

ZBA MEETING – OCTOBER 24, 2013

(Time Noted – 7:48 PM)

C D & SONS CONSTRUCTION CORP. 12 BANNERMAN VIEW DRIVE, NBGH  
(22-4-6) R-3 ZONE

Applicant is seeking area variances for Lot #1 (Building Permit #13-0428) for one side yard setback and the minimum lot width and for Lot #2 for the minimum lot width for a proposed Two-lot subdivision.

Mr. McKelvey: Next is C D & Sons Construction Corp.

Ms. Gennarelli: This applicant sent out forty-five letters. All the mailings, publications and postings are in order.

Mr. Brown: I'm Charles Brown, the a...engineer for the applicant a...this is a...a proposed two-lot subdivision that's been submitted to the planning board in the R-3 zone. A...there is a house under construction right now, a...we are proposing a subdivision a...to achieve that subdivision we need a...a width variance on Lot-2 and a width variance and side yard setback variance for Lot -1. A...a...these...these houses a...these lots would be served by Town water which actually the stub ends right in front of the...a north end of the property which is why we a...did the geometry the lots the way we did a...because then the water service would be uphill the septic would be downhill to the proposed residences. A...the a...the pro...proposed lots are pretty much in character with the neighborhood, most of the lots in the neighborhood are...are hundred wide by a hundred fifty. A...we're looking at ninety-five wide by hundred fifty deep or two hundred deep, I'm sorry a...for Lot-2 and eighty-six...eighty-five point eight feet wide a...two hundred foot deep for Lot-1. Lot-1 is the one that the house is under construction on. A...we did look at an alternate that would be to a...do the lots in a...in the other direction and we could meet the...all the Zoning criteria that way however based upon again the topography and where the water service is a...as far as engineering that is not a viable option. A...the variances are...are not substantial a...for Lot-1 it's less than a...five foot for the yard and a...less than fifteen feet for the width a...for Lot-2 it's...it's five foot for the width. A...there would be no adverse effects to the neighborhood because this would a...permit the a...construction of another residence which it actually would increase the tax revenue for the Town. A...and we're here for those requested variances.

Mr. Manley: Mr. Brown the original house that's currently a...being finished, it's under construction...

Mr. Brown: Yes.

Mr. Manley: ...was that house constructed as to the original plans submitted to the Town?

Mr. Brown: A...yes, yes. It...it's...it's...

Mr. Manley: In the location that it was supposed be located in?

Mr. Brown: Yes, it's in the location a...that...that it was proposed in a...we did have to modify the septic design. We...in other words we...we went out and did a substantial additional testing to verify that we could a...do two septics on this...this property but the lot...a...the a...the building, the footprint where it is...yes, that's exactly as proposed originally.

Mr. McKelvey: Any other questions? Anybody from the public?

Mr. Donovan: Hey Charlie, just to reiterate, water and sewer for both lots, right?

Mr. Brown: No, no, water, we have Town water a...

Mr. Donovan: But...

Mr. Brown: ...but...but on-site septic systems. Those have been designed.

Mr. Donovan: Okay.

Mr. Brown: And they have been a...checked by Pat Hines (inaudible) a... This...this Bannerman View also I...I forgot to mention is a private road a...so this would be another additional house on that road that would contribute to the maintenance of that private road.

Mr. McKelvey: Any other questions from the Board?

Mr. Manley: You had indicated that the home was built in the exact spot that it was supposed to be built in? Was that correct?

Mr. Brown: It's under construction, right now but yes, it is per our original plot plan submitted to the Building Department a...for the a...parcel.

Mr. Canfield: Jim just...

Mr. Manley: It looks to me as it might be outside the building envelope. I'm looking at the...I'm looking at the plans here and that's why I'm confused. It appears as if the home is situated outside the original building envelope.

Mr. Brown: Well again, the lot as it exists now is all one parcel. It's completely within the building envelope of the original parcel.

Mr. Manley: I understand but when you split the property...

Mr. Brown: Right.

Mr. Manley: ...you're not in...within the building envelope that you would need to be in based on the...

Mr. Brown: That is correct. Yes, and that's why we're asking for the side yard variance for a...Lot-1 a...we could actually move that line over a...meet the side yard variance with this, we would still need a width variance for Lot-1 and...and still need a width...width variance for Lot-2 a...the draw back to that is a...the new Newburgh Code for a...building envelope which was put in a couple of years ago. Right Jerry? A...we wouldn't meet that on Lot-2...a...with the way this plan is now we do meet that, we meet the building envelope requirements for that new a...a...new zoning change.

Mr. Manley: Now was this originally two separate parcels?

Mr. Brown: No.

Mr. Manley: It was always one parcel? Was never split?

Mr. Brown: It was always one parcel a...my client a...who (inaudible) owned the property did bring this before this Board roughly ten years ago and a...I don't know how he did it without going before the planning board because it kind of violates process but this Board granted variances for the widths for both lots a...at that time. Obviously that's expired its...it's you know again ten years ago. So but no it's been one lot all along.

Mr. Manley: Then I'm just wondering how did it...the build...how did the building envelope come into play on this...on this particular document? If the...if the home was originally built when it was one parcel how did that building envelope wind up there? I'm just trying to understand that.

Mr. Brown: If...if...well this lot line here is for both. This is for both lot line, this doesn't exist right now.

Mr. Manley: Correct but if it didn't exist would you actually need the building envelope to be right there? What I'm wondering is how did that building envelope originally get there?

Mr. Brown: As far as as where the house is being constructed now? It was, the building envelope was based upon the entire parcel.

Mr. Manley: And...

Mr. Brown: And it meets that.

Mr. Manley: And but who put that original building envelope in there? Was that the engineer...the...?

Mr. Brown: That was me, yes.

Mr. Manley: Okay.

Mr. Brown: A...at that time we weren't anticipating subdividing the property however, during construction my client came to me and said a...based on the septic design could we do this? A...again we went out tested for the septic, we have adequate a...adequate slope for a septic system, pretty decent perc rate and a...originally we thought to Town water service ended at the hydrant a...based upon (inaudible) and getting it flagged, the surveyor came out and picked that up and the Town water actually extended all the way over to in front of our proposed Lot 2. A...based upon those things a...we decided to go to the planning board with a proposed subdivision. This is the map they a...looked at and they referred us to you guys a...for the variances.

Ms. Gennarelli: Jerry, if you are not going to talk could you give him back the microphone?

Mr. Canfield: I have something to say but I was just waiting...to be asked?

Mr. McKelvey: Go ahead Jerry.

Mr. Canfield: To further clarify Jim I see the look on your face that you are still not satisfied. The original lot proposal, actually I should say the Building Permit original proposal the house was moved. Okay? The original building envelope has changed, with this proposal for this subdivision the building envelope has changed because now we're looking for two lots. Typically when a site plan or excuse me a survey or plot plan is proposed to the Building Department for a Building Permit we request that the house be located within that buildable area, that buildable envelope area, which is dictated by setbacks by what zone it's in. The original plot plan called for the setbacks and the original house was approved within those setbacks. Because they proposed the subdivision now this building envelope has shrunk to comply to this particular lots requirements. Okay? And by doing that they cannot comply with the side set yard...side yard setback and that's why you'll see that the existing building or the house that's under construction was currently somewhat over that building envelope line so that creates one variance for them. Okay?

Mr. Manley: Jerry had the applicant built that home in that initial a...envelope would they have been able to sub-divide the second property?

Mr. Canfield: Perhaps, yes, based on the physical dimensions. A...the applicant is always given the ability a...afforded the ability to move that house location inside that buildable area or that building envelope a...as long as they comply with the zoning and the requirements. They don't encroach a...that setback line, they are given that luxury to do so. A...if the septic system was...which is a pre-engineered design a...as you see like on this proposal in front of you a...the little circles indicate perc tests that were done in that area. That's an engineered area where calculations for the septic design are predicated on

the perc rates for that given area. Okay? If that's what's submitted and for some reason field conditions warrant that septic area is to be moved then it's up to the design professional to resubmit engineered drawings to show that the area that the new septic is located in will withstand the septic demand for that particular house based on how many bedrooms, a...daily usage you know, it's calculated out that way. Now there's something else with this a...I believe Charlie had mentioned to the Board this is a referral from the planning board. A...the applicant went before the planning board in September a...and that's when it was learned of these a...violations or not violations but variances that are needed a...but one issue and I believe it was in the referral from the planning board that the planning board had asked that you pay particular attention to the fact that water is available. And...and the reasoning for that is is that if you look at your R-3 Zoning Table, lot size without water and sewer or water or sewer is 40,000 sq. ft. These dimensions that are proposed are predicated on the fact that water is available and that allows a reduced lot size simply because with Town water you don't have a well and you don't have requirements between the septic and the well. So it's very important that the applicant, I would suggest, prove to this Board a...that Town water is available because it changes all the variances that perhaps could be requested then if water is not a variable...available. The original Building Permit was based on the fact that yes, water was available a...the map that's before you and that's an item I'm sure the planning board would want to have cleaned up is a...typically the fire hydrant at the end of the line indicates that it's at the end of the line. This main does not continue on this map it's dictated as that. It says existing fire hydrant and water valve (end of line) but there is a footnote that says the Water Department on October 1, 2013 indicated that that line was extended. That needs to be clarified and with this proposal a...we're looking for the waterline to even go further down the street to service this line. So if the Board should choose to approve these variances my suggestion would be a condition a...that prior to that approval that water is indicated that it's available, the Water Department indicates that. And I believe the applicant was instructed at the planning board level to do so. He may have already contacted the Water Department. I don't know, Charlie?

Mr. Donovan: Jerry, that was the purpose of my question but I misread Mike's letter to say water and sewer. So that was...

Mr. Brown: (Inaudible.)

Ms. Gennarelli: Can you give him the microphone?

Mr. Canfield: Here you go Charlie.

Ms. Gennarelli: Thank you.

Mr. Brown: A...we did that, we...we called A11 to get the stakeout, we were actually pleasantly surprised that the water line does extend all the way up to a...Arcopolla's driveway there for Lot 2 which means, you know, we have the ability to tap into the water. A...you know, again a...assuming that a...not to be presumptuous but that this Board does grant the variances we will be back before the planning board and a...that

issue will be resolved and I suspect a...and they do want us to get together with a...with a...Jim Osbourne and I suspect what's going to happen is they will a...request that we put a fire hydrant at the end of the line there because as this stands now a...again we assumed that the fire hydrant was at the end of the line normally that's the case a...that this line goes beyond that and by the way this line was put in privately a...but a...the...the way the line is shown now that...that was as flagged by the Town of Newburgh a...a Water Department or Highway Department a...Doug Elliot. A...again I...I'm assuming that the a...that the planning board will request that we put a hydrant at the end of the line in front of our Lot #2 a...this way that...that stuff can be flushed because right now with that dead end a...really a...either we put a hydrant on that line to flush it or we have to do something within the residence to...to make sure that that line stays clean.

Mr. Donovan: Jerry, do you know is this part of a Water District, is this a Town District and is the property within that District?

Mr. Canfield: Yes, yes.

Mr. Donovan: Would that I mean physically obviously if it's right there you can tap into it but my question was from a legal point of view if the property was in the...in the District so you're paying whatever District charges then it would follow then it would be entitled to have water...water line but whatever confirmation, if require a letter, I think that's appropriate from the Town engineer...

Mr. Canfield: Yeah, I...I...and again I...this is more I guess a legal question then Dave. I don't know if this Board without assurance from the Town that water is available...will be available a...that the Board can grant a variance for this because the lots at this time without the fact or without be known for sure that water is available the lot size does not comply.

Mr. Donovan: Well again, assuming and...and...and I don't want to assume but assuming the Board is interested in granting the variances is you could do it one of two ways. You could wait until you get a letter from the Town engineer or you could condition the approval on proof that...proof to the Building Department that it's within the a...Water District and entitled to Town water, whatever...whatever comfort level the Board has.

Mr. Canfield: From an enforcement standpoint a...the note of condit...the condition note that's fine. As long as I have something that we can enforce a...in the event that a...you know water is not available. We have a mechanism to get any future applicant back before the Board and basically this is about...all about assurances for the Town a...

Mr. Brown: Understood.

Mr. Canfield: So...

Mr. Brown: You know, we would have no problem with a...you know...if...if this Board a...chose to go that route with a...making the a...variances if granted conditional on a...proof of availability of water a...number one and number two that the property is in the Water District.

Mr. McKelvey: Are these...are these...is this a spec house?

Mr. Brown: Yes.

Mr. McKelvey: And the other one will be too?

Mr. Brown: Yes, yes. The views are tremendous from up there.

Mr. McKelvey: Any other questions?

Mr. Manley: Just one other question, any...the...the surrounding properties that surround a...these two proposed locations, are they on Town water or are they on a...a well?

Ms. Gennarelli: Charlie.

Mr. McKelvey: Charlie the mic.

Mr. Brown: All...all of the a...a lots with houses on Brooker Drive a...and a...a...Bannerman View except for the lot at the corner are on Town water. A...the lot at the corner actually is a...is a substantially sizeable lot, the house is well...well set back from Bannerman View and that house is on a well. All the rest of them are on Town water. I did verify that myself with the...with the a... (Inaudible) neighborhood and found the valves for...for all the houses that are out there.

Mr. Manley: Would you be able to provide something to the Board that just indicates that the applicant is going to hook up to Town water and that the Town basically recognizes that Town water is available and that they would make that available to the applicant?

Mr. Brown: Without hooking up to Town water these lots basically don't exist...

Mr. Manley: Correct.

Mr. Brown: ...no, the planning board cannot grant the subdivision approval a...without a...the availability of water because we would need to put in wells and a...the separation distances a...between the wells and septic would...would, you know, make the lots impossible. In addition to that as...as Jerry said without Town water service on these lots, the minimum lot size is for 40,000 sq. ft. just shy of an acre. A...so again without Town water this subdivision is not viable and I believe, you know, that that's, you know, something that the, you know, planning board a...would take care of with their approval process.

Mr. Manley: Right but have you spoken to anybody from the Town that indicated that you are able to hook up and it's not a problem if you want to hook up? Have you gotten any...anything from the Town that says yes, not a problem, we're...we're going to let you hook up?

Mr. Brown: Well when we submitted the Building Permit for the original house based on the entire parcel a...that was based upon hooking up to...to the water and again we...we showed our service coming all the way back. Again Bannerman View is a private road a...and the Bannerman View right-of-way (inaudible) by the...by the a...by the hydrant a...again based on this application we...we did call for field flagging of...of the waterline and had the surveyor go out there pick that up and that's what's reflected on the map now and that shows the water a...waterline in front of both lots. A...it's in the District; I mean that much I know. I mean a...be certainly be willing to provide any proof that this Board needs that...that a...we have the availability number one of water and the legal right to access it. I don't have a problem doing that at all.

Mr. Manley: Okay, I'm just wondering that if all this is for not, if the Town says, hey, you know you're not able to hook up, for whatever reason. I'm...I'm just surprised that you haven't even checked to see if you could actually hook up or not yet. Cause if by some reason you're not able to then all of this work that has been done is for not.

Mr. Brown: A...the only time I've...

Mr. McKelvey: Mic.

Ms. Gennarelli: Charlie...

Mr. Brown: Inaudible.

Ms. Gennarelli: Charlie...

Mr. Brown: Inaudible.

Ms. Gennarelli: Charlie can you take the microphone please?

Mr. Brown: The only time that I've dealt with a piece of property that was on a Town waterline that wasn't able to hook up was a...North Fostertown and Frozen Ridge when I did a subdivision over there and that was too close to where it was treated. A...I've been doing this a long time and anytime that we've had a lot with...with a...a water service a...you know contiguous to the lot we've had the right to hook up to it. But again it...it...it is in the District, it is the Water District I can provide that proof to this Board a...and a...I'm going to you know, pass this off to my client because apparently he's anxious to jump in here.

Mr. Dominguez: Yeah, and I don't know if this will help but we got the Permit approved...



Mr. McKelvey: Your name...your name.

Mr. Dominguez: Oh, Carlos...Carlos Dominguez, president of C D & Sons a...we got the Permit approved from the Water Department hook up to the main. I don't know if that helps or not.

Mr. Manley: That helps.

Mr. McKelvey: That helps a lot.

Mr. Manley: Thank you.

Mr. Canfield: John, just one other comment with Jim...Jim you had mentioned the other wells a...one of the items a...that Mr. Brown was instructed to a...clarify for the planning board when they come back is to show any wells, surrounding wells a...and septs and also to indicate that there is compliance with the separation requirements a...that's one of the requirements as well as some other items that are be done to the plans...a...the planning boards engineering consultants had picked that up and made those comments.

Mr. Manley: Yeah, that would be my only concern with more dense housing there's going to be potential for, you know, affluent runoff and saturation into the ground and we don't want to contaminate neighbors' wells if they are on a well. That would be my only concern.

Mr. Canfield: And a very good point a...and there are Health Department Code requirements a...for those. There's predetermined separations whether the well and septic is up gradient, down gradient from each other. That dictates the separation that's required. And that's why the planning board a...engineering consultant asked for those separations to be depicted on the plans.

Mr. McKelvey: Actually those houses, the other houses on Bannerman is...should be on water.

Mr. Brown: They are.

Ms. Gennarelli: Charlie, just take the mic back.

Mr. McKelvey: Is there plans to build houses beyond this?

Ms. Gennarelli: Can you use the microphone please?

Mr. Brown: This...this is a...a...this is the only parcel in this area that...that a...my client owns so anything else beyond that I really can't say a...what the intentions of the individual owners are. A...directly across the street from us a...is undeveloped a...right

now a...but all...all along this side of Bannerman and then around the corner on Brooker a...all of those...all those lots are built on. They all are on Town water except for the one house that...that I did mention which is on a very big lot right at the bend of Bannerman...Bannerman View.

Mr. McKelvey: Any other questions? Anybody from the public?

No response.

Ms. Smith: Motion to close the Hearing.

Mr. Manley: Second.

Ms. Gennarelli: Roll call.

Michael Maher: Yes

James Manley: Yes

John Masten: Yes

Roseanne Smith: Yes

John McKelvey: Yes

Mr. Brown: Thank you.

(Time Noted - 8:14 PM)

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ZBA MEETING – OCTOBER 24, 2013 (Resumption for decision: 9:20 PM)

C D & SONS CONSTRUCTION CORP. 12 BANNERMAN VIEW DRIVE, NBGH  
(22-4-6) R-3 ZONE

Applicant is seeking area variances for Lot #1 (Building Permit #13-0428) for one side yard setback and the minimum lot width and for Lot #2 for the minimum lot width for a proposed Two-lot subdivision.

Mr. McKelvey: Next is C D & Sons Construction Corporation area variance for Lot Building Permit (Lot #1) one side yard setback and the minimum lot width and for Lot #2 for the minimum lot width for a proposed Two-lot subdivision. This is a Type II Action under SEQRA. Any comments from the Board? Do we have a motion?

No Response.

Mr. Donovan: It's going to be a long night.

Mr. McKelvey: Do we have a motion...of some kind?

No Response.

Mr. McKelvey: This is also a Type II.

Mr. Donovan: Well the Board is not a...doesn't think they have enough information or if you're not prepared to make a decision, you do have (62) sixty-two days from tonight to make a decision but I suggest we not wait (62) sixty-two days at this dais.

No Response.

Mr. Donovan: So if you want to decide next month you can do that.

Mr. Manley: Well I'd be prepared to make a motion for a Reserved Decision.

Ms. Smith: I would second.

Ms. Gennarelli: Roll call.

Michael Maher: Yes

James Manley: Yes

John Masten: Yes

Roseanne Smith: Yes

John McKelvey: Yes

Mr. McKelvey: C & R Realty...

Mr. Canfield: John, just one question on that Reserved Decision, is there anything else that the Board wishes the applicant to bring back? Any additional information you're looking for perhaps?

Mr. Manley: I think the one thing that a...maybe if we could get a copy is to show that it's definitely within the a...Consolidated Water District and that those two pieces of property are within there. If they're not, then they going to have to be...they're going to have to petition the Town Board to get included into the Water District.

Mr. Canfield: I believe the applicant is in the office...or excuse me, in the...in the audience if you may want to direct to him what you want from him.

Mr. Manley: Okay, if you could a...get from the Town something that states that you are within the Water District and just have it to Betty prior to the next meeting so that we can review it.

Applicant Inaudible

Mr. Manley: From either the Town engineer or the Water Department, you know, basically on their letterhead that states that you're within. They may have to the tax office or the assessor's office to get verification as to whether or not you are in the...in the Water District.

Ms. Smith: Jim, in the Water District and that he will hook into it, correct?

Mr. Manley: Right, right.

Ms. Smith: Just to verify that. Okay.

PRESENT ARE:

JOHN MC KELVEY  
MICHAEL MAHER  
JAMES MANLEY  
JOHN MASTEN  
ROSEANNE SMITH

ABSENT:

GRACE CARDONE

ALSO PRESENT:

DAVID A. DONOVAN, ESQ.  
BETTY GENNARELLI, ZBA SECRETARY  
GERALD CANFIELD, CODE COMPLIANCE

(Time Noted – 9:24 PM)

ZBA MEETING – NOVEMBER 26, 2013

(Time Noted – 8:39 PM)

C D & SONS CONSTRUCTION CORP. 12 BANNERMAN VIEW DRIVE, NBGH  
(22-4-6) R-3 ZONE

Applicant is seeking area variances for Lot #1 (Building Permit #13-0428) for one side yard setback and the minimum lot width and for Lot #2 for the minimum lot width for a proposed Two-lot subdivision.

Chairperson Cardone: On the application of C D & Sons Construction, 12 Bannerman View Drive, the Public Hearing was closed on this. I was not at the meeting but in reading the minutes there were some things that were requested which I don't have in my hand at this time that were supposed to be given to the Board Members. Mr. Manley had asked for a copy to show that this was definitely in the Consolidated Water District and a...and also that would be something on the Town paper with a letterhead from the engineer, the Town engineer or the Water Department letting us know whether or not this is in the Water District. I have not received that.

Mr. Brown: Well I, sorry Charles Brown for the applicant. I did submit the a...a...paperwork from the Water Department that a...says that this property is in the Water District. That was submitted.

Ms. Gennarelli: Who did you submit it too?

Mr. Brown: Actually I think we submitted it to Jerry's office.

Ms. Gennarelli: I don't believe so.

Mr. Brown: I do have a copy of it here.

Ms. Gennarelli: I don't believe so.

Mr. Brown: Okay, as far...as far as the Town engineer I did meet with him a...out on the site a...based upon that meeting we're going to be extending the waterline a hundred and eighty feet and moving the hydrant which actually a puts the hydrant in a better position to service the neighborhood. A...he a...I met to him on Monday, November 11<sup>th</sup> and he assured me that he was going to get correspondence to this Board by tonight a...if he didn't do that then a...

Ms. Gennarelli: We have all your emails and they (the Board) have copies of your emails as well.

Mr. Brown: Okay, so what we just keep this open again until next month and...?

Chairperson Cardone: This is not open. The Public Hearing was closed.

Mr. Brown: Understood.

Chairperson Cardone: And, even if we were to meet in December it would be beyond the sixty-two days.

Mr. Brown: We're...we're willing to waive the sixty-two days.

Mr. Donnelly: That's permissible. If he's going to waive it then you have additional time to act.

Ms. Gennarelli: Can I see what you submitted to us? I don't think this is right; this is for the other piece.

Mr. Brown: It's all one piece.

Ms. Gennarelli: I think this is what was brought into Jerry and he (Mr. Dominguez) was told he needed another letter. Jerry?

Chairperson Cardone: Your first email to the a...to the Town engineer was on the 18<sup>th</sup> of November, this meeting...the last meeting was held on the 24<sup>th</sup> of October a...

Mr. Brown: Correct.

Chairperson Cardone: ...perhaps if you had asked in a more timely fashion maybe he could have...

Mr. Brown: Again, I...I...

Chairperson Cardone: ...got something to you.

Mr. Brown: Again, I...I had a meeting with Jim in his office on the 11<sup>th</sup> a... and we went over the plan and at that point we a...we agreed to extend the waterline and I...I amended the plans as such and moved the hydrant. A...the a...

Mr. Manley: You said that you met with him on November 11<sup>th</sup> but your letter...

Mr. Brown: At 9AM yes.

Mr. Manley: ...your letter dated November 18<sup>th</sup> says per our meeting today regarding the Town water service so that would have meant that your meeting was 18<sup>th</sup> correct?

Mr. Brown: You know what I'll have to check my schedule you may...you may be right it was...is that a Monday? It was definitely a Monday and it was 9AM.

Mr. Manley: I don't remember what day November 18<sup>th</sup> is.

Chairperson Cardone: It was a Monday.

Mr. Brown: Okay, I apologize it was the 18<sup>th</sup> then. A...I had been trying to get ahold of Jim, he told me he was very busy because of the a...a...the new sewer line that they're putting over there on North Plank...Plank Road a...Stone Street so he's been very involved with that. They're trying to get that thing signed off so that a...a tap can be put on a...you know again, I...I've made a diligent effort to meet with him and a...you know, right...right after our meeting a...I can't help that you know, the Town a...personnel are unavailable a...you know, in...in that note you know, we're the ones that will be waiting. I...I...we agreed to waive the sixty-two days a...and a...you know, the next meeting is in January I assure you I will get the information from Jim. A...as far as the proof of...

Chairperson Cardone: I would like to have it before January.

Mr. Brown: Okay.

Ms. Gennarelli: And that...that paper that you just gave to me, I just showed to Mr. Canfield, he said it was not applicable that was for the first parcel.

Mr. Brown: Which first parcel, this is all one.

Ms. Gennarelli: Before it's divided.

Mr. Brown: This is all one parcel.

Chairperson Cardone: Lot 4, Lot 6.

Ms. Gennarelli: This is from June.

Mr. Canfield: That a...

Mr. Brown: This is still one parcel it hasn't been subdivided yet.

Ms. Gennarelli: That's understood.

Mr. Brown: That applies to the parent parcel.

Chairperson Cardone: Mr. Canfield could you address that please?

Mr. Canfield: Yeah, Charlie, that's not necessarily correct. Do you have the map up there? The...the document that you are talking about was the Water Permit that was issued to the applicant for this first lot. You might want to step aside and let the Board look at it. The first lot, this at that time was one parent parcel. The application before the planning board was to subdivide this parent parcel into two. Again because of the availability of water greatly is a...it enhances the lot size requirement if water is available. What Mr. Brown is telling you is that he has met with the Town engineer a...through our questions at the last Board Meeting a...that we had raised if there is not water to this lot then the lot size would be much greater and therefore it wouldn't allow it to be subdivided as such. I believe, Mr. Osborne and Mr. Brown has met and

rather than what was originally proposed which was a water service from back at this point to serve this lot the Town has indicated that they would like Mr. Brown or the applicant to extend the main and of course, extend the fire hydrant. A...in doing so, this is no longer just a service line, you're increasing the length of a eight inch water main which needs County Water Authority approval, which Mr. Brown has indicated by his email that he has such sent an application to Orange County for their approval. It's not just the Town of Newburgh approval that's needed, its Orange County Water Authority's approval that's needed. Once that is done, the Town can sign off on it and say yes, water is available through acceptable means to the Town to this lot.

Chairperson Cardone: Would the County require something in writing from the Town prior to approval?

Mr. Canfield: The application would...

Mr. Donnelly: The Town has to make the application.

Mr. Canfield: Right.

Mr. Brown: Yeah a...I emailed to Jim I would fill out the application but the formal application, the submission to the County Health Department has to come from the Town because the...the waterline is owned by the Town.

Chairperson Cardone: Now I thought that you stated you had already made application to the County?

Mr. Brown: No, no I said I made contact with the...with the a...Water Department. We had the application; I have the application with me. I said we'd be willing to fill out the application however the application must come from the Town because we don't own the waterline, the Town does.

Chairperson Cardone: Right.

Mr. Brown: So the Town has to make that application.

Chairperson Cardone: So we really would not have an answer in any case until we hear from the County, is that correct, Mr. Canfield?

Mr. Canfield: Yes, I believe that's correct.

Mr. Brown: Back...back to the previous thing, I think maybe Mike could comment on this because what I provided for...what I provided there was documentation that...again this has not yet been subdivided, that the entire parcel that's subject of this application is in the Water District.



Mr. Donnelly: And let's assume that's true for a moment, what Jerry is saying is just because it's in the Water District doesn't mean there's water available to serve the lot and you need both for the lot size to kick in.

Mr. Brown: Right, I...I understand that Mike. In other words we were asked to do two things, one provide proof that it's in the District, which I believe that's the proof. The second thing was provide proof of serviceability a...I would like to get you know, number one it is in the District out of the way a...and then we will proceed with two which is serviceability which is us agreeing a...by my client's expense to extend that waterline and move that hydrant a hundred and eighty feet down Bannerman View.

Chairperson Cardone: But the point that I think that Jerry was making also is that, yes, before it is subdivided it's in the District but we're looking at subdividing it, then once it is subdivided then it no longer is in the District...

Mr. Brown: That's not true.

Chairperson Cardone: ...because...

Mr. Brown: That's not true. A parent piece if you subdivide it is all in the District.

Mr. Donnelly: That depends on where the map draws the line. I don't...I have never seen the map so I don't know. But it sounds like that's not going to be an issue if the a...approval is granted by the County Health Department...

Mr. Brown: Correct.

Mr. Donnelly: ...extend the water main.

Mr. Brown: Right.

Mr. Donnelly: But being in the District in and of itself if not sufficient.

Mr. Brown: Understood.

Mr. Donnelly: And this letter while it may be correct in terms of the first checkmark...

Mr. Brown: Right.

Mr. Donnelly: ...the second one says water service is available and we know that it is not at least not yet so the wrong box is checked there but it seems to me the two are coupled. One without the other doesn't get you anywhere so it needs to be held in abeyance until that piece is satisfied.

Mr. Brown: Okay, I mean have...again, I don't have problem providing the proof of serviceability we will take care of that a...maybe Jim is off this week, I've been trying to get

ahold of him a...and, you know, we will again at our expense extend that waterline once we get approval from the County.

Mr. Donnelly: It would also be helpful that Jim Osborne's letter also inform the Zoning Board that the Town will be making application to extend the water main and ask him to give his best estimate as to how long that might take so the Zoning Board can understand how long it needs to consider keeping this application open.

Mr. Brown: Okay, we're okay with that.

Chairperson Cardone: Thank you.

Mr. McKelvey: So we keep it open till January?

Chairperson Cardone: Well the applicant has...

Mr. Donnelly: He's waived the sixty-two days.

Chairperson Cardone: ...he has waived the sixty-two days.

Mr. McKelvey: He's waived it.

Chairperson Cardone: Now my only concern, Mr. Brown, my only concern is that we get this in a timely fashion and you know, so that we have this in our hands well before the meeting.

Mr. Brown: Okay and I will get it to you.

Chairperson Cardone: Thank you.

PRESENT ARE:

GRACE CARDONE  
JOHN MC KELVEY  
MICHAEL MAHER  
JAMES MANLEY  
JOHN MASTEN  
ROSEANNE SMITH

ALSO PRESENT:

MICHAEL H. DONNELLY, ESQ.  
BETTY GENNARELLI, ZBA SECRETARY  
GERALD CANFIELD, CODE COMPLIANCE

(Time Noted – 8:49 PM)

ZBA MEETING – JANUARY 23, 2014 (Time Noted – 9:16 PM)

C D & SONS CONSTRUCTION CORP. 12 BANNERMAN VIEW DRIVE, NBGH  
(22-4-6) R-3 ZONE

Applicant is seeking area variances for Lot #1 (Building Permit #13-0428) for one side yard setback and the minimum lot width and for Lot #2 for the minimum lot width for a proposed Two-lot subdivision.

Chairperson Cardone: The Board is resuming its regular meeting. We had a Reserved Decision from October the 24<sup>th</sup> for C D & Sons Construction Corporation, 12 Bannerman View Drive. And I have a communication from Charles Brown

Regarding the application for 12 Bannerman View Drive, C D & Sons, I met with Jim Osborne, PE and John Platt of the Town Water Department last Wednesday, 1/15/14, on another job and discussed this project with them at that time. Based on that discussion I will be preparing the plans and application for the Health Department for the waterline extension to service both of the proposed lots and Jim will submit same to the Health Department as the formal submission must be made by the Town.

Obviously based on this I will not have approval for the water service to those lots by the ZBA meeting tomorrow night therefore I am on behalf of my client requesting that the decision of this application be reserved for another month. At this time, I am re-stating that my client has waived the sixty-two days. If you have any questions or need additional information please call on me. Sincerely, Charles Brown

Okay and do I have any comments on this from the...from the Board? Okay the client is, I understand, is willing to waive the sixty-two days. Yes? He's here tonight, yes. So is it the wish of the Board then we can reserve the sixty-two days and hopefully next month, February the 27<sup>th</sup>, we will have the documentation that we are looking for.

PRESENT ARE:

- GRACE CARDONE
- MICHAEL MAHER
- JAMES MANLEY
- JOHN MASTEN
- ROSEANNE SMITH

ABSENT: JOHN MC KELVEY

ALSO PRESENT:

- DAVID A. DONOVAN, ESQ.
- BETTY GENNARELLI, ZBA SECRETARY
- GERALD CANFIELD, CODE COMPLIANCE
- JOSEPH MATTINA, CODE COMPLIANCE

(Time Noted – 9:18 PM)

ZBA MEETING – FEBRUARY 27, 2014 (Time Noted – 8:17 PM)

C D & SONS CONSTRUCTION CORP. 12 BANNERMAN VIEW DRIVE, NBGH  
(22-4-6) R-3 ZONE

Applicant is seeking area variances for Lot #1 (Building Permit #13-0428) for one side yard setback and the minimum lot width and for Lot #2 for the minimum lot width for a proposed Two-lot subdivision.

Chairperson Cardone: And we had Reserved Decision on the application of 12 Bannerman View Drive, (C D & Sons Construction) waiting for further information from the applicant.

With respect to the Reserved Decision for 12 Bannerman View Drive for the above referenced applicant, I am at this time still in the process of putting together the information required for the Orange County Health Department to approve the water line extension. Therefore, I am respectfully requesting that the Decision on this application be reserved for another month. Thank you for your attention to this request, Charles T. Brown, PE

PRESENT ARE:

GRACE CARDONE  
MICHAEL MAHER  
JAMES MANLEY  
JOHN MASTEN  
ROSEANNE SMITH

ABSENT: JOHN MC KELVEY

ALSO PRESENT:

DAVID A. DONOVAN, ESQ.  
BETTY GENNARELLI, ZBA SECRETARY  
GERALD CANFIELD, CODE COMPLIANCE

(Time Noted – 8:18 PM)

ZBA MEETING – MARCH 27, 2014 (Time Noted – 9:57 PM)

C D & SONS CONSTRUCTION CORP. 12 BANNERMAN VIEW DRIVE, NBGH  
(22-4-6) R-3 ZONE

Applicant is seeking area variances for Lot #1 (Building Permit #13-0428) for one side yard setback and the minimum lot width and for Lot #2 for the minimum lot width for a proposed Two-lot subdivision.

Chairperson Cardone: And on the Reserved Decision there were two communications:  
With respect to the Reserved Decision for 12 Bannerman View Drive, for the above referenced applicant I have completed putting together the information required for the Orange County Health Department to approve the water line extension and left four copies with Jim Osbourne, PE for submission. I anticipate Health Department approval prior to the April ZBA meeting therefore I am respectfully requesting that the decision on this application be reserved for another month. Thank you for your attention to this request. (Charles Brown)

Chairperson Cardone: Do I have a motion to extend it to the April meeting?

Mr. Masten: I'll make a motion.

Chairperson Cardone: Second?

Mr. Maher: Second.

Ms. Gennarelli: Roll call.

Michael Maher: Yes

John Masten: Yes

Roseanne Smith: Yes

Grace Cardone: Yes

Chairperson Cardone: The motion is carried.

PRESENT ARE:

- GRACE CARDONE
- MICHAEL MAHER
- JOHN MASTEN
- ROSEANNE SMITH

ABSENT: JAMES MANLEY

JOHN MC KELVEY

ALSO PRESENT:

DAVID A. DONOVAN, ESQ.  
BETTY GENNARELLI, ZBA SECRETARY  
GERALD CANFIELD, CODE COMPLIANCE  
JOSEPH MATTINA, CODE COMPLIANCE

(Time Noted – 9:58 PM)

ZBA MEETING – APRIL 24, 2014 (Time Noted – 7:04 PM)

C D & SONS CONSTRUCTION CORP. 12 BANNERMAN VIEW DRIVE, NBGH  
(22-4-6) R-3 ZONE

Applicant is seeking area variances for Lot #1 (Building Permit #13-0428) for one side yard setback and the minimum lot width and for Lot #2 for the minimum lot width for a proposed Two-lot subdivision.

Chairperson Cardone: Also if anyone is here in reference to the Bannerman Drive which is C D & Sons Construction, I have a communication from Charles Brown.

Regarding the application of 12 Bannerman View Drive, I have just received the attached comments from the Health Department and will be addressing them within the next couple of business days. Obviously based on this, I will not have approval for the water service to these lots by the ZBA meeting tonight. Therefore I am, on behalf of my client, requesting that the decision of this application be Reserved for another month. If you have any questions or need additional information, please call on me.

And that was just a Reserved Decision which they had requested.

PRESENT ARE:

GRACE CARDONE  
JOHN MC KELVEY  
JAMES MANLEY  
JOHN MASTEN  
ROSEANNE SMITH

ABSENT: MICHAEL MAHER

ALSO PRESENT:

DAVID A. DONOVAN, ESQ.  
BETTY GENNARELLI, ZBA SECRETARY  
GERALD CANFIELD, CODE COMPLIANCE

(Time Noted – 7:05 PM)

ZBA MEETING – MAY 22, 2014 (Time Noted – 7:06 PM)

C D & SONS CONSTRUCTION CORP. 12 BANNERMAN VIEW DRIVE, NBGH  
(22-4-6) R-3 ZONE

Applicant is seeking area variances for Lot #1 (Building Permit #13-0428) for one side yard setback and the minimum lot width and for Lot #2 for the minimum lot width for a proposed Two-lot subdivision.

Chairperson Cardone: If anyone is here concerning the Bannerman View Drive application, I have an e-mail.

I will not have approval to the water service for these lots by the ZBA Meeting tonight. Therefore, I am on behalf of my client requesting that this decision of this application be Reserved for another month.

PRESENT ARE:

GRACE CARDONE  
JOHN MC KELVEY  
MICHAEL MAHER  
JAMES MANLEY  
JOHN MASTEN  
DARRIN SCALZO  
ROSEANNE SMITH

ALSO PRESENT:

DAVID A. DONOVAN, ESQ.  
BETTY GENNARELLI, ZBA SECRETARY  
GERALD CANFIELD, CODE COMPLIANCE

(Time Noted – 7:07 PM)



ZBA MEETING – JUNE 26, 2014 (Time Noted – 8:46 PM)

C D & SONS CONSTRUCTION CORP. 12 BANNERMAN VIEW DRIVE, NBGH  
(22-4-6) R-3 ZONE

Applicant is seeking area variances for Lot #1 (Building Permit #13-0428) for one side yard setback and the minimum lot width and for Lot #2 for the minimum lot width for a proposed Two-lot subdivision.

Chairperson Cardone: On the Reserved Decision of C D & Sons, I have an email from Talcott, Brown:

We have received comments from the Health Department from 6-23-14 are currently addressing them therefore I am on behalf of my client requesting that the Decision of this application be reserved for another month. Thank you.

So we will Reserve that decision until next month.

PRESENT ARE:

GRACE CARDONE  
JOHN MC KELVEY  
MICHAEL MAHER  
JOHN MASTEN  
DARRIN SCALZO

ABSENT:

JAMES MANLEY  
ROSEANNE SMITH

ALSO PRESENT:

DAVID A. DONOVAN, ESQ.  
BETTY GENNARELLI, ZBA SECRETARY  
GERALD CANFIELD, CODE COMPLIANCE

(Time Noted – 8:47 PM)

ZBA MEETING – JULY 24, 2014

(Time Noted – 9:38 PM)

C D & SONS CONSTRUCTION CORP. 12 BANNERMAN VIEW DRIVE, NBGH  
(22-4-6) R-3 ZONE

Applicant is seeking area variances for Lot #1 (Building Permit #13-0428) for one side yard setback and the minimum lot width and for Lot #2 for the minimum lot width for a proposed Two-lot subdivision.

Chairperson Cardone: On the C D & Sons Construction:

We received comments from the Health Department on 6-23-14 and are currently addressing them therefore I am on behalf of client requesting that the Decision of this application be Reserved for another month. Thank you. (E-mail from Talcott Brown)

PRESENT ARE:

GRACE CARDONE  
JOHN MC KELVEY  
MICHAEL MAHER  
JAMES MANLEY  
JOHN MASTEN  
DARRIN SCALZO

ALSO PRESENT:

DAVID A. DONOVAN, ESQ.  
BETTY GENNARELLI, ZBA SECRETARY  
GERALD CANFIELD, CODE COMPLIANCE

(Time Noted – 9:39 PM)

ZBA MEETING – AUGUST 28, 2014 (Time Noted – 9:39 PM)

C D & SONS CONSTRUCTION CORP. 12 BANNERMAN VIEW DRIVE, NBGH  
(22-4-6) R-3 ZONE

Applicant is seeking area variances for Lot #1 (Building Permit #13-0428) for one side yard setback and the minimum lot width and for Lot #2 for the minimum lot width for a proposed Two-lot subdivision.

Chairperson Cardone: Okay, on the Reserved Decision for C D & Sons Construction, I received an e-mail today and they have asked for an extension until our September meeting where they feel that they will have all of the documentation that they need to proceed.

Mr. McKelvey: A...give them one more month.

Mr. Manley: I have a concern and that concern is with the new members that are on the Board. There may be some new information and some new testimony that they're going to need to be refreshed you know, a...it's been almost a year...

Chairperson Cardone: I think we all need to be refreshed.

Mr. McKelvey: Yes.

Mr. Manley: ...and the problem with the Reserved Decision, the Public Hearing is already closed.

Mr. Donovan: Correct.

Chairperson Cardone: Right.

Mr. Manley: So we can't introduce anything new...

Chairperson Cardone: Well what we were...what we were asking for was for them to give us the documentation of the a...the hook-up of the line.

Mr. Manley: Correct.

Chairperson Cardone: And that's all that we were waiting for in order to make our decision. It's been a long process.

Mr. McKelvey: I think it was October, last year.

Mr. Manley: And the tough thing is the, you know, the new Board Members may have questions that they may want to ask the applicant which they now don't have the benefit of asking the applicant because the Public Hearing has been closed and when we first did this we thought we

were going to have an answer and a letter within a month or two and it's been almost twelve months. I just don't...

Chairperson Cardone: The minutes are on-line a...you know and as far as asking questions to the...to the applicant, I believe we can do that.

Mr. Donovan: You can certainly ask questions and you can...you can tell the applicant or his representative to come back in, you have questions and what needs to be refreshed as to where the property is and what it's all about. I mean, you certainly have the ability to do that and it's...it's not only...not only for the benefit of the new Board Members but for the benefit of everybody.

Mr. McKelvey: Yes.

Chairperson Cardone: Because I don't know that we a...do we have four, yeah, we have four that were on the Board at the time.

Mr. Donovan: Yes.

Mr. Masten: I was here Grace.

Mr. McKelvey: I got five.

Mr. Donovan: I should point out in terms of a new Board Member, just because it's a prior application before tonight, you could vote. You can absolutely can even if you haven't read the minutes. You should read the minutes but even if you hadn't the law allows you to vote.

Mr. Levin: I didn't go back that far.

Mr. Donovan: Well, you know I would have found that application and nothing else, you know.

Mr. McKelvey: I think it was October of last year when it came in.

Ms. Gennarelli: I gave them all the files.

Mr. Manley: Do you think we could let the applicant know that next month is the last...?

Mr. Donovan: Well I think...

Mr. Manley: ...that we have to make that... and then they'll just have to re-apply.

Mr. Donovan: I think you're well within your rights to say to the applicant, to write to them, we can have Betty do it, you can have me do it, or whatever you want to do, but the Board is going to vote in September and would like you to be there. We can't subpoena him but we'd like you to be there...

Mr. Manley: Right.

Mr. Donovan: ...to review your application, briefly and the Board votes. The Board will vote. If that's the pleasure of the Board...

Mr. Maher: Do we have any knowledge as to what the delay is?

Chairperson Cardone: The delay is...I think initially it was their fault that there was a delay. I think that they didn't go through the proper channels at the very beginning and you can correct me if I'm wrong but I think that's what happened. And they kept saying we're going to make this...we're going to make this application when in fact, they weren't going to make the application, they had to first meet with the engineer, with the Town engineer and it had to be done through that office. And I think in the beginning it took them, if I remember correctly, it took them a couple of months to get to that realization that that's what they were supposed to be doing. Then when it got to that point it had to go to the County. So they've been waiting for a few months now for a response from the County. You know...

Mr. Maher: Who actually files the application?

Chairperson Cardone: The...I believe the Town does. Is that correct, Jerry?

Mr. Canfield: No, it's the applicant's...it's the applicant's responsibility. Just to not get long winded, I know it's late but this...if...if you recollect this involved a sub-division that was before the planning board and a key issue in this particular zone is whether there is or is not public water available. If you don't have water available the lot sizes change dramatically. So, the planning board realizing that they didn't show the water, the lot size was to be "X" amount of square foot. It was referred to this Board. A...the applicant at that time said 'we're going to extend the water main'. Well, we picked up on it and said well, you just don't extend the water main, it requires Orange County Board of Health approval to do so and you need supporting documentation from engineers and approval from the County to do that and the applicant's representative had stated that 'yes, we'll secure that and come back to this Board'. A...and like Grace had said, there were several months that went by and it kept being asked to be postponed because the County didn't respond and when we found out that the County actually didn't even get an application then they did get an application and the County is sometimes slow in...in responding to these things. So I believe at this point, there is a response from the County a...indicating some concerns that they have specifically with volume and pressure because of the location of the sub-division. The Town of Newburgh water system is based on a tank system so elevation of the properties a...is imperative to what type of pressure and volume you get. This happens to be off of Brooker Drive in Middlehope which is one of the highest points in the Town so the water pressure is minimal and the County I think wants an acknowledgement that the jurisdictional fire department is aware of that. A...whereas the pressure that will come out of the hydrant, I wouldn't say substandard but it's...it doesn't meet the bare minimum of required for fire protection. Okay? Being involved in the fire service for forty years I know what Middlehope's response is going to be, it's going to be acceptable because it's only a single family dwelling that's here. It's not like it's a commercial building. But with all that being said a...all this documentation still needs to be put in place, referred to our engineer's office who in

turn can then sign off on it. And then they can come back to this Board. Will that happen within thirty days? That's a good question, Jim, I don't know. I don't know.

Chairperson Cardone: At...at this point, the Middlehope fire department has this documentation to look at?

Mr. Canfield: No.

Chairperson Cardone: No.

Mr. Canfield: I only know that Grace because I spoke with Charlie Brown who is the engineer on the project on another matter and he had said to me that that's coming and you know, we're going to need the fire department's input so...

Mr. Maher: So it isn't there...

Mr. Canfield: ...but I advised him to send me the paperwork.

Mr. Maher: ...it is in the hands of the County right now? They are the one, not holding it up but...

Mr. Canfield: No Mike it's actually out of the County's hands, its back in Charlie Brown's hands. It's his responsibility to submit that to the Town who in turn will contact the jurisdictional fire department.

Mr. Donovan: Jerry, I...I know it's getting late but I mean, is there the issue that there is potentially insufficient fire flows? Because I...I've seen certain circumstances before where the Health Department has written a letter and they say, 'hey you have insufficient fire flows, we're going to approve this, Municipality, but you have to say it's okay'.

Mr. Canfield: Yes, that's correct. That's correct and basically the way it goes Dave is what the County is asking for is, the National Fire Protection Association has a grading of hydrants system and in that is color coding and you may see the hydrants around the Town of Newburgh some are green, some are blue, some are yellow in the bonnets and the caps. What that color means is the fire department can anticipate what flows will come out of that color hydrant, that's what it's supposed to be. In this case, because it's less than five hundred gallons a minute a...it would have to be red not to be confused with a...Kennedy a manufacturer of hydrants typically are red. We use Clow Eddys which are yellow. It's specifically the bonnets, the top and the caps are color coded. So what the County wants to be assured is that this is a red coded fire hydrant knowing that it will give you less than five hundred gallons a minute. It may give you...with that...and part of his response is to show the actual hydraulic calculations, what kind of water pressure is going to come out. It may be three hundred and ninety-eight pounds or gallons a minute at 18 psi. Can I put a fire out with that? Sure I can, you know, it would be very tricky for the pump operator to do that and Mike will understand this, you know, you can't drop below zero. A...but can it be done? Yes. It... does it meet the...the industry standard? No, it doesn't so that's the difference. And...and Jim may chime in on this also, a substandard hydrant and I don't

want to use that term but that's what it is may affect insurance rates whereas the local insurance company or the underwriters will look at it and say 'hey, there's a red marked hydrant there, we'll insure it but your premium is going to be "X" amount of dollars more, so...

Mr. Manley: That...that could be.

Mr. Maher: Now they might...should bring a new hydrant to the top of the hill is that the rea...the issue?

Mr. Canfield: Yes.

Mr. Maher: The hydrant that covers that now.

Mr. Canfield: Yes, yes, yes because it's all the way up top. The tank that serves that is down on Lexington Drive which is actually a little low.

Mr. Maher: Right.

Mr. Canfield: You know it's actually lower than this. So the head pressure, the amount of water in the tank, is going to affect the pressure you get at that hydrant.

Mr. Manley: Jerry is there...do you know if there's a hydrant on Bannerman now? That's at the end of the line where the line ends now?

Mr. Maher: The line doesn't end it come across.

Mr. Canfield: Yes there is but they're extending this even further to create these two lots.

Mr. Maher: I believe it goes east to west now it's actually going further west...correct?

Mr. Canfield: Correct, correct, that's correct.

Mr. Manley: Do you know about how many feet? Just...it doesn't have to be exact, but...a couple of hundred...three hundred?

Mr. Canfield: Yeah, I think it's two or three hundred feet at least, yeah.

Mr. Manley: And they have to put in a...how many inch line into the...?

Mr. Canfield: That would be an eight inch main.

Mr. Manley: So an eight inch main going three hundred...that...that's going to be fairly costly, no doubt.

Mr. Canfield: Oh, absolutely, absolutely. It is not cheap. But I think anything that goes before the County a...for a water main extension has to be a minimum of eight inch.

Mr. Manley: And that's just to serve two properties.

Mr. Canfield: Yes, yes.

Mr. Manley: A couple of hundred feet for two properties at the cost of the applicant.

Mr. Canfield: Yup. A...and...and ironically the main reason for fire hydrants, especially at the end of a dead end water main is hydrant is basically a flushing valve. It's to flush the main out. It's not initially intended for fire protection so...guess you're getting firefighting 101 tonight.

Chairperson Cardone: Right.

Mr. Canfield: It's a bonus.

Mr. Donovan: I think Mike asked that question. Right Mike?

Mr. Maher: He actually answered (inaudible)...

Chairperson Cardone: So he told you that it's at...it's in his hands right now but yet did not take it to the next step?

Mr. Canfield: Right. The next step is he has to get it to Jim Osborne, the Town engineer.

Mr. Manley: And he has to get it to (inaudible)?

Mr. Canfield: Yes.

Mr. Manley: And they have to answer it and get it back to him.

Mr. Canfield: Yes, that's correct.

Mr. Maher: So if we're in communication with Mr. Brown obviously it would be nice to know when he...when he got it back obviously, if in fact it's recent, then obviously it's proceeding. If it's three months ago then obviously...

Mr. Canfield: Is it feasible, of course, it can be done in couple of weeks.

Mr. Donovan: Well does...is it the inclination of the Board to tell him that he has to be here next month or do you want to wait? Jim suggested to vote next month but...

Mr. McKelvey: What's surprising is...

Chairperson Cardone: Well I think to...



Mr. McKelvey: ... is four months I was gone in the beginning of the year and I come back and it's still on the Agenda.

Chairperson Cardone: Here's what he actually wrote in the e-mail:

With respect to the Reserved Decision at 12 Bannerman View Drive, I have completed putting together the information required for the Orange County Health Department to approve the water line extension and left four copies with Jim Osborne for submission.

Is that correct or not?

I anticipate Health Department approval prior to September ZBA meeting therefore I am respectfully requesting that. Thank you for your attention to this request.

Mr. McKelvey: Then we tell him to be here then.

Mr. Manley: So he's saying that he'll have it.

Chairperson Cardone: So he...he's saying that he left four copies with Jim Osborne. I don't know if that's true or not.

Mr. Canfield: I can't confirm that. I don't know if that's true. I don't know.

Chairperson Cardone: People don't always deal with facts when they communicate with us.

Mr. Canfield: Tonight was a good example of that.

Chairperson Cardone: Yes. So, you know and it's not up to us to follow through on that. I mean it's up to the...the applicant I...I just can't imagine him taking all of this time unnecessarily.

Mr. Canfield: I think more importantly Grace is that they're... he's gobbling up your agenda.

Chairperson Cardone: Yes.

Mr. Canfield: And we...we are very busy. Betty has applications backed up.

Chairperson Cardone: I know.

Mr. Canfield: Because of these carry-overs it's limiting the new ones that we can get to.

Chairperson Cardone: Right.

Mr. McKelvey: What month are you working on now?

Ms. Gennarelli: September.

Chairperson Cardone: We'll have to ask the Assessor to slow down or break his computer or something.

Mr. Manley: Maybe the Assessor's Office can have a Lois Lerner moment.

Ms. Gennarelli: It's popping up because the people are selling their houses and all that too and you know, they get caught so...

Mr. Levin: You know I was supplied with that information a...from the Secretary and with what you spoke about I think I could vote on it. A...I haven't seen the property but I think a...the information you gave would be...and you could probably vote on it too.

Mr. Scalzo: Oh, I've seen the property and I've read everything Betty supplied me with. I am very familiar with it.

Chairperson Cardone: Right.

Mr. Manley: You may have some question so...you know I would say that he should be here.

Chairperson Cardone: I agree with you Jim.

Mr. Manley: Answer the questions, if he has the material great. If not vote on it anyway.

Chairperson Cardone: Maybe Dave if you sent the letter.

Mr. Donovan: Yes, okay.

Mr. Manley: Get it off the agenda.

Mr. Masten: Yes.

Chairperson Cardone: Okay Dave will send him a letter letting him know that we will be voting on...

Ms. Gennarelli: September 25<sup>th</sup>.

Chairperson Cardone: September 25<sup>th</sup>.

Ms. Gennarelli: Okay.

PRESENT ARE:

GRACE CARDONE  
RICHARD LEVIN  
JOHN MC KELVEY  
MICHAEL MAHER  
JAMES MANLEY  
JOHN MASTEN

DARRIN SCALZO

ALSO PRESENT:

DAVID A. DONOVAN, ESQ.

BETTY GENNARELLI, ZBA SECRETARY

GERALD CANFIELD, CODE COMPLIANCE

(Time Noted – 9:55 PM)

ZBA MEETING – SEPTEMBER 25, 2014

(Time Noted – 10:58 PM)

C D & SONS CONSTRUCTION CORP. 12 BANNERMAN VIEW DRIVE, NBGH  
(22-4-6) R-3 ZONE

Applicant is seeking area variances for Lot #1 (Building Permit #13-0428) for one side yard setback and the minimum lot width and for Lot #2 for the minimum lot width for a proposed Two-lot subdivision.

Chairperson Cardone: Next on the agenda C D & Sons Construction, 12 Bannerman View Drive, and at last month's meeting, this has been going on for a year and I think there are a lot of reasons for it and I don't think that the fault lies entirely with the County. That's just my own opinion but we've waited, we've been very patient and here we are a year later and at last month's meeting the motion was made that we would only waive it for one more month which would be to this month. I believe you received a letter to that effect or some received a letter to that effect.

Mr. Brown: I received a letter requesting my presence here to a...essentially bring the a...new Board Members up to speed on the project a...

Chairperson Cardone: I think that it said more than bring the new Board Members up to speed on the project.

Mr. Brown: Well the situation we have here is we have a waterline that doesn't have sufficient pressure for fire flows.

Chairperson Cardone: Understood.

Mr. Brown: We're...we're extending the waterline and...and relocating the hydrant and...and a...in...in a...hindsight we would have been much better off eliminating the hydrant and putting a blow up pump so that the a...water department could...could blow out the line a...and keep it clean. A...unfortunately a...by moving the hydrant a...the health department now wanted information from a...both the local fire department that has jurisdiction and the public works department that they're okay with underflow...under pressured hydrant on the line. The hydrant it...where it's at now has a...insufficient pressure, where we're putting it its going to have slightly more because it's downhill...a...but it does not have enough for fire pulls. We have been around with Orange County Health Department. Unfortunately the way they're operating these days is every time we make a submission we get a review from a different engineer over there and we get a whole new list of criteria a...you know, that's that's the way it sits. I've been, you know, working on the job when I get a response from the Health Department I address it. A...some of it is beyond my, you know, beyond my a...out of my hands. For instance, this last round they wanted something again from the fire department which I haven't seen but my understanding from Jerry is that...that he sent that over today a...so that would allow me to make my final application to the Health Department. In addition to that a...and this became a Town wide problem, the Health Department is now involved whenever any a...backflow

preventer RPZ valve is installed whether it be on a residence or a commercial use. That's new a...there was a letter of reprimand that went from the County to John Platt here in the Town because a...the Town has been approving them and a...apparently when they decided they wanted jurisdiction on this they didn't notify the Town. A...we got caught in the net too because both of these residences need booster pumps and therefore they both have a...to have the RPZ backflow preventer valves. A...so again, I understand where the water is coming from and a...you know, this is the...I'm here to bring you up to speed and...

Chairperson Cardone: You have to understand, this...this is also taking a spot on the agenda and you can see we have very full agendas...

Mr. Brown: I do.

Chairperson Cardone: ...every month and like I said this has been a whole year that this has been going on and...and my feeling was that at the...at the very beginning going back to last October, November, December you know I just felt like, you know, I got the impression that nothing was being done. I mean I know in the last couple of months there's been some activity. You know, that's why I say I don't think it's entirely the fault of the...of the County.

Mr. Brown: Well we...

Chairperson Cardone: This is something that to me anyway should not have taken a year.

Mr. Brown: And when we first a...came before this Board, the...we had...we had...before we came here we...we called 811 to get the waterline marked out. The water department marked out the waterline to in front of our other lot that was an error. That was an error on the department of the water department. That wasn't corrected until much later on. A...here's the suggestion that I have, I'm willing to withdraw this application right now and a...bring it back before you when I have approval from the Health Department and you know, this way I'm not wasting your time and you're not wasting my time and a...if that's okay, then I'm okay with that and my client will be too.

Chairperson Cardone: I would appreciate that because right now if we were to make a decision on this...

Mr. Brown: I understand.

Chairperson Cardone: ...you know...

Mr. Brown: I understand. It's been frustrating for me too.

Mr. McKelvey: So you want to make...you want to withdraw this?

Mr. Brown: Withdraw this, yes.

Mr. Donovan: Charlie, would you just do us a favor just you know, send a letter...

Mr. Brown: I will send.

Mr. Donovan: ... into Betty.

Mr. Brown: Okay, I can email it right, okay, okay. Thank you very much.

Chairperson Cardone: Thank you.

PRESENT ARE:

GRACE CARDONE  
RICHARD LEVIN  
JAMES MANLEY  
JOHN MASTEN - ARRIVED AT 7:10 PM  
JOHN MC KELVEY  
DARRIN SCALZO

ABSENT:

MICHAEL MAHER

ALSO PRESENT:

DAVID A. DONOVAN, ESQ.  
BETTY GENNARELLI, ZBA SECRETARY  
GERALD CANFIELD, CODE COMPLIANCE

(Time Noted – 11:03 PM)