

STATE OF NEW YORK : COUNTY OF ORANGE
VILLAGE OF WASHINGTONVILLE ZONING BOARD OF APPEALS

In the Matter of

JAMES CASAZZA, ESQ.

(Lot Line Change)

Date: July 6, 2023
Time: 7:00 p.m.
Place: Village of Washingtonville
9 Fairlawn Drive
Washingtonville, NY 10992

BOARD MEMBERS: RICK BUDAKOWSKI, Chairman
PATRICE GESNER
BILL CARROLL

ALSO PRESENT: FEERICK, NUGENT & MacCARTHY
Village Attorneys
96 South Broadway
Nyack, New York 10960
BY: STEPHEN M. HONAN, ESQ.
E-Mail: fnmlawfirm.com

DONNA JACARUSO, VILLAGE TRUSTEE
SUSAN WALSKI, DEPUTY MAYOR

APPLICANT'S REPRESENTATIVE: JAMES CASAZZA, ESQ.

REPORTED BY: Patrick DeGiorgio, Court Reporter

1 CHAIRMAN BUDAKOWSKI: Call to
2 order July 6, 2023 Zoning Board.

3 MR. CARROLL: Motion.

4 MS. GESNER: I second.

5 CHAIRMAN BUDAKOWSKI: I got a
6 second from Patrice.

7 MS. GESNER: Yes, second.

8 CHAIRMAN BUDAKOWSKI: All in
9 favor?

10 MS. GESNER: Aye.

11 CHAIRMAN BUDAKOWSKI: Aye.

12 MR. CARROLL: All in favor.

13 CHAIRMAN BUDAKOWSKI: Please
14 rise for the Pledge.

15 (Pledge of Allegiance)

16 MR. HONAN: First order of
17 business, Mr. Chairman, I believe is
18 the selection of the Board. The Board
19 gets to select a chairman for the
20 Zoning Board of Appeals for the
21 Village of Washingtonville.

22 CHAIRMAN BUDAKOWSKI: I will
23 nominate myself.

24 MR. CARROLL: Second.

25 MR. HONAN: All in favor?

1 CHAIRMAN BUDAKOWSKI: Aye.

2 MS. GESNER: Aye.

3 MR. CARROLL: Aye.

4 MR. HONAN: 3 - 1 vote. Mr.
5 Budakowski now is the Chairman of the
6 Zoning Board of Appeals for the
7 village.

8 Second order of business I
9 believe is calling the agenda for this
10 evening. I see you have an agenda in
11 front of you. Would you mind if I
12 took a look at that?

13 MR. CARROLL: Sure.

14 MR. HONAN: I see that number 3
15 on the agenda is Assignment of Terms.

16 CHAIRMAN BUDAKOWSKI: We have
17 already been assigned. It has already
18 been assigned to us.

19 MR. HONAN: And that assignment
20 was done by the Board of Trustees of
21 the village at a prior meeting;
22 correct?

23 CHAIRMAN BUDAKOWSKI: That is
24 correct.

25 MR. HONAN: Number 3, Attorney -

1 Informational. I believe in advance
2 of the meeting what I did instruct you
3 was how the Board proceeds and that
4 the selection of the Chairman was in
5 order and that you've deferred a
6 substitute Chairman to a later date in
7 the event that the Chairman is not
8 present; is that correct?

9 CHAIRMAN BUDAKOWSKI: That is
10 correct.

11 MR. HONAN: With that being
12 said, I believe the next item is Item
13 Number 5. If you wish to proceed with
14 that.

15 CHAIRMAN BUDAKOWSKI: Great. Do
16 I need to open and a second?

17 MR. HONAN: Calling the first
18 item of business for this evening
19 which is the Casazza application.

20 CHAIRMAN BUDAKOWSKI: I'm
21 calling to order Mr. Casazza's
22 application for a variance for lot
23 changes. All board members, anyone
24 have questions that they need
25 answered?

1 MS. GESNER: Not at this time.

2 MR. CARROLL: No questions.

3 MR. CASAZZA: I wanted to give
4 you a little background of what is
5 going on just so that you are all
6 familiar because this matter has gone
7 to a couple different ZBA's.

8 We actually started it last
9 fall. It's a small lot line change,
10 no new building lots are being
11 created. We are borrowing land from
12 one lot we own and adding it to
13 another lot.

14 We actually had our official
15 meeting of the Planning Board on
16 January 10th. They referred us to the
17 ZBA for a single variance and also
18 referred us to the county for county
19 input.

20 On March 16th there was a public
21 notice for a public hearing on the
22 variance requested. There was nobody
23 showing up to raise any questions.
24 The attorney at that time who was
25 named Cassady was referring the Board,

1 and she said that she would modify the
2 application that the Planning Board
3 made to the county to make it a joint
4 application of the Planning Board and
5 the ZBA and she also indicated that no
6 formal action could be taken by the
7 ZBA because the Planning Board hadn't
8 yet made a declaration. However, the
9 ZBA at that time took a straw pole
10 where they voted 3 - 0 in favor of
11 granting the variance which allowed me
12 to go back to the Planning Board. We
13 had a public hearing at the Planning
14 Board on April 11th. Again, there was
15 one comment that just was questioning
16 the addition and subtraction of the
17 acreage and then the Planning Board
18 voted at that point to make a negative
19 declaration. They are now ready to
20 act on our application, but they need
21 a confirmed vote of the ZBA. So
22 that's the background of the story.

23 As your attorney indicated, it's
24 a very confusing map because there are
25 three different lots involved.

1 There's a couple of slope easements
2 involved and so on. So I made up this
3 just as an idea giving you what we
4 want to do.

5 The green area on this map is
6 the existing lot, it's 1.55 acres and
7 has a dwelling on it. This is where
8 my mother and father-in-law used to
9 live, Ray and Janet Steeves and now my
10 brother-in-law Bill Steeves resides
11 there. So that's the house.

12 Over the years we have taken
13 this building back here and made it
14 into a garage for the house. This
15 building over here has become a
16 storage shed for the lawn mowers and
17 so on.

18 We have the main parcel on the
19 market for sale which includes these
20 two buildings. So what we want to do
21 is take this area in red and add it to
22 the area in green so that the final
23 lot will be 3.5 acres instead of the
24 1.5. So that's what this very
25 confusing map is showing.

1 Now, the reason we need a
2 variance, all of the new lot lines we
3 have created, these over here are in
4 full compliance with the zoning.
5 There's a lot line here that is an
6 existing lot line now that separates
7 the 88-acre parcel from what used to
8 be my wife's medical office and that
9 setback is not in compliance, but it's
10 been that way since probably the early
11 '80s. And so the Planning Board said
12 we should go and get an official
13 variance for that setback. And that's
14 what is shown on your map where it has
15 a bulk table.

16 These are the bulk tables.
17 Because the property is in two
18 different zones the house and the --
19 actually it's in the BG zone mostly.
20 But in any rate, we have both bulk
21 tables shown here. Right here you can
22 see where the variance is in question.
23 The minimum frontage should be 20
24 feet, it's 3.5. Now they're calling
25 it frontage, but it's really not

1 fronting on the highway, it's the
2 dividing line between this lot and the
3 rest. So that's the area that we are
4 looking to get the variance for.
5 Other than that, all of the other
6 lines on the map are in full
7 compliance with the zoning
8 requirements.

9 We borrowed some land from the
10 88-acre parcel and took out 1.26
11 acres, but we had a strip of land here
12 across the edge which is going to
13 disappear. Because we are taking off
14 the end of it where it meets the
15 highway, this would be an isolated
16 piece so we're going to merge it so
17 the leftover 1.4 acres becomes part of
18 the 88 acres. So again, that helps to
19 make the map more confusing.

20 CHAIRMAN BUDAKOWSKI: That's
21 understood.

22 MR. CASAZZA: Do any board
23 members have any questions or does
24 your attorney have any questions?

25 MR. HONAN: Just so I'm clear,

1 are you looking for a front setback
2 variance or is it a side setback or
3 something else?

4 MR. CASAZZA: It's actually
5 referred to as a front setback because
6 it's right here, it's the area that
7 kind of faces Route 208, but there's
8 an intervening lot. So again, I don't
9 know if that would be referred to -- I
10 think the Planning Board referred to
11 it as a frontage variance.

12 MR. HONAN: To keep everything
13 consistent.

14 MR. CASAZZA: That's what it is
15 on the map. It's asking for a
16 variance on the front setback. Any
17 other questions?

18 MS. GESNER: No, sir.

19 MR. CASAZZA: I spoke to the
20 surveyor who did the work. I think by
21 putting different colors on the map it
22 made it a little bit easier for you to
23 read. Again, it was just because of
24 where it's situated and because of the
25 existing lot lines it's just a

1 confusing map.

2 CHAIRMAN BUDAKOWSKI:

3 Understood.

4 MR. HONAN: With respect to this
5 lot line change, Mr. Casazza, are you
6 proposing any land development or any
7 type of physical change to the
8 premises?

9 MR. CASAZZA: No. There's no
10 new lots being created. There will be
11 no building. There will be no
12 demolition. It's simply changing the
13 ownership of a portion of the land
14 that has those two buildings that we
15 want to add to the house lot. That's
16 the only change.

17 MR. HONAN: Sir, by granting
18 this area variance, will there be any
19 detriment to the health, safety or
20 welfare of the neighbors or
21 neighboring community?

22 MR. CASAZZA: Again, our belief
23 is since this line exists where it is
24 now since at least the early 1980s,
25 there will be no change.

1 MR. HONAN: And is there any
2 other way to obtain this lot line
3 change other than what you are
4 proposing here?

5 MR. CASAZZA: No. The existing
6 buildings which are there are
7 unfortunately too close to this lot
8 line so it's not a matter of not
9 building a building, it's a matter of
10 the building is already there. The
11 only mitigating factor is the rear
12 portion of the medical building lot is
13 subject to a 20-foot sewer easement
14 which means there will never be any
15 construction of 20-foot width.
16 Although the building is only 3.5 feet
17 back from the property line, the next
18 20 feet is going to remain open
19 because of the sewer reason.

20 MR. HONAN: With respect to this
21 variance, would you consider this a
22 substantial variance or something
23 other than that?

24 MR. CASAZZA: I'm viewing it as
25 a minor area variance because all of

1 the other new lot lines that we have
2 created are fully in compliance with
3 the zoning.

4 MR. HONAN: It's essentially an
5 existing condition that has been that
6 way for maybe 40 plus years?

7 MR. CASAZZA: 40 plus years.

8 MR. HONAN: I have nothing
9 further.

10 CHAIRMAN BUDAKOWSKI: Anyone on
11 the Board have any questions?

12 MS. GESNER: No.

13 MR. CARROLL: No.

14 CHAIRMAN BUDAKOWSKI: Okay.

15 MR. CASAZZA: I'm requesting
16 that the Board grant the variance and
17 if they do we will go back to the
18 Planning Board and hopefully they can
19 act to grant official approval and
20 then we can get our maps prepared and
21 signed.

22 MR. HONAN: Any further
23 questions of Mr. Casazza?

24 CHAIRMAN BUDAKOWSKI: No
25 questions.

1 MS. GESNER: No.

2 MR. CARROLL: No.

3 MR. HONAN: At this point I
4 think we can deliberate with respect
5 to the granting or denial of the
6 application that is before this board
7 and it's a very limited application at
8 this point where it's basically
9 looking for permission from this board
10 in order to facilitate the lot line
11 change that is before the Planning
12 Board. It's kind of peculiar because
13 it's a condition that has been in
14 existence for over 40 years and we are
15 just basically -- he's looking for
16 permission of this board --
17 (interrupted)

18 MR. CASAZZA: For verification.

19 MR. HONAN: Yeah, for
20 verification. Under the Village Law
21 in the State of New York you as the
22 Planning Board (sic) have to go
23 through for an area of variance --
24 (interrupted)

25 CHAIRMAN BUDAKOWSKI: Zoning

1 Board.

2 MR. HONAN: I'm sorry, Zoning
3 Board. You as the Zoning Board have
4 an outline basically with respect to
5 approving or disapproving area
6 variances.

7 For the record, let me just read
8 those conditions that you have to go
9 through and generally I suggest that
10 the Zoning Board just answer each one
11 and then as we go down the line at the
12 end of that exercise you usually have
13 an idea whether this is something that
14 the Board wishes to approve or
15 otherwise.

16 CHAIRMAN BUDAKOWSKI: Okay.

17 MR. HONAN: I'm reading from
18 Village Law, Section 7-712-b,
19 subparagraph (3) under area variances.
20 Subparagraph (a) basically states the
21 Zoning Board of Appeals shall have the
22 power, upon an appeal from a decision
23 or determination of the administrative
24 official charged with the enforcement
25 of such local law to grant area

1 variances as defined herein. I
2 apologize for keeping my back to you.

3 And then there's a section (b),
4 3(b) which states in making its
5 determination, the Zoning Board of
6 Appeals shall take into consideration
7 the benefit to the applicant if the
8 variance is granted, as weighed
9 against the detriment to the health,
10 safety and welfare of the neighborhood
11 or community by such grant. In making
12 such determination, the Board shall
13 also consider: 1, whether an
14 undesirable change will be produced in
15 the character of the neighborhood or a
16 detriment to the nearby properties
17 will be created by the granting of the
18 area variance?

19 Item number 2 for consideration
20 by the Board is whether the benefit
21 sought by the applicant can be
22 achieved by some method feasible for
23 the applicant to pursue, other than an
24 area variance?

25 Item number 3 is whether the

1 requested area variance is
2 substantial?

3 Item number 4, whether the
4 proposed variance will have an adverse
5 effect or impact on the physical or
6 environmental conditions in the
7 neighborhood or district?

8 5, whether the alleged
9 difficulty was self-created? Which
10 consideration shall be relevant to the
11 decision of the Board of Appeals, but
12 shall not necessarily preclude the
13 granting of the area variance.

14 So those are the conditions. So
15 we take them one at a time for the
16 Board's consideration and it helps if
17 you verbalize your position with
18 respect to each one so a proper record
19 is made in the event that this has to
20 be reviewed by a court at a later time
21 and also to facilitate the drafting of
22 a decision, a written decision from
23 this board.

24 Item 1, whether an undesirable
25 change will be produced in the

1 character of the neighborhood and a
2 detriment to the nearby properties
3 will be created by the granting of the
4 area variance?

5 CHAIRMAN BUDAKOWSKI: My thought
6 is that it has been existing for over
7 40 years. I don't see any issue with
8 it personally.

9 MR. CARROLL: I would agree.
10 It's a minor variance, there's nothing
11 major about it. No one will know.

12 MS. GESNER: I'm in compliance
13 with what they have said so far as
14 well.

15 CHAIRMAN BUDAKOWSKI: Agreed.

16 MR. HONAN: Let's move on to
17 number 2. Whether the benefit sought
18 by the applicant can be achieved by
19 some method feasible for the applicant
20 to pursue other than an area variance?
21 Basically is there something else that
22 he can pursue?

23 CHAIRMAN BUDAKOWSKI: I don't
24 see any benefit especially with the
25 easement adding 20 feet to that. I'm

1 more than okay with it.

2 MR. HONAN: This easement will
3 be less than 17 feet. I believe he's
4 asking for a relief from the code of
5 less than 17 feet. Do any of the
6 Board members agree?

7 MS. GESNER: Yes.

8 MR. CARROLL: I agree.

9 MR. HONAN: Number 3, whether
10 the requested area variance is
11 substantial?

12 CHAIRMAN BUDAKOWSKI: It is not.

13 MR. CARROLL: No.

14 MS. GESNER: It is not.

15 MR. HONAN: 4, whether the
16 proposed variance will have an adverse
17 effect or impact on the physical or
18 environmental conditions in the
19 neighborhood or district?

20 CHAIRMAN BUDAKOWSKI: No, I do
21 not believe so.

22 MS. GESNER: No.

23 MR. CARROLL: I don't believe so
24 either.

25 MR. HONAN: And 5, whether the

1 alleged difficulty was self-created?

2 CHAIRMAN BUDAKOWSKI: Not at
3 all.

4 MR. CARROLL: No.

5 MS. GESNER: No.

6 MR. HONAN: And with that, what
7 I would suggest is if the Board is
8 ready to reach a determination on
9 this, that we essentially direct the
10 attorneys to draft a resolution or
11 decision of this board consistent with
12 this discussion right now and have it
13 prepared for the Chairman's signature.

14 CHAIRMAN BUDAKOWSKI: That would
15 be your firm?

16 MR. HONAN: That would be my
17 firm preparing it in written form
18 outlining the exercise we just went
19 through and Mr. Casazza's presentation
20 and then if the Board wishes to vote
21 on it now, essentially directing us to
22 write a resolution of approval, you
23 can do that.

24 CHAIRMAN BUDAKOWSKI: All in
25 favor of the attorney writing the

1 resolution?

2 MS. GESNER: Yes.

3 MR. CARROLL: Yes.

4 CHAIRMAN BUDAKOWSKI: Yes.

5 MR. HONAN: That's a resolution
6 of approval of this application for
7 the area variance?

8 CHAIRMAN BUDAKOWSKI: Yes.

9 MR. CARROLL: Yes.

10 MS. GESNER: Yes.

11 MR. HONAN: May the record
12 reflect it was a 3 to 0 unanimous vote
13 of the Board.

14 CHAIRMAN BUDAKOWSKI: Correct.

15 MR. HONAN: At the Board's
16 direction we will prepare that
17 resolution for the Chairman's
18 signature.

19 CHAIRMAN BUDAKOWSKI: We are
20 prepared to vote.

21 MR. HONAN: I think you have.
22 You directed it. If you wish to do a
23 vote at this time, that would be
24 acceptable also.

25 CHAIRMAN BUDAKOWSKI: I would

1 like that. All in favor of approving
2 Mr. Casazza's application for variance
3 for lot line changes?

4 MS. GESNER: Yes. Aye.

5 MR. CARROLL: Aye.

6 MR. HONAN: You just have to
7 make a second and a motion.

8 CHAIRMAN BUDAKOWSKI: A second?

9 MR. CARROLL: I second.

10 CHAIRMAN BUDAKOWSKI: Okay.

11 MS. GESNER: Yes.

12 MR. CARROLL: Yes.

13 CHAIRMAN BUDAKOWSKI: Yes.

14 MR. HONAN: Three votes in
15 favor.

16 CHAIRMAN BUDAKOWSKI: That would
17 be 3 - 0 in favor of approval.

18 MR. HONAN: Congratulations, Mr.
19 Casazza.

20 MR. CASAZZA: I have a drawing
21 picture we took giving you a little
22 better idea. This is the house that
23 we are keeping. This is the one
24 building we are adding in, this is the
25 other. The lot line runs right here

1 between this building and this lot in
2 front. As you can see it's all open.
3 It will make the house able to use the
4 garage we designed for it. Thank you
5 very much.

6 MS. GESNER: You are very
7 welcome.

8 CHAIRMAN BUDAKOWSKI: Thank you.

9 MR. CASAZZA: I am on my way to
10 the library now, we have a meeting
11 tonight and believe it or not they
12 scheduled that for 7:00 too.

13 MR. HONAN: Thank you.

14 CHAIRMAN BUDAKOWSKI: Now we
15 shall adjourn; correct?

16 MR. HONAN: If there's no other
17 business, you may adjourn.

18 CHAIRMAN BUDAKOWSKI: No other
19 business in front of us. I make a
20 motion to adjourn this meeting.

21 MR. CARROLL: Second.

22 MS. GESNER: Yes.

23 MR. HONAN: All in favor?

24 CHAIRMAN BUDAKOWSKI: All in
25 favor?

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MR. CARROLL: Aye.

MS. GESNER: Aye.

MR. HONAN: We are in
adjournment.

CHAIRMAN BUDAKOWSKI: We are in
adjournment.

MR. HONAN: 7:30.

1 STATE OF NEW YORK)

2) ss:

3 COUNTY OF ORANGE)

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6 I, PATRICK M. DeGIORGIO, a Shorthand

7 Reporter and Notary Public within and for the

8 State of New York, do hereby certify that the

9 foregoing is a true and accurate record of the

10 minutes having been stenographically recorded by

11 me and transcribed under my supervision to the

12 best of my knowledge and belief.

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PATRICK M. DeGIORGIO

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21 Dated: July 11, 2023

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