

PUBLIC HEARING
TOWN OF OSSINING ZONING BOARD OF APPEALS
DAVID CAPASSO FOR
34 MCCARTHY DRIVE
SECTION 80.19 BLOCK 2 LOT 58

Zoom Meeting

November 2, 2020

7:30 p.m.

PRESENT:	SALVATORE CARRERA	- Chairman
	JAMES BLAIR	- Member
	DAVID KRIEGER	- Member
	DAVID O'NEIL	- Member
	THOMAS WILLS	- Member
ALSO PRESENT:	CHRISTIE ADDONA	- Town Attorney
	JOHN HAMILTON	- Building Inspector
	SANDY ANELLI	- Recording Secretary

Sal Carrera: Can we do this with four members Christie? {Tom Wills having trouble connecting to audio}

Christie Addona: Yes, so you need a quorum, which is three. Tom is technically the alternate but since one Board Member recently resigned, he would serve in the fifth spot for the purposes of this meeting, so just so the applicants aware if the board was inclined to go forward with voting tonight if there are only four members, you would need at least three out of the four to vote in favor, as opposed to five.

David Capasso: Three, that's the magic number. Got it.

Sal Carrera: So, with your permission, there's four board members online right now I'm normally there's five so you want to go forward with this?

David Capasso: Yeah, I think so.

David Capasso: That'd be great. Thank you.

Sal Carrera: Very good.

Sal Carrera: Good evening, ladies and gentlemen, this is the November 2, 2020 meeting of the Zoning Board of Appeals for the Town of Ossining. My name is Sal Carrera chairman and joining me this evening or members of the Zoning Board of appeals, Town Attorney, Building inspector, and Secretary. We have one hearing this evening. I will read the public notice and then request the applicant, or their representative give a brief explanation of the relief sought. For the record, please give your name and position on the board.

David O'Neil: I'm David O'Neil, Member.

David Krieger: David Krieger, Member.

James Blair: James Blair, Member.

Sandy Anelli: Secretary.

Christie Addona: Christie Addona, Attorney.

John Hamilton: John Hamilton, Building Inspector.

Sal Carrera: Thank you.

Christie Addona: We're still trying to get Tom's audio working.

Sal Carrera: Anyone that has a comment should raise their hand and that will basically tell us that they want to speak, you will give you a name and address after the comments received this evening, we will try to render a decision. I will read the legal notice:

Notice is hereby given that a Public Hearing of the Town of Ossining Zoning Board of Appeals will be held on **Monday, November 2, 2020 at 7:30 p.m. THIS MEETING WILL BE HELD VIA VIDEO CONFERENCING** Pursuant to Governor's Executive Order 202.1 dated March 12, 2020 and Executive Order 202.15 dated April 9, 2020 and subsequently extended. Members of the public can join the meeting via computer or mobile app on Zoom using the link below:

Join Zoom Meeting Monday November 2, 2020 at 7:30 p.m.

<https://us02web.zoom.us/j/81514636596>

Meeting ID: 815 1463 6596

Alternatively, you can call into the meeting from any phone by dialing the following number:

One tap mobile

+1-929-205-6099, 81514636596# US (New York)

Meeting ID: 815 1463 6596

Find your local number: <https://us02web.zoom.us/u/kv0Vh1qLJ>

If you have any questions about the Zoom meeting process, please contact the Town of Ossining Building Department at 914-762-8419

The Hearing is on the application of David Capasso, 11 Riverview Farm Road, for property located at 34 McCarthy Drive, Ossining, NY, and in accordance with the Code of the Town of Ossining, Zoning Section 200-21 A. Bulk Regulations, Table 200 Attachment 2. The applicant is seeking an area variance on an existing undersized lot in order to construct a new single-family residence. The lot is 17,059 square feet in size where a minimum of 20,000 square feet are required.

The property is located at 34 McCarthy Drive, in the unincorporated area of The Town of Ossining, owned by Woodcrest Development Corp., PO Box 152, Pleasantville, NY 10570, and is identified on the Tax Map of the

Town of Ossining as Section 80.19, Block 2, Lot 58, in the R-20A One-Family Residence Zoning District.

All interested persons are invited to attend the Public Hearing on video conference (Zoom), and/or send comments by email to: www.bldgdept@townofossining.com or send comments by regular mail to Town of Ossining Zoning Board of Appeals, P.O. Box 1166, Ossining, NY 10562.

Application Materials & Site Plan prepared by William Simeoforides, Architect, titled "Proposed Residence 34 McCarthy Drive, Ossining, NY", dated September 28, 2020 is available for public inspection online at: <https://www.townofossining.com/cms/publications/all-documents/zoning-board>

BY ORDER OF THE ZONING BOARD OF APPEALS
Sal Carrera, Chairman
DATED: October 22, 2020

Sal Carrera: For the record we have a letter, To Whom It May Concern, dated October 16, 2020 from Jennifer Palladino president of Woodcrest Development Corp, giving the applicant the opportunity to discuss this proposal. So I would turn it over to the applicant to give us any input and then we'll start asking some questions.

William Simeoforides: All right. Good evening. My name is William Simeoforides. I'm the architect and as the chairperson just read, we are seeking a lot size variance, minimum lot size is 20,000 square feet. Our lot is just over 17,000 and we're proposing roughly between a 3,000 to 3,500 square foot house, two-story house with a garage attached facing west on McCarthy.

William Simeoforides: The property, as I mentioned, is undersized and the reason for this variance is that precisely. All other setbacks are being met.

William Simeoforides: I did provide a lot drawing a site plan showing the proposed location of the structure. Again, it has been designed, but it is going to be a two-story one-family structure with an attached two car garage. I'll take any questions that you may have.

Sal Carrera: Okay, I like to start off with regards to you may or may not have this information, you are not the applicant but representing everyone here. How did Woodcrest Development end up with a lot size of less than 20,000 square feet?

William Simeoforides: That I don't know. I was surprised as a matter of fact, that it hasn't been developed. There are newer structures along that road. I don't know maybe John would know how, but I really don't know. That's a history question.

Sal Carrera: I had asked John with regards to this.

Sal Carrera: Because in the application it says, you know, this is similar to other residents along McCarthy that they're undersized and we're not aware of any other buildings there that are undersized, and, you know, the question I always come up with is that did Woodcrest Development develop a number of the homes that are there that were at the 20,000 feet and they ended up with this 17,000 foot?

William Simeoforides: Again, I can't answer that. I don't know what Woodcrest did. I do know the adjacent lot as you turn the corner behind our proposed structure is an undersized lot and so are a few other ones down the road, which are older, the one behind is actually pretty new, newer. Well, that may have been part of what Woodcrest Development I'm not really sure.

James Blair: When I looked at the at the plot plan it seemed to me that, though, that there must have been a subdivision here which split this, what would have been about a 35,000 square foot lot in half. Now you know how and they just sort of did it and then they built a house on one half, which would be the Eastern half and this is just hanging out there.

Sal Carrera: But this is basically a leftover piece of property after giving the 20 some odd thousand feet to, if it was in a subdivision.

James Blair: No the other one is 17,000 as well. The back piece of property. It's about the same. It's the same size. I think they split it in half.

Sal Carrera: Is this, it's not on McCarthy though.

James Blair: Well, it's around that corner. Yes.

William Simeoforides: It's literally behind our proposed structure if you turn the corner on McCarthy. The next lot. On the same side. On the right side.

Sal Carrera: Okay. All utilities are currently there are all going to be tapped into, water and sewer?

William Simeoforides: All utilities are on the road. I was just talking to a few neighbors and I guess the Town is planning on replacing the water lines because they're not that deep right now. I was told and the sewer line may be replaced as well, but they are existing. It's an unpaved road. They are going to pave it as well. Part of it is unpaved towards this property.

Sal Carrera: Okay. And do you have any idea how long Woodcrest Development has owned this site?

William Simeoforides: No.

John Hamilton: Sal, from what I understand, and Sandy correct me if I'm wrong, but Woodcrest did not get the subdivision, it was subdivided before they purchased the property by the original owners.

Christie Addona: So I don't know for certain, I don't have the file or the history, but if it was subdivided and at the time of the subdivision it was creating an undersized lot. They should have gotten a variance at that point, which leads me to believe that possibly at some point, and again, I'm just saying, based on what I understand the procedure would have had to have been at the time. The fact that they didn't get a variance means, it may have been up-zoned at some point in the future, meaning it was put into a different zone that required or there wasn't zoning in place at the time that the original subdivision had happened.

Sal Carrera: Well, I've been on the board for over 35 years and I started with McCarthy Drive and even though I'm getting up there in age I don't remember somebody coming in for an undersized lot, to me and I've done real estate and for 50 years, is that it's very hard to swallow when there's a piece of poppy leftover that doesn't meet the criteria of the zoning or the current zoning in place and that the developer Woodcrest just took a chance on this is and trying to sell an undersized lot but that's just my business sense.

Sal Carrera: I know McCarthy Drive up and down, left and right because we were involved in it when the first houses were up but those are the only questions I have right now, any other board members?

David O'Neil: Just a question. I also seen on the Mark Seiden Real Estate website reference to street wide meeting and street repaving and I don't know, John, if you're privy to this information. Is that something that's happening and is the widening of the road, only in the existing right of way, or would it affect this this property in any fashion?

John Hamilton: I do know that they will be doing massive work on that, on that street. It was always thought to be a private road and then a few years ago it was discovered that it was actually a Town road. So now the Town is assumed responsibility.

John Hamilton: I'm not in charge of the project it's being handled by the Town Engineer, Paul Fraioli, and the Water Superintendent Andy Tiess. So I know that they're in the process of working up plans. I know they've been speaking to some of the property owners. They're advising them that they will be affected because the road, from what I was told, will be widened and again there will be new water lines put in. I don't know if they're going to do anything with the sewers, but

the new water lines, and I believe the road will be enlarged possibly since they're telling people that it may affect their areas, but I don't have all the information, since I'm not part of the project.

Christie Addona: There haven't been many conversations about this, I sit with the Town Board so there's definitely been discussions about this before the Town Board going back a couple of years and John's correct that Paul Fraioli and Andy Tiess are kind of at the forefront of this the way I understand it, the biggest issue that could potentially occur with individual property. Is if there are encroachments in the right-of-way that are going to have to be moved back onto the properties.

David O'Neil: But not the inverse of that whether where the road getting wider this with would in fact make this lot smaller in some fashion and that would affect setbacks.

Christie Addona: Well that's, that's also something, you know, if it does that, what the applicant is proposing right now as far as I can tell on the plans is a building envelope. Right, so it's the location within which their project will be zoning compliant and all other respects, except for lot size because really, they can't do anything about that if at some point in the future, it comes to light that changes are made to the property that render it non-conforming in another sense or the lot sizes smaller such that a greater degree of a variance would be required, they would have to come back to this Board.

Sal Carrera: No matter what they do to that road, it's going to be a great improvement in the very, very, very beginning when the first houses were built on it was a private road and I know that it just changed, just recently, that even though the Town had been maintaining it for snow removal. It just became an issue and I wasn't involved in it. But no matter what they do to that road to make it a legal Town road, it will be nothing but an improvement for the whole development.

Christie Addona: Specifically with respect to drainage. That's one of the big things that they're looking at.

Sal Carrera: Any other comments or questions?

David O'Neil: So one other question. So in the submission package, there was the environmental assessment form and then following the impact assessment, which in the submission is not completed and usually completed by the lead agency. Where does that fit in this process?

Christie Addona: So the EAF part one, the completed version is something the applicant automatically submits in order for the board to be able to do an initial review of the project initially to figure out what, if any, environmental review under SEQRA is required because this is for a single-family home. It's a Type II action requiring no further environmental review. So there's no need to go further in

completing the EAF Part two and Part three, because it's automatically exempt under State law.

David O'Neil: Thank you.

Sal Carrera: Thank you.

Sal Carrera: Mr Blair anything?

James Blair: No sir. I'll make a motion, though.

Sal Carrera: Go right ahead.

Christie Addona: First, I just want to make sure that they're if we're going to close the public hearing...

Sal Carrera: I'm sorry we have to go see if there's any comments. Anybody online that has any comment with regards to this?

Christie Addona: So you can raise your virtual hand if you look under the participant list. There's a button, you can push

Sal Carrera: Anybody Sandy?

John Hamilton: you're muted your mics muted.

Sal Carrera: Sandy any people online want to make any comments from the public?

Sandy Anelli: I don't see anybody with their hand up, there's someone calling in on a phone. I don't know if they are.

Sal Carrera: I think we lost our Board member again. Jim, want to make a motion to close the public hearing?

James Blair: So moved.

Sal Carrera: Second.

David O'Neil: Second.

David Krieger: Second.

Sal Carrera: Thank you. I like to take a vote on this if it's alright, with everyone and understand that the decision we're making the criteria for an area variance is:

Whether an undesirable change will be produced in the character of the neighborhood or detriment to nearby properties will be created by granting of the variance;

Whether the benefits sought by the Applicant can be achieved by some other method feasible for the applicant to pursue other than an area variance;

Whether the requested area variance is substantial;

Whether proposed variance will have an adverse effect on the physical or environmental conditions in the neighborhood or district;

Whether the alleged difficulty with self-created - this factor is relevant to the decision, but the fact that the difficulty was self-created does not preclude granting the area variance.

Sal Carrera: Out of all of these, the last one, I think it is self-created, but looking at everything else, I feel that this application should be approved. I think it'll be a benefit for the neighborhood as compared to what it looks like right now. So, all in favor of granting this I'll take a vote.

David O'Neil: Aye.

James Blair: Aye.

David Krieger: Aye.

Sal Carrera: Aye.

Sal Carrera: So, for the record, unanimous decision on granting the application and we wish everyone good luck in moving forward.

William Simeoforides: Thank you.

Sal Carrera: Thank you.

David Capasso: Thank you so much

Note: Tom Wills, Alternate Member was present but could not connect to audio.

Time Noted: 7:55 p.m.

