ZONING BOARD OF APPEALS

MEETING – JANUARY 28, 2016

(Time Noted – 7:02 PM)

Mr. Manley: Good evening. I’d like to call the meeting of the Zoning Board of Appeals to order. The first order of business is the Public Hearing scheduled for today. The procedure of the Board is that the applicant will be called upon to step forward, state their request and explain why it should be granted relief under the Code. The Board will then ask the applicant any questions it may have and then any questions or comments from the public will be entertained. After all of the Public Hearings have been completed the Board may adjourn to confer with Counsel regarding any legal questions it may have. The Board will then consider the applications in the order heard and will try to render a decision this evening; but may take up to 62 days to reach a determination. I would like to ask if you have cell phones to please put them on silent or turn them off. And when you speak this evening make sure you speak directly into the microphone as it is being recorded. Ms. Gennarelli can we have a Roll Call please?

PRESENT ARE:

 MICHAEL MAHER

 JAMES MANLEY

 JOHN MASTEN

JOHN MC KELVEY

 DARRIN SCALZO

ABSENT:

 RICHARD LEVIN

ALSO PRESENT:

 DAVID A. DONOVAN, ESQ.

 BETTY GENNARELLI, ZBA SECRETARY

 GERALD CANFIELD, CODE COMPLIANCE

Pledge of Allegiance to the Flag led by Don Greene

(Time Noted – 7:05 PM)

ZBA MEETING – JANUARY 28, 2016 (Time Noted – 7:06 PM)

ANTHONY P. TARSIO NORTH DIX AVENUE

 (JOHN & SUSAN WICKER) (73-7-20) R-3 ZONE

Applicant is requesting area variances for the minimum lot area, lot width, front yard setback, rear yard setback, one side yard setback, combined side yards setback and the maximum lot building surface coverage to construct a new single-family dwelling.

Mr. Manley: Tonight the first application before the Board is Anthony P. Tarsio represented by John Wicker, property located at North Dix Avenue in Newburgh, requesting an area variance for the minimum lot area, lot width, front yard setback, rear yard setback, one side yard setback, combined side yards setback and the maximum lot building surface coverage to construct a new single-family dwelling. Ms. Gennarelli are all the posting in order?

Ms. Gennarelli: The Public Hearing Notices for all the new applications being heard this evening were published in the Mid-Hudson Times on Wednesday, January 20th and in The Sentinel on Friday, January 22nd. This applicant sent out fifty-eight letters. All the mailings, publications and postings are in order.

Mr. Manley: Thank you.

Ms. Gennarelli: And the a…the owner of the property is Wicker and Mr. Tarsio is here representing.

Mr. Manley: How are you doing Mr. Tarsio?

Mr. Tarsio: Good evening, how are you? I’m here tonight seeking just a few (seven) variances and you pointed out. A…I’m in contract to purchase this property from Mr. Wicker who lives down in Virginia. The lots a…it was two lots actually and we combined them to make them sixty by a hundred. The variances that we’re seeking a…originally we thought we had exemptions in the work but I guess by combining them we lost some of those exemptions a…so a…tonight I’m asking to a…get these variances for a sixteen hundred square foot home, two-story, one-car garage that we’re going to be building.

Mr. Manley: Okay, do any of the Board Members have any questions for the applicant?

Mr. McKelvey: I will say it’s an awful small lot.

Mr. Tarsio: Yes sir.

Mr. Maher: So what are the neighboring homes currently like?

Mr. Tarsio: They’re all similar; the lots are pretty much the same size. This lot in the early nineties had a…water and sewer placed on it so that it could be buildable and usable in the future and I have been consulting with a…Mr. Valdina who had worked with the Town at the time that they had put water and sewer on it and at that time I guess the lot had…was a reasonable. It’s an existing lot in an existing neighborhood and there…I believe this is the only piece of property left there that is buildable. There’s houses on the right, houses on the left, houses across the street and there’s a house behind it. It’s in an existing neighborhood.

Mr. Manley: So what you are telling me at one time is that the Town allowed six thousand square feet for a buildable lot?

Mr. Tarsio: I’m not gonna…I’m not gonna say that that’s what happened. I’m saying that in the early nineties according to the records that water and sewer were put on it so that way it could be a…usable at that time.

Mr. Manley: But the minimum according to the Code for that size for sewer and water, if that’s R-3…

Mr. Canfield: Twelve-five.

Mr. Manley: Twelve thousand five hundred and that pre…does that pre-date 1990?

Mr. Canfield: The current Bulk Table is twelve-five. Mr. Tarsio previously was talking about some exemptions, 185-18 talks about exemptions but they are for existing lots of record. It is our opinion that because the lots were consolidated that exemption is no longer available. I don’t know if that answers your question Jim.

Mr. Manley: It does. Do you have with you this evening any photos or anything that actually supports your claim that there’s multiple houses in that neighborhood that are on a six thousand square foot property that would be identical to this particular property?

Mr. Tarsio: The photos that I provided to a…the Board are the only photos that I…that I a…

Mr. Manley: It was just of the vacant land.

Mr. Tarsio: There’s some pictures around there that actually have houses on the…I don’t know…but I do show houses there and there is a house directly behind it a…and I think I might have some other paperwork with me that actually has a plot plan of houses that are actually around that. I can grab that.

Mr. Manley: Well not necessarily looking for the plot plan what I was looking for was actually the photos depicting the houses on the lots showing that you know, they only had twelve feet side yards. That’s kind of what I was looking for.

Mr. Tarsio: Okay, I have something with me that a…that there’s not photos. I was not under the impression that I would have bring photos I thought I…

Mr. Maher: Well I guess what Mr. Manley is trying to say is you’re trying to…you’re trying to justify the reason for the variance to be given to you…it needs to be consistent with the neighborhood, you know, that’s what you’re claiming here.

Mr. Tarsio: Right.

Mr. Maher: So the more information you can provide us whether it be the…the lot size or you know, the neighboring homes with the size of the home…

Mr. Tarsio: Right.

Mr. Maher: …you know, obviously you’re proposing sixteen hundred square foot home…

Mr. Tarsio: Right.

Mr. Maher: …if all of the neighbor homes are eight hundred square foot with larger side yards or what have you…obviously doesn’t support that so that’s why the information is…is helpful to us to understand that yeah, there’s six or eight lots in this area that may or may not be consistent with what you are proposing.

Mr. Tarsio: Okay, I think I have something that shows the houses in there existing in that area of the neighborhood.

Mr. Manley: Okay because the home directly next to it is…is forty feet, they have a forty foot buffer…to the property line.

Mr. Tarsio: The home…would it be on the right?

Mr. Manley: Correct, if you’re looking straight at the property a…the house to the right.

Mr. Tarsio: Okay a...it has a forty foot buffer?

Mr. Manley: Right, there’s forty feet from the…the house to the property line…to their…to your property line.

Mr. Tarsio: Okay.

Mr. McKelvey: And the one behind to the…I don’t know…we don’t know the distance there.

Mr. Manley: Yeah, that one I don’t know the distance, the one behind it.

Mr. Tarsio: Okay, I have some thing if I can grab it?

Mr. Manley: Okay.

Mr. Tarsio: What I have here that a…Mr. Valdina gave me is plots of the houses in this existing neighborhood that are around here a…do they have the measurements on them a…no they don’t. We can kind of take at it though and you can see that the houses in the vicinity of the neighborhood. Do you want to take a look at it?

Mr. Manley: Yeah, I’ll take a look at it and I’ll pass it to the other Members.

Mr. Tarsio approached the Board.

Mr. Donovan: Just to indicate for the record what the Board is being shown is an unattributed plan that doesn’t appear to show dimensions of anything.

Mr. Tarsio: Right, I…I…

Mr. Donovan: When I say unattributed I don’t know where it comes from or who prepared it and just…just to kind of be clear what…the Board has to go through a five part balancing test…

Mr. Tarsio: Right.

Mr. Donovan: …and the first thing they have to evaluate is whether or not this…if they grant this variance is going to cause an undesirable change in the character in the neighborhood. So with the six thousand square foot lot it’s kind of…hey listen can you…this lot next door is eight thousand, this lot across the street is six thousand. Whereas if they’re twelve five to fifteen thousand well maybe the six thousand is a problem, that’s what the Board needs to evaluate and I think that information is available on the Orange County website. You can get that information there but I don’t…I would suggest for the Board if you take a look at this but unfortunately this is not going to be helpful.

Mr. Tarsio: Right, I a…that’s all I have.

Mr. Canfield: Jim, if I may? Dave, the map you are referring to is that Anthony Valdina’s survey?

Mr. Donovan: No what was handed up is…I can’t tell what it is Jerry.

Mr. Canfield: Okay, in my packet I have a survey from Anthony Valdina which does have dimensions, side yard setback, it doesn’t have square footage of the lots as you’re asking but it does have a…dimensions from the proposed lot, the existing structure and some of the residents in the rear who I believe may be in the audience this evening. Another thing I might add is on the County or the tax map that was submitted as part of the packet surrounding properties are on there and their dimensions. Some of these lots of record back in the day that they were created are only thirty foot wide a lot of them have been consolidated but if that’s a point of reference for you, some of those dimensions may be there for you.

Mr. Tarsio: On the survey and the tax map, the tax map that is there does show that the lots are pretty much they’re all the same size and this lot is a combination of two lots from thirty…

Mr. Donovan: I guess what I was just trying to figure out is if in the neighborhood have there been four lots consolidated, five lots consolidated or are they all…I think the Board needs to know are they two lots consolidated. How are they…how are the bulk area of the surrounding lots compared to…to the lot you are proposing tonight?

Mr. Tarsio: I think they’re…they’re all the same, pretty much all the same. They look like they’re two lots combined…

Mr. Donovan: Okay.

Mr. Tarsio: …they’re all the same and…and I don’t have the survey in front of me. I can grab it but I do think that the house next to it does have similar dimensions and similar…

Mr. Maher: To the left or to the right?

Mr. Tarsio: A…to the right, my…unless I’m looking at it wrong.

Mr. Maher: Because the one to the right like a…what was discussed has a forty foot side yard setback and it’s obviously looks like a much larger…

Mr. McKelvey: Yeah, it’s much larger.

Mr. Maher: …it’s a hundred by a hundred lot so it’s a ten thousand square foot lot easily.

Mr. Canfield: Also for the Board’s reference, the house to the left was an application that was just before you for a two-family.

Mr. Scalzo: Right, yes.

Mr. Canfield: I think it was just last meeting it was on the agenda.

Mr. Manley: Do any of the other Board Members have any questions at this time for the applicant?

No response.

Mr. Manley: If not, we’ll open up the floor to a…anybody that has any questions regarding this application. If you do you can step forward, state your name and your address for the record. Yes sir?

Mr. Galli: Frank Galli, 19 Willella Place, I know yous all visit the properties and you drive around and you see ‘em. Any improvement to that neighborhood would only be a benefit to the Town. Anybody that’s riden around that neighborhood, if you want to come up my street I live right around the corner, I didn’t get a notice but I live probably half a mile if that and you want see a house then come see one on my street what it looks like. Okay? I know that’s not part of this but any new house in that neighborhood would be an improvement. Thank you.

Mr. Manley: Thank you. Are there any other questions or comments from the public?

No response.

Mr. Manley: Any further from…anybody else have any questions from the Board?

No response.

Mr. Manley: Alright, do we have a motion to close the Public Hearing?

Mr. Masten: I’ll make that motion.

Mr. Scalzo: I’ll second.

Ms. Gennarelli: That was Darrin? Okay, roll call.

 Michael Maher: Yes

 John Masten: Yes

John McKelvey: Yes

 Darrin Scalzo: Yes

 James Manley: Yes

Mr. Tarsio: Thanks.

Mr. Manley: Thank you.

 (Time Noted - 7:18 PM)

ZBA MEETING – JANUARY 28, 2016 (Resumption for decision: 9:21 PM)

ANTHONY P. TARSIO NORTH DIX AVENUE

 (73-7-20) R-3 ZONE

Applicant is requesting area variances for the minimum lot area, lot width, front yard setback, rear yard setback, one side yard setback, combined side yards setback and the maximum lot building surface coverage to construct a new single-family dwelling.

Mr. Manley: The Board is resuming its meeting for this evening. At this point we are going to enter the applications before the Board this evening. The Board will deliberate on each of the tests that are the balancing tests for the area variance criteria. The first before the Board is Anthony Tarsio, North Dix Avenue, Newburgh. It’s a Type II Action under SEQR. It’s an area variance for the minimum lot area, lot width, front yard setback, rear yard setback, one side yard setback, combined side yards setback and the maximum lot building surface coverage to construct a new single-family dwelling. The first test within the balancing tests for an area variance is whether the benefit can be achieved by other means feasible by the applicant. Do we have discussion on that test? I’ll go through each of the Board Members…

Mr. Maher: Well I have…sorry…

Mr. Manley: …go ahead.

Mr. Maher: …obviously that…that’s a small lot and there’s not any property to purchase from any direction so I don’t believe a…that anything else could be done with the lot itself currently.

Mr. Manley: Mr. Scalzo?

Mr. Scalzo: I could reiterate what Mike just said.

Mr. McKelvey: Yes.

Mr. Scalzo: You know the one…with the side yards being reduced you know if they were to throw an air conditioning unit on there that’s…that’s you know further constrains it, reduces their access to the rear yard a…but I don’t know how to get around it. You know I don’t know how the applicant would get around it.

Mr. McKelvey: I would have to concur with them.

Mr. Manley: Mr. Masten?

Mr. Masten: I have nothing.

Mr. Manley: The second test is, is there going to be an undesirable change in the neighborhood, the character or any detriment to nearby properties?

Mr. McKelvey: Well actually every…all those properties are close together there.

Mr. Scalzo: I walk my dog in that neighborhood and it would probably be an improvement.

Mr. McKelvey: Yeah.

Mr. Masten: I think it’d be an improvement.

Mr. Manley: Is the request that the applicant is coming before the Board substantial? Is the request substantial?

Mr. Scalzo: It is but that’s because the lot so small so…a…I wouldn’t consider it weighing lot size against the variances required to be that substantial.

Mr. Donovan: I may suggest that the Board may want to consider the overall effect as I said before it’s not just on a percentage basis so if you have…you want to look at it in the context of other similarly situated lots of approximately the same size with the same houses and viewed in that context would you believe that the variance request is substantial?

Mr. Scalzo: I don’t believe it’s substantial.

Mr. McKelvey: No.

Mr. Manley: Will the request have any adverse or physical or environmental effects on the neighborhood?

Mr. Masten: I don’t believe so Jim.

Mr. McKelvey: I think it will improve the neighborhood.

Mr. Maher: Yeah, I don’t…I don’t think it’ll affect it in any negative manner.

Mr. Manley: And whether the alleged difficulty is self-created? It is a relevant factor but it is not determinative.

Mr. Donovan: And when you…when you acquire property you are charged with the knowledge of the zoning so I will say this, virtually every area…request for an area variance is self-created to some degree unless there’s been a change in zoning since the property was acquired.

Mr. Manley: If the Board feels that we’ve met all of the tests required for the area variance at this point I would either look for a motion for approval or or a motion for disapproval from one of the Members.

Mr. Scalzo: I'll make a motion for approval.

Mr. Masten: I'll second it.

Ms. Gennarelli: Roll call.

 Michael Maher: Yes

 John Masten: Yes

John McKelvey: Yes

 Darrin Scalzo: Yes

 James Manley: Yes

Mr. Manley: The motion is carried.

PRESENT ARE:

 MICHAEL MAHER

 JAMES MANLEY

 JOHN MASTEN

JOHN MC KELVEY

 DARRIN SCALZO

ABSENT:

 RICHARD LEVIN

ALSO PRESENT:

 DAVID A. DONOVAN, ESQ.

 BETTY GENNARELLI, ZBA SECRETARY

 GERALD CANFIELD, CODE COMPLIANCE

 JOSEPH MATTINA, CODE COMPLIANCE

 (Time Noted – 9:26 PM)

ZBA MEETING – JANUARY 28, 2016 (Time Noted – 7:18 PM)

WILLIAM & PATRICIA MYERS 8 FORTUNE DRIVE, NBGH

 (17-2-117) A/R ZONE

Applicant is requesting an area variance for the rear yard setback to construct a rear addition (10 x 34) on the residence.

Mr. Manley: Our next applicant is William and Patricia Myers, 8 Fortune Drive, Newburgh, requesting an area variance for the rear yard setback to construct a rear addition (10 x 34) on the residence.

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

Mr. Manley: Is the applicant prepared this evening?

Mr. Greene: Yes, representing the applicant, Donald Greene and Mr. Myer’s grandsons also here. Mr. Myers is requesting a…a…a variance to reduce the rear yard by ten feet. A little history, originally this structure was here and it was part of a…a trailer and that was removed many years ago and at that time a…there was no sub-division and that…and that house actually faced a…North Fostertown Drive, with the sub-division now the house faces Fortune Drive. And basically what it is that a…he would like to a expand the bedroom on the house and a…looking that he’s getting a little older in…like all of us, well especially me a…that he’s probably going to have to move back to the area and spend more time then he’s been and that he’s a…lookin at a…a…adding on to his bedroom. So a…that’s basically where we are and a…any questions?

Ms. Gennarelli: Jim, I have a question, I don’t have a Proxy.

Mr. Greene: Oh, I have it.

Ms. Gennarelli: Can I have that?

Mr. Greene: Yes, let me find it.

Ms. Gennarelli: Okay, thank you.

Mr. Greene: That’s all I have unless…I’ll answer any questions.

Mr. Maher: So because of the way it’s situated right now it becomes an issue because it’s not facing North Fostertown?

Mr. Greene: Right.

Mr. Maher: So had it been facing North Fostertown it would be a side yard and the side yard you wouldn’t…you wouldn’t be here basically?

Mr. Greene: Right, no, due to the change he’s put in that position a…I had discussions with some of the neighbors…one of the neighbors is his son and…

Mr. Manley: Did he have any problem with it?

Mr. Greene: He didn’t have a problem with it so I guess it’s okay. If you can get along with your family you got it made. Right?

Mr. Manley: That’s true.

Mr. Greene: I’ll make no comments about my family. I made a mistake and let them build across the road so…so unless there’s any questions I a….it’s a simple structure, it’s just the two of them and a…I can see why they would want to come back with having family next door.

Mr. Manley: Do any of the other Board Members have any questions?

No response.

Mr. Manley: It’s a fairly small request.

Mr. McKelvey: Yes.

Mr. Manley: Alright, at this point we’ll open it up to a…the public. Is there anybody from the public that has any questions or comments with regard to this application?

No response.

Mr. Manley: With no questions or comments from the public I would look at this point for a motion to close the Public Hearing?

Mr. McKelvey: I’ll make that motion.

Mr. Manley: Do we have a second?

Mr. Masten: I’ll second it.

Ms. Gennarelli: Roll call.

 Michael Maher: Yes

 John Masten: Yes

John McKelvey: Yes

 Darrin Scalzo: Yes

 James Manley: Yes

 (Time Noted - 7:22 PM)

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ZBA MEETING – JANUARY 28, 2016 (Resumption for decision: 9:26 PM)

WILLIAM & PATRICIA MYERS 8 FORTUNE DRIVE, NBGH

 (17-2-117) A/R ZONE

Applicant is requesting an area variance for the rear yard setback to construct a rear addition (10 x 34) on the residence.

Mr. Manley: On the application before the Board for William and Patricia Myers, 8 Fortune Drive, Newburgh they’re requesting an area variance for the rear yard setback to construct a rear addition (10 x 34) on the residence. Again using the same balancing tests before the Board for an area variance the first item is whether the benefit can be achieved by other means feasible to the applicant. Does the Board feel that there are other ways that the benefit can be achieved?

Mr. Maher: Based on the layout of the house it pretty much requires him to put it on that, the existing or the proposed location. I don’t believe it can be achieved by any other means.

Mr. Scalzo: I concur.

Mr. McKelvey: Yeah, I don’t think they have any choice.

Mr. Masten: I agree too Jim.

Mr. Manley: There’s nothing much you can do, I mean, you certainly can’t put it in the front, the back has the septic, the only other way is the side really. It is not significant…the size.

Mr. Scalzo: There’s only ten additional feet out there.

Mr. Manley: Based on that do we have any change, undesirable change in character of the neighborhood or detriment to any nearby properties?

Mr. Maher: I mean it’s pretty hidden so you really can’t see it from the road and obviously being behind the house and that private road you can’t see it at all from that road.

Mr. Scalzo: I believe it would go generally unnoticed.

Mr. Manley: No complaints from the neighbors. Do any of the Board Members have any issues as to whether the request is substantial in nature?

Mr. McKelvey: No it’s not that big…

Mr. Manley: Three hundred square feet. Do any of the Board Members feel that the request will have any adverse physical environmental effects?

Mr. McKelvey: I don’t think of any because of the way it’s situated in the back of the house.

Mr. Manley: And is the difficulty self-created at all? Again it is not determinative.

Mr. Maher: No obviously again because of the private road becomes a front yard, the rear yard had it been facing North…North Fostertown they wouldn’t be here.

Mr. Manley: Alright this application is a Type II under SEQRA. At this point do we have a motion from the Board for either approval or disapproval?

Mr. McKelvey: I'll make a motion we approve.

Mr. Manley: Do we have a second?

Mr. Masten: I'll second it.

Ms. Gennarelli: Roll call.

 Michael Maher: Yes

 John Masten: Yes

John McKelvey: Yes

 Darrin Scalzo: Yes

 James Manley: Yes

Mr. Manley: The motion passed.

PRESENT ARE:

 MICHAEL MAHER

 JAMES MANLEY

 JOHN MASTEN

JOHN MC KELVEY

 DARRIN SCALZO

ABSENT:

 RICHARD LEVIN

ALSO PRESENT:

 DAVID A. DONOVAN, ESQ.

 BETTY GENNARELLI, ZBA SECRETARY

 GERALD CANFIELD, CODE COMPLIANCE

 (Time Noted – 9:29 PM)

ZBA MEETING – JANUARY 28, 2016 (Time Noted – 7:22 PM)

GRACE COMMUNITY CHURCH 128 OLD SOUTH PLANK ROAD, NBGH

 (PROSPECTIVE TENANT OF (64-2-2) B ZONE

 119 OLD SOUTH PLANK RD LLC)

Applicant is requesting area variances for the minimum side yards (2) setbacks, the combined side yards setback, the minimum lot width and the maximum lot surface coverage for site plan approval before the planning board to convert an existing office building to a place of worship.

Mr. Manley: The next application before the Zoning Board this evening is Grace Community Church, prospective tenant of 119 Old South Plank Road, LLC. Property located at 128 Old South Plank Road in Newburgh requesting area variances for the minimum side yards (2) setbacks, the combined side yards setback, the minimum lot width and the maximum lot surface coverage for site plan approval before the planning board to convert an existing office building to a place of worship. Ms. Gennarelli…

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

Mr. Manley: Thank you.

Mr. Doce: Good evening, I am Darren Doce representing the applicant and also the prospective tenant which is Grace Community Church. I also have a representative of Grace Community Church with me tonight, Eric Savacool. The site is located at the northeast corner of Route 300 and…northeast corner of Route 300 and Old South Plank Road. The site received site plan approval from the planning board in 2005 for the intended users at that time a real estate bought this which was an associate of a…the applicant and for a bank. The site was built out, the building was a…erected, the parking, drives was installed, utilities were all installed with the exception the only thing that was never put in was the landscaping and the landscaping will be installed as per the approved site plan. During the a…subsequent economic downturn the real estate business was terminated and the bank abandoned the plans to a…locate to the site. And since that time for the approximate next nine years the building owner has attempted to rent or sell the building and due to an overabundance of a…office space in the area, office space a…center office space that was in more suitable locations than this building or more desirable locations he has been unsuccessful in that attempt. Grace Community Church had been looking for a campus for their Newburgh site for about two and a half years. Grace Community Church main campus is located in Washingtonville. They have three satellites one in Warwick, one in Middletown and one that operates out of Anthony’s Pier Nine in New Windsor and that’s a…the campus they wish to locate to this site. So as I said, they were looking for about two and a half years, they finally found this building which it is the right size for them, since the inside hasn’t been fit out it’s a lot easier for them to a …do the renovations that they require. So in order to a…for the church to utilize the building we had to go back to the planning board for an amended site plan approval and since the Bulk Regulations in the zoning law differ for that of a church and for an office building we were also required to get a…some variances. We need a variance for side yard for a church fifty feet is required; we have side yards of forty-one point three feet and forty four point six feet. We also need a variance for the combined side yards. We’re required a hundred foot combined side yard; we have presently eighty-five point nine feet. Also require a variance for the lot width, two hundred feet is required for a church. We have a hundred and seventy-four feet. And we require a variance for the allowable lot surface coverage for a church that would be fifty percent rather than the eighty-five percent allowed for an office building. And the existing coverage on this site is sixty percent. The variance will not produce an undesirable change to the neighborhood as I said the site has already been developed, the site will appear the same whether it is utilized for a bank office or a church. The same design requirements that were previously approved by the planning board will apply to the site. The only real change to the site is the tenant will now be a church rather than an office or a bank. There’s no other means of achieving this without the…other than the area variance because there’s no a…adjacent properties that can be obtained that would remove the need for the variances and a…like I said the church has been looking for a site for two and a half years. Now they found this site that’s been vacant for over nine, it seems like the perfect fit for them. The requested variance will not be substantial. Again, the building is existing. The variances would not be noticeable. The building and parcel will appear exactly the same whether the occupant is a bank, office or if a church. Also the variances would not have an adverse effect on the conditions in the neighborhood. We feel that where in fact it would be a benefit utilizing this site as church rather than an office. The primary use will be a…one day a week on Sunday rather than intense daily use associated with a real estate office, a bank for five to six days a week. The traffic was also reviewed and the planning board traffic consultant confirms that the church will have less of an impact on the traffic than an office bank would. And also now a stable tenant will now occupy an existing vacant building and keep it from succumbing to the lack of maintenance. There will be activity on the site now removing the possibility of vandalism or loitering on a otherwise vacant site. And a…it’s my contention that this hardship has not been self-created. The owner built this building at the time intending to lease it to a real estate associate of his and a bank. There is no interest in the building due to the economic downturn and the a…lack or…or…the applicant had no control over the economic downturn that destroyed his ability to utilize this building as intended and has no control over the overabundance of more desirable office space in the area. He’s been attempting nine years to use it as it was intended and he has had no luck. Now he is presented with a tenant who finds the building desirable and would like to locate in the building. And the last thing I would like to point out is that the church is leasing this building from the building owner therefore it’s going to remain on the tax rolls. The building owner will pay all property taxes, all school taxes a…that’s a…the presentation, I am ready to answer questions from anyone.

Mr. McKelvey: You’re going to have adequate parking, right?

Mr. Doce: Yeah a…we have a worship center of…of approximately twenty-two hundred square feet, we’re required I believe it’s a…fifty-six spaces for that, we have seventy-five. I’ve also visited the site that they’re using in New Windsor and a typical service a 9AM service they have a hundred and twenty-five adults with sixty two vehicles, the 10:30 service a hundred and six adults with fifty six vehicles. We have seventy five parking spaces.

Mr. McKelvey: Okay, fine. Just going to be used on Sundays?

Mr. Doce: Sunday services are nine and ten thirty there will…there will be six to seven staff members during the week in the office area and a few a…bible studies in the evenings consisting of maybe twenty to thirty adults.

Mr. Manley: Do any of the other Board Members have any questions at all for the applicant?

Mr. Maher: So the rest of the building besides the twenty-four hundred square feet are going to be used for just offices in…?

Mr. Doce: The downstairs is the worship, the lobby and there’s a classroom for teens. The upstairs is classrooms and office.

Mr. Manley: Is there any plans in the future to have a school at all or any type of a…?

Mr. Doce: No, no.

Mr. Manley: The only concern that I see as far as physical or environmental effects would be the volume of traffic and the safety of the traffic leaving. If you have fifty cars, let’s say, that…that leave to get out of that particular area there’s only one way out and that’s just a concern I have for you know safety of the existing residents in the area as well as the people exiting there. It’s just one of the concerns. I know the planning board said that during the week there won’t be as much traffic.

Mr. Maher: Yeah…

Mr. Doce: Well…

Mr. Maher: Sorry…because there’s two entrances and exits. You have Old South Plank Road plus the actual…

Mr. Manley: Well you can only make a right…

Mr. Doce: A right out…

Mr. McKelvey: The bridge is closed on the other end.

Mr. Maher: I know, yeah, I know I got you there I’m saying but they’re…well, I mean what would happen obviously at five o’clock at night if the place was full of office people…similar…

Mr. Doce: Actually more.

Mr. Maher: More intense with the five o’clock traffic.

Mr. Doce: I would point out yeah, this is an approved site for an office building so the traffic, an office user could occupy that right have the traffic would have more of an impact. The impact we have is on Sundays a…that’s the primary impact we have on.

Mr. McKelvey: It will be a slow exit that’s all for them.

Mr. Doce: Yeah, about (inaudible) from the traffic and that will cue…cue from the entrance to Route 300 for approximately fifteen to twenty minutes before it dissipates and then the traffic will return to normal Sunday traffic.

Mr. Scalzo: During the Sunday worship a…will they have music accompanying them for the…?

Ms. Gennarelli: If you are going to speak you going to have to please get to the microphone. Thank you.

Mr. Savacool: Yeah, we have a…

Mr. Donovan: I’m sorry to interrupt but just for the record just tell us who you are.

Mr. Savacool: Eric Savacool, I’m one of the…I’m one of the elders at the church. Yeah, we have about fifteen minutes of music at the beginning of the service and there’s a…just a final song at end. So the service is about an hour and fifteen minutes or so and we do that twice.

Mr. Scalzo: Okay, and why I bring that up is when it was originally improved as a business park or a business type not that you’re going to a…you know, on Sundays the neighbors there aren’t that…you know when you’re standing there, there aren’t that many residential neighbors to be concerned however behind you there may and…and they may not have been prepared to hear the…

Mr. Savacool: The music on Sunday. Yeah, okay.

Mr. Maher: It’ll just be in the building correct? There’s no outside service?

Mr. Savacool: Oh yeah, yeah it’ll be inside the building, yes, correct. And come to find out there’s foam…foam insulation on the inside of the building as well. He did a really good job with that so I’m, you know, we’re almost thinking that you won’t hear it as much on the outside anyway.

Mr. Manley: Any other Members have any questions? At this point, we’ll open up the comments and concerns from the public. Is there anybody from the public that would like to speak regarding this application?

Ms. Gennarelli: Excuse me, could you stand to the mic and give your name, please?

Mr. Boutureira: I’m Sal Boutureira, I own 2LB, LLC. at 2 Little Britain Road in the City of Newburgh and that’s where we have our manufacturing facility and we rent to the One Accord Christian Church. I think it’s great because my property is busy, constantly busy; it avoids vandalism, graffiti, and a lot of other things. I think it would be a good idea.

Mr. Manley: Thank you.

Mr. Boutureira: That’s my personal experience.

Mr. Manley: Anyone else from the public that has any comments?

Mr. Warren: (Inaudible)

Ms. Gennarelli: Excuse me Lynn can you please come up to the microphone this is being recorded. Thank you.

Mr. Warren: I’d just like to say, my name is Lynn Warren and I’m excited about it. Welcome to the neighborhood. I hope it goes through and I’m looking forward to it. I really am.

Mr. Manley: Thank you.

Mr. Warren: It will be good for the area.

Mr. McKelvey: Thank you.

Mr. Manley: Is there anyone else?

No response.

Mr. Manley: At this point I’d look for a motion to close the Public Hearing.

Mr. Maher: I’ll make a motion to close the Hearing.

Mr. McKelvey: I’ll second it.

Ms. Gennarelli: Roll call.

 Michael Maher: Yes

 John Masten: Yes

John McKelvey: Yes

 Darrin Scalzo: Yes

 James Manley: Yes

 (Time Noted - 7:38 PM)

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ZBA MEETING – JANUARY 28, 2016 (Resumption for decision: 9:29 PM)

GRACE COMMUNITY CHURCH 128 OLD SOUTH PLANK ROAD, NBGH

 (PROSPECTIVE TENANT OF (64-2-2) B ZONE

 119 OLD SOUTH PLANK RD LLC)

Applicant is requesting area variances for the minimum side yards (2) setbacks, the combined side yards setback, the minimum lot width and the maximum lot surface coverage for site plan approval before the planning board to convert an existing office building to a place of worship.

Mr. Manley: The next application before the Zoning Board this evening was the Grace Community Church. They are to be the prospective tenants of 119 Old South Plank Road, LLC., located at 128 Old South Plank Road in Newburgh, requesting an area variance for the minimum side yards (2) setbacks, the combined side yards setbacks, the minimum lot width and the maximum lot surface coverage for site plan approval before the planning board to convert an existing office building to a place of worship. The Board does need to keep in mind that this is an Unlisted Action under SEQR. If the Board decides to make a motion for approval they must first do a Negative Declaration. So at this point we will have discussion again with the balancing tests employed for the area variance. Has the applicant shown that this could not be achieved by any other means feasible by the applicant? Do we have discussion on that?

Mr. McKelvey: I don’t think they…they’ve been looking for a place and it’s been empty for nine years.

Mr. Scalzo: It’s…it’s a existing structure…

Mr. McKelvey: Yeah.

Mr. Scalzo: …the side yards are what the side yards are. There is no other way to…

Mr. Manley: So the…the applicant has testified to the fact that they’ve been looking for a number of years for a suitable location.

Mr. Masten: I agree with…with Darrin.

Mr. Manley: Alright the next test that the Board has to consider is will this result in an undesirable change in the neighborhood character or will there be any detriment to any nearby properties? I would add that there were no concerns from any of the neighbors that were noticed.

Mr. Maher: And I…I…I add also that the planning board did identify that a…obviously there would be some evening activities and they…they’re discussing some landscape buffers to protect neighbors from…on a privacy aspect on the weekends also so they’re addressing whatever concerns may exist.

Mr. McKelvey: Well they addressed the fact that they were going to do some landscaping.

Mr. Maher: Even though that again no neighbors had any negative opinions on it.

Mr. Manley: And the applicant’s representative did testify that this particular use will have less of an impact on the…on the traffic with regard to a…if it was used Monday through Friday for offices or bank. The next test that the Board has to look at is whether or not the request that the applicant is requesting is substantial in nature.

Mr. McKelvey: The building has been there.

Mr. Masten: Yeah.

Mr. Masten: Yeah, the building exists, they are not looking to make it any…increase the size of the building or any…any other…other than what’s existing and because of the change of the a…the use of the building these come into play.

Mr. Manley: The next test is whether the request will have any adverse physical or environmental effects on the area. The only thing that I think that we really identified is on a Sunday when they do leave there are going to be a significant amount of vehicles cuing to get out of that parking lot.

Mr. Scalzo: But they will be cuing in the parking lot not on the…the public highways.

Mr. Manley: The applicant did testify that it would be about fifteen to twenty minutes before normal traffic would resume. Any other comments from the Board on that?

Mr. Masten: No…no comments Jim.

Mr. Manley: The last again is whether the alleged difficulty is self-created, it is relative but it is not determinative in nature on the Board but something that the Board should consider. At this point if the Board is looking or inclined to make a motion in the affirmative we would need to first start with a Negative Declaration. If the Board was looking to disapprove then we would just need a motion for disapproval.

Mr. McKelvey: I’ll make a motion for the Negative Dec.

Mr. Manley: We have a motion for a Negative Declaration.

Mr. Maher: Second.

Mr. Manley: We have a second.

Ms. Gennarelli: Roll call.

 Michael Maher: Yes

 John Masten: Yes

John McKelvey: Yes

 Darrin Scalzo: Yes

 James Manley: Yes

Mr. Manley: Negative Declaration has passed. At this point…

Mr. McKelvey: I’ll make a motion we approve.

Mr. Manley: We have a motion for approval. Do we have a second?

Mr. Maher: Second.

Mr. Manley: We have a second.

Ms. Gennarelli: Roll call.

 Michael Maher: Yes

 John Masten: Yes

John McKelvey: Yes

 Darrin Scalzo: Yes

 James Manley: Yes

Mr. Manley: I’ll also just make mention that the County of Orange had a Local Determination on that.

PRESENT ARE:

 MICHAEL MAHER

 JAMES MANLEY

 JOHN MASTEN

JOHN MC KELVEY

 DARRIN SCALZO

ABSENT:

 RICHARD LEVIN

ALSO PRESENT:

 DAVID A. DONOVAN, ESQ.

 BETTY GENNARELLI, ZBA SECRETARY

 GERALD CANFIELD, CODE COMPLIANCE

 (Time Noted – 9:34 PM)

ZBA MEETING – JANUARY 28, 2016 (Time Noted – 7:38 PM)

RICHARD SOLOMONS/RANNE, L.L.C. 5351 & 5359 ROUTE 9W, NBGH

 (9-3-22.2 & 23) B ZONE

Applicant is requesting an area variance for the front yard setback to construct a pet hotel and day care center for a site plan approval application before the planning board.

Mr. Manley: Our next application this evening before the Board is Richard Solomons/Ranne, LLC., 5351 & 5359 Route 9W, Newburgh requesting an area variance for the front yard setback to construct a pet hotel and a day care center for a site plan approval application before the planning board. Ms. Gennarelli…

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

Mr. Depuy: Tom Depuy, Depuy Engineering, I’m representing a…Mr. Solomons and Ranne, LLC. basically this is the Middlehope Veterinarian Hospital. They have an existing a…Pet Hotel and Day Care Center in this building here. We’re in front of the planning board right now a…proposing a new building on this piece of property with a…a parking area here. What’s happened is we need to consolidate these two lots together in order to have that…the proposal to work and when we do that it requires this existing building only has a thirty foot a…front yard a…at this point here. We’re not expanding this building at all. All the new building is up here but when we do a…consolidate the two lots it makes it non-conforming. So basically it’s a non…pre-existing, non-conforming setback. So basically we’re in front of the Board asking to have variance. It would require sixty foot in today’s standards when we’re asking it…to get a variance of thirty six…it’s twenty-four.

Mr. McKelvey: My question was going be if you’re going to combine the two lots but you’ve already stated it.

Mr. Depuy: Yeah, we’re going to…they going to become one lot.

Mr. McKelvey: Because on your plans the edge of that building went over into the other lot.

Mr. Depuy: Right, right. Plus our…we have a proposed emergency access up on this side for fire and (inaudible) so it needs to be combined in order to make the overall site work.

Mr. McKelvey: And you’ll have more parking on the…

Mr. Depuy: Yes, over on the side here. Yes.

Mr. Manley: That bridge that’s currently there is going to be…

Mr. Depuy: The little footbridge?

Mr. Manley: Yeah, that’s going to be changed.

Mr. Depuy: Yeah, that’s going to be changed. We’ll a…when they design the site but we…we’re going to have some proposed a…retaining walls in here which will be outside the creek corridor but it will allow us to build a…a permanent bridge across there and it...that will be designed for…to let a hundred year flood pass through so a…yeah. Plus there’s some existing buildings, old buildings on there that are coming down.

Mr. Manley: Do any of the Board Members have any questions or comments for the applicant?

Mr. McKelvey: I know the day that we were there you need more parking.

Mr. Depuy: Yes, yes that’s the why we’re proposing the parking lot over in this area.

Mr. Masten: That was…that was my concern too about those existing buildings that they’re…they are coming down?

Mr. Depuy: Yeah, they’re all coming down. Yes.

Mr. Masten: Yes.

Mr. Manley: We did receive notification from the Orange County Department of Planning with regard to this application and the comments from the County, had a couple of comments, I believe we’ve already sent the information over to the planning board. But they had indicated that the project was not referred to the Planning Department by the planning board which indeed it…it had been. I’m assuming it had been done so long ago that the Planning Department probably didn’t recall it. But they indicated while we recognize that this is not the responsibility of the Zoning Board of Appeals we ask that the ZBA share this letter with the planning board so that our concerns may be addressed. We are primarily concerned at this time with the channelization of the on-site creek and the potential for groundwater pollution through the disposal of pet waste, the proposed handicap access for the new facility from the proposed parking area, the location of the proposed facility across property lines and the potential need for a SPDES Permit. So those were the comments from the Orange County Department of Planning and their recommendation to this Board is Local Determination.

Mr. Depuy: Okay.

Mr. Manley: If you’d like a copy of this I can give you my copy if you’d like.

Mr. Depuy: Okay, thank you.

Mr. McKelvey: Well they’ve already taken care of one; they are going to combine the two properties.

Mr. Manley: Correct. Do they Board Members have any other questions for the applicant before I open it up to the public?

No response.

Mr. Manley: At this point, if there is anybody from the public that’s here for this application you can come forward, give your name and your address and your comments.

No response.

Mr. Manley: No comments, is there anything further from the Board before I ask for the Public Hearing to be closed?

Mr. McKelvey: All I can say is it’s a well maintained property.

Mr. Maher: So again…again, in a nutshell, the only thing that you are looking for is a variance that’s being created by a combination of lots?

Mr. Depuy: Yes, yes.

Mr. Manley: With that I’ll ask for a motion to close the Public Hearing?

Mr. McKelvey: I’ll make a motion to close the Public Hearing.

Mr. Manley: Do we have a second?

Mr. Masten: I’ll second it.

Ms. Gennarelli: Roll call.

 Michael Maher: Yes

 John Masten: Yes

John McKelvey: Yes

 Darrin Scalzo: Yes

 James Manley: Yes

 (Time Noted - 7:44 PM)

ZBA MEETING – JANUARY 28, 2016 (Resumption for decision: 9:34 PM)

RICHARD SOLOMONS/RANNE, L.L.C. 5351 & 5359 ROUTE 9W, NBGH

 (9-3-22.2 & 23) B ZONE

Applicant is requesting an area variance for the front yard setback to construct a pet hotel and day care center for a site plan approval application before the planning board.

Mr. Manley: The next application before the Board this evening is the application for Richard Solomons/Ranne, LLC., 5351 & 5359 Route 9W, Newburgh requesting an area variance for the front yard setback to construct a pet hotel and day care center for a site plan approval application before the planning board. This is a Type II Action under SEQR. Employing the same balancing tests for the area variance as we did for the other applications the first is whether the benefit can be achieved by other means feasible to the applicant.

Mr. McKelvey: I don’t think so.

Mr. Manley: I mean unless they tear that one building…

Mr. McKelvey: Right.

Mr. Manley: …that pre-existed…

Mr. McKelvey: Yeah.

Mr. Manley: …there’s no way to really achieve it any other way. Would the Board Members seem to agree with that or…?

Mr. McKelvey: Yeah.

Mr. Masten: Yes.

Mr. Scalzo: I agree.

Mr. Maher: Yes.

Mr. Manley: Will there be an undesirable change in the neighborhood character or detriment to nearby properties?

Mr. McKelvey: I don’t, I think it will be an improvement they’re going to knock those…

Mr. Masten: Yeah.

Mr. McKelvey: …other two buildings down…

Mr. Maher: Yeah those are…

Mr. McKelvey: …those old…older buildings.

Mr. Maher: Yeah, they’re…they’re in tough shape to begin with so it will be an improvement for the area.

Mr. Manley: Is the request substantial in nature?

Mr. Maher: Not in my opinion, it’s minimal.

Mr. McKelvey: No.

Mr. Masten: Yes.

Mr. Manley: Will the request have any adverse physical or environmental effects at all?

Mr. Masten: It shouldn’t have, it shouldn’t have I don’t believe.

Mr. Scalzo: Well we should refer to the a…the County’s letter regarding the channelization and the…I…I’m…I don’t know that I can accurately determine whether there’s going to be any environmental effects based on the letter from them.

Mr. Donovan: Let’s just say that I think that was a concern that they wanted you to relay to the planning board because this is just on the front yard variance. So the issue would be with…with the issuance of the front yard variance have any adverse environmental impact?

Mr. Scalzo: Well then, no.

Mr. McKelvey: No it wouldn’t.

Mr. Maher: Thanks for clarifying that Dave.

Mr. Manley: And finally whether the alleged difficulty is self-created?

Mr. Maher: Well the only way to get the building up is to combine the lots so in essence it is but it’s a minimum variance request for a pre-existing building.

Mr. Manley: Based on the discussion do we have either a motion for approval or a motion for disapproval on the application before us?

Mr. Maher: I'll make a motion for approval.

Mr. Masten: I’ll second it.

Mr. Manley: We have a motion and a second.

Ms. Gennarelli: Okay. Roll call.

 Michael Maher: Yes

 John Masten: Yes

John McKelvey: Yes

 Darrin Scalzo: Yes

 James Manley: Yes

Mr. Manley: And just for the record in case I didn’t it’s a Type II Action under SEQR.

PRESENT ARE:

 MICHAEL MAHER

 JAMES MANLEY

 JOHN MASTEN

JOHN MC KELVEY

 DARRIN SCALZO

ABSENT:

 RICHARD LEVIN

ALSO PRESENT:

 DAVID A. DONOVAN, ESQ.

 BETTY GENNARELLI, ZBA SECRETARY

 GERALD CANFIELD, CODE COMPLIANCE

 JOSEPH MATTINA, CODE COMPLIANCE

 (Time Noted – 9:37 PM)

ZBA MEETING – JANUARY 28, 2016 (Time Noted – 7:44 PM)

DON & TAMMY MURPHY 299 LAKESIDE ROAD, NBGH

 (50-1-22) R-1 ZONE

Applicant is requesting area variances for the maximum allowed height, the maximum lot building coverage and increasing the degree of non-conformity of one side yard setback and the combined side yards setback to add on to the second floor, expand the existing first floor and add front and rear covered porches on the residence.

Mr. Manley: The next applicant before the Zoning Board this evening is Don and Tammy Murphy of 299 Lakeside Road in Newburgh. They’re requesting an area variance for the maximum allowed height, the maximum lot building coverage and increasing the degree of non-conformity of one side yard setback and the combined side yards setback to add on to the second floor, expand the existing first floor and add front and rear covered porches on the residence. Ms. Gennarelli…

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

Mr. Manley: Thank you.

Mr. Murphy: Good evening. Thanks guys. Don Murphy and my wife Tammy over here, so yes, we’re seeking to build a second floor on our existing home which the house that we bought a year and a half ago was basically a…I guess what they call an existing non-conformity. Certain things that have already been noted with respect to the variances we were seeking we’ve already a…spoken to our architect about in terms of we don’t need that height variance anymore. We’re going to bring it down from what was proposed on those plans that you guys currently have. So that height variance is not being sought any longer.

Mr. Manley: Could you just share what height you require then just so…you’re eliminating the variance so you’re going to keep it under the thirty-five feet?

Mr. Murphy: That’s correct, yes, the height that was a…shown the last time that we met with him was thirty-four feet is what is being proposed. And I know there may be some a…things that are said by the neighbors that we’re open to hearing and if possible we may even come down a little bit lower than that but we won’t be seeking that thirty-five foot height variance any longer. With respect to the degrees of non-conformity on the sides basically they’re already…we’re not looking to expand the existing plot on either side we just simply want to go up and if anything where the existing deck line is on the…the one side of the house we’re actually going to pull that back slightly a little bit in a…from where it currently is. It’s not a huge change but maybe about a foot more in where it’s sticking out at its furthest and then we just simply want to go up. So we would have a livable second story and then an unfinished attic space above that for my wife, myself and our two year old son and hopefully another child in the future but…the house is quite small as it is now. There is very little space a…and so that’s the reason why we’d like to build this beautiful home and we want to do it in a way that brings value to not only our property but also the neighboring properties and the beauty of Orange Lake. I’ve been there since 1998, absolutely love it. Love the people who live around us and so we’re here to make it work for everybody.

Mr. McKelvey: You’re not going to block any view of the Lake?

Mr. Murphy: No, absolutely not, that’s…that’s our goal is to go up a…with respect to having a second story that is going to be a…open in terms of deck space above the existing deck. So we’re not looking to build a solid structure of any sort within those viewpoints. And we’ve actually taken a look at the vantage point for a…from the perspective of both of our neighbors looking to their left and right and from what we’re seeing in…in those vantage points with it being an open deck space they will not be hindered in their views.

Mr. Manley: That was the one a…thing that stood out for me was the…

Mr. Murphy: Yeah.

Mr. Manley: …the height. I did really feel…

Mr. Murphy: Absolutely, yeah.

Mr. Manley: …that you were starting to get a little bit too high on the…

Mr. Murphy: We agree.

Mr. Manley: …height of the house.

Mr. Murphy: Yeah. Our…our hope was that we could get a a tentative approval provided that we come back with those plans as early next week showing the changes have been made and we’re…we’re prepared to do that.

Mr. Manley: Okay. The…unfortunately the Board a…would have to keep the Public Hearing open…

Mr. Murphy: Okay.

Mr. Manley: …which would then mean that if there were changes that you wanted to make…

Mr. Murphy: Sure.

Mr. Manley: …and we were going to vote on it…I’m sure there’s people here this evening that are going to comment on the application.

Mr. Murphy: Yes, absolutely.

Mr. Manley: So you would then have to resubmit those changes before our next meeting…

Mr. Murphy: Okay.

Mr. Manley: …and then we would review it and then make our determination from there but we can…

Mr. Murphy: Okay.

Mr. Manley: …certainly hear what your proposal is tentatively…

Mr. Murphy: Sure.

Mr. Manley: …and if that should change we’ll…we’ll move through the process.

Mr. Murphy: Okay.

Mr. Manley: Do any of the Board Members have a question for the applicant?

Mr. McKelvey: If…if we hold it open you won’t have to resubmit to the…no mailings, no new mailings…

Mr. Maher: Well if he is removing the request for a variance why would he have to resubmit? He is lessening the degree of the request.

Mr. Murphy: That’s…that’s correct, yeah.

Mr. Donovan: Well I…I guess that…that’s the issue so you…you’ve withdrawn the request…

Mr. Murphy: For the height variance.

Mr. Donovan: …for the height variance.

Mr. Murphy: The other…the other…the one thing I did want to comment on was a…let’s make sure I got my…

Mr. Donovan: Well let’s if we can…

Mr. Murphy: Sure.

Mr. Donovan: …hold it aside or I’ll forget my question.

Mr. Murphy: Yep.

Mr. Donovan: So are…are you changing anything else with relative to your proposal?

Mr. Murphy: No. The heights coming down.

Mr. Donovan: So you are withdrawing that request. All the other requests remain the same?

Mr. Murphy: Correct. So I…I was going to a…hit upon the maximum building lot surface coverage of ten percent. So with that again, a pre-existing non-conformity the way our property is now we have an existing lot coverage of thirteen point one two percent. That’s what we purchased a year and a half ago and pretty much every house in that row and many of the houses on Orange Lake are in the same position where they…they have an existing non-conformity and so we’re simply building this second story without going out on any of the sides with the exception of a…a small front porch that would take that lot coverage to fourteen point four nine percent and simply that front porch that we’re looking to do that would change that variance slightly. But you know, every house in that row has a second story and if not a bit more and we’re the only one that’s just a single story structure.

Mr. McKelvey: You…you consider the front porch is considered the lake side or the…

Mr. Murphy: No, no the road side.

Mr. McKelvey: Okay.

Mr. Murphy: Yeah. And then again with respect to the other variances that are sought it’s…those non-conformities exist and we’re simply just going up.

Mr. Maher: So just let me clarify there. So as far as the lot coverage goes so the proposal you submitted is consistent with what you want to build?

Mr. Murphy: That’s correct, with the exception of the height.

Mr. Maher: I understand that part but I mean as far as the lot coverage goes…

Mr. Murphy: Right.

Mr. Maher: …so I mean you said it goes from thirteen to fourteen or so but that’s what you submitted in this application…

Mr. Murphy: Yes…

Mr. Maher: …correct?

Mr. Murphy: …yes.

Mr. Maher: Okay.

Mr. Manley: Mr. Canfield a…just a little confused it’s fourteen but…a hundred and five square feet over…that’s what you need in a variance so he’s allowed eighteen eighty based on lot coverage, he’s proposing twenty-five eighty-five so he needs a variance for 705?

Mr. Canfield: In the information that’s before you in your packet a…Mr. Mattina does not have the exiting number as depicted or mentioned by the owner, Mr. Murphy. My suggestion to the Board, you’ve already discussed holding the hearing open and you also discussed the resubmittal my suggestion would be that the resubmittal come through my department to reevaluate the actual dimensions and of course, reiterate the importance of the building height and then provide your Board with another accurate information sheet based on the plans that were discussed tonight. I don’t know if Counsel agrees with that but perhaps that would be a way to provide the...

Mr. Donovan: I haven’t disagreed with you this year yet, Jerry.

Mr. Maher: I mean you’re saying the…the difference you’re saying a fourteen percent and it’s thirty-seven percent you’re over the…that’s what we’re looking at, it’s considerable over, it’s not a couple of points over you know it’s not a couple of point over.

Mr. Murphy: Thirty-seven percent?

Mr. Maher: In essence thirty-seven percent over what the…the re…the allowable is.

Mr. Murphy: Oh right, because it’s the…the maximum lot coverage allowed is ten percent so currently according to the map of the architect it’s at thirteen point one two. That’s what we purchased a year and a half ago so that would put it at about thirty…thirty-two percent over.

Mr. Canfield: The question would be Mr. Murphy do you have a plot plan for the site that verifies that information of the existing footprint?

Mr. Murphy: A…let me check, let me check.

Mr. Canfield: Well it should be part of the submittal…

Mr. Murphy: Yeah.

Mr. Canfield: …to evaluate that.

Mr. Murphy: I believe that was submitted like all the dimensions of the existing site were all…all submitted showing the…the existing plot and where the structures are now where the structure is.

Mr. Manley: The difference may be…are you counting the deck on the…on the rear of the home?

Mr. Murphy: A…I don’t know. I would have to ask the architect. I’m just going off the numbers that he submitted.

Mr. Manley: Because the architect may not be counting the deck but the deck does count in lot coverage.

Mr. Murphy: Okay.

Mr. Manley: Aren’t I correct? Right Jerry?

Mr. Canfield: That’s correct.

Mr. Manley: So he…he or she may be only looking at the footprint of the house and that’s where you’re getting that thirteen or fourteen percent but when you add on the deck that adds to your lot coverage area. I would say that’s a pretty large deck on the back…

Mr. Murphy: Okay.

Mr. Manley: …which would probably be a couple of hundred square feet on the back I would...

Mr. Maher: Because right now based on your math you should have twenty one hundred and thirty six square foot based on fourteen percent over. And Joe’s got it here as twenty-five, eighty-five so there’s a difference of a…three hundred and forty-nine square feet.

Mr. Manley: Which is probably the deck…

Mr. Maher: Which is probably the deck area…

Mr. Manley: …maybe the porch on the front perhaps, because that counts too, the front porch.

Mr. Murphy: Yeah, really right now there is no front porch. It…it’s the front door with a…a concrete step up. There is no front porch at all. We’re proposing that there will be a little front porch when we do the new addition.

Mr. Maher: Well I think the math includes that because if you look on the…on the floor plan, the first floor plan it shows two hundred and forty three square feet which I’m going to say is the front deck, actually eleven by twenty-two. So that’s the front deck, the square footage of the house is seventeen sixty-seven but there’s no calc for the back deck and that may be where the difference is.

Mr. Murphy: And again, we’re not looking to expand in any way beyond those existing boundary lines where that…where it currently sits. We simply just want to go up.

Mr. Maher: The building itself or inclusive of the deck?

Mr. Murphy: The building itself will go up but not…

Mr. Maher: But the deck…

Mr. Murphy: …the deck remains undeveloped in other words that’s just deck.

Mr. Maher: No, no, I understand but the deck will extend further than it currently does?

Mr. Murphy: No. The deck will not extend any further than it currently does.

Mr. Maher: So that’s where I’m trying to figure out where this…

Mr. Murphy: Yeah, no, it will not extend any further than it currently does.

Mr. Manley: Now on the second floor in the rear it will be cantilevered over the deck?

Mr. Murphy: It will be another deck. In other words, the…the house will only go up above the existing…the inside house will only go up above the existing inside house but then there will be a deck off of the second floor above the existing deck down below acting as a call it a…covered porch.

Mr. Scalzo: On your site plan, I’m looking at a utility service to the proposed addition to the house coming across the lands of the people to your north…Steele I suppose their name is. Do you have your site plan in front of you?

Mr. Murphy: A...yeah, I think it’s over on the chair.

Mr. Scalzo: Well I don’t…I don’t believe the utility wires go from that utility pole to the corner of your house now. Are you proposing to do that over their property and…and manipulate their pine tree or…?

Mr. Murphy: I would have to ask the architect I’m…I’m not in the know that, I don’t know.

Mr. Scalzo: Okay and looking also at the site plan the garage appears to be square. I’m not sure that…

Mr. Murphy: I think it is…

Mr. Scalzo: …dimensionally that it is. It appears to be…

Mr. Murphy: …I think it is a rectangle.

Mr. Scalzo: Yeah.

Mr. Murphy: Yeah.

Mr. Scalzo: Which would change your lot coverage information as well.

Mr. Maher: Because it’s currently showing a 24 x 24 square garage.

Mr. Murphy: Okay does the a…the garage does not have footing according to what I’m being told so it’s not taken…

Mr. Canfield: Doesn’t matter…doesn’t matter it’s still…

Mr. Murphy: Okay.

Mr. Canfield: …counted in the lot coverage.

Mr. Murphy: So what if we could get all of…like these items that we want to make sure we address so that there’s total clarity for everyone a…we’ll do that as soon as possible.

Mr. McKelvey: Well I think that’s why we want to keep it open.

Mr. Manley: And I think the concern would be we want to make sure if the Board is you know, going to grant a variance and if it’s the decision of the Board to move forward and grant the variance we have to make sure we are granting the right amount.

Mr. Murphy: Understood.

Mr. Manley: If we, you know, you tell us fourteen percent and we grant you fourteen percent over when it goes to the Building Department they are going to say you’re over and you’re going to have to come back again.

Mr. Murphy: Sure.

Mr. Manley: So that just creates more problems so… Are there any other questions for the applicant at this point before we open it up to the public?

No response.

Mr. Manley: Okay, at this point, if there’s any questions or concerns from the public if you could please come to the microphone, state your name and your address for the record and ask your question or comment.

Mr. Steele: Good evening.

Mr. Manley: Good evening.

Mr. Steele: I’m Benjamin Steele and I’m the resident that…that lives on the north side of the Murphy’s property. I reside at 301 Lakeside Road. I think that Mr. Murphy is kind of…might be taking a little bit of liberty when he says that the…that he’s not infringing upon anybody’s view as far as the frontage of the Lake. His proposal that he is trying to do is he’s trying to build on an existing deck that a…seems like it…it was kind of an afterthought. All the properties along that row, there’s about eight of them, they were there and they were intended to be all in that line when they first developed back in the early 1900’s. So from my particular property I will be impeded, my…my view will be blocked to the south a…when…when I look forward. Okay, so when I’m looking out at the Lake my view to the south will be impeded. Mrs. Miller who is on the south side of…they’re only four and a half feet away from the Murphys as far as their property line is. When you stand on her a…deck it’s clearly…her whole north view is impeded by the deck if this has the structure that’s depicted on this property. It’s not just a matter of a…that it’s over top but the existing building ends right here. This is all considered to be a new addition and with a new roof. And with that new roofline it’s going definitely impede our view so it would almost be looking like underneath a table if we were ever to, you know, take a look at those particular properties toward the Lake.

Mr. Manley: So Mr. Steele if the Board was inclined to grant any type of variance what would you believe a fair and reasonable variance would be for the applicant?

Mr. Steele: I guess it’s…it’s whatever that keeps up with the architectural integrity of all the…all the neighbors. You know, as of right now what I see and what I’ve heard is that you know, the proposal that’s…that put in place shows clearly a three-story structure a…with access from the first and second floor to the third floor. If you take a look at the plans that are depicted on the second floor I think there’s clearly two stairways that go up to access on the…on the third floor so and because of that the height of the particular house is at thirty-four, thirty-six…whatever. The houses next door Millers and mine are at twenty-two feet. Given that I’ll never be able to see sunlight on the south side of my house so I would like to have the house kept reasonable. We’re here…we’re not necessarily obstructionists. We do want to have the Murphys build a house, you know we…and we hope that it all keeps into the conformity of the…the neighborhood, it doesn’t you know, impact I mean, we’re definitely supportive of…of them and we…you know, we welcome them as neighbors. We just want to make sure that it’s done and in, you know a proper manner.

Mr. Manley: So…so the concern that you’re saying is more so the deck that is going to be coming off of the back and the fact that…

Mr. Steele: The existing deck that’s there and what I believe the plans that show, their foundation plans, I do not believe that they actually depict what’s actually there.

Mr. Maher: Well the second floor cantilevers over the deck area.

Mr. Steele: Correct. So the foundation plans that are in front of you do not show the poles or of the existing…where the existing deck is. Those are just sono-tubes that are in the ground so this you know the basement plan does not depict accurately what is proposed in this elevation either right or left…

Mr. Manley: So by having that…by having that cantilever that comes out if that was pulled back further in and there was no second story deck put in there…?

Mr. Steele: Then we would be able to…we would have visibility.

Mr. Manley: And that…

Mr. Steele: It wouldn’t impede us at all.

Mr. Manley: Okay.

Mr. Steele: That would not if the…if the house was moved back to the…to where the original intent of the house was…the deck, the existing deck that’s on there seems to be an…an afterthought. You know, it was put on…you know quite some time before the Murphys purchased it.

Mr. McKelvey: Does it affect your view though?

Mr. Steele: How does that affect my view? So, as it is today I can…I can see the Lake over the top of you know, over top of that. But when you start to put a structure on top of that with columns and poles it’s going to impede my view. Like I said, it would be like looking through underneath a table. And I believe that on Mrs. Miller’s side, I was on her porch tonight, and if…with the proposed roof over top of…I know…and a…the left elevation is missing from the plan so you don’t…you can’t really tell what the view would accurately… is accurately depicted from Mrs. Miller’s view and I believe just making some assumptions from…taking a look at the rear elevation drawing if I look to the right there’s a roof…a proposed roof right here that’s…that would be over the top of that deck and because of that a…it does not seem to show a…have a view. So what I guess what I would really like to do is to make sure that we have something that’s accurately depicted so that the residents can make a judgement whether it’s truly going to impact us or not. With this it’s…I’m sure that you know it’s often difficult to make assumptions just by what people are…are drawing.

Mr. Manley: And that’s one of the reasons why the Board Members do make site visits to try to get…

Mr. Steele: Right, absolutely.

Mr. Manley: …a feel for exactly what it’s going to look like.

Mr. Steele: Right.

Mr. Manley: And I think that you know Orange Lake is a very unique area because a lot of what has happened at Orange Lake has morphed from small bungalows and cottages over the years you know, they’ve become…

Mr. Steele: Year round.

Mr. Manley: …larger year round residences.

Mr. Steele: And this particular stretch that we’re talking about is an area that truly represents the way that it used to be, you know, and we’d like to keep that same feeling you know and aesthetics of that. So you know, again we’re not necessarily…you know we want to work with the Murphys, we don’t want to be obstructionist, we want to make sure that as long as that they build something that’s…keeps in the spirit a…within the neighborhood I think I’m all for it.

Mr. Manley: And well that’s certainly why we have the Public Hearing…

Mr. Steele: Sure.

Mr. Manley: …because what you’re mentioning is character of the neighborhood and that’s one of the determining factors that this Board really has to look at is... the proposal is it within the character of the neighborhood and that’s part of the balancing test that the Board has to use in their determinative process.

Mr. Steele: Right.

Mr. McKelvey: That’s one of the things on the Lake is…they’re not allowed to.

Mr. Manley: Right and there is within the Town Ordinance now viewshed so that is something that the Town has, you know, that you cannot build anything that is going to block the viewshed or neighbors within the Orange Lake district. So that’s one of the other factors that you know that we have to look at.

Mr. Murphy: May I say something? Is it possible to say something?

Mr. Manley: You could if you come to the mic but if we could just let the public get through the rest of their questions? You might want to write them down and then that way you can address you know those questions to the Board. Thank you Mr. Steele. Are there any other members of the public that wish to comment or have questions with regard to the application? Yes sir.

Mr. Bockemuhl: Good evening a…I’m Alfie Bockemuhl, president of the Orange Lake Homeowner’s Association and a…we have taken a review of the plans a…there’s a couple...a couple of questions that I…I have. I don’t want to muddy the waters but I’m having a difficult time understanding something on the application. The applicant is applying for a variance for a side yard setback and as I understand it it’s a…it’s…they’re not increasing a non-conformity. Could you elaborate that on that so I understand it a little better?

Mr. Donovan: Yeah, sure so…so basically it’s a one-story structure so if you have…if you’re, I’ll make up a number, if you’re ten feet away at one-story and you go up to two-stories the increase of the mass is an increase of the degree of the non-conformity because if you stand ten feet away from a one-story structure there’s the potential that it may have a greater impact if two-stories and only ten feet away because the scale is different.

Mr. Bockemuhl: I don’t follow that.

Mr. Maher: You’re just going up, you’re not going out.

Mr. Bockemuhl: Correct.

Mr. Maher: That’s basically it. So basically because you’re going up you’re still only ten feet away in the new structure part.

Mr. Bockemuhl: Right so…so they’re applying for, I think, at the direction of the Town a side yard variance and I don’t see that they need to apply for that.

Mr. Maher: Because they are going up.

Mr. McKelvey: Up.

Mr. Donovan: It’s the degree of the non-conformity. The degree of the non-conformity is going up.

Mr. Bockemuhl: Oh, the increased degree is because it went taller…

Mr. Donovan: That’s correct, yeah.

Mr. Bockemuhl: …not because they encroached further towards the…

Mr. Donovan: Right, correct, right.

Mr. Bockemuhl: Okay, I understand. A…in general we look at the plans, we…we think the house would be a nice improvement to the neighborhood. We do have the concern that was expressed by Mr. Steele a…if anybody…if any of you have read the book by Pat Favata “Around Orange Lake” this particular house is depicted in a picture as standing out from all of the others because of the existing deck. The…the deck has been there since as long as I can remember, early ‘80’s a…I think one particular home owner who…who owned the house kind of just did what he wanted to do there. A…the…the consensus from our Board was that a…if the existing front fascia of the house could be maintained but if it meant an increase to the lot coverage on the road side of the property we would be in favor of that. We would…we would be more in favor of increasing the lot coverage and…and keeping the house away from the lake than the opposite. And that’s…that’s the sum of…of our comments that we wanted to add. Thank you.

Mr. Manley: Thank you. Do we have any other comments from the public? At this point, I’d like to ask the applicant to come back and address the Board further.

Mr. Murphy: So I…I definitely…you know we can appreciate what BJ is saying and by all means like that’s our goal. And we want to…we’re seeking the help of the Board to kind of…what are the options here? Like how can we make this work? So that’s he’s happy, we’re happy and…and a…it’s a beautiful home and everybody is glad it’s built. A…I had, taking BJ’s points into consideration; did speak to the architect. I said, look I’d really like to try to come up with vantage points from their…if they were sitting on their back deck like are we going to impinge upon their views to the north or south for either neighbor. And he was able to use a rendering for…for both sides that I’d like to share if possible. I’d like to share it with BJ. And then there’s also some other thoughts about how could we even improve upon it more. So I’m just kind of sharing our intention to make this work for everybody. You know, I don’t want to get up here and say well we want to build this you know, never mind what they’re saying. Now we want to cooperate and make this work for everyone. So I do have these renderings, to kind of illustrate what it would look like and what it currently looks like if you’re sitting on either one of their back porches. Can I bring these to your attention?

Mr. Manley: Yes, please.

Mr. Murphy: So this would be from a…

Mr. Donovan: Why don’t you grab the mic?

Ms. Gennarelli: Yes, grab the mic. Thanks Dave.

Mr. Murphy: The first rendering is from the south neighbor’s viewpoint to whom BJ referred. We have this very large tree that’s…that’s there now and so if you’re on her porch looking to the north her house is set back a bit, at least her porch is set back a bit to where she’s…all these trees are already there and she basically is looking at a deck. Right now we have a deck here. This is not there, obviously this is just an open porch so this would then become that and she would be looking through to that, that would kind of be the visual she would have and so far as her view of the Lake she currently only...she has that view really she is looking straight out unless there’s no leaves on the trees and then different story but…so it kind of just gives it a feel. And then from the other side a…let’s see, these were the other renderings…yeah, so okay…this would be from the perspective of a…BJ’s back looking toward his south. So currently he’s looking at the open deck here, this would then become the added part to the house.

Mr. Manley: Let me pass that down.

Mr. Murphy: This is proposed to be a see-through plexiglas of some sort so it wouldn’t be solid structure there blocking…

Mr. Manley: We’ll make this available to the public too and…

Mr. Murphy: Okay. And one of the things we…you know, when we look at the possibility of a…this part of the roof…this part just being taken away and then that just becomes a…a flat covered area versus another roof structures so it sets it back further.

Mr. Maher: You know, right the issue that I’m looking at is that…so…this roof…let me clarify because it seems…so I mean, so here’s the issue…again, obviously you’re not increasing the degree on the…on the structure itself as far as the foundation goes but obviously this little four foot cantilever that extends the second floor past the first floor and then additional eight feet here…you’re extending…you’re extending twelve feet past the existing structure. While you’re not expanding the foundation at all…

Mr. Murphy: Understood.

Mr. Maher: …you’re still expanding the second floor twelve feet closer to the Lake.

Mr. Murphy: Right. For the purposes of that deck structure covering the bottom part…understood.

Mr. Maher: Oh, I’m…

Mr. Murphy: Yes.

Mr. Maher: …I’m aware of that…I think that’s one of the concerns…

Mr. Murphy: Yep, yes…understood

Mr. Maher: …of the…you know, the neighbors are. Obviously there’s just no…twelve foot…give and take in my opinion is obviously what they’re concerned because the fact that at the same plane in the back (front) of the house not big deal…

Mr. Murphy: Right.

Mr. Maher: But a twelve foot addition on the rear of house is consis…you know, is considerable for them again to look under a table as…as you stated.

Mr. Murphy: Does the Board have a suggestion on something that we could consider?

Mr. Maher: If I do that Dave is going to yell.

Mr. Murphy: No so we won’t go there I mean.

Mr. Donovan: I…I actually…

Mr. Scalzo: Mr. Murphy, I’m looking at your Schedule A which is your deed, it describes your property and by course and distance. Somebody did a great survey to come up with this description. Do you have a copy of that survey? Your site plan is…is not a survey so…

Mr. Murphy: Okay.

Mr. Scalzo: Someone has done a survey if you can get your hands on that and bring that with you or supply that for our next meeting I would appreciate that.

Mr. Murphy: So is…that’s not the survey you’re seeking this…you want another copy of that?

Mr. Scalzo: No, no this is just a Schedule A, it’s your property described in words. I want to actually see the plat.

Mr. Murphy: You want to see the…the survey plot?

Mr. Scalzo: Yes.

Mr. Murphy: Okay, okay.

Mr. Donovan: And…and just to be clear I understand Mr. Murphy you are asking direction from the Board and people do that from time to time. Unfortunately the Board is not in the position to tell you what to do…

Mr. Murphy: Sure.

Mr. Donovan: …you know it’s…

Mr. Murphy: Yep.

Mr. Donovan: …the applicants make applications and the Board makes a determination and so we can’t be in a position as I wouldn’t really yell at Mike but I might indicate to…

Mr. Murphy: Right, sure.

Mr. Donovan: …him it would be inappropriate to provide that information or that advice.

Mr. Maher: I might say though that the president of the Orange Lake (Homeowner’s) Association did have…you might want to confer with him.

Mr. Donovan: That may be the board that would be most helpful to you, that’s true.

Mr. Maher: A…as to some ideas that could possibly help you.

Mr. Murphy: Sure.

Mr. Manley: If you should make any changes a…I would recommend that you have that prior to our next meeting generally ten days, right…?

Ms. Gennarelli: At least.

Mr. Manley: …before our next meeting to submit everything. This way the Board Members have an opportunity to review it. I would also recommend what you may want to do is bring your architect to the next meeting. If the residents have any questions, they can you know often times it’s easier to figure it out…

Mr. Murphy: Yes.

Mr. Manley: …with having them there then having to postpone everything again. So at this point, do any of the other Board Members have a…you know, have any questions? We are going to hold the Public Hearing open till our February meeting.

Mr. McKelvey: What’s the date, Betty?

Ms. Gennarelli: February 25th.

Mr. Manley: And there will not be a re-Notice so if there is anybody here from the public we will be discussing this again February 25th. We would encourage you to come back out so that you can give the Board further input and Mr. Murphy if you could make sure that you get that survey plot that Mr. Scalzo had requested that way we could take a look at it.

Mr. Murphy: You want us to be addressing a…obviously the height variance that’s going to be addressed, the…the existing non-conformity? Like how should we approach that in our resubmittal of…?

Mr. Manley: Anything that you resubmit you have to make sure that Mr. Canfield’s office gets it because Mr. Mattina will do the recalculations so that we get a new sheet and see exactly how much you’re over on lot coverage a…what…

Mr. Murphy: Okay.

Mr. Manley: …impacts obviously we’ll remove the height variance and in that way when we’re voting on it we’ll know exactly what we’re…you know, what you are proposing.

Mr. Murphy: Okay, should our architect confer with Mr. Canfield on a…the math and how that is being calculated so everybody is on the…?

Mr. Canfield: Sure, somebody will be glad to meet with him.

Mr. Murphy: Okay.

Mr. Canfield: Maybe we can help him along on how it is calculated…

Mr. Murphy: Okay.

Mr. Canfield: …how our Zoning Code reads.

Mr. Murphy: Okay, fantastic, yeah. All right.

Mr. Manley: Are there any more questions or comments from the public?

Ms. Murphy: Hi, it’s Tammy Murphy, just a quick question. What’s the definition of the neighborhood? We’re on one strip of lawn but what’s the coverage?

Mr. Manley: Well, neighborhood could…would…

Ms. Murphy: Cause there’s a number of different houses so…

Mr. Manley: …would certainly be all the people that were noticed.

Ms. Murphy: Yeah.

Mr. Manley: But anybody from within the Town can come you know, and comment on an application.

Ms. Murphy: Well one of your requirements you said it has to be within keeping with the neighborhood so we have a few houses next to us but what about…how…how expansive is this definition?

Mr. Donovan: Well there’s no bright line definition. The Board has to go through a balancing test of five factors and the first factor that often becomes the most important factor is whether or not the granting of the variances requested will result in undesirable change in the character of the neighborhood. So you have to use some sort of…the Board has to use some sort of rule of reason as to what constitutes the neighborhood. So you don’t necessarily say it’s two hundred and fifty feet away a…and…and so you know, some common sense definition of neighborhood is what needs to be employed. You certainly wouldn’t talk about a neighborhood ten miles away but within a…a square mile…a square half a mile? You know, under the circumstances either may be appropriate.

Mr. Manley: And what I generally use and each Board Member is different but I generally refer back to the Master Plan for the Town. And in the Master Plan in the Town they talk about nodes or areas within the Town that are considered hamlets. For example, in the Town you have Colden Park that would be one hamlet area, you have different hamlet which would be Leptondale, you have Orange Lake so these are all different you know hamlets…Balmville. So what would apply maybe in Balmville wouldn’t apply in Orange Lake because it’s a different neighborhood.

Ms. Murphy: Yeah I’m just trying to get a feel because we are on a very unique stretch but there are other homes that are examples of what we’re building and…and even more so…so I’m just trying to figure out when we look at the determination of neighborhood are we looking at the entire Lake or are we looking at five houses on one strip?

Mr. Manley: No, definitely not five houses you’re looking at the whole…

Ms. Murphy: Whole Lake…

Mr. Manley: …Lake area.

Mr. Maher: More information is always better…

Ms. Murphy: Yeah.

Mr. Maher: …that you…if to help you…your case out.

Ms. Murphy: Very good. Does landscaping is that included in any of the…the…? I mean, for example if some says you’re impeding my view what if you put a tree up in the middle of the lawn? I mean, you’re going to impede their view so I’m just wondering how that plays into it…landscaping?

Mr. Manley: But for us that doesn’t fall under zoning.

Ms. Murphy: Very good.

Mr. Manley: We’re simply looking at structures.

Ms. Murphy: Okay.

Mr. Manley: And how the structure may or may not impede.

Ms. Murphy: Okay.

Mr. Manley: If there aren’t any other questions from the Board I would look for a motion to hold the Public Hearing open till our February 25th meeting.

Mr. Masten: I’ll make that motion.

Mr. McKelvey: I’ll second.

Ms. Gennarelli: Roll call.

 Michael Maher: Yes

 John Masten: Yes

John McKelvey: Yes

 Darrin Scalzo: Yes

 James Manley: Yes

PRESENT ARE:

 MICHAEL MAHER

 JAMES MANLEY

 JOHN MASTEN

JOHN MC KELVEY

 DARRIN SCALZO

ABSENT:

 RICHARD LEVIN

ALSO PRESENT:

 DAVID A. DONOVAN, ESQ.

 BETTY GENNARELLI, ZBA SECRETARY

 GERALD CANFIELD, CODE COMPLIANCE

 (Time Noted – 8:22 PM)

ZBA MEETING – JANUARY 28, 2016 (Time Noted – 8:22 PM)

DEAN & KRISTINE SHADE 6 PROSPECT HILL RD, WALLKILL

 (1-1-29.42) A/R ZONE

Applicant is requesting area variances for one side yard setback to keep the prior built house to pool deck and 185-38-C-6- an accessory apartment shall not result in any decrease of a front yard setback to build an addition for an accessory apartment.

Mr. Manley: The next application before the Zoning Board this evening is Dean and Kristine Schade of 6 Prospect Hill Road in Wallkill, seeking area variances for one side yard setback to keep the prior built house - pool deck and (185-38-C-6) an accessory apartment shall not result in any decrease of a front yard setback to build an addition for an accessory apartment. Ms. Gennarelli…

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

Mr. Manley: Thank you.

Mr. Schade: Good evening Board, my wife and I… Christine and Dean Schade are here this evening to ask originally for the accessory apartment a…variance a…for housing for her mother-in-law. She’s selling her house and we were hoping to add on and provide on housing for here. She is the primary care giver and along the way we had to get surveys and that and realized that we needed the…a variance for the pool and the pool deck. And we’re hoping to get this squared away.

Mr. Manley: Okay. We have received a comment from the Orange County Department of Planning with regard to this application. The comments from the Planning Board I’ll read into the record. The Planning Department has reviewed and submitted materials regarding the appeal for an area variance. While the Zoning Board of Appeals must weigh the local issues while balancing the needs of the appellant with the potential impacts on the surrounding area it does not appear that intermunicipal or county-wide impacts should result if the Board finds that the granting relief is warranted in this matter. We note that although the accessory apartment is located within the front yard setback the property is a flag lot and so the accessory apartment not being adjacent to a road is not likely to infringe on traffic safety to a greater extent than the existing residence. We further note that the Town Building Inspector will require an engineer to approve the previously constructed deck if the variance is approved we concur with this requirement. The County’s recommendation is Local Determination. With that does the Board have any questions for the applicant?

Mr. Scalzo: During my site visit I ran into the homeowner and my question was regarding if he was creating an additional bedroom would his sanitary facilities be able to handle it and in the field, he informed me that they were now converting one of the existing bedrooms into an office by removing the closet. I don’t know if that appears in the documentation or not but…

Mr. Schade: Okay, Mr. Scalzo you’ve got it on that.

Mr. Manley: The one question I had was the…and this was something I noticed was that the a…the one shed is on the neighbor’s property. Is that?

Mr. Schade: That’s since been moved over; I moved it over seven foot.

Mr. Manley: Okay.

Mr. Schade: Didn’t realize, never had a full survey when I purchased the lot I had a subdivision survey so I was kind of guessing at the a…the line but since have moved it. I think there’s pictures submitted before and after. Aesthetically and functionally the addition going in off the front of the house is our best option. Otherwise the garage would have to be revamped and a new structure put up for a garage and a…you know, utilizing our front area of the house to access the accessory apartment a…landscaping wise and…and grade wise would be easier would for her mother, you know, wheelchair accessible at some point possibly and that was our thought on that.

Mr. Maher: So you have a…a variance required on the…on the pool side for the two foot variance?

Mr. Schade: Yeah, we…the pool has been existing for a…fifteen years, we have the C.O. we had the a…every a…all the documentation for it and just through the process of getting the survey…

Mr. Maher: That was…that was my question…

Mr. Schade: Yeah.

Mr. Maher: …so on the survey provided it doesn’t actually show the setback to the pool on it.

Mr. Schade: It doesn’t on that one? I…I have the full survey.

Mr. Maher: Does it show it on that? I’m just curious…

Mr. Schade: I think it does.

Mr. Maher: …I just want to make sure it’s what’s stated on the application is not something different and you have to come back. So I guess my question is how do we get the twenty-eight? Was it from? Did you…did you deduce that from the…from the scale? Or did the architect or the surveyor give that to you or…? I just want to clarify that if twenty…twenty is what you need it’s not twenty-seven or twenty-six so you get what you need the first time so…

Mr. Donovan: So Darrin and Mike…Betty, do you know who wrote this?

Ms. Gennarelli: Probably the Building Department.

Mr. Donovan: So we do have a survey that’s been marked up it appears by the Building Department which I’ll pass down which indicates a…that the pool is twenty-eight feet that’s been scaled out to the easterly side lot line.

Mr. Maher: I’m good with that.

Mr. Schade: I knew I saw it somewhere.

Mr. Maher: As long as that’s an accurate figure that’s…

Mr. Schade: I knew I saw it somewhere.

Mr. Maher: I just want to make sure you do this once and not have to do it twice.

Mr. Schade: Thank you I appreciate that.

Mr. Scalzo: I was shuffling through my papers while you were describing some of your items on your application. The access to the accessory apartment are you going to come off your driveway as it is now or will access be through the existing home?

Mr. Schade: No it’s going to come across the front walks and have a…a…the addition like ninety degrees off the front so you’ll be able to enter from the outside into the addition.

Mr. Scalzo: Any additional driveway for that or just sidewalk?

Mr. Schade: Well sidewalk and…and we’re thinking…looking at possibly putting up a retaining wall to hold back and have a separate parking for…although I think we have ample parking for one more car. That’s all she has is one more small Honda Civic.

Mr. McKelvey: You’re coming off the back of the…where the hot tub is, right?

Mr. Schade: There will be like a four foot gap between that and going…ninety degrees off that end of the house, yes.

Mr. Manley: Have you considered at all relocating that particular…that you could slide that back and not have so much impediment towards the front of the house?

Mr. Schade: I really don’t want to go through all of that when I have what I believe to be full a…quite a bit of property line you know from the front of my property. I don’t know exactly what the number is but it’s…it’s quite a bit and it’s aesthetically pleasing. It’s not…it’s not going to look awkward and I have full a…tree coverage on a…you know, all sides of my house. The only time I see you know, any of the neighbors is usually like in the winter. But nobody will, nobody will see it. It’s going to be aesthetically pleasing.

Mr. Manley: Does the Board have any further questions for the applicant?

No response.

Mr. Manley: At this point I’d like to open up questions or comments from the public? If you could step forward and state your name and address for the record.

Mr. Boutureira: Sal Boutureira, a positive comment?

Ms. Gennarelli: Sure.

Mr. Boutureira: I’ve been their next door neighbors for fourteen years I think it’s a great idea. They are great people.

Mr. Manley: Thank you. With no further questions or comments from the public? I’ll ask the Board if they have any further questions or comments?

No response.

Mr. Manley: No further questions or comments I would ask for a motion to close the Public Hearing.

Mr. Scalzo: I’ll make a motion we close the Public Hearing.

Mr. Maher: Second.

Ms. Gennarelli: Roll call.

 Michael Maher: Yes

 John Masten: Yes

John McKelvey: Yes

 Darrin Scalzo: Yes

 James Manley: Yes

 (Time Noted - 8:32 PM)

ZBA MEETING – JANUARY 28, 2016 (Resumption for decision: 9:37 PM)

DEAN & KRISTINE SHADE 6 PROSPECT HILL RD, WALLKILL

 (1-1-29.42) A/R ZONE

Applicant is requesting area variances for one side yard setback to keep the prior built house to pool deck and 185-38-C-6- an accessory apartment shall not result in any decrease of a front yard setback to build an addition for an accessory apartment.

Mr. Manley: The next application is Don and Tammy Murphy that is being moved to next month so we will re-hear that next month. The next application before us tonight is Dean and Kristine Schade, 6 Prospect Hill Road, Wallkill requesting an area variance for one side yard setback to keep the prior built house - pool deck and (185-38-C-6) accessory apartment shall not result in any decrease of a front yard setback to build an addition for an accessory apartment. This is a Type II Action under SEQR. Employing the same balancing tests with regard to the area variance the first is whether the benefit can be achieved by any other means feasible to the applicant? Do we have discussion on that?

Mr. Maher: Are we discussing both at the same time or do you want to…?

Mr. Manley: We can or if…

Mr. Maher: No, I mean that’s fine.

Mr. Manley: Okay.

Mr. Maher: Just wanted to clarify.

Mr. Scalzo: Actually I have a question for Jerry has…has your Code Compliance Department been out there and taken a look at the deck that’s out there for the pool?

Mr. Canfield: I think your question is there a Permit?

Mr. Scalzo: Correct.

Mr. Canfield: Has it been approved?

Mr. Scalzo: Has it been approved?

Mr. Canfield: I can’t answer that question, I don’t know.

Mr. Donovan: I…I think Darrin in the…in the papers there was that they’re going to need an engineer’s certification for the a…for the deck. The indication was you had a Permit for the pool but not to attach the deck to the pool.

Mr. Schade: Right, we since submitted a permit (application) for that.

Mr. Donovan: I think, I think that Mr. Mattina has identified that they are going to need engineer’s certification before you can approve the deck…the attachment to the deck to the pool.

Mr. Scalzo: Okay.

Mr. Canfield: Yeah, the chain of events is the variance first. Once everything is attached the deck, the pool becomes part of the structure. So that’s the need for the variance.

Mr. Scalzo: Okay.

Mr. Canfield: So once that’s done then we can proceed with the Permit.

Mr. Donovan: And if the Board is inclined to make any approval subject to compliance with applicable requirements from Code Compliance you can certainly do that. That’s implied anyway but you can make any condition of any approval.

Mr. McKelvey: I think we should make that condition.

Mr. Donovan: But I don’t want to jump ahead of the balancing test. I’m sorry.

Mr. Manley: The next test is whether or not there will be an undesirable change in the neighborhood character or detriment to nearby properties. I’ll add that the County didn’t have any issues because they considered it a flag lot; the neighbors didn’t seem to have an issue.

Mr. McKelvey: It’s not going to be seen from the road.

Mr. Maher: Right, while there…while there’s a front yard variance again it’s really three hundred feet off the road.

Mr. Manley: The next test is whether the request is substantial in nature.

Mr. Scalzo: I don’t believe so.

Mr. McKelvey: No, it’s not that big.

Mr. Manley: The applicant did also testify with Mr. Scalzo that they were going to remove a closet and make a den therefore not having the same amount of bedrooms. They are not increasing the amount of bedrooms.

Mr. Scalzo: No additional engineering requirements or modifications of the sanitary facilities.

Mr. Maher: Wow that was long winded.

Mr. Scalzo: Thank you.

Mr. Manley: Whether the request will have any adverse physical or environmental effects to the neighborhood?

Mr. McKelvey: No.

Mr. Maher: No, it’s a large lot it’s…again it’s well hidden so I don’t think there is any issue there.

Mr. Manley: And finally whether the alleged difficulty is self-created which is again relative but not determinative. Do we have discussion on that?

Mr. Maher: Well it’s self-created because they’re…they’re having a mother-in-law move in there so…but no.

Mr. Scalzo: That’s a difficulty in itself sometimes.

Mr. Maher: In itself.

Mr. Donovan: I refrain comment.

Mr. Maher: Taking that responsibility on is a…is a great thing so…

Mr. Manley: With the Board looking…

Mr. Maher: Give him the variance and a medal.

Mr. Manley: With the Board looking at the balancing test before us do we have a motion for either approval or disapproval on the application before us? Again it’s a Type II Action under SEQR.

Mr. Scalzo: I’ll make a motion for approval.

Mr. Masten: I'll second it.

Mr. Manley: We have a motion and a second.

Ms. Gennarelli: Is that a vote on both of them together?

Mr. Manley: Yes.

Ms. Gennarelli: Okay. Roll call.

 Michael Maher: Yes

 John Masten: Yes

John McKelvey: Yes

 Darrin Scalzo: Yes

 James Manley: Yes

Mr. Manley: The motion is carried.

PRESENT ARE:

 MICHAEL MAHER

 JAMES MANLEY

 JOHN MASTEN

JOHN MC KELVEY

 DARRIN SCALZO

ABSENT:

 RICHARD LEVIN

ALSO PRESENT:

 DAVID A. DONOVAN, ESQ.

 BETTY GENNARELLI, ZBA SECRETARY

 GERALD CANFIELD, CODE COMPLIANCE

 (Time Noted – 9:42 PM)

ZBA MEETING – JANUARY 28, 2016 (Time Noted – 8:32 PM)

BOB HOLMES/WTF NY 979 & 983 ROUTE 32, NBGH

 (2-1-42 & 2-1-46) R/R ZONE

Applicant is requesting an area variance for the lot width of a proposed lot for a lot line change application before the planning board.

Mr. Manley: At this point we have held open from the December 22nd meeting Bob Holmes/WTF NY, 979 & 983 Route 32 in Newburgh an area variance for the lot width of a proposed lot (2-1-42) for a lot line change application before the planning board. Representing the applicant is here this evening I will note that we did double check to make sure that it was properly posted and at last notice it was still posted. So Mr. Brown you are all set.

Mr. Brown: Thank you. It was still there the day before yesterday too. We checked that ourselves. This application it’s…it’s two existing lots the rear lot which is landlocked is presently two point nine acres a…they’re in the RR zone so two acres is the minimum lot size required that lot is landlocked. The front lot is currently one point eight acres, it’s undersized but it has frontage on Route 32 so we brought this application before the planning board a…we’re providing a twenty-five foot access strip to the rear lot so it’s no longer landlocked and adding some of the property from the rear lot to the front lot so it meets the two acre zoning. Unfortunately the existing front lot is narrow and to achieve the a…buildable area of per the code of fifteen thousand square feet a…we have to bring the lot width line to a point here where the lot width is a hundred and forty-seven feet shy of the two hundred required per the RR zone. A…this are here there’s…there’s a…it’s pretty mixed there’s a huge lot in the back. There’s a couple of lots to the south of this that are relatively small and narrow so it won’t be out of character with the neighborhood. The setbacks in the RR zone are quite substantial and meeting all those so these houses a…will not be seen from the neighbors so again there’s…there’s no impact to the neighborhood. A…and a…I think that’s it, yup.

Mr. Manley: I will just add that the Orange County Department of Planning has sent us some comments. They indicated that the Department has reviewed the submitted materials regarding the appeal for an area variance. They’ve indicated that there does not appear to be any intermunicipal or countywide impacts that would result if the Board finds that granting relief is warranted and their recommendation is Local Determination. At this point I’ll open it up to our Board Members if they have any questions or comments regarding this application.

No response.

Mr. Manley: We did discuss this application last month. So at this point are there any questions or comments from the public?

No response.

Mr. Manley: If there are not questions or comments from the public and none from the Board at this point I would look for a motion to close the Public Hearing.

Mr. Scalzo: I’ll make a motion we close the Public Hearing.

Mr. Masten: I’ll second it.

Ms. Gennarelli: Roll call.

 Michael Maher: Yes

 John Masten: Yes

John McKelvey: Yes

 Darrin Scalzo: Yes

 James Manley: Yes

 (Time Noted – 8:35 PM)

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ZBA MEETING – JANUARY 28, 2016 (Resumption for decision: 9:42 PM)

BOB HOLMES/WTF NY 979 & 983 ROUTE 32, NBGH

 (2-1-42 & 2-1-46) R/R ZONE

Applicant is requesting an area variance for the lot width of a proposed lot for a lot line change application before the planning board.

Mr. Manley: Alright I think that ends it for tonight everybody ready to go?

Mr. Brown: What?

Mr. Manley: I thought you might like that.

Mr. Donovan: It’s a 9:40 cut off now.

Mr. Manley: The next item before the Board is Bob Holmes/WTF NY, 979 and 983 Route 32, Newburgh, an area variance for the lot width of a proposed lot for a lot line change application before the planning board. This is a Type II Action under SEQR. Going through the balancing test for the area variance as we have in the other cases does the Board feel that the benefit can be achieved by any other means feasible to the applicant with regard to this application?

Mr. Scalzo: I do not.

Mr. McKelvey: No.

Mr. Masten: (Inaudible)

Mr. Manley: Do the Board Members feel that there will be any undesirable change in the neighborhood character or detriment to nearby properties?

Mr. McKelvey: No.

Mr. Masten: No.

Mr. Scalzo: I do not.

Mr. Maher: No.

Mr. Manley: Is the request before the Board substantial in nature?

Mr. Scalzo: I don’t think so.

Mr. McKelvey: No.

Mr. Manley: Mike?

Mr. Maher: No, I’m sorry, yeah, no…not substantial.

Mr. Manley: Does the Board feel that there will be any adverse physical or environmental effects as a result of this approval?

Mr. Maher: Not in my opinion.

Mr. Scalzo: I don’t think so.

Mr. McKelvey: No.

Mr. Manley: And whether the alleged difficulty is self-created it is relative again but not determinative. Does the Board have any issues with self-creation?

Mr. McKelvey: No.

Mr. Scalzo: No.

Mr. Maher: No.

Mr. Masten: No.

Mr. Manley: At this point I would ask that the Board make a motion to either approve or disapprove the application before us.

Mr. McKelvey: I’ll make a motion we approve.

Mr. Manley: Motion to approve, do we have a second?

Mr. Masten: I’ll second.

Mr. Manley: We have a second.

Ms. Gennarelli: Roll call.

 Michael Maher: Yes

 John Masten: Yes

John McKelvey: Yes

 Darrin Scalzo: Yes

 James Manley: Yes

Mr. Manley: Motion carried.

PRESENT ARE:

 MICHAEL MAHER

 JAMES MANLEY

 JOHN MASTEN

JOHN MC KELVEY

 DARRIN SCALZO

ABSENT:

 RICHARD LEVIN

ALSO PRESENT:

 DAVID A. DONOVAN, ESQ.

 BETTY GENNARELLI, ZBA SECRETARY

 GERALD CANFIELD, CODE COMPLIANCE

 (Time Noted – 9:45 PM)

ZBA MEETING – JANUARY 28, 2016 (Time Noted – 8:35 PM)

JAMES TURNER 340 LAKESIDE ROAD, NBGH

 (28-3-5) R-1 ZONE

Applicant is seeking a use variance for the allowed maximum of one dwelling unit per lot and 185-19-B, non-conforming buildings shall not be modified in any way except as listed in 185-19-B-2 to keep the prior built barn and convert into a third dwelling unit.

Mr. Manley: The last item on the agenda this evening for the Board to review is James Turner, 340 Lakeside Road, Newburgh. It’s a variance, a use variance for the allowed maximum of one dwelling unit per lot and 185-19-B, non-conforming buildings shall not be modified in any way except as listed in 185-19-B-2 to keep the prior built barn and convert it into a third dwelling unit. The applicant was here last month we held this Public Hearing open. The applicant was going to send correspondence withdrawing his application before this Board. At this point I’ll ask our Zoning Board Secretary, Ms. Gennarelli, have you received any correspondence?

Ms. Gennarelli: No, I have not.

Mr. Donovan: And just for clarification the use variance.

Mr. Manley: Correct.

Mr. Donovan: He was granted an area variance last month. This is the use variance.

Mr. Manley: Correct.

Mr. Donovan: Just for clarification.

Mr. Manley: At this point being that the applicant is not here we have a Public Hearing that is open…at this point; I would ask the Board for a motion to close the Public Hearing.

Mr. Maher: I’ll make a motion to close the hearing.

Mr. Scalzo: I’ll second.

Ms. Gennarelli: Roll call.

 Michael Maher: Yes

 John Masten: Yes

John McKelvey: Yes

 Darrin Scalzo: Yes

 James Manley: Yes

Mr. Manley: At this point in the meeting I’d like to thank everyone. Before proceeding the Board would like to take a short adjournment to confer with Counsel regarding legal questions raised by tonight’s applications. If I could ask in the interest of time if you could wait out in the hallway and we’ll call you shortly back for this evening’s completion.

 (Time Noted - 8:39 PM)

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ZBA MEETING – JANUARY 28, 2016 (Resumption for decision: 9:45 PM)

JAMES TURNER 340 LAKESIDE ROAD, NBGH

 (28-3-5) R-1 ZONE

Applicant is seeking a use variance for the allowed maximum of one dwelling unit per lot and 185-19-B, non-conforming buildings shall not be modified in any way except as listed in 185-19-B-2 to keep the prior built barn and convert into a third dwelling unit.

Mr. Manley: The next application before the Zoning Board this evening is for James Turner, 340 Lakeside Road in Newburgh. It is a use variance for the allowed maximum of one dwelling unit per lot and 185-19-B, non-conforming buildings shall not be modified in any way except as listed in 185-19-B-2 to keep the prior built barn and convert into a third dwelling unit. If the Board were to choose to approve this action, it is an Unlisted Action under SEQR and would require a Negative Declaration. However if the Board is inclined to make a motion to not approve you do not have to do a Negative Declaration. The Board must look at the balancing tests that are required for a use variance. A use variance requires that the applicant meet all four criteria within that variance. To allow a use not otherwise allowed in zoning an applicant must demonstrate to us an unnecessary hardship. Such demonstration includes all of the following for each and every permitted use. We’ll go through each of the four tests. Again they must meet all four of the tests in order for this Board to approve the use variance. The first one is whether or not the applicant cannot realize a reasonable return substantial as shown by competent financial evidence. Discussion on this; has the applicant provided this Board with substantial competent financial evidence that he cannot realize a reasonable return for the property?

Mr. Scalzo: He’s provided us with no evidence.

Mr. Maher: Agreed.

Mr. McKelvey: Yeah.

Mr. Masten: None.

Mr. Manley: Okay, the second item is whether not the alleged hardship is unique and does not apply to a substantial portion of the district or the neighborhood.

Mr. Donovan: With regard to that component I’ll just point out to the Board in the review of the minutes from last month indicate that the applicant stated that he did not have any hardship, which is like a statement against interest that’s what us lawyers call it but that’s what he said.

Mr. Scalzo: Chairman if I may? Since it’s a…you need to bat one thousand for this, since he did not meet the first criteria is there a reason to continue?

Mr. Manley: I would say that we should go through each of the tests so that we have discussion on each of those items.

Mr. Scalzo: Very good.

Mr. Manley: If…if the Board is inclined or a Member feels that, you know, they have met that test by all means you know, we can certainly discuss it and…and share that information because we are all individual thinkers. So does anybody have anything further with regard to the alleged hardship?

Mr. Maher: No I think they pointed out…the applicant identified that there was no hardship.

Mr. Manley: The third is whether the requested variance will not alter essential of the neighborhood. I’ll chime in on that that there would then be three dwelling units on one parcel of property which definitely, in my opinion, would alter the character of the neighborhood because there are no other properties that really have that degree of units on…on one piece of property.

Mr. Scalzo: I have seen two but not three.

Mr. Manley: Right. And the fourth is whether or not the alleged hardship has not been self-created.

Mr. Scalzo: It is certainly self-created.

Mr. Maher: And he identified he had other uses for the building so…the plans submitted was a hardship that he created.

Mr. Masten: Yes.

Mr. Manley: Based on the criteria that the Board has run through, at this point, do we either have a motion to approve the use variance or a motion to disapprove the use variance, keeping in mind the applicant must meet all four of those tests for this Board to legally approve the use variance?

Mr. Scalzo: I’ll make a motion to disapprove or deny.

Mr. Manley: All right.

Mr. Maher: Second.

Mr. Manley: We have a motion and a second to disapprove the use variance.

Ms. Gennarelli: Roll call.

 Michael Maher: Yes

 John Masten: Yes

John McKelvey: Yes

 Darrin Scalzo: Yes

 James Manley: Yes

Mr. Manley: The motion to disapprove is carried.

PRESENT ARE:

 MICHAEL MAHER

 JAMES MANLEY

 JOHN MASTEN

JOHN MC KELVEY

 DARRIN SCALZO

ABSENT:

 RICHARD LEVIN

ALSO PRESENT:

 DAVID A. DONOVAN, ESQ.

 BETTY GENNARELLI, ZBA SECRETARY

 GERALD CANFIELD, CODE COMPLIANCE

 (Time Noted – 9:52 PM)

ZBA MEETING – JANUARY 28, 2016 (Resumption for decision: 9:52 PM)

DRA FIDELCO NEWBURGH, LLC. 68 STEWART AVENUE, NBGH

 (97-1-47.2) R-3 ZONE

Applicant is requesting a use variance to permit the conversion of an existing building to an accessory storage facility for the sole use of the rental community tenants residing in the Summit Lane at Newburgh rental community. The use variance is only required if the request for an Interpretation under Section 185-19-A-(3) is denied by the Zoning Board.

Mr. Manley: The next application before the Board this evening to also discuss is DRA Fidelco Newburgh, LLC. located at 68 Stewart Avenue in Newburgh. Again this is another use variance to permit the conversion of an existing building to an accessory storage facility for the sole use of the rental community tenants residing in the Summit Lane at Newburgh rental community. The use variance is only required if the request for an Interpretation under Section 185-19-A-(3) is denied by the Zoning Board, which it was. And this Board is now going to entertain the use variance. This again is an Unlisted Action under SEQR that will only require a Negative Declaration if the Board is inclined to make a motion to approve. If the…

Mr. Donovan: I’m sorry. Did they want to hold this over until the Interpretation in February? Is that the idea behind this letter in December or did I misunderstand that?

Mr. Manley: I thought we were having them come before the Board in February.

Mr. Donovan: On both?

Mr. Manley: Or in January.

Mr. Donovan: Maybe I remember wrong, correct me then. I’m sorry. Do I remember incorrectly? So here’s my question so…there’s been a request for a…a new submission on the Interpretation based upon newly submitted evidence which I think is going to be heard in February. There’s also the request for the use variance and when counsel for DRA Fidelco wrote on December 22nd a…their letter stated it is our intention to amend and resubmit the request for an Interpretation which they have now done based upon new evidence and the evidence we can adduce they asked for a FOIL request. The amended application will be submitted within ten days and the extension would run until such time as the Board has been able to place this matter on the agenda and hear the request. And I should read the first paragraph which says I’m writing this letter request the Board delay consideration in the above reference use variance at this evening’s meeting. Perhaps I’m confused I thought that they meant to delay that until such time as the interpretation had been reconsidered. If the Board believes that they’re…it was only contingent until tonight and decide to night I stand corrected.

Mr. Scalzo: I was under the impression that we were going to Reserve Decision this evening.

Mr. Manley: That’s what I thought because at the last meeting in December I think we discussed that we were going to let them know that they needed to come to this meeting. Is that correct…in the minutes? I don’t know if we…

Ms. Gennarelli: I don’t know…I don’t believe that was that they had to be here. No?

Mr. Masten: I don’t remember.

Ms. Gennarelli: I do have the minutes.

Mr. Scalzo: Didn’t they also a…they weren’t going to hold us to the sixty-two days as well? I thought I recall that.

Mr. Donovan: That’s correct.

Mr. Manley: Correct.

Mr. McKelvey: That’s correct. Yeah.

Mr. Manley: That they did.

Mr. Donovan: basically if we determined to rehear the interpretation based upon newly submitted evidence we would defer the use variance since they’re asking for the…in the alternative. If they don’t get the interpretation then they request for the use variance.

Ms. Gennarelli: Okay, I have what Jim said here. He said, in addition to that the applicant did supply some additional information for the Board which you may want to review also before the January meeting that was germane to that application’. And that’s basically the reason that you held it open was so that they could review any material…

Mr. Manley: For the use variance.

Ms. Gennarelli: …for the use variance, right. And it wasn’t up to the applicant…

Mr. Manley: Because they had submitted some additional information…

Ms. Gennarelli: Yes, had submitted some additional information…

Mr. Manley: …for the use variance.

Ms. Gennarelli: …at the last minute.

Mr. Manley: So we were going to hold it over till this month and then it was my thought that we were voting on it in January. But again…

Mr. Maher: But what I…I know what we discussed like…like Darrin said about the sixty days not…not holding us to that time frame.

Mr. Manley: It’s the Board’s decision as to whether or not you want to move forward with the discussion on the use variance or whether or not they hold it over again.

Mr. Scalzo: I would prefer we Reserve Decision to the February meeting. We are aware that they will be a…presenting additional information.

Mr. Maher: And the additional information…interpretation or use?

Mr. Donnelly: Well they…they’ve asked for relief in the alternative. They have submitted additional information thus far on both.

Mr. Maher: Right, so I guess my question is if there…if there was a…if there was a vote tonight and it was not approved then they would be in a position where…?

Mr. Donovan: If there was a vote on the use variance then they’re…then they’re…they’re left to the interpretation. My…my…I think, if they thought we were voting tonight they’d be here.

Mr. Maher: Yeah I…I believe you’re correct. I think I…I would agree with Darrin about holding off till next month and letting him present their case and…and hearing, you know, whatever evidence they’re going to present in addition to what they have.

Mr. Scalzo: So would it be as simple as me just making a motion to Reserve Decision…to the February meeting?

Mr. Donovan: That’s…that’s been the a…action in the past relative to other applications, correct.

Mr. Manley: And you would just…we would just have to reference they’re letter of December 22nd that says that they grant the Board an extension from the time limit to make its consideration.

Mr. McKelvey: Yeah.

Mr. Manley: So, you know, they had given us a…infinite…

Mr. Maher: And it…it actually does appear that if they had known that we’d vote on it they would be here (inaudible) to represent themselves tonight….I would think. Go for it.

Mr. Scalzo: I make a motion we Reserve Decision.

Mr. Manley: Do we have a second?

Mr. Masten: I’ll second.

Ms. Gennarelli: Okay. Roll call.

 Michael Maher: Yes

 John Masten: Yes

John McKelvey: Yes

 Darrin Scalzo: Yes

James Manley: Yes

Mr. Scalzo: Now, notification to the applicant? Would a…is that just a phone call? Is Dave going to…?

Ms. Gennarelli: Well he’s…he’s going to be calling me tomorrow to find out if he is on the February agenda for the Interpretation…

Mr. Scalzo: Okay.

Ms. Gennarelli: So if he is here for the interpretation…

Mr. McKelvey: He’s got to reapply.

Ms. Gennarelli: …then he’ll be here.

Mr. Manley: He has to reapply.

Ms. Gennarelli: He has to reapply.

Mr. McKelvey: Yeah.

PRESENT ARE:

 MICHAEL MAHER

 JAMES MANLEY

 JOHN MASTEN

JOHN MC KELVEY

 DARRIN SCALZO

ABSENT:

 RICHARD LEVIN

ALSO PRESENT:

 DAVID A. DONOVAN, ESQ.

 BETTY GENNARELLI, ZBA SECRETARY

 GERALD CANFIELD, CODE COMPLIANCE

 (Time Noted – 9:59 PM)

ZBA MEETING – JANUARY 28, 2016

END OF MEETING (Time Noted – 9:59 PM)

OTHER BOARD BUSINESS

Mr. Manley: Okay, we do have other Board business this evening. Counsel is going to present us with some information this evening that the Board needs to consider.

Mr. Donovan: So the Board will recall we voted on an application call the Matrix back in November. It turns out there’s two issues that need clarification. The Board has in front of it a summary of the information that needs to be clarified by virtue of a…a resolution this evening. Basically the purpose of the resolution is to correct a typographical error inadvertently contained in our November 24, 2015 decision relative to the size of the sign that was allowed and the degree of the area variance relative to that sign and also to clarify our SEQR review as was required by law. And I’ll just summarize that the resolution calls for the Board to resolve as follows: that the planning board as the SEQR lead agency conducted a coordinated environmental review of the project with all involved agencies including the ZBA as required by the SEQR regulations. Following that coordinated review the planning board adopted a Negative Declaration as lead agency pursuant to the SEQR regulations which among other things addressed all potential significant environmental impacts related to the variances before the ZBA. SEQR provides that the planning board’s Negative Declaration is binding on all other involved agencies including the ZBA under the SEQR regulations. Following the planning board’s adoption of the Negative Declaration the ZBA granted the variance for the project and a written decision dated November 24th, 2015. While the ZBA conducted its own SEQR review to help inform its decision the ZBA acknowledges that the planning board’s Negative Declaration was binding on the ZBA and that no further SEQR review was required by the ZBA. In addition to that the ZBA’s November 24th, 2015 decision should be clarified to read that a variance was granted allowing directional signage of one hundred and fifty square feet not two hundred and fourteen square feet. And in all other respects we reaffirm the decision dated November 24th, 2015. That’s a summary of the resolution; someone would need to make that motion, second and vote.

Mr. Manley: So do we have a motion from the Board to accept the resolution as prepared by our Counsel with regard to the Negative Declaration for the Matrix?

Mr. McKelvey: I’ll make that motion.

Mr. Manley: I have a motion from Mr. McKelvey do we have a second?

Mr. Maher: Second.

Mr. Manley: Second for Mr. Maher.

Ms. Gennarelli: Thank you, roll call.

 Michael Maher: Yes

 John Masten: Yes

John McKelvey: Yes

 Darrin Scalzo: Yes

James Manley: Yes

Mr. Manley: Some additional Board business this evening, everybody has had a chance to review the minutes of the meeting? Do we have a motion to approve the minutes?

Mr. Masten: I'll make a motion.

Mr. Manley: Do we have a second?

Mr. Scalzo: I’ll second.

Mr. Manley: All those in favor say Aye?

Aye - All

Ms. Gennarelli: Villachica are you going to vote on that or…?

Mr. Manley: No.

Ms. Gennarelli: Okay.

Mr. Manley: The next item is our reorganization meeting. The Town Board has continued myself as the Chair for the coming year but we do have to go through the process of electing a Vice Chair for this year.

Mr. Maher: I’ll make a motion for John (McKelvey).

Mr. Masten: I’ll second it.

Mr. Manley: We have a motion from Mike Maher and a second from Mr. Masten to nominate John Mackevely as the Vice Chair…McKelvey…

Mr. McKelvey: That’s not the worst I’ve ever been called.

Mr. Manley: I was trying to put the Irish spin on it.

Ms. Gennarelli: I see. Okay, roll call.

 Michael Maher: Yes

 John Masten: Yes

 Darrin Scalzo: Yes

James Manley: Yes

Mr. Manley: At this point it’s ten o’clock does somebody have a motion to adjourn?

Mr. McKelvey: I’ll make a motion we adjourn.

Mr. Masten: Second it.

Mr. Manley: Motion and a second, all in favor?

Aye All

Mr. Manley: The meeting is adjourned.

PRESENT ARE:

 MICHAEL MAHER

 JAMES MANLEY

 JOHN MASTEN

JOHN MC KELVEY

 DARRIN SCALZO

ABSENT:

 RICHARD LEVIN

ALSO PRESENT:

 DAVID A. DONOVAN, ESQ.

 BETTY GENNARELLI, ZBA SECRETARY

 GERALD CANFIELD, CODE COMPLIANCE

 (Time Noted – 10:05 PM)