

**TOWN OF STONY POINT  
ZONING BOARD OF APPEALS  
Minutes of May 21, 2015**

**PRESENT:**

Mr. Anginoli  
Mr. Keegan (arrived at 7:07 PM)  
Mr. Casscles  
Mr. Vasti  
Mr. Fox  
Mr. Porath

**ALSO PRESENT:**

Steve Honan, Attorney  
William Sheehan, Building Inspector  
Thomas Larkin, Fire 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.

On the agenda tonight we have one application; the request of Michelle Burns.

**Request of Michelle Burns - Appl # 2015-0004**

A variance from the requirements of Chapter 215, Article XIV, Section 94-D.1-C: Less than required front setback (corner Lot), required 19.8 feet provided 8.0 feet; to install an above ground pool in the front yard at premises location at 35 Minerick Drive, Stony Point, New York

<b>Section</b>	<b>20.07</b>	<b>Block</b>	<b>1</b>	<b>Lot</b>	<b>21</b>	<b>Zone</b>	<b>R1</b>
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**\*\*\*MOTION:** Mr. Vasti made a motion to place Application #2015-0004 on the June 4, 2015, agenda for a Public Hearing; seconded by Mr. Fox. Hearing all in favor; the motion was carried.

**Mr. Vasti:** I do have a couple of questions Mr. Chairman. After going through the application I noticed that the survey is provided is dated 2004, I believe. Also, the survey seems to indicate that there is a proposed 2-story framed dwelling on the property. I'd like a more recent survey that shows exactly what is there and I would like to request that so we know exactly what has received the "certificate of occupancy".

**Chairman Wright:** Is there a representative for the applicant here. Can you just come forward and identify yourself.

**Michelle Burns  
35 Minerick Drive  
Stony Point, New York**

**Chairman Wright:** Mr. Vasti is requesting that we get an updated picture; if you want you can come forward and show us.

**Mr. Vasti:** I'm looking at this Mrs. Burns and do you have a more updated one from the architect that shows exactly what's there. Has that dwelling been built?

**Mrs. Burns:** Yes, in 2004.

**Mr. Vasti:** Right, but this says proposed...do you have one that is approved by the Building Department survey when you closed on the property; they would of given you that.

**Mrs. Burns:** I don't know. Would the Town have it? How did the Town have this?

**Mr. Vasti**: They may. You can check with the Building Department.

**Mrs. Burns**: Okay.

**Mr. Vasti**: Or you could check with your attorney who closed on the house or your own documents. Where did you obtain this from?

**Mr. Casscles**: Celantano.

**Mrs. Burns**: Yes, that's what it says on here.

**Mr. Vasti**: Well if he was your architect you may want to contact...

**Mrs. Burns**: No, that wasn't my architect. He just did the survey.

**Mr. Vasti**: Well if he did the survey; did he do the final survey that was submitted?

**Mrs. Burns**: I am assuming yes.

**Mr. Vasti**: You can contact him then.

**Mrs. Burns**: Okay.

**Mr. Vasti**: You can try the Town; that would be my first recommendation, if they have it I don't know if they will make a copy for you-the Building Department may have it. If not, you'll have to contact the architect.

**Mrs. Burns**: Okay.

**Mr. Vasti**: I do have another question Mr. Chairman, if I may. Mrs. Burns, to the back of the property here is this a framed shed there. Does it exist?

**Mrs. Burns**: Yes.

**Mr. Vasti**: Okay.

**Chairman Wright**: So if you could just get us an updated diagram that would be helpful and we will put it on the agenda on June 4, 2015.

**Mrs. Finnerty**: **(inaudible)** because Bill doesn't require people to get a new survey after their work is done; so they establish what survey she submitted on the application as the survey.

**Mr. Vasti**: Okay, that's a good point. If this is what we have then, to work with, then that is fine.

**Chairman Wright**: We will schedule a site visit for May 31, 2015, Sunday.

**Mr. Vasti**: Could you possibly maybe put a stake in the ground, like in the center, where your want to put the pool and put a little piece of rag on it or something. Clearly mark it so that we can see it and we know exactly where it's going to be.

**Mrs. Burns**: Okay.

**Mr. Vasti**: How high is the pool going to be?

**Mrs. Burns**: 15 – I have all the stuff here if you want to look at it.

**Mr. Vasti:** How round is it – is it an oval pool, round pool...

**Mrs. Burns:** Round. I got the price here on the oval and the round so we are leaning towards the oval. I would stay within the same guidelines that I was thinking you are going switch around...

**Mr. Vasti:** What’s the diameter of the pool?

**Mrs. Burns:** I have here either 16 x 24 or 18 feet.

**Mr. Vasti:** Okay and you have a fence around your property now.

**Mrs. Burns:** Yes.

**Mr. Vasti:** How high is your fence?

**Mrs. Burns:** I really don’t know. It staggers kind of.

**Mr. Vasti:** Okay, thank you.

**Chairman Wright:** So we will be by on the 31<sup>st</sup> between 8 and 10 and we will put it on the agenda for June 4, 2015.

**Chairman Wright:** So we have a request from the Fire Inspector to address the Board. So if you would like to come forward and just identify yourself.

**Tom Larkin – Town Fire Inspector**  
**50 Maple Drive**  
**Stony Point, New York**

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

**Mr. Larkin:** Yes. You received this letter, correct?

**(negative response from the Board)**

**(Mr. Larkin handing out letter to the Board.)**

**(NOTE: Since Mr. Larkin and Mr. Honan were not near a microphone during the presentation, it was difficult to hear, thus making it hard to transcribe the minutes. Also, at times too many members were talking at the same time, which also made it difficult to hear.)**

**Mr. Larkin:** This isn’t the first time that we’ve had this where we had to restrict or deny this, but we cannot have this at the end of the process anymore. We have to have this in the beginning of the process. It’s not fair to the applicant; it’s not fair to this Board and it’s not fair to the Building Department.

Moving forward, I met with Lanc & Tully the engineering group, and I submitted all the fire apparatus steering block specifications from the manufacturer and they put it in a computer generated program so...going forward when an applicant comes here, or even before he gets to this Board, I’m going to the Planning Board next week, they have to put their driveway through this test or this “radius-to-turn” test, before they can move forward. This incident, not to bore you with a story, in my 40+ years this was the worst incident that I’ve ever seen; this particular death. The truck got stuck, they were not the best conditions had it been an actual fire call everything else would have been bottled; bottled up in the street and not getting to anyone of these houses.

In Stony Point, first we had one (1) house, then we had the garage apartment, then in the 90's we built the house to the south; now we have the house to the west. We have a subdivision.

It took 40 years to do it, or 50 years to do it, but this is where we are at. We had this up in Tomkins Cove back in 2014, the Sullivan thing over cross the easements on a weekend; they decided they were going to build a driveway. Then they wanted to see if the fire truck could fit. The fire truck wouldn't fit; so that was denied.

Their driveway that is just under this, but they have to mention improvements. Do you agree...?

**(all in agreement)**

**Mr. Vasti:** When you say they, who is they.

**Mr. Larkin:** The applicants.

**Mr. Vasti:** Have they been cited?

**Mr. Larkin:** They were given this letter right after the test.

**Mr. Casscles:** To be honest with you Tommy this has been a long time coming. I've been on the Board for over 20 years and we kept saying you have to get the fire company and everyone else involved and...

**Mr. Larkin:** Well we've addressed this problems on two (2) different occasions; one off of Thiells Road, the fire truck wouldn't fit, but it has to go further whether it be Skahen or Soluri, we have to move forward with this. So there is no violation here; their driveway or their road has to meet the "radius-to-turn" test and these are from the manufacturer's engineering department.

**Mr. Vasti:** Mr. Larkin, you realize the Zoning Board is usually after the fact.

**Mr. Larkin:** Correct.

**Mr. Vasti:** And the Planning Board does all of the site review...SEQRA, all the other pieces, and some times, and believe me I'm on your, absolutely on your team when it comes to safety, and not only with safety of homes, but safety of your crew and all the volunteers. But, this stuff has to be nipped in the butt.

**Mr. Larkin:** Yes.

**Mr. Vasti:** I couldn't support it anymore strongly. Believe me I'm 100% behind you.

**Mr. Larkin:** I'm going to meet with the Planning Board. I've worked with the Planning Board...I realize this is after the denial process.

**Mr. Vasti:** I don't want to sound like it is a Planning Board thing; its everyone's thing and I'm not trying to lay the blame or lay the owness completely on the Planning Board.

**Mr. Larkin:** No.

**Mr. Vasti:** It's everyone's responsibility. But, when you have good planning you have good roads and good driveways, good sub-divisions, good developments. And we know, as you said earlier, one of your remarks you made this is Stony Point and we all know what Stony Point is like. A lot of stuff was here a long, long time ago so we are doing the best we can, but it's a great idea that we all work together.

**Mr. Larkin:** I've been in this job since 1998; so I've worked with the Planning Board, I have had occasion to work with the Zoning Board of Appeals, but this, I am going to be quite blunt with you and not to bore you with a story...I personally was scared to death. I put this truck...I thought the truck that I was driving was going down the bank.

**Mr. Vasti:** It is one of the worst winters we've ever had and that's when things will happen. It's a perfect storm.

**Mr. Larkin:** It had non-stop fire chains and everything else. And, also so you know, the Federal Government, OSHA mandated the trucks are now 4 to 5' longer; 32 to 33' per pumper; and we are 37,000 lbs. to 50,000 lbs. At that is what I had up there.

**Mr. Vasti:** It is amazing.

**Chairman Wright:** So what is your proposal? I'm not sure I understand your proposal.

**Mr. Larkin:** My proposal is, well unfortunately, looking forward with my proposal is after this application anybody else that comes on board, through the Planning Board or the Zoning Board, their property or that road has to meet this "radius-to-turn" test.

**Chairman Wright:** And is that something the Building Inspector will look at when they do that or...how does somebody intercept to check this.

**Mr. Larkin:** This is where we have to talk legal to have it put in the Town Code.

**Mr. Casscles:** So Bill can deny it right off the bat.

**Mr. Vasti:** I think Mr. Larkin...I think the protocol should be changed; the chain-of-command. Just like for example, if an applicant would put in for a 280a (approved access on a road). That would automatically trigger a GML and a letter to the County Planning Department. So I think it would be apropos to have a mechanism in place that triggers the fire department to come up and...

**Mr. Larkin:** It's not the fire department; it's the Code Enforcement Officer.

**Mr. Vasti:** Code Enforcement for the "radius-to-turn" test. I think it's a no brainer.

**Chairman Wright:** At that point...I think it's the right place to get it.

**Mr. Vasti:** I think it should be the protocol.

**Mr. Porath:** It's definitely a protocol issue.

**Mr. Fox:** That's also a safety issue which is one of our criteria.

**Chairman Wright:** I was thinking that we are never going to remember all the Codes so unless there is somebody in the Town who is going to get this upfront and make it a comment on this, by the time it comes to us, unless...

**Mr. Larkin:** It has to be on the list and it has to be first on the list.

**Mr. Honan:** Just so I understand this, normally when someone comes for plans to the Planning and at that time they will most, most people don't (**inaudible**) but once they do that, once they designate that, it should be more than that that certain interested and involved agencies and departments within the Town would view that. So you would call the subdivisions and the larger sites. You should as part of one of the reviewing agencies (**inaudible**) I can't understand how that is not apparent. This is a small...

**Mr. Larkin:** This is a one (1) single-family home...they crossed over easements. That's how it ended up here.

**Chairman Wright:** So is the developer we are looking at going to address the single family...

**Mr. Larkin:** It's going to address the single family homes. It's going to address private roads. It's would have to address Town roads. Dedicated roads would pass this "radius-to-turn" test, but it still has to pass the test.

**Mr. Casscles:** Does this test also put the grade into that.

**Mr. Larkin:** Yes.

**(inaudible - too many people talking)**

**Mr. Vasti:** Was it the steep grade predominately or was it the turn itself.

**Mr. Larkin:** It's the turn. It was more of the turn on this one, but we, going back with Skahen and Soluri that was also the grade test.

**Mr. Keegan:** That was up there by Soluri that this happened.

**Mr. Larkin:** No, this happened at 27-35 Blanchard Road.

**Mr. Keegan:** Blanchard – okay.

**Mr. Larkin:** I'm going back and using Skahen as an example.

**Mr. Keegan:** Yes, that is rough grade up there.

**Mr. Vasti:** Where that mansion...

**Mr. Honan:** The problem is coming where we have...is it an existing road. Are we building something off the existing road; is that is what is happening?

**Mr. Larkin:** This is the driveway. This particular one happened to be a driveway and again one house was built in the 50's and the garage/apartment was built in the 50's (inaudible)

**Mr. Vasti:** It just sort of grew. Like Mr. Larkin said decade after decade.

**(inaudible)**

**Mr. Larkin:** I met with the ambulance corps and we are going to target all our high hazard areas.

**(inaudible)**

**Mr. Larkin:** My recommendation is that they have to make these in Code by cutting the curb. Would we like to do more; yes, we'd like to do more, but at this stage of the game after an applicant's been all through this how can we hold him to this standard now.

**(inaudible)**

**Mr. Keegan:** Every time we approve any kind of mountain location and it's always on the premise that all of the local fire laws, I think that's even in there, when we submit this to the Building Inspectors (inaudible)

**Mr. Vasti:** That's all in the resolution. But, it still falls through the cracks.

**Mr. Keegan:** As far as being...I see us as being the last line of defense to say okay are you in compliance with everything else before we grant this variance.

**(inaudible)**

**Mr. Honan:** You have the County agency sign off on it and the Town; definitely the Fire Inspector **(inaudible)**

**Mr. Keegan:** Can we put that into the resolution that it is conforming to all the rules, regulations and fire codes of the Town of Stony Point. Something like that.

**Chairman Wright:** You can kind of imply that.

**Mr. Vasti:** That's a good question for the Building Inspector because who's going to be the gate keeper.

**(too many people talking – inaudible)**

**Chairman Wright:** This isn't as though they did something...this is discovering the compliance picture was insufficient and now the Fire Marshall is telling us he is going to adopt a process, he is going to promote a process and I think we will back you up on that one as you go to the Town that you will incorporate it.

**Mr. Vasti:** Mr. Larkin, we have very strict parameters under our purview, it's either an area variance or a use variance. Sometimes we have definitions which are very rare and if we step outside our purview, we technically can get ourselves in a situation that is difficult to get out of, but with safety I don't think anyone is going to disagree with me that that is a primary issue. Even if it's not really within our purview it's before us to consider and look at and we certainly have a right, at least I feel I do, to bring that up and say listen does this meet the Fire Code regulations and I'd like to get the Town Official involved to make sure. I have a concern about that.

Counselor, would I be out of bounds if I make those type of statements on the Board?

**Mr. Honan:** What we need to do is identify if we need a Code; amend it to the Board...need something that the Building Department, the Building Inspector, **(inaudible)**

**(conversation between Mr. Larkin and Mr. Honan inaudible)**

**Mr. Larkin:** In the Fire Code it says the Code Board Officials will determine fire department access.

**Mr. Honan:** **(inaudible)**

**Mr. Larkin:** So with that being said, with the "radius-to-turn" test, it's done by engineering and their driveway specs with grade; doesn't meet the thing. It stops there until they improve the driveway. It passes that test and then we move forward.

**Mr. Casscles:** It's the applicant's responsibility.

**Mr. Larkin:** Yes.

**Mr. Honan:** **(inaudible)** the "radius-to-turn" test of 5 years ago will not be applicable for today.

**(inaudible – too many people talking)**

**Mr. Anginoli:** Counselor, let me ask you a question – if there is an issue with the road and there is now a process where that improvement on the road has to be made and the “radius-to-turn” test successful before we review this application, what happens if we deny the variance after they’ve approved the road. Where’s that going to lead?

**Mr. Honan:** That’s a problem. That’s why an applicant usually goes...it doesn’t have to, but if he goes **(inaudible)**

**Mr. Anginoli:** Would there be any basis for an Article 78 or anything just on the fact that they spent all this money...

**Mr. Honan:** No, not because...

**Mr. Anginoli:** So it’s a roll the dice for the applicant.

**Mr. Honan:** Yes, it is. That’s why we are very careful how to proceed and weigh it out whether it is worth...I see it all the time, developers do it. They weigh how much it’s going to cost to get through the Boards **(inaudible)**

**Mr. Vasti:** I have a question for Mr. Larkin. Are there fire hydrants on that roads?

**Mr. Larkin:** On that section of Blanchard Road, no.

**Mr. Vasti:** So that’s why you would send a large truck up there specifically for water; concern over water. It’s a double-edge sword.

**Mr. Larkin:** Yes, it is.

**Mr. Honan:** You have to carry water in on the truck.

**Mr. Larkin:** Yes, on this particular truck has 12,050 gallons of water.

**Mr. Honan:** Tanker truck?

**Mr. Anginoli:** Tom, can I assume that there are some mathematical computations that will exist that show if the road is this dimension this fire truck should pass those tests.

**Mr. Larkin:** Correct.

**Mr. Anginoli:** Okay, that would be helpful.

**Mr. Keegan:** But doesn’t this have some kind of weight criteria? That is a lot of water and the driveway has to substantiate that.

**Mr. Larkin:** You are not crossing a bridge. It’s more of a turning radius. The weight wouldn’t be a problem, but as Mr. Anginoli just said about the mathematical equation and it gets in quite depth. I’ve been with the trader of the manufacturer of the vehicles and it’s called steering lock, steering crank, axle width, the tire thread width and that passes and it is a common thing that this company has done for quite some time.

**Chairman Wright:** So your reason you come here tonight is to kind of inform us, educate us and then seek our support and then follow through.



**Mr. Larkin:** Yes, I would like to have everybody on board with this and to let you know what took place on it March 7 and the improvements that they have to make.

**Chairman Wright:** Thank you very much.

**\*\*\*MOTION:** Mr. Casscles made a motion to adjourn the meeting of May 21, 2015; seconded by Mr. Fox. Hearing all in favor; the motion was carried.

Respectfully submitted,

Minutes taken by Cathy Finnerty  
and transcribed by Kathy Kivlehan