

STATE OF NEW YORK : COUNTY OF ULSTER

TOWN OF MARLBOROUGH ZONING BOARD

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In the Matter of

MARC CASSALINA,  
130 Mahoney Road  
Milton, New York 12547

Discussion for a 14' rear yard setback variance  
request

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WORKSHOP

Date: April 14, 2016  
Time: 7:00 p.m.  
Place: Town of Marlborough  
Town Hall  
#21 Milton Turnpike  
Milton, New York 12547

BOARD MEMBERS: BILL GIAMETTA, CHAIRMAN  
JEFF MEKEEL  
DAVE ZAMBITO  
LENNY CONN, Absent  
GEORGE SALINOVICH

PENNY E. CASHMAN, ZONING BOARD SECRETARY  
APPLICANT'S REPRESENTATIVES: DAVID FREEMAN  
TIM MARQUIS

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LISA MARIE ROSSO  
Certified Shorthand Reporter

## WORKSHOP - MARC CASSALINA

CHAIRMAN GIAMETTA: Please  
join us for the pledge of the flag.

(Pledge of Allegiance)

CHAIRMAN GIAMETTA: Thank you  
very much. Welcome to the April 14, 2016  
Town of Marlborough Zoning Board of Appeals  
meeting. Tonight's cases are going to be  
what we call workshops, presentations for  
our consideration, review. We had some  
minutes from a prior meeting; did we,  
gentlemen? Did we have anything on that,  
Penny?

MS. CASHMAN: No, I e-mailed  
them and you all approved it.

CHAIRMAN GIAMETTA: We  
approved those prior minutes already?

MS. CASHMAN: Yes.

CHAIRMAN GIAMETTA: Okay,  
sounds good. All right. So having gotten  
some preliminaries going here, would you  
like to present the case in common lay terms  
to us? First identify yourself for the  
record, please.

MR. FREEMAN: So my name is

## WORKSHOP - MARC CASSALINA

David Freeman. I'm the architect for the project. Just to kind of give you the background of why we're here. When Marc first bought the project, the original survey map, which you have in your packet on the last page, and so along the top of the page is actually the property line in question, which clearly shows the stonewall running along the property line. So when Marc sited his house, set it back, planning for a future garage, looked good, the architect came out, measured it off, said we've got enough space based on it being on the property line on the stonewall, designed it that way, came when Marc was -- when he had gotten further along the project to get bank financing because they were going to survey the property, went back to the surveyor, got a survey of the property line and somehow the stonewall had jumped over seven feet. Little mistake.

CHAIRMAN GIAMETTA: Let me interrupt you one second.

MR. FREEMAN: Sure.

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CHAIRMAN GIAMETTA: On that existing survey, the actual distance to the house that's been built, has that been measured off?

MR. FREEMAN: No. So the original survey, like I said was when Marc originally laid it out from the thought that the stonewall was there, looked at zoning codes, set it up so we could put the garage on 19, whatever, 95 was the original house.

MR. CASSALINA: Three.

MR. FREEMAN: 93 was the original house. The thought was it fit.

MR. CASSALINA: From my house -- from the door of the house is 62 feet to the wall.

CHAIRMAN GIAMETTA: To the wall?

MR. CASSALINA: And the wall is 10 feet wide.

MR. ZAMBITO: Twelve.

MR. CASSALINA: Okay, 12 feet wide. It's a monster stonewall.

MR. ZAMBITO: And there is a

## WORKSHOP - MARC CASSALINA

rock outcropping here also.

MR. FREEMAN: So somehow in that time the stonewall moved.

CHAIRMAN GIAMETTA: Let me just get this straight. In other words, from the original survey to the house line now, is in reality, is it 62 or 50?

MR. CASSALINA: It's 62. When I built the house, you know, I took pictures and stuff. You guys obviously have been up to my house.

MR. ZAMBITO: Yeah, we went up there.

MR. CASSALINA: I made some for everybody.

CHAIRMAN GIAMETTA: I'd like to see them.

MR. CASSALINA: If you could look back from when I built this thing twenty something years ago, we offset the house, you know, purposely to build this garage, you know, and --

CHAIRMAN GIAMETTA: You thought this was sufficient?

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1  
2 MR. CASSALINA: With a 35-  
3 foot setback to the stonewall fence, as Dave  
4 said, the stonewall fence is 12 feet, so  
5 that gave me an additional 6 feet. I had  
6 plenty of room. If you look through the  
7 pictures, even the -- first you could see  
8 the big rock outcropping on the left side.

9 MR. MEKEEL: On the opposite  
10 side of the house.

11 MR. ZAMBITO: Yeah, we saw  
12 that too.

13 MR. CASSALINA: And I moved  
14 that over onto that rock --

15 MR. ZAMBITO: As much as you  
16 could.

17 MR. CASSALINA: Not even as  
18 much as I could, to specifically fit this  
19 garage. And you know, we went through a lot  
20 of expense back then to -- there is an old  
21 picture of pinning that original footings  
22 and foundation to that rock --

23 MR. MARQUIS: The blocks are  
24 laid on the rock.

25 MR. CASSALINA: -- to give me

## WORKSHOP - MARC CASSALINA

the space.

MR. ZAMBITO: Looks good.

CHAIRMAN GIAMETTA: But then bringing frames forward now. So the old one stated one thing --

MR. FREEMAN: The old survey we'll say was an error, I'm assuming. You know, I don't pick on surveyors. It's a hard job. To refinance it, the new survey being done, clearly the old survey was in error. The stonewall, I don't think moved, I'm assuming --

MR. ZAMBITO: That's the stonewall we're talking about (indicating).

CHAIRMAN GIAMETTA: Oh, wow.

MR. ZAMBITO: It's like a driveway.

MR. FREEMAN: So we need a variance of seven feet, a little over seven feet, seven feet, three inches.

CHAIRMAN GIAMETTA: Because the actual line is what side of that wall?

MR. FREEMAN: It's to the west side of it, to the house side.

## WORKSHOP - MARC CASSALINA

MR. CASSALINA: To the house side.

CHAIRMAN GIAMETTA: Where it was thought it might be in the middle of that.

MR. CASSALINA: Yeah.

CHAIRMAN GIAMETTA: So your surveys determine that it's on the west --

MR. FREEMAN: Western edge of that wall.

CHAIRMAN GIAMETTA: So you lost about 6 feet; was it?

MR. ZAMBITO: 7.3.

MR. FREEMAN: Yes. So and, you know to me, that's, I won't say it's not a created hardship, self created, you know, because it's a surveyor created hardship. It is a nice colonial home -- large colonial home, typically a garage is there. It's always on the right-or left-hand side. The architecture, the way it's laid out now fits with the architecture of the building. We could do a 19 foot, 6-inch garage, my car wouldn't fit in it, you know. So it is

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possible, you know, yes, I actually drew it. It looks -- it's a great colonial home and here is this kind of skinny 19-foot, 6-inch garage. So it's possible -- like I said, he can go buy minions or whatever. You know, the garage could be placed behind the house, there is a rock outcropping behind the house too. It would have to be detached from the house, and that's not really how a colonial home -- this hopefully will kind of complete that look of a colonial home.

Other than that, it's -- we're asking for a 20 percent reduction. It's not, to me, a large variance that we're asking, you know. To me, it's not a substantial variance, and that is just my opinion as an architect. I've gotten some really good ones, you know. It doesn't affect the neighborhood per se. I don't think anybody is ever going to look at this and say, Oh, they got a 7 foot variance. Marc did receive a letter of support from the neighbor.

MR. CASSALINA: I approached

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my neighbor, Sheila Mannese.

MR. SALINOVICH: To buy land?

MR. CASSALINA: Yes.

MR. SALINOVICH: That's good.

That helps us.

MR. CASSALINA: And I said, you know, I ran into this problem. She's lived there her whole life, I lived there my whole life, we both thought that the stonewall fence was our property line. So I showed her this situation I'm in and asked her if she would be willing to sell me some land, which she does not want to sell me the land. She's, you know -- maybe you know her. She's very involved in the town, Meet Me In Marlborough, she's concerned about the stonewall fence and wanting to --

MR. ZAMBITO: Preserve it?

MR. CASSALINA: -- maintain the integrity of the original stonewall fence that is there, and concerned if I purchase the land then I might change it. So, you know, she said she doesn't care. She will happily approve, to the extent that

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1  
2 she has any authority, to let me have this  
3 variance, and I won't change the stonewall  
4 fence. I have enough room there. I don't  
5 have to go into the fence. So I tried to  
6 look at every other avenue before we got to  
7 this point, but I'm just kind of at a loss  
8 now.

9 MR. MARQUIS: The other  
10 neighboring property coming up the property  
11 on the right is his father's so, and Sheila  
12 is directly across from the stonewall in  
13 question.

14 MR. SALINOVICH: What's the  
15 setback there? You got 54'5; what is the  
16 setback?

17 MR. CASSALINA: What do I  
18 need?

19 MR. FREEMAN: The required is  
20 35 feet.

21 MR. SALINOVICH: What do you  
22 have?

23 MR. CASSALINA: Well, I have  
24 54 feet.

25 MR. SALINOVICH: So this is

## WORKSHOP - MARC CASSALINA

the exact --

MR. CASSALINA: That's to the property line. Is that what you're asking?

MR. SALINOVICH: Yes.

MR. CASSALINA: Yes. We thought the property line was on the fence.

MR. SALINOVICH: So you got 54'5.

MR. CASSALINA: I thought I had 62 plus the 6. I thought I had 68. So, and the garage is -- how deep is the garage?

MR. FREEMAN: 26 feet. So I know some boards are concerned with firetruck access to the backyard. That's not an issue here. Obviously, there is still going to be enough space between the garage and even the fence at that point. So I think that is pretty much about, you know, as far as what I see the project as, you know. There is the original kind of error in the survey, or error in the survey they call it, site the original property, and obviously that's been corrected. I don't think the variance is a great deal. Could

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2 we address the issue by putting a garage  
3 back on the rock or by making a very narrow  
4 garage. It doesn't really accomplish the  
5 same thing. So the owner's letter to me is  
6 probably one of the better parts of it.

7 MR. MARQUIS: Dave, did you  
8 walk onto the west side of the house; have  
9 you seen the rock cropping in?

10 MR. ZAMBITO: Oh, yeah, we  
11 did, definitely. That was the first thing  
12 that we saw, the rock. We just took for  
13 granted that's why he put it where it was.

14 MR. MARQUIS: And that's why  
15 putting it on that side of the house is --

16 MR. SALINOVICH: You had to  
17 blast for the swimming pool; didn't you?

18 MR. CASSALINA: I had to  
19 hammer it out.

20 MR. MARQUIS: You didn't have  
21 to blast?

22 MR. CASSALINA: I didn't have  
23 to blast.

24 MR. SALINOVICH: I remember  
25 all of that rock.

## WORKSHOP - MARC CASSALINA

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MR. CASSALINA: And that same rock that is in the -- that gave me the problem with the pool. That comes into the back of the house. That is why we couldn't put the house back any more either. We tried to put it right in this tenuous spot to move it over enough on that ledge to give us room for the garage, but not back to get into the other rock. It's all rock over there. I know if you look at the big map, it looks like I have all of this land.

MR. ZAMBITO: Right.

MR. CASSALINA: But it's very narrow. You were up there at my house, Bill, you have been to my house.

CHAIRMAN GIAMETTA: Actually, I haven't been up there. I was looking forward to it.

MR. CASSALINA: It's a very narrow piece of property with this big ledge.

CHAIRMAN GIAMETTA: So the usable part is somewhat less than -- much less than the lot appears. I'm looking at

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these numbers now. I just want to make sure that the addition and subtraction, am I reading 54.5 overall from the existing house edge?

MR. FREEMAN: Yes.

CHAIRMAN GIAMETTA: To the property line?

MR. FREEMAN: Yes.

CHAIRMAN GIAMETTA: And are we taking away the distance of the garage of 26 from that?

MR. FREEMAN: Yes.

CHAIRMAN GIAMETTA: So your request is -- what is your request adding up to?

MR. CASSALINA: 7 feet 1 inch or 7 feet 2 inches.

MR. FREEMAN: 7 feet 1 inch 7.1 feet technically.

CHAIRMAN GIAMETTA: Okay.

MR. CASSALINA: I think she put that on --

MR. MEKEEL: 7 feet 3 inches.

MR. ZAMBITO: 7 feet 3.

## WORKSHOP - MARC CASSALINA

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2 CHAIRMAN GIAMETTA: How'd the  
3 3 -- are those just additions?  
4 MR. FREEMAN: Yes.  
5 CHAIRMAN GIAMETTA: Rounded  
6 it off a little bit?  
7 MR. FREEMAN: Yes.  
8 CHAIRMAN GIAMETTA: Just to  
9 make sure we're in the same numbers, so it's  
10 a 7.3 foot request?  
11 MR. FREEMAN: Right.  
12 MR. CASSALINA: So it's 27.9  
13 is what I have with the garage, based on the  
14 surveyor's map, so 35 feet minus 27.9  
15 brought us to 7.1 feet.  
16 CHAIRMAN GIAMETTA: You  
17 rounded it up to 7.3 just to be sure. We  
18 should probably keep it to --  
19 MR. MEKEEL: Exact?  
20 CHAIRMAN GIAMETTA: I would  
21 say so. Well, you mean you're not going to  
22 add onto the garage any further than that?  
23 MR. FREEMAN: No. And I  
24 don't know what your rules are as far as  
25 overhangs in the zoning.

## WORKSHOP - MARC CASSALINA

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2 MR. MEKEEL: Did you include  
3 the trim?  
4 MR. FREEMAN: That is the two  
5 inches --  
6 MR. MEKEEL: You better make  
7 it 7.3.  
8 CHAIRMAN GIAMETTA: Leave it  
9 7.3.  
10 MR. MARQUIS: Wait a minute  
11 now. We're talking about soffits and  
12 fascia?  
13 MR. ZAMBITO: That's 12  
14 inches.  
15 MR. SALINOVICH: 12 or 24,  
16 whatever it is.  
17 MR. ZAMBITO: 2-foot  
18 overhang.  
19 CHAIRMAN GIAMETTA: Is it  
20 going to be 12 inches?  
21 MR. FREEMAN: Yeah, so 8-foot  
22 3.  
23 CHAIRMAN GIAMETTA: 8.3 or  
24 8.1? Let's get it right.  
25 MR. CASSALINA: I think she

## WORKSHOP - MARC CASSALINA

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wrote --

CHAIRMAN GIAMETTA: Who is  
she?

MR. CASSALINA: "She" being  
the surveyor.

CHAIRMAN GIAMETTA: Oh,  
you're not the surveyor (addressing Mr.  
Freeman)?

MR. CASSALINA: He's the  
architect.

CHAIRMAN GIAMETTA: Okay.

MR. CASSALINA: I believe the  
surveyor wrote 7.1 feet instead of inches.  
So let's make it 8 feet 3 inches.

MR. MEKEEL: 8.3.

CHAIRMAN GIAMETTA: Which is  
the exact amount.

MR. MEKEEL: Yes.

CHAIRMAN GIAMETTA: Let's get  
that corrected at 8 foot 3, that includes  
the --

MR. MARQUIS: The overhead  
and soffits.

CHAIRMAN GIAMETTA: Okay. 8

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2 feet 3 inches. I noticed on the drawing  
3 of -- is that the basement stairs?

4 MR. FREEMAN: Right.

5 CHAIRMAN GIAMETTA: Will they  
6 remain?

7 MR. FREEMAN: Yes, they will.  
8 We'll leave them. We'll put two pipes in  
9 front of them.

10 CHAIRMAN GIAMETTA: Just  
11 curious.

12 MR. MARQUIS: We might have  
13 to put -- I don't know. Maybe someone can  
14 comment on that down at the end of the  
15 table. We might put some walls with some  
16 fire rated Sheetrock and a fire door going  
17 down there if Tommy decides it's required.

18 MR. SALINOVICH: That has  
19 nothing to do with us right now.

20 MR. CASSALINA: So the stairs  
21 will remain there.

22 CHAIRMAN GIAMETTA: That is  
23 all I was wondering because that shortens  
24 your driving distance on that side it looks  
25 like.

## WORKSHOP - MARC CASSALINA

1  
2 MR. FREEMAN: I think Marc's  
3 wife's car will fit in there.

4 MR. CASSALINA: Her car is  
5 shorter than my car, yeah.

6 MR. MARQUIS: At 19.6 you're  
7 not parking anything in there. And then you  
8 have the stairs going to the house and the  
9 next bay, and at 19.6 you're not parking  
10 anything in there so --

11 CHAIRMAN GIAMETTA: Anything  
12 further you want to present to us?

13 MR. FREEMAN: No.

14 MR. CASSALINA: Any  
15 questions?

16 CHAIRMAN GIAMETTA: Now, I'm  
17 going to ask the board if we have any  
18 questions.

19 MR. MEKEEL: I don't. I was  
20 on site. I understand the site perfectly  
21 well.

22 MR. ZAMBITO: No questions.

23 CHAIRMAN GIAMETTA: All  
24 right. I believe it's advisable now to go  
25 for a public hearing on this matter?

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MR. MEKEEL: I will make a motion that we move to a public hearing on this matter.

MR. ZAMBITO: I will second.

CHAIRMAN GIAMETTA: And a vote?

MR. SALINOVICH: Aye.

MR. MEKEEL: Aye.

MR. ZAMBITO: Aye.

CHAIRMAN GIAMETTA: And aye for the chair. We're going to move to a public hearing. That is an official advertisement as you know, and that will be coming up before the next meeting, right Penny? And the next meeting we can entertain this once again.

MS. CASHMAN: So the public hearing will be next month; right?

CHAIRMAN GIAMETTA: Yes. The mailings will go out before that, of course.

MR. CASSALINA: Do I send out the mailing or how does that work?

MS. CASHMAN: I think over across the hall in the planning and

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assessors, according to my notes, is who can give you all of the addresses for everybody.

MR. CASSALINA: I have all of the addresses. I put it in the file for you.

MS. CASHMAN: You send them out.

MR. CASSALINA: I send the letters out. Do you provide the letter or what needs to be said?

CHAIRMAN GIAMETTA: You need to come in and meet with Penny.

MS. CASHMAN: With Chestnut Oil I know I just actually printed labels for the cards for them.

MR. ZAMBITO: Do you know all of the neighbors within 500 feet?

MR. CASSALINA: I do.

MR. ZAMBITO: Okay. So if you already have that --

MR. CASSALINA: I'm related to most of them.

MR. MEKEEL: Just make sure you change that to 8 feet, 3 inches.

## WORKSHOP - MARC CASSALINA

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CHAIRMAN GIAMETTA: Now,  
we'll have to give you the wording on that.

MR. CASSALINA: I guess that  
is what I'm asking. What do you want it to  
say specifically?

CHAIRMAN GIAMETTA: We'll  
have to word that just right for the side  
yard.

MR. MEKEEL: Yeah.

CHAIRMAN GIAMETTA: The  
amount we have was what; 8 -- 8.3 inches?

MR. CASSALINA: Yes.

CHAIRMAN GIAMETTA: What  
would the wording be on that?

MR. MEKEEL: Whether it's an  
area variance.

CHAIRMAN GIAMETTA: Well, it  
is an area variance.

MR. MEKEEL: Right. It would  
be an area variance with a side yard -- for  
a side yard variance of 8 feet 3 inches.

CHAIRMAN GIAMETTA: You will  
have to formulate that, Pen. We'll help you  
with that.

## WORKSHOP - MARC CASSALINA

MS. CASHMAN: All right.

CHAIRMAN GIAMETTA: Because that is the letter that you will have to mail out to the neighbors.

MR. CASSALINA: Right.

MR. ZAMBITO: Well, why don't we do it right now so she knows and it's on record that they're looking for an 8.3-foot side yard variance -- area variance; correct?

CHAIRMAN GIAMETTA: 8 foot, 3 inches.

MR. ZAMBITO: Let's do that now so we're all on the same page. Make a motion to provide an 8 foot 3 inch side yard setback variance on the east side of the property.

CHAIRMAN GIAMETTA: This is something that you can pick up from Penny. Give her a couple of days to get it together.

MR. MARQUIS: What's the return time and what percentage of letters do we have to get back?

WORKSHOP - MARC CASSALINA

MR. ZAMBITO: No percentage.

Send them out certified.

MS. CASHMAN: Save all of the

little --

MR. MARQUIS: Save the return

receipts and that is it.

MS. CASHMAN: Right. Save

the little white slips and then bring all of  
the cards.

MR. MARQUIS: Didn't they

used to be green?

MS. CASHMAN: The cards are

green. When they come back there is a little receipt of who you send them to

CHAIRMAN GIAMETTA: And then

we'll end up counting those at the next meeting.

MR. CASSALINA: Okay.

MR. FREEMAN: Is there a

signage posted, do you guys do that?

CHAIRMAN GIAMETTA: A sign?

MR. MARQUIS: Saying that

it's under review.

CHAIRMAN GIAMETTA: I'm not

## WORKSHOP - MARC CASSALINA

aware of that.

MR. FREEMAN: A lot of times there is a sign on the site that this property is under review by Zoning Board of Appeals.

CHAIRMAN GIAMETTA: I don't recall doing that. Okay. So we'll develop the letter, and we'll get it to the applicant and then they will be in for the next meeting.

MR. MARQUIS: So at the beginning of the week, we'll come in and pick it up, do our mailings and then we'll be all set for now until the next meeting.

MR. CASSALINA: Do you know when the second meeting is?

MS. CASHMAN: It's always the second Thursday of the month.

MR. MARQUIS: Is your vote at the next meeting or --

CHAIRMAN GIAMETTA: Next meeting. Thank you for coming in.

MR. CASSALINA: Thank you.

(Time noted: 7:23 p.m.)