can only put trailers in a mobile home park. As far as the temporary, under the Building Code anything more than 6 months, even believe it or not a construction trailer, if it’s used for more than 6 months it becomes a permanent structure under the Building Code; which really has nothing to do with the Zoning end of it, but for the most parts anything – recreational vehicles or anything like that is an accessory to a home. It’s not in lieu of.

Mr. Vasti: Thank you.

Chairman Wright: Does anybody else have any questions?

(no response)

Chairman Wright: Ms. Aquino – do you have any things you want to offer?

Ms. Aquino: Yes, thank you.

Chairman Wright: Just state your name and then we will swear you in.

Frances Aquino

Chairman Wright: “The testimony you are about to give, is truthful?”

Ms. Aquino: Yes, it is. I apologize for my lateness.

So, I am listening to Mr. Sheehan and what I am hearing is that if there was a house on the property that then it could be probably be stored in the driveway in the right place. There was a house on the property. There was a tragic natural disaster that took place and took the house off the property. I don’t see why I need to be penalized for that. I’ve done nothing wrong. I’m trying to compensate or adapt to a natural disaster that took place. The property is developed in that it has water, sewage and electricity. It is developed in that it has a foundation of gravel on the floor and it has a driveway and it has a fence that goes all the way around it. I think that what I’m asking for is some compassionate consideration regarding a natural disaster that took place.

The other thing that I didn’t mention last time was that even in the best of circumstances, my property would flood. It would never enter the house. It had never entered the house to my knowledge. However, a few years ago I actually lost a car because the moon was full and the tide was high and I had a very low lying car.

The idea of having a home on wheels takes care of that problem because if it’s in the weather report, I can just roll off, wait for the tide to go down and things to go back to normal and roll it back on. It’s self-protection. It’s a way to keep that residential property residential. Otherwise, it’s not going to be residential for anybody. Even if you do build a structure, like I was adamant was and hoping to, I’m still going to have to roll my car off the land when the moon is full and the tide is high. I don’t think that anyone is being harmed by this and the other thing is that there’s a trailer right outside my property in horrendous condition. A danger zone for anybody that might crawl into it. I just don’t understand why of all of the problems in the Town, or in the world, why this has to be such an issue and that it can’t just be a compassionate consideration and that is what I am asking for - compassionate consideration due to no fault of my own; losing my home.

Chairman Wright: And I, I won't speak for everybody, but I think generally everybody understands and feels the...what you are up against. Part of what we are charged with though is enforcing these laws under the way they've been written in the Town Code. One of the things you are up against that makes it a little more difficult, is that they are not an area variance which are a little bit easier; the threshold is lower for an area variance.

Ms. Aquino: I am aware of that and I understand the difference now.

Chairman Wright: So this is a use variance and there are stricter thresholds for us to take a look at and...

Ms. Aquino: I don't know what a threshold is in this context.

Chairman Wright: So in some cases like economics – what we need to see as a Board is an economic case up against changing the use of the property.

Ms. Aquino: I don't understand what that means – economic case?

Mr. Vasti: Maybe I could...Mr. Chairman, if I may. Mrs. Aquino, certainly I understand your situation and your predicament.

Ms. Aquino: I believe you do.

Mr. Vasti: What I would like to know – I'd like to ask you have you looked at any businesses in the County that offer parking for either an RV, for your type of vehicle, what they would charge and what services would be provided to you for those charges. Have you looked at any of those situations to try and alleviate your predicament?

Ms. Aquino: Yes, I have. There are no, to my knowledge...I went up to the campgrounds on Old Gate Road. They do not allow for hook-ups. That's mostly I think tents and vehicles that don't require anything like that and parking lots and parking places don't have sewage on...

Mr. Vasti: Okay, so that's as far as the County goes, is that correct?

Ms. Aquino: Right.

Mr. Vasti: The County, to the best of your knowledge, doesn't offer that?

Ms. Aquino: Correct.

Mr. Vasti: Have you looked within 50 miles of this County?

Ms. Aquino: I have. There is...yes, there's a place in Westchester, but they only are available during certain months and because of that I didn't go any further.

Mr. Vasti: Did you pursue their daily rate charge or monthly rate charge?

Ms. Aquino: I remember pursuing a daily rate charge for the camping grounds down by Liberty...down in New Jersey on the river. There is a camping grounds there and I think it is \$50.00 a day.

Mr. Vasti: Does that include hook-ups – electricity, water and sewage?

Ms. Aquino: I'm going to just take an educated guess and I would say "yes", but I am not sure because I ruled it out because it was not where I wanted to be.

Mr. Vasti: Now, presently if as I understand it, you're living in the trailer, but you are not conducting any business out of the trailer, is that correct?

Ms. Aquino: Oh, absolutely not.

Mr. Vasti: So it's your domicile?

Ms. Aquino: Absolutely, yes.

Mr. Vasti: Okay. Thank you.

Ms. Aquino: You're welcome.

Chairman Wright: So, some of what the statute that we have to work with are...some of the points are, and this is what I'm reading out of our use variance:

1. That the applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;
2. That the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;
3. That the requested use variance, if granted will not alter the essential character of the neighborhood; and
4. That the alleged hardship has not been self-created.

So those are the 4; I can't find the 5th one right now, but...and we have to get all of them. It's not that we can get 1 out of 5...my personal opinion, at least what I've seen so far, is that I think there's, you can probably make a case for each one of these...so I think you can probably do it, but I don't know that you've given us enough information right now to do that.

Ms. Aquino: What information is missing?

Chairman Wright: Well I'm not sure that you've made a financial case to say that I can't do anything with this property. I have nothing here...and as you said there is nothing evidentiary that I can use to say that we can't – that the use of the property is – that you cannot realize some return on it and it may be simple to do, but we don't have anything like that.

Ms. Aquino: Explain – layman's terms because I am not in that business.

Chairman Wright: I know and I'm not an attorney. All I can say is that...

Ms. Aquino: I don't know what it means; what you just said.

Mr. Casscles: What you mean is you can't, according to that; you can't build a house on that property. Is that what you are saying?

Ms. Aquino: I never said that.

Mr. Casscles: So if you can build a house on that property then you have the portion of where you...usable for something permitted in that zone.

Ms. Aquino: If you have the proper structure, a hurricane proof house, with the right lift...

Mr. Casscles: But, you still have that option of building that house.

Ms. Aquino: I still do. I am waiting for the New York Rising grant to come through who has said that I could use...the grant is such that it is supposed to give me the money to build a house. I also have the house that I've already chosen to have built on the land. I never said that I wasn't going to build a house.

Chairman Wright: What you're asking us to do is to change the variance...

Ms. Aquino: Temporarily.

Chairman Wright: Even if you build it, the variance technically you can live there.

Ms. Aquino: Temporarily.

Chairman Wright: I don't know how we can do temporary use variances. It may be an opportunity...there may be something there, but I'm not sure if we can do that.

Ms. Aquino: But, back to the few things that you mentioned there, you went through it very quickly. But, it is no fault of my own. The one before that was...

Chairman Wright: I understand. But, I think you can overcome a lot of these things, and this is just me speaking. From what I can see, I think you can probably overcome a lot of these things, but I think what you need, my suggestion would be, that you get an attorney to help you prepare enough information so this Board can look at it and make a determination based on...

Ms. Aquino: I need in writing what information you are looking for.

Chairman Wright: And I am saying an attorney would be able to guide you through that.

Ms. Aquino: No, no. My attorney will read your information so that my attorney can respond to your questions and demands.

Chairman Wright: I am not trying to be difficult.

Mr. Honan: I can give you the provision of the law that the Board is referring to if that would be helpful and help with your attorney. It's the Town Law and its section, you want to write this down, 267-b and you can look in that provision of the law and you will see under that it will say use variance and there will be certain criteria that you will have to meet in order to obtain a use variance.

Ms. Aquino: Yes.

Chairman Wright: We were hoping this could be an area variance, but it's not going to be that way.

Ms. Aquino: Where can I find that?

Mr. Honan: In the Town Law. It's a New York State Law.

Ms. Aquino: And where do I find the Law – in a library?

Mr. Honan: In a law library, in a courthouse, you can go on-line. If you have an attorney...I can tell you what you can do is just Google New York State Town Law.

Ms. Aquino: Why would I be standing here, if I could afford to hire an attorney?

Mr. Honan: I don't know your circumstances. You asked for the criteria and I was just being helpful to you.

Ms. Aquino: Okay, thank you.

Chairman Wright: What we are trying to do is when we thought, after the last meeting, that there was a potential that this could be an area variance and that's why we continued the Public Hearing thinking and our expectation was it might be an area variance.

Ms. Aquino: But, we knew it wasn't an area variance.

Chairman Wright: Well we didn't know that last week.

Ms. Aquino: Well I did and so did he.

Chairman Wright: It's a use variance.

Ms. Aquino: It's a use variance.

Chairman Wright: Right, but we were saying, and this is part of what we are trying to say is that we know that if it was a use variance these are...it's a much higher threshold so what we were trying to do is to say – is this really an area variance. That is why we bought in Mr. Sheehan. Mr. Sheehan clarified it. He said no this cannot be an area variance. So we are now back to it's a use variance.

Ms. Aquino: Yes, I understand that – that procedure you went through which was unfortunately a waste of time because I had already been qualified by Mr. Sheehan.

Chairman Wright: But, we weren't sure about it.

Ms. Aquino: Now my question is...

Chairman Wright: I'm not trying to be difficult...

Ms. Aquino: I'm not trying to be difficult either.

Chairman Wright: I am trying to find a way to get you some relief, but I can't do it like that.

Ms. Aquino: Like what?

Chairman Wright: Without some of this information.

Ms. Aquino: So the information you are asking me for has something to do with economics. It has something to do with proving...

Chairman Wright: What it has to do with getting a use variance in the Town.

Ms. Aquino: Yes, that's what I am applying for; a use variance in the Town.

Chairman Wright: Yes, Mr. Sheehan.

Mr. Sheehan: I think what the Board is looking for is you can Google that section that the attorney has just given you. It is 4 or 5 criteria that this Board must - you must meet all 5. It's not a 1 out of 5 or 1 out of 4. What you might want to do is read each one of those and write up, or have – if you have an attorney, he will tell you what to do. But, if you are going to try and do it on your own you want to document each bullet point and provide information why you meet those criteria.

Ms. Aquino: That's fine. I just want to know why I didn't have that request made months ago.

Mr. Sheehan: From who?

Ms. Aquino: Anybody that's involved in this. Why am I wasting my time here now finding out that I have to give you certain information that was never requested from me to begin with?

Mr. Sheehan: Well...

Mr. Casscles: Yes, it was because you filled it out on the application. The first 4 points of your application...let me just read one of them.

This is point #2:

This property cannot be used for any uses currently permitted in this Zone because;
(and your answer)

My house was destroyed.

That's not the right answer for that question. You have to show us why you can't put a house on that or use it for any permitted use.

Ms. Aquino: But, I am not saying I can't put a house on it.

Mr. Casscles: You are not saying you can. You have to meet that criteria.

Mr. Vasti: Mrs. Aquino...

Ms. Aquino: The Town knows I can put a house on it.

Mr. Casscles: You have to meet the first four questions.

Ms. Aquino: It's a residential piece of property.

Mr. Vasti: Mrs. Aquino, also at the last meeting the Chairman did mention to you the fact that if it turns out to be a use variance that it would be much more stringent, would require a lot more detail.

Ms. Aquino: Yes.

Mr. Vasti: So he did mention that at the last meeting. Now was there any insurance settlement with you from your insurance company on this property. Do you have any financial means at all to at least start a house and maybe get a loan from a bank to continue building a house? These are the types of things that we would want to see as a Board. These are the type of questions or the type of things you could produce for us.

Ms. Aquino: Let me just say – I'm not going to build on the property if I don't get the grant.

Mr. Vasti: So the answer is you don't have any insurance settlement from the loss of your home?

Ms. Aquino: No, that's not...

Mr. Vasti: You didn't receive any insurance.

Ms. Aquino: No, I didn't say that. I did receive insurance.

Mr. Vasti: Was it enough to build a house?

Ms. Aquino: No.

Mr. Vasti: Was it enough to start to build a house and then secure a loan from the bank?

Ms. Aquino: I would never do that. I would never start something I didn't think I could finish.

Mr. Vasti: Why not? If you could start to build a home and then get financial support from a bank, a bridge loan...

Ms. Aquino: Those are a lot of "ifs". Bridge loans – that's a lot of "ifs". Those are things that I am not comfortable...

Mr. Vasti: But, did you pursue that?

Ms. Aquino: That's not a choice I want to do. I didn't want to go in that direction. I wanted to go in the direction of getting the grant...

Mr. Vasti: Well, it may not be what you want to do, but it may be what you have to do to build a home.

Ms. Aquino: But, no one in the world has ever said that someone has to get a bank loan especially in times like this.

Mr. Vasti: No; no one ever said that, but also you want to seek relief from a Board for a use variance that's prohibited by the Zoning Code and you don't want to explore or at least show any type of initiative that you are exploring to rebuild there other than you are waiting for a grant. That grant may never happen. Then what are you going to do.

Ms. Aquino: Well then give me a temporary with a certain amount of...

Mr. Vasti: Well what is a temporary - is it a 6 month, a year, 2 years? Do you have knowledge of when this grant is going to be settled and you are going to actually receive the money to build a home?

Ms. Aquino: I mean all you have to do is listen to the news. New York State hasn't been forthcoming.

Mr. Vasti: You see that's not us. That's your responsibility. That's why you need...

Ms. Aquino: I can't give you an answer that doesn't exist.

Mr. Vasti: You need to follow the Code and see what's necessary to give us as a Board to come to satisfy our needs to explore the possibility of granting some relief to you, but right now it's a very weak case in front of us. It's yes, I want to build, I don't have the money, I want to live there in the trailer, I don't know how long I'm going to live there in the trailer. But the Town has a Code that says you can't live there in the trailer. It's prohibited. Even if that property wasn't in the dire straits that it is, that it looks like a tornado went through there, it could be on a beautiful street with homes and perfectly developed area, you would not be allowed to live in a trailer. The same way if a resident in this Town bought an RV and had a child living in it, in the backyard, they would be in violation of the Zoning Code in this Town. It's a prohibited use and that's why this is a very simple straight forward law. It prohibits this use. People can't just stick a pole in the ground and plug into the utilities and say I'm going to live here in a trailer. You just can't do that.

Ms. Aquino: Okay. So there's no compassion.

Mr. Vasti: But this doesn't have anything to do with compassion. It is the law.

Ms. Aquino: Laws are made to be changed.

Chairman Wright: Ms. Aquino, I think...

Ms. Aquino: Under circumstances.

Chairman Wright: I think if you were to get an attorney, sit down with the attorney and work, who does this stuff, and works through the points – like I said I think all the elements are there for you to get some relief, but the fact that it's a use variance changes the complexion of the application from an area variance significantly and like I said I think everybody up here has sympathy for you and they have compassion, but we are stuck with the law and we are stuck with the way the State has told us to do these things. If you...

Ms. Aquino: Only some people; because everybody around me is not in Code. In fact, my water main, my water pipe was connected to my next door neighbor's pipe, who just destroyed his property to have it removed and now I have no water; and...all of these things exist. All of these things that don't follow Code - exist.

Chairman Wright: I understand your frustration. This is what I think we can do. My suggestion is, and if you want to do this I think the Board would keep this in mind, but I would say I think we are fair to keep the Public Hearing open, if you can get an attorney and come back, you tell us when - 2 weeks/4 weeks, with a more robust case about...

Ms. Aquino: Okay, let me just ask you something. What does it take to make a commercial property?

Chairman Wright: All this.

Ms. Aquino: All this.

Mr. Vasti: And more.

Chairman Wright: It's a change of use. That's what you are looking for. That's what we are struggling with.

Ms. Aquino: I'll just sell it. I'll just sell it. I'm not spending any more money.

Chairman Wright: It's up to you. So do you want to do this?

Ms. Aquino: I will just sell it to really good people who you will really appreciate being there.

Chairman Wright: Let me ask you a question – “Do you want us to keep this open or not?” I understand you are upset.

Ms. Aquino: “I don't. Done.”

Chairman Wright: Okay.

*****MOTION:** Chairman Wright made a motion to close the Public Hearing; seconded by Mr. Casscles. Hearing all in favor; the motion was carried.

Chairman Wright: The last item on the agenda is the minutes of April 3, 2014.

*****MOTION:** Mr. Casscles made a motion to accept the minutes of April 3, 2014; seconded by Mr. Fox. Hearing all in favor; the motion was carried.

*****MOTION:** Mr. Fox made a motion to adjourn the meeting of April 17, 2014; seconded by Mr. Anginoli. Hearing all in favor; the motion was carried.

Respectfully submitted,

Kathleen Kivlehan
Secretary
Zoning Board of Appeals