ZONING BOARD OF APPEALS

MEETING – TUESDAY NOVEMBER 25, 2014

(Time Noted – 7:01 PM)

CHAIRPERSON CARDONE: I’d like to call the meeting of the ZBA 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. 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. The Board will try to render a decision on all applications this evening; but may take up to 62 days to reach a determination. And I would ask if you have a cell phone to please put it on silent or turn it off. And when speaking, speak directly into the microphone because it is being recorded. Roll call please.

PRESENT ARE:

 GRACE CARDONE

 RICHARD LEVIN

 MICHAEL MAHER

 JAMES MANLEY

 JOHN MASTEN

JOHN MC KELVEY

 DARRIN SCALZO

ALSO PRESENT:

 DAVID A. DONOVAN, ESQ.

 BETTY GENNARELLI, ZBA SECRETARY

Pledge of Allegiance to the Flag led by Mr. John D. Masten

(Time Noted – 7:03 PM)

ZBA MEETING – NOVEMBER 25, 2014 (Time Noted – 7:04 PM)

JAMES B. ANDERSON 153 FOSTERTOWN ROAD, NBGH

 (43-1-1.2) R-2 ZONE

Applicant is seeking an use variance for 185-13-E-(2) to allow the parking of a commercial vehicle (greater than 16,500 lbs.) outside of a garage or carport at the residence.

Chairperson Cardone: Our first applicant this evening James B. Anderson.

Ms. Gennarelli: The Public Hearing Notices for all the new applications being heard this evening were published in the Mid-Hudson Times on Wednesday, November 19th and in The Sentinel on Friday, November 21st. This applicant sent out sixteen letters. All the mailings, publications and postings are in order.

Chairperson Cardone: If you would step up to microphone please identify yourself for the record and state your request.

Mr. Anderson: James Anderson, 153 Fostertown Road and I’m asking for a use variance to park a heavy truck at my residence as I’ve been doing for decades. I’d like to a…make two points to be highlighted a…first to address the complaint that I received which reads “possibly business being conducted out of house, there are trucks going and coming all day” and to that I say that I am one person, a sole proprietor, I drive the truck and I leave my driveway in the morning and return at the end of the business day and park the truck and that’s the extent of the activity of my heavy truck at my residence. There are possibly other ways of looking at trucks coming and going because I have a pickup truck or because maybe UPS comes for my personal deliveries but I can’t a…think of any reason to say that trucks are coming and going all day so I just wanted to address the a…the caliber of this complaint. As I say I’ve been parking in this driveway for decades and I’ll explain that a…I’d like to a…respond to question one of the application and expand on that a little bit to paint a total picture as quickly as possible. So question one reads whether under applicable zoning regulations the applicant cannot realize a reasonable return from the property in question.

Mr. Donovan: Mr. Anderson, if I could I’m sorry. I have a kind of a basic question and Code Compliance is not here. My…my…do we know if they’re coming Betty?

Ms. Gennarelli: I am not sure. I thought he would be here but I’m not sure.

Mr. Donovan: Is it possible that he’d be involved in the accident or would that mean that…? There’s an accident in front of Citizens Bank that’s what I’m…

Ms. Gennarelli: Oh, I didn’t know.

Mr. Donovan: Okay. A…my…my question is 185-13-E, off street parking of commercial and recreational vehicles indicates that off street parking of commercial vehicles is allowed so long as a…they’re basically in the garage. So if it’s allowed I’m…I don’t under…I don’t know that it’s a use variance. And I don’t know why it’s characterized as a use variance.

Ms. Gennarelli: He is parking it outside the garage and not in the garage.

Mr. Manley: I think that’s what the…

Ms. Gennarelli: That’s what Code compliance…

Mr. Donovan: But if it fit in the garage…if it fit in the garage…

Mr. Anderson: A…it doesn’t fit in the garage.

Mr. Donovan: No, but if it fit in the garage…

Mr. Maher: It wouldn’t be an issue.

Mr. Donovan: …you wouldn’t be here. My point being it seems to me the use is allowed but he can’t fit it in the…in the garage therefore it requires a variance.

Chairperson Cardone: Right. Well this is how it came to us as a…from Code Compliance as a use variance. Do you have other trucks that are in…do you have other trucks that are in the garage?

Mr. Anderson: No.

Chairperson Cardone: And you just have…you just have the one truck but it doesn’t fit into the garage?

Mr. Anderson: It’s a tractor trailer combination and it doesn’t fit in forty-five foot garage.

Mr. Maher: Does the tractor fit into the garage?

Mr. Anderson: Yes, it does.

Mr. Maher: But the trailer doesn’t?

Mr. Manley: The complaint as alleged by Code Compliance on 6-10-2014, it says Inspection: on the inspection it was observed that there was a commercial tractor trailer, semi, and what appeared to be an LP tank trailer parked on the premises. The complainant alleges a possible business being conducted but this could not be verified. There was no one home at the time of the inspection to field questions. The only violation was the parking of commercial vehicles and it says vehicles plural in a residential zone. There appeared to be a garage large enough to house at least one vehicle, commercial vehicle. This is an R-1 (R-2) Zone and park commercial vehicles in residential zones provided the vehicles are completely enclosed in a carport or garage, pursuant to 185-13-E.

Mr. Donovan: And therein lies my question. I mean if there’s a business there is a business being conducted there obviously that’s not permitted. The application I see is just that the commercial vehicle that which would otherwise be allowed the problem is it doesn’t fit in the garage. In that case that use is permitted, you can have the vehicle there but he’s got to put all the way in the garage. So my analysis is that’s an area variance not a use variance. If Code Compliance has a different take on it a…we need to hear that.

Chairperson Cardone: I would think that we would have to hear from Code Compliance. Now just for the record, is there a business being conducted at this location?

Mr. Anderson: No, it’s parking and I do repairs on my tractor but those repairs are done inside the garage.

Mr. Manley: Does that have any impact on it? Being that it is a business vehicle…

Mr. Donovan: Well…

Mr. Manley: …repairs being done within the garage…?

Mr. Donovan: …if that was…if that was the…the referral here to us then it would clearly be a use variance because clearly business isn’t allowed. The referral to us is you know 185-13-E. And that’s what’s throwing me off.

Mr. McKelvey: You do use it to run a business though right?

Mr. Anderson: Excuse me, sir.

Mr. McKelvey: You run a business with the truck?

Mr. Anderson: I make my living as a trucker. I’m semi-retired now but I still work part time with it. But at this location I just park. I don’t transfer freight or fuel or do other trucking activities.

Mr. McKelvey: How often does UPS come in there?

Mr. Anderson: Not often.

Chairperson Cardone: Do we have any other questions from the Board?

Mr. Manley: Is 153 Fostertown Road your legal address, is that where you reside?

Mr. Anderson: Yes.

Mr. Manley: Okay, so that is your home?

Mr. Anderson: Yes.

Mr. Manley: Okay. And the LP tank trailer is that…that…?

Mr. Anderson: That’s been removed from the premises. I used that last a…late a…winter and do to an oversight I didn’t move it. I didn’t set a priority on it and that’s probably what triggered the complaint. It was…it’s now gone.

Mr. Manley: Okay does that…do you still own it and is it stored off location now or…?

Mr. Anderson: It’s parked off location.

Chairperson Cardone: Would it be possible to put a carport attached to the garage? Reading the…it does allow for it to be under a carport.

Mr. Anderson: Sorry to say I would need a definition of a carport as compared to a garage. I’m not clear on that.

Mr. Maher: In essence a roof, well you know, the…the idea is to screen it from public view is technically what they’re looking for there. A…I mean it is off the road currently but a carport generally, you know, could be a roof with a…

Mr. Anderson: As far as screening it from view I could park it behind this forty-five foot garage which I do and it’s very hard to see and if a…a…Mr. LaPierre was here…I won’t quote him but I think he would a…agree that it’s difficult to see the truck.

Mr. Scalzo: There’s also a (Inaudible) box, the green (Inaudible) box is that for storage of…?

Mr. Anderson: That’s for storage.

Mr. Scalzo: That’s not on wheels?

Mr. Anderson: A…there’s a…there’s two wheels on it but they’re in the dirt, it’s been there for…since 1990 so it’s…

Mr. Scalzo: It’s not moving?

Mr. Anderson: It’s not moving today.

Ms. Gennarelli: Dave, Jerry is not coming.

Chairperson Cardone: I would think that we would have to hear from Code Compliance regarding this so I think we would have to keep it open.

Mr. Donovan: Well I…I think…Betty has indicated that Mr. Canfield is not going to be here tonight. A…I think…I…we definitely need to hear from Code Compliance because the issue that would be implicated if in fact a…you can’t…I just want to read the Code for you. Vehicles on a private lot, this…it’s allowed a…, is operated by an occupant of the principal building and the commercial vehicle is totally contained within a garage or carport. So I think if that was the case you wouldn’t need to be here. If you…if…if…if in fact an area variance is required and if in fact I’m correct a…we’re going to re-notice the hearing because we…we noticed it for a use variance.

Chairperson Cardone: Right.

Mr. Donovan: Because that’s what the referral is…so that’s what we had to do.

Mr. Anderson: I asked for a use variance because that’s what was written on the top of the recommendation.

Chairperson Cardone: Right, that’s what Code Compliance had written.

Mr. Donovan: And we handle appeals from Code Compliance and I’m questioning whether or not a…a use variance is the appropriate variance. And it…it’s not an insignificant issue. Use variances are very difficult to obtain, extraordinarily difficult to obtain.

Mr. Scalzo: Dave if the trailer is not attached to the tractor is that still considered individually a commercial vehicle or is it just storage?

Mr. Donovan: It depends if you ask Kevin Roberts that question I think. Didn’t we have that issue? That may have been before your time Darrin but there was…there was an issue on whether that was an accessory building or a storage container or…?

Chairperson Cardone: Right.

Mr. Maher: Well it’s still there, it must be an accessory…it must be allowed because it’s still there. Right?

Mr. Manley: The question would be that would a…a…would a car that’s not registered be considered a motor vehicle still?

Mr. Maher: Yeah, because you’re only allowed two (one) on the property I believe unregistered so. The question is is it considered commercial, you know it has commercial plates on it ultimately the trailer does.

Chairperson Cardone: In the meantime I’ll read the Orange County Department of Planning which is Local Determination.

Mr. McKelvey: We’re going to have hold this open then.

Mr. Maher: Is it feasible to park the trailer in the…sorry, park the tractor in the garage nightly?

Mr. Anderson: A…the problem with that is the work involved in dropping and hooking the tractor becomes significant especially in…in bad weather…a…and…

Mr. Maher: Right, I…I do understand that I mean I…the reason I ask is…is…well two reasons, one because in your letter you only work two or three days a week which means it would only be two or three hook ups a week number one. Number two the reason for the variance for the garage was to park the tractor in the garage.

Mr. Anderson: Tractor.

Mr. Maher: Right, park it in the garage.

Mr. Anderson: Okay.

Mr. Maher: That’s right, so when the variance was applied for in 2005 that was part of the reasoning for the variance was that you could…could park that in there so those two things I’m looking at, you know, as…as…

Mr. Anderson: Excuse me sir, 2005 I’m not familiar.

Mr. Manley: I think it was 1990…’95…

Mr. Maher: Oh it was earlier than that, I’m sorry.

Mr. Manley: …maybe I think is when the original…when the a…

Chairperson Cardone: Height requirement was (‘92) ninety-two.

Mr. Maher: I thought the a…

Mr. Anderson: When I replaced the…the existing barn with a metal barn.

Mr. Maher: Oh, okay, I’m sorry I just confused the ‘92 with 2005.

Mr. Manley: (92) Ninety-two.

Mr. Donovan: Well…

Mr. Manley: Dave, the original Zoning Board decision was January 23, ’92.

Chairperson Cardone: Right.

Mr. Donovan: Okay.

Mr. Manley: Is the a…garage door height high enough where the tractor could actually go into it or…?

Mr. Anderson: Yes, I put the tractor in there when I need to work on it, change a tire or such.

Mr. Manley: Why wouldn’t you be able to keep it in there all the time then if it’s a matter of that if it fits?

Mr. Anderson: Well because where do I put the trailer? And the work involved with dropping the tractor and trailer.

Mr. Manley: So the trailer is kept in the…?

Mr. Anderson: In the parking behind the barn, drive around, park behind where it’s hidden.

Mr. Manley: Okay, but you just said a trailer is kept in the garage.

Mr. Anderson: No, sir.

Chairperson Cardone: No, he said not in the garage.

Mr. Manley: Okay.

Chairperson Cardone: Behind the garage.

Mr. Manley: Okay, so you drop the trailer in the back and then do you detach…

Mr. Anderson: Yes.

Mr. Manley: …the tractor from it?

Mr. Anderson: Yes, to work on the tractor. I don’t work on the trailer. I don’t own the trailer. Could I read…?

Chairperson Cardone: Go ahead read.

Mr. Anderson: …a little bit more of a statement…?

Chairperson Cardone: Right.

Mr. Anderson: …to show the broader picture here, if I could? I just want to say I’ve been parking a tractor trailer on my property for thirty-nine years. The history of this property is that the previous owners Ed and Susie Nelson and thereafter Andy and Carol Nelson had been parking the large packer trucks for their garbage pickup business in this open driveway since WWII. About 1991 where sir as you pointed out ‘92, I replaced the existing barn with a new metal building a variance was needed to do this. The building houses my tools and I do repairs on my own truck tractor inside this building. The tractor will fit in the barn. The trailer will not. I’m the sole proprietor of my business. I’ve never had any employees. At this time I am partially retired working a few days a week. Please find attached my Schedule C from my Federal tax filing in 2013 a…which showed a…that my gross income was fourteen thousand a…my profit was fourteen thousand nine-fifty and not sufficient to allow renting a commercial parking area. I need to continue parking behind the barn until I am no longer in the trucking business. I respectfully submit that.

Chairperson Cardone: Do I have anyone from the public that would like to comment? Yes, please step to the microphone, state your name…

(Inaudible audience member)

Chairperson Cardone: You have to go to the microphone, speak into the microphone, identify yourself for the record.

Mr. Maruco: Yes, my name is David Maruco; I reside at 280 Fostertown Road in the Town of Newburgh. A…you…as you go up the hill you’re on the left hand side, the building that…that…?

Mr. Anderson: Yes.

Mr. Maruco: Okay, I was just on his defense a…I travel back and forth three, four times a day a…going home a…and to work and to…to the stores and shopping whatnot and I actually honestly have not seen the trailer there in a long time so the way he’s hiding it he’s doing a good job on it because I haven’t seen it in a long time and I always wondered who…who was there that owned the trailer because I…I saw it a long time ago and he keeps his property clean, he keeps the trailer hidden a…you really have to look to see the trailer on his property cause he put…he does keep it far back so a…I…as far as a neighbor, I don’t have a problem with it.

Chairperson Cardone: Okay, thank you. There was a gentleman in the back.

Mr. Carney: My name is Kevin Carney, I live directly next to Jim, I have for thirty-one years. I’ve never had a problem with him doing his activity a…like he says a couple of days a week. Comes in, parks a trailer, parks a, you know, the truck. It’s quiet. I’ve never had a problem.

Chairperson Cardone: Okay, thank you.

Mr. Carney: I…I can vouch for him. The Nelsons, I bought my house from the Nelsons too and there was a garbage service there.

Chairperson Cardone: Right, I remember that.

Mr. Carney: Okay, thank you.

Chairperson Cardone: Thank you. We had someone else, yes.

Mr. Whalen: Good evening, William Whalen, 23 Jacks Pond Road, Newburgh, which is a small private road off of Fostertown Road. My concern would be twofold a…one is setting the precedent it is a residential area. The whole area is residential. I haven’t seen the vehicle. I just looked at the property a week ago. Unhooking and hooking a trailer is a fifteen, twenty minute operation. I spent my entire career in the moving and storage business and had fleets of vehicles and when I first started it was me and the truck and I worked out a deal with the local apple orchard to park my truck there until I got big enough to buy a warehouse. A…I really don’t think it’s that big a deal if you can fit your tractor inside. It sounds like you’re dropping the trailer everyday as it is or every time you put the tractor in the garage. What’s the difference if you drop it there of if you drop it somewhere else? That would be my point.

Chairperson Cardone: Okay, thank you.

Mr. Anderson: I…I’m not dropping it every day.

Mr. Whalen: Well you’re dropping it when you’re using it is what you’re saying. I thought I heard you say that you unhook the tractor and put it in the garage and the trailer is outside.

Mr. Anderson: Sir, only when I need to work on the tractor.

Mr. Whalen: Okay… That’s my point.

Chairperson Cardone: Okay, thank you.

Mr. Whalen: You’re welcome.

Chairperson Cardone: Is there anyone else that would like to comment? Do we have a motion to hold the Public Hearing open?

Mr. McKelvey: I’ll make a motion we keep the Public Hearing open.

Mr. Masten: I’ll second it.

Ms. Gennarelli: Roll call.

 Richard Levin: Yes

 Michael Maher: Yes

 James Manley: Yes

 John Masten: Yes

John McKelvey: Yes

 Darrin Scalzo: Yes

 Grace Cardone: Yes

Mr. Manley: I just have one comment with respect to that. We have to first verify whether or not Code Compliance…whether we’re in agreement, whether it’s a use or a area variance because if it’s an area variance then it has to be re-noticed, yes?

Mr. McKelvey: Right.

Mr. Donovan: That…that’s correct.

Chairperson Cardone: That’s correct but what we’re holding open is this request for a use variance.

Mr. Manley: Okay.

Chairperson Cardone: That could later be closed and…

Mr. Manley: And then a new one reopened for area. Okay.

Chairperson Cardone: And people will not be notified. Our next meeting will be in December and it is…

Ms. Gennarelli: It’s December 23rd, on a Tuesday.

Chairperson Cardone: …which is also a Tuesday. Okay, are you clear on that?

Mr. Anderson: Just you said that you will not be re-notified.

Chairperson Cardone: They will not be re-notified as to this application. We’re giving the date right now which is December the 23rd, Tuesday.

PRESENT ARE:

 GRACE CARDONE

 RICHARD LEVIN

 MICHAEL MAHER

 JAMES MANLEY

 JOHN MASTEN

JOHN MC KELVEY

 DARRIN SCALZO

ALSO PRESENT:

 DAVID A. DONOVAN, ESQ.

 BETTY GENNARELLI, ZBA SECRETARY (Time Noted - 7:27 PM)

ZBA MEETING – NOVEMBER 25, 2014 (Time Noted – 7:28 PM)

MARK HENDRICKSON 317 LAKESIDE ROAD, NBGH

 (50-1-11) R-1 ZONE

Applicant is seeking area variances for increasing the degree of non-conformity of the rear yard setback, one side yard setback and the combined side yard setback to raise the second floor rear roof (6’6” H x 18’4” W) and also build a second floor rear deck (12’ x 12”) over the existing first floor of the residence.

Chairperson Cardone: Our next applicant Mark Hendrickson.

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

Chairperson Cardone: Okay for the record please state your name and speak directly into that microphone.

Mr. Hendrickson: Mark Hendrickson.

Ms. Hendrickson: Althea Hendrickson.

Chairperson Cardone: And state your request.

Mr. Hendrickson: I brought a…some photos of the house and (Inaudible)…I brought enough for everybody. Can I bring the a…to the Members?

Chairperson Cardone: Yes, you may.

Mr. Hendrickson approached the Board.

Chairperson Cardone: I should mention that the Board Members have visited all of the sites that we are discussing this evening.

Mr. Hendrickson: Okay, so a…we’re looking for an area variance a…for a small patio that we want to build on top of our outer room…I…I think everybody can hear I have a pretty loud voice. We’re also looking to put a small eyebrow dormer on top of that a…patio that will be on the second floor and a…I’ve submitted some photos and actually the architectural rending…rendering of what that will look like. A…Althea and I bought the house two years ago a…I know this isn’t an excuse but we were totally unaware that there were a lot of variances on this house. We didn’t get into that. No one seemed to a…feel that was important. But in any case a…we always intended if you look at the photographs that I just passed out of the neighboring homes to have a view of the lake. We bought a house on the lake and we’d love to have a view of the lake from the second floor as virtually every house left and right, ten…ten houses each direction, have. A…in this particular case because of all the variances that were on this house this is a…more of a…more of an issue than we thought it would be. So a…what I’d like to state is that what we’re planning to do is notch out the existing roof a…and we’re not changing the footprint meaning the…the left right a…foundations, forward, backward, anywhere. Everything remains; the foundation remains exactly the same. What we are doing is notching is we’re notching out the roof and we’re a…putting in place of that notch a ten foot wide patio a…so that we can see the lake from our bedroom. And if you look at those pictures that’s what you see. The second part of it is we…we a…originally wanted to put a shed dormer above it because we have a mezzanine section which was approved by Code Compliance going in above our master bedroom with a spiral leading up to it. But again there’s no lake view from that mezzanine section so originally we were going to put a shed dormer in, I had a…some reconsideration, went back to my architect and at my expense I changed that to a very modest eyebrow dormer which you can also see in…in that picture. The net…net result of notching out the roof and removing all that cubic feet and adding this very small six foot high eyebrow dormer with a triangle window in it is…is negative. We’re actually taking a…less cube…we’re taking more cubic feet away from the house by notching out that a…that…that…that a…that area for the ten foot wide patio and then putting in this a...eyebrow dormer. So no change in house footprint also there is no significant change in the a…actual a…second floor profile. You’ll see from that picture that the architect is using a wire a…a…guardrail that a…only protrude…it doesn’t protrude out of the footprint but it…it a…where the roof ends this begins and you’ll see that it’s…it’s going to be totally transparent. We’re using something that…so if there was anybody who said they couldn’t see way north of the lake a…a…because again this is not obstructing anybody’s view straight on but if a neighbor was to say that there was…there was a two foot section that had a…a wire area that it would be transparent. A…so…the and the last thing is this eyebrow dormer begins at twenty-six feet so it’s way above, it’s not anywhere close to where a neighbor could look out there window and see it. There’s…there’s absolutely a…no way a neighbor on the left or the right could look out their window and…and be obstructed seeing the lake from that from where the elevation is on that eyebrow dormer. It begins twelve feet back and it begins at a…at roughly twenty feet high so there’s…there’s no way somebody on the second floor of his bedroom could look out and say, ‘hey that, you know that a…eyebrow dormer is…is…is impeding my view of the lake’. Keep in mind that my house faces west as do all the other houses on the lake and a…so when you look at the lake from any of my neighbor’s homes you’re looking at it straight on, you’re not looking at it, you know, north, south, east or west you’re looking straight on at the lake. The last thing is is that you’ll see by the pictures of neighbor’s houses virtually this house stands alone as the only house that doesn’t have a second floor view, sec…a…a…bedroom view of the lake. It has this huge a…humongous roof a…that a…that we’re trying to notch out a little bit of so that we can see the lake from our bedroom. Thank you.

Mr. Levin: Are there any special rules that the…you have a board for your lake there, are there any special rules as to the height or width or anything that you can build?

Mr. Hendrickson: Not that I know of, not...like a lake association rule or something like that, no. I’m not aware of that no one has ever brought that to my attention if there is. I mean we’re new on the lake but I’m…I’m pretty sure that I would, you know, I, you know, I’ve been talking to a couple of the landscapers and a…people a…local a…landscaper who lives on the lake has done all the work and I’ve talked at length to him about it and I’ve never heard that there’s, you know, something outside whatever Code Compliance is that would prevent me from putting a patio you know looking out at the…at the lake from my second floor.

Chairperson Cardone: Do we have any questions or comments from the public? Yes? If you would…

Mr. Fowler: Art Fowler…

Chairperson Cardone: You have to speak into the microphone.

Mr. Fowler: Art Fowler, 8 Snider Avenue and I do sit on the a…Homeowner’s Association board and he’s absolutely correct there’s no rules on that except whatever the Town has. We’ve come to the conclusion in our discussions on it that it has no impact on the lake which is our role to monitor and also doesn’t have any negative effect on the view from the lake. So it would just be whatever the neighbors have to say and of course, the discretion of the Board. So we have not objections from the board.

Chairperson Cardone: Thank you.

Mr. Fowler: You’re welcome.

Chairperson Cardone: Okay, there’s someone else in the back.

Mr. Caltagirone: Peter Caltagirone, 315 Lakeside, I’m on the south side of this property.

Chairperson Cardone: Yes.

Mr. Caltagirone: A…I looked at the plans at the a…board…down at the office down here and the…the roofline of the new dormer, I did not see any a…designation or measurement of how many feet it would go out from the…from the present roof.

Mr. Hendrickson: (Inaudible)

Ms. Gennarelli: Excuse me, if you’re having discussion you have to get to the microphone.

(Inaudible)

Ms. Gennarelli: It’s being recorded.

Mr. Caltagirone: Do you have the plans here?

Mr. Hendrickson: Yes, I have…I have the plans here.

Chairperson Cardone: We’ll get another microphone here, not too close to the other one so it gets to the back.

Ms. Gennarelli: Thank you.

Chairperson Cardone: Thank you Darrin. You can each use a microphone.

Ms. Gennarelli: Mr. Caltagirone…

Mr. Hendrickson: Well I’m sure it’s to scale. It’s to scale…its four inches…

(Inaudible)

Mr. Donovan: Just…if you could understand none of this is going to make its way into the minutes so if you talk into the microphone so it’s being recorded.

Mr. Hendrickson: Okay, I’m sorry, this is a…I’m producing a drawing, the architect’s drawing for the eyebrow dormer and it shows a quarter inch scale so…it’s pretty easy to…

Mr. Maher: So based on the layout of it you have one, two, three, four, five, you have six joist bays which you need sixteen inches a piece which is basically eight foot from the…where the ridge line meets the existing roof out to the overhang.

Mr. Caltagirone: Well shouldn’t that be in the…in the a…diagram, I mean, I don’t understand that.

Mr. Hendrickson: Well they did…they did do a a quarter inch scale so I’m sure that you know, they’re not…they’re not showing every single measurement but you know it’s…I’m sure that a…if you need to see that…

Mr. Caltagirone: Well I am concerned that…that it might block my view to the north as I…as I look out my second floor.

Mr. Hendrickson: You’re second floor here ends right here, your window as…as…as far, even if you were standing on your tippy toes your…your view would be right here. The lake is out here as you know, your house is set behind mine like this so you’re…the…the lake would not, there’s no way you can see the lake from that window. I’d maintain that and we can prove that. There…there’s no way from there you’ll be able to see the lake. You’ll be able to see the sky but not the lake.

Mr. Caltagirone: (Inaudible)

Ms. Gennarelli: Grace, I do have the plans submitted if you...

Mr. Hendrickson: Peter submitted a drawing that shows a second floor, it does not show where my…my dormer would begin. Peter, my dormer would begin above the triangle right here so this…this is a great shot to submit this as to how the dormer, if you look at this, this is at nineteen feet high, the dormer begins above this picture right here. So above that the triangle (Inaudible) The lake would be a…the dormer would begin. Does anybody want to see this? Cause this is really…

Chairperson Cardone: This is his house correct?

Mr. Hendrickson: No, that’s Norm Bell’s.

Chairperson Cardone: Okay.

Mr. Hendrickson: This is Peter’s on…I…I submitted some photographs.

Ms. Gennarelli: Can you grab that microphone? It comes off of the stand.

Mr. Hendrickson: Sure.

Ms. Gennarelli: You can just pop that right off, thank you.

Mr. Hendrickson: Oh, there we go. Okay, so in that picture that Peter just submitted you see a triangle window. That window is not…is that…that’s the top of the second floor, that is where this…this a…eyebrow dormer begins and it would begin in from there on the roof so and it’s at a peak so there’s no way beginning at a…twenty-six feet and going up that could ever impede on his view of the lake. That’s a great shot to prove my point. This eyebrow dormer is not a…effecting anybody’s view of the lake.

Mr. McKelvey: Are you…are you talking looking straight into the lake or up and down the lake?

Mr. Hendrickson: You look straight into the lake and then you can look to the north and to the south, that’s correct, yeah you can watch the whole western side of Orange Lake.

Mr. Caltagirone: A…Mark my other question is it doesn’t say how wide this opening is. There is no measurement on this.

Mr. Hendrickson: This is ten feet, ten feet. This is a ten foot, the…the actual patio area is ten feet wide and it’s…it…it’s notched into the roof back to the a…supporting wall which is twelve feet back.

Mr. Caltagirone: And…and what is on either side of this?

Mr. Hendrickson: Roof, this is all roof. That’s why you don’t see it from this side, from this point of view on your...on your floor there’s virtually no view. This is the only…this is roof as it…as…you’re looking at roof here today and you’re looking at roof in the future because this is notched. Right? This represents roof. So the only thing that would stick out would be this clear…and you could put that into the variance a…a clear wire a…a…thing and it looks like, based on this scale, it’s going to be two feet. It’s going to be two feet of…of…of clear wire railing right there.

Mr. Caltagirone: You know a…

Chairperson Cardone: Could you please come over here?

Mr. Donovan: It would be…it’s the first meeting I’ve ever seen where they…how you have your backs to us. It’s not…

Chairperson Cardone: It’s not really a good idea.

(Inaudible)

Ms. Gennarelli: Well you could put the drawing up onto the easel there and explain it to everyone. That would be good.

Mr. Hendrickson: Okay. So the question is you know what is this? This is roof, this is roof now and this will be roof after this is built because this is a notch, this is a notched in so the only thing what you’re seeing here is this…this a…thin wire railing which will be transparent and this is only two feet at the top and then down to zero at the end, again, not impeding on the footprint of the house. But as far as the view from the second floor, anywhere on the second floor there’s no way anybody from here would have any different view of the lake or the north or anywhere as they’d have right now. And then as you go up and again from the picture that Peter submitted this is where the triangle window is, that’s where the beginning part of this pitch that goes toward the center of the a…of the roof begins. This is why we did it this way by the way. My original drawing which I have was a shed dormer that came out like this and down and I decided it went all the way to the peak of the roof and we…we threw out that plan and…and scaled it way down so that we could have a chance at having this done.

Mr. Caltagirone: You know there’s a…there’s a building in the south cove, I believe it’s the same fellow built this house Coppola…

Mr. Hendrickson: Yeah.

Mr. Caltagirone: …a…he has a similar design and he went…he doesn’t have…he doesn’t have this roof. It’s just cut in.

Mr. Hendrickson: Right, right. (Inaudible)

Mr. Caltagirone: So what…what is the reason for adding the extra roof.

Mr. Hendrickson: The reason for adding this a…eyebrow dormer is because we’ve added a mezzanine, again this has been approved by the board (Building Department), this is a mezzanine section, a legal mezzanine section that’s up here and then from this mezzanine section a…you’re looking just at a straight roof. So what we did is we notched out, we put this a…eyebrow dormer in so that from the mezzanine section you can see the…the a…the lake.

Mr. Caltagirone: So you’re talking about the third floor.

Mr. Hendrickson: It’s not a third floor, it’s a mezzanine section. If it was a third floor it would be a completely different thing. This is only a nine foot wide area right, nine foot wide by sixteen foot long and that was the Town Code for a mezzanine section.

Mr. Caltagirone: Okay.

Mr. Hendrickson: It’s what we did.

Mr. Caltagirone: …now…now what about…what are you going to do with the water runoff? Because this is going to go towards my property and right now I have…I have very bad because you have an open drain on the south…

Chairperson Cardone: Excuse me, does…is this something that…

Mr. Caltagirone: He has…well he has an open…

Chairperson Cardone: …is going to happen because of the new construction? Or is this…?

Mr. Caltagirone: Well yes, because this is a flat roof and all of the water heads west towards the lake, right now…

Mr. Hendrickson: I have no…wait, wait, wait, wait…here…

Mr. Caltagirone: This used…this is right now a flat roof going west.

Mr. Hendrickson: Right, but it’s not going anywhere. I have a complete drain system. A self-enclosed drain system that takes all the water off this roof, brings it all the way over to the right and goes down into an…into the…into the piping system. I paid a lot of money to have a complete drainage system so no water at all ever comes down on your side of this. It never even comes down on Norm’s side. I have this all underground. The water goes through the leaf…

Mr. Caltagirone: Well…

Mr. Hendrickson: …the a…the leaf catching system…right…not the cutter cause I…I…it’s a self-enclosed gutter, it goes down a pipe and then it goes underground. That’s…that’s how it goes…

Mr. Caltagirone: …well I don’t see…

Mr. Hendrickson: …there’s no…there’s no way this…this runoff is going anywhere other than where it’s going right now, which is over to the right and then down underground.

Mr. Caltagirone: I don’t see any drainage plans in here though.

Mr. Hendrickson: A…again there is…right now the way the water runoff on this roof would go and in the future is it goes into a complete drainage system that I paid a lot of money for. It’s…no water off my house goes down a gutter. It goes…it goes all the way through and then down a pipe and then underground. That’s what it does.

Mr. Caltagirone: Well…

Mr. Hendrickson: Have you ever seen a gutter over here dropping water? It doesn’t.

Mr. Caltagirone: I don’t know where it goes…I…you know…

Mr. Hendrickson: Well I’ll…the next time you come by I’ll show you. Basically the water comes down, it gets caught in this…in this western a…a…leaf…leafless gutter, it goes over to a…a downpipe connects with the, by the way all the water that’s coming off the other roof which is also being drained and all of it a…is designed to go underneath the ground and it empties on the other side of that a…on the side of the rock wall.

Mr. Caltagirone: Well…

Mr. Hendrickson: So, you know it…

Mr. Caltagirone: Well my concern is runoff also because I do have a…a…a problem because a lot of your water from your paved a…lot comes down my side and onto my property.

Mr. Hendrickson: Okay, that I…I…we can…we can go into…

Chairperson Cardone: That’s a separate…that’s a separate issue…

Mr. Hendrickson: …my driveway. Yeah, the driveway…

Chairperson Cardone: …a…if we could stick to the plans that are before us?

Mr. Hendrickson: Yeah. Right.

Mr. Caltagirone: A…did…did the Board get a letter from Mr. Bell, Norm Bell?

Chairperson Cardone: Yes, I’m…as soon as you finished I was going to read it.

Mr. Caltagirone: Okay.

Chairperson Cardone: Okay. So are you finished at this point or…?

Mr. Caltagirone: Oh, well, I mean I…I…I see these…I see…

Chairperson Cardone: I mean, if you could just state your objection rather right now…

Mr. Caltagirone: …well my objection is if…what happens if I see this dormer from my second floor? I mean, how can you guarantee that I won’t see it?

Mr. Maher: Well can you his house well from the second floor now?

Mr. Caltagirone: Yeah.

Mr. Maher: Do you have…the house to the other side of you; can you see that house there as well?

Mr. Caltagirone: Well…well I used to but a…this house is so tall…there was a 1-story house…

Ms. Gennarelli: Can you just speak into the microphone?

Mr. Caltagirone: The…here…here is the view that I’m telling you from the…my second floor looking towards his house and if it…if it does jet out further I mean, it will…it will block the view.

Mr. Hendrickson: And I say it will not block the view as shown by this drawing. If you…this is you…where you will be on the second floor. First of all I have nine foot ceilings, you have an eight foot ceiling but even if you were on the second floor right here and you’re six feet high and looking out through your window which is right here a…Peter, there’s no way you’re…the lake is here, it’s not up in the sky. This…this…this…this eyebrow dormer is way above your eye…eye view. There’s nothing up…the lake isn’t up here, it’s over here. Let’s, can you… (Inaudible)…

Mr. Caltagirone: Well actually the lake…

Mr. Hendrickson: …it’s over here.

Mr. Caltagirone: …actually the lake goes around your property it actually goes…

Mr. Hendrickson: Right.

Mr. Caltagirone: …over to the right and there’s a cove on the other side…

Mr. Hendrickson: Correct.

Mr. Caltagirone: …and then it goes…

Mr. Hendrickson: Correct.

Mr. Caltagirone: …and then it goes north so the lake…lake is really a lot of it is on the other side.

Mr. Hendrickson: Okay. But are you saying that if you’re standing here on…at your window on the second floor that this would block your view of the lake?

Mr. Caltagirone: The north side of the lake.

Mr. Hendrickson: It can’t. There’s no way. You…you’d be looking up, you’d be going up like this and saying, ‘hey, I can’t see the lake anymore’. The lake is down here. It’s not up there. Do you understand what I’m saying? I mean it’s simple. Here’s…here’s where you’re standing, the lake is at…at sea level it’s all the way down here. How can you say that the lake down here is going to be blocked by that…by that up in the sky?

Mr. Caltagirone: And also what happens if you know you park a large a…umbrella out here or you…

Mr. Hendrickson: Put it into the variance.

Mr. Caltagirone: …or you finish it off?

Mr. Hendrickson: No, this is…this is, you know I’ve seen this…put it into the variance that this has to be clear wire gate...just this…this one piece right here. I’ll have that written in that this must always be clear and it must always have the either a transparent glass or a…or a wire a...a wire a…

Chairperson Cardone: Anything…anything that is approved should it be approved has to be according to the plans that were submitted.

Mr. Hendrickson: Which this is.

Chairperson Cardone: He could not submit plans that show something open and then close it up.

Mr. Hendrickson: Correct.

Chairperson Cardone: It would not be allowed.

Mr. Maher: But I believe the comment was adding an umbrella.

Chairperson Cardone: Right, no but you also talked about it being enclosed.

Mr. Hendrickson: We have no intention to do that and I…I…it’s fine to put that into the a…variance that we’re not going to ever enclose it nor put an umbrella. I mean an umbrella would have to stick out in, you know, over air. This is…this is deep, I mean this is…these are walls. The actual place where you would sit is back here in this area, not over here on the edge.

Chairperson Cardone: Okay, can we move on at this point?

Mr. Hendrickson: Sure.

Chairperson Cardone: I have a letter from a Norm Bell.

I Norm Bell object to any more zoning variances for 317 Lakeside Road. I feel the house is far too big for the small lot it is on. It blocks the sun on my south side windows and any more building would block the sun even more. The addition would also block my south view of the lake. As you probably know the north side setback is five inches which is outrageous. How this variance was permitted I don’t understand. Please no more variances at 317 Lakeside Road.

And he wrote a second letter two days later.

I Norm Bell am in Florida till after Thanksgiving and will not be able to voice my objection to the request by Mark Hendrickson for a variance at 317 Lakeside Road. There are three objections that come to mind right away. The huge side of the present house blocks the sun from my south side which has caused icing conditions on my roof as well as my walkway. The new variance will block even more of the sun. The addition will block my southern view of the lake even further. There were two windows added to the original house on the north side. They have been in the cathedral ceiling so I have not felt anyone could look directly into my three bedrooms. With the addition of a second floor people will be able to look directly through their four foot hexagonal window into my three bedrooms. My feeling is there has been already too much non-conforming given with the first variance. Please no more variances at 317 Lakeside Road.

And that’s signed Norm Bell, 319 Lakeside Road.

Mr. Hendrickson: Can I respond?

Chairperson Cardone: Sure.

Mr. Hendrickson: A…Norm was the one who actually told me to…gave…gave me the suggestion to go with a dorm. So I find that really amazing, he hasn’t been around for about three weeks. I’ve been looking for him. He just had a death in the family and hasn’t been around for me to talk to him but a…I…I’m pretty sure that Norm has not seen this. A,…if he got a notice of a side…double side yard setback a…without and drawings or any explanation I can understand why he might feel that way. But a…certainly I have a very good relationship with Norm and a…I did send a…a…a a follow-up letter out to all my neighbors a…that explained pretty much what you have on a piece of paper showing the artist’s conception. I did not hear back from him but now I understand why because he is down in Florida. So all I can say is that Norm’s…it was Norm’s idea to come up with a dormer. He said, ‘don’t do skylights do a…use, you know, go with a dormer, skylights leak and a…you have to clean them off’. He said ‘just go with a dormer right there’ so a…it was his actual idea. But in any case a…the second thing is that he’s never mentioned to me an icing problem on his roof. I mean we had a cold winter last year but I never…not once has he ever said to me in all the times I’ve been talking to him in the last two years that he felt that the a…house, my house, again this is nothing with new construction was causing icing on his roof. A…and then last thing is that his house is set again a…he…he has a second floor a…view, we are not as…as I showed on this side cause this…this applies just as well on the north side as it does on the south side. If you’re on the north side and you’re looking at this as a perfect reverse there’s a…there’s this contention right here possibly and which we’re going to make clear and there’s no way Norm in his two-story house can look…can say that he is going to lose his south view of the lake from that eyebrow dormer which begins at, as I mentioned before, it begins not ten, not ten…twenty but twenty-six feet above. There’s just no way he’ll be able to a…say that this is blocking his view of the lake. It may, you know, the sky possibly in one little section but not the lake.

Mr. Caltagirone: A…Peter Caltagirone again, 315 Lakeside Road a…I did not receive any photographs in the mail. Well when did you mail them out?

Mr. Hendrickson: I mailed them out a…

Ms. Hendrickson: (Inaudible)

Mr. Hendrickson: Yup, we sent them out, we mailed out a…forty-two to all forty-two, yes.

Mr. Caltagirone: I didn’t get em.

Mr. Hendrickson: Well I’ll be glad to give you a copy of it but that’s…we sent this up.

Ms. Hendrickson: (Inaudible)

Mr. Hendrickson: I do, I gave a…nine copies out just now.

Mr. Manley: Do you…do you get your mail at…?

Mr. Caltagirone: Yes.

Mr. Manley: …at Lakeside Road?

Mr. Caltagirone: Yes. I’ve lived there full time for the last a…nine years.

Mr. Manley: Did any mail come back?

Ms. Gennarelli: It wouldn’t come back to me he mailed it.

Mr. Manley: Okay.

Mr. Donovan: Jim, it has nothing to do with us.

Mr. Manley: It had nothing to do with the mailings.

Ms. Gennarelli: It has nothing to do with us.

Mr. Caltagirone: I got the…I got the Zoning Board letter.

Mr. Hendrickson: And then we mailed this out to all our neighbors and you should have received a copy Peter.

Mr. Manley: So what you’re saying is in addition to the required Zoning Board paperwork…

Mr. Hendrickson: Right that I mailed…

Mr. Manley: …you mailed out a supplemental letter?

Mr. Hendrickson: …pretty much what you’re seeing right there with a photograph and the explanation of what it was going to do. I sent that to every single neighbor. He can have that one.

Ms. Hendrickson: (Inaudible)

Mr. Hendrickson: He can have that one.

Chairperson Cardone: Do we have any other questions from the Board?

Mr. Scalzo: (Inaudible) as I was out there today standing in (inaudible) did you say your is closer to the lake…

Ms. Gennarelli: Excuse me, Darrin; can you just pull your microphone in? Thank you.

Mr. Scalzo: Thank you. Would you say your house is any closer to the lake than your adjoining neighbors?

Mr. Hendrickson: A…you know, if you look at the…where the house ends as opposed to Peter’s possibly on that side, possibly a little bit on the other side…

Mr. Scalzo: The lake goes in, I understand.

Mr. Hendrickson: Then the lake on…on a…Norm’s side there’s a cove actually so it goes in a little bit but on that side I’m actually the last house that has to be a certain setback from the lake and we are if we’re not sixty feet back, we’re fifty-five feet back. I believe that is one of the infamous variances that a…the original builder who built this house that we bought two years ago a…had to get past the a…the a…Zoning Board. That it…it is sticking maybe five feet out further than all the line of houses you see going to the immediate south.

Mr. Scalzo: Thank you.

Chairperson Cardone: Do we have a motion to close the Public Hearing?

Mr. Caltagirone: A…just one (inaudible) a…Peter Caltagirone again a…that house is seventeen feet in front of my house and it’s roughly…because when…when they…when they initially a…years ago when they put the plans they had a what’s called a covered porch and the previous a…builder enclosed the porch and put heat in. So it wasn’t really a covered porch anymore like it says and I do have the…the old a…diagrams if anybody would like to see them. But it is seventeen feet in front of my house and it’s roughly five feet a…in front of my porch so the porch steps…his house is still five feet and then his porch starts just to be clear.

Mr. Hendrickson: I don’t have a porch. I don’t have a porch.

Mr. Caltagirone: You have a…a stone patio…a patio…a patio…

Mr. Hendrickson: A stone stair, a landing…a landing but that’s…that’s…that’s not a…that’s not a porch. The only…if you…if you were to draw a line between the end of your porch and the end of my…my…my pat…my landing, if that’s what you’re saying which is even with the house, that wouldn’t be fifteen feet. There’s no way that could be fifteen feet.

Mr. Caltagirone: I just said it’s…it’s seventeen feet from my front door of the house, which is the house, I have an open porch…a covered porch…

Mr. Hendrickson: Right.

Mr. Caltagirone: …it’s not an enclosed porch a…and it’s seventeen feet in front of…of the windows a…of the a…living room.

Mr. Hendrickson: Now I understand...

Chairperson Cardone: Okay.

Mr. Hendrickson: …what you’re say from where your door…where you enter into the house excluding the porch that doorway is seventeen feet…

Mr. Caltagirone: Right.

Mr. Hendrickson: …from…from where…

Mr. Caltagirone: From the corner of your…the end of your house.

Mr. Hendrickson: I…I concur to that. Again that was the other variance that was a long time ago.

Chairperson Cardone: Okay, thank you. Do we have a motion to close the Public Hearing?

Mr. Scalzo: Actually I have one more question Grace if you don’t mind. A…a…just as I’m looking at this, should this variance be granted, I’m looking at offsets of five point two feet a…it appears as though the house is parallel with both property lines, a…the act… act of construction itself, how are you going to get your materials there? Are you going to need any permission from your neighbors to walk on their lands?

Mr. Hendrickson: No.

Mr. Scalzo: Are you bringing it in from the lake? How is it getting there?

Mr. Hendrickson: Well we have…we have a…plenty of room on the right hand side there’s five, six feet. All construction will be coming in and going out through that.

Mr. Scalzo: Up and over the stairs on the right side or…?

Mr. Hendrickson: Yes, exactly I have a…I have a…a stone patio is five feet wide, full access to the back through that a…through that patio on the a…north side on Norm Bell’s side but staying on my property line the entire time. That way it would be not an issue.

Mr. Scalzo: There’s also a large oak tree there, was…this…is there any plans to trim that or is the oak tree yours?

Mr. Hendrickson: A…it’s actually both Norm’s and I’s because it’s right in the middle and we both like the tree so we’re not planning on…on taking it down unless you know…you know…I don’t have any plans to take it down.

Mr. Scalzo: And not that you would even think about the inclination that the sun as it casts a shadow on your northerly boundary or northerly neighbor? Do you think you’ll effect the a…or…or does the tree take care of that?

Mr. Hendrickson: A…Norm will not have any tree taken down that he can…that he can a…avoid. So I mean I’ve talked to him about it. I said ‘hey, this tree is pretty close to my house and it’s also pretty darn close to your house, what do you think about it?’ because it’s a giant tree and a…he likes the tree because it gives him shade in the summer and so it’s, you know it’s a…it’s one of the things that a…I’ve thought about having taken out when I first bought the house and a…talked to Norm about it and a…he felt very strongly to keep it so we have.

Mr. Scalzo: Thank you.

Mr. Hendrickson: You’re welcome.

Chairperson Cardone: Do I have a motion to close the Public Hearing?

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

Mr. Manley: Second.

Mr. Hendrickson: Thank you.

Ms. Gennarelli: Roll call.

 Richard Levin: Yes

 Michael Maher: Yes

 James Manley: Yes

 John Masten: Yes

John McKelvey: Yes

 Darrin Scalzo: Yes

 Grace Cardone: Yes

 (Time Noted - 8:01 PM)

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ZBA MEETING – NOVEMBER 25, 2014 (Resumption for decision: 9:10 PM)

MARK HENDRICKSON 317 LAKESIDE ROAD, NBGH

 (50-1-11) R-1 ZONE

Applicant is seeking area variances for increasing the degree of non-conformity of the rear yard setback, one side yard setback and the combined side yard setback to raise the second floor rear roof (6’6” H x 18’4” W) and also build a second floor rear deck (12’ x 12”) over the existing first floor of the residence.

Chairperson Cardone: The Board is resuming its regular meeting. On the first application James B. Anderson, 153 Fostertown Road, seeking a use variance that was held open. On our second Mark Hendrickson, 317 Lakeside Road, seeking area variances for increasing the degree of non-conformity of the rear yard setback, one side yard setback and the combined side yard setback to raise the second floor rear roof (6’6” H x 18’4” W) and build a second floor rear deck (12’ x 12”) over the existing first floor of the residence. This is a Type II Action under SEQR. Do we have discussion on this application?

Mr. Scalzo: From my site visit it appears the a… (Inaudible)

Ms. Gennarelli: Darrin, sorry could you…?

Mr. Scalzo: On my site visit it appears that that dwelling is roof dominant and I think the a…the dormer that they are proposing to put on there might bring it more into the character of what you’re looking at a…in the surrounding homes. That and from previous meeting minutes a…from when the actual house was built, this…it’s back twenty feet further than what the original cottage was. So there is…there is a…the initial construction was a benefit to the…the sight on the lake it appears that the adjoiners would have had.

Mr. Manley: I…I would agree that a…the a…applicant also submitted some photos of some other a…properties near that property that also showed similar a…second story balconies.

Chairperson Cardone: Do we have a motion for approval?

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

Mr. Masten: I'll second it.

Ms. Gennarelli: Roll call.

 Richard Levin: Yes

 Michael Maher: Yes

 James Manley: Yes

 John Masten: Yes

John McKelvey: Yes

 Darrin Scalzo: Yes

 Grace Cardone: Yes

Chairperson Cardone: The motion is carried.

PRESENT ARE:

 GRACE CARDONE

 RICHARD LEVIN

 MICHAEL MAHER

 JAMES MANLEY

 JOHN MASTEN

JOHN MC KELVEY

 DARRIN SCALZO

ALSO PRESENT:

 DAVID A. DONOVAN, ESQ.

 BETTY GENNARELLI, ZBA SECRETARY

 (Time Noted – 9:13 PM)

ZBA MEETING – NOVEMBER 25, 2014 (Time Noted – 8:01 PM)

RICHARD & CYNTHIA KROL 28 TRAVIS LANE, NBGH

 (14-2-11) A/R ZONE

Applicant is seeking area variance for the maximum allowed square footage of accessory structures and the maximum height of accessory structures to build a detached accessory building (24 x 36 x 16 pole barn).

Chairperson Cardone: Our next applicant Richard and Cynthia Krol.

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

Chairperson Cardone: For the record please identify yourself.

Ms. Krol: My name is Cindy Krol and I’m looking to build a pole barn.

Ms. Gennarelli: Excuse me, can you either take it (mic) off or tilt it down towards you?

Ms. Krol: Sorry.

Ms. Gennarelli: That’s okay.

Ms. Krol: My name is Cindy Krol and I’m looking to…we’re looking to build a pole barn like a storage…

Chairperson Cardone: I think someone might have shut that (mic) off Betty.

Ms. Gennarelli: Yes, I’ll take care of it.

Ms. Krol: My name is Cindy Krol and I’m looking to build a pole barn, garage type building for storage. Currently on my property if you’ve all been there you saw like a Quonset hut type of a thing we’re looking to get rid of that, neaten things up, clean up the yard a…and put up like a building that’s covered instead of having everything in the open. We’d like to…we have a boat that we’d like to put under there for the winter and the cars that we don’t use all the time. I have two kids in college so they don’t…they’re not home driving all the time. So we’re just trying to neaten things up and it does exceed the fifteen foot limit, it’s sixteen foot, so we could get a large enough garage door in there to get the boat in there and store it in there instead of in the yard. And also a thing that blocks the Thruway which they took down a ton of trees which I’ve lived there for twenty-five years almost and the noise now is almost unbearable.

Chairperson Cardone: Do we have any questions from the Board?

Mr. McKelvey: I will say that’s a rough road.

Ms. Krol: A…it’s…well yeah, we didn’t want to fix it until after we do it because there will be big trucks coming in if we can build this but we’re working on it, yeah.

Mr. McKelvey: I would hope so.

Chairperson Cardone: You will be taking down that other structure that you have?

Ms. Krol: Yes, it’s been up for twenty years, it’s tearing and it’s…it’s…we want something more permanent to make everything look neater and nicer and…

Mr. Scalzo: What’s the minimum offset for an accessory building in this case? That’s just what I’m looking for. And my question is how are you going to ensure that you’re within the side yard setbacks for the new building?

Ms. Krol: Well on the side, if you were to walk into the back behind where we…we’ve always parked everything there but a…there was…there’s a pin on the…on the north side of our property and if you measure exactly across we know where the other one is. It’s like a tree so we know where the offset is and we’re at least a…we’re a way away from the line of the property.

Mr. Donovan: The distance is ten feet Darrin...

Ms. Krol: And I think we’re at…

Mr. Donovan: …by…by Code is the minimum.

Ms. Krol: …least fifteen but…

Chairperson Cardone: And I think that the Building Department would have picked up on that because their variance is three point two percent on the size and six point seven percent on the height which is one foot on the height and only thirty-two square feet on the size.

Chairperson Cardone: Do we have any other questions from the Board?

No response.

Chairperson Cardone: Do we have any questions or comments from the public?

No response.

Chairperson Cardone: Do we have a motion to close the Public Hearing?

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

Mr. Maher: Second.

Ms. Gennarelli: Roll call.

 Richard Levin: Yes

 Michael Maher: Yes

 James Manley: Yes

 John Masten: Yes

John McKelvey: Yes

 Darrin Scalzo: Yes

 Grace Cardone: Yes

Chairperson Cardone: Thank you.

 (Time Noted - 8:06 PM)

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ZBA MEETING – NOVEMBER 25, 2014 (Resumption for decision: 9:13 PM)

RICHARD & CYNTHIA KROL 28 TRAVIS LANE, NBGH

 (14-2-11) A/R ZONE

Applicant is seeking area variance for the maximum allowed square footage of accessory structures and the maximum height of accessory structures to build a detached accessory building (24 x 36 x 16 pole barn).

Chairperson Cardone: On the application of Richard and Cynthia Krol, 28 Travis Lane, seeking area variance for the maximum allowed square footage of accessory structures and the maximum height of accessory structures to build a detached accessory building (24 x 36 x 16 pole barn). And the County from the Orange County was Local Determination. This is a Type II Action under SEQR. Do we have discussion on this application?

Mr. McKelvey: They meet the setbacks.

Mr. Scalzo: I think it will give them a chance to neaten up what’s there.

Chairperson Cardone: Right. And that other structure will be removed.

Mr. Scalzo: Be removed, yes.

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

Mr. Maher: Second.

Ms. Gennarelli: Roll call.

 Richard Levin: Yes

 Michael Maher: Yes

 James Manley: Yes

 John Masten: Yes

John McKelvey: Yes

 Darrin Scalzo: Yes

 Grace Cardone: Yes

Chairperson Cardone: The motion is carried.

PRESENT ARE:

 GRACE CARDONE

 RICHARD LEVIN

 MICHAEL MAHER

 JAMES MANLEY

 JOHN MASTEN

JOHN MC KELVEY

 DARRIN SCALZO

ALSO PRESENT:

 DAVID A. DONOVAN, ESQ.

 BETTY GENNARELLI, ZBA SECRETARY

 (Time Noted – 9:14 PM)

ZBA MEETING – NOVEMBER 25, 2014 (Time Noted – 7:09 PM)

MARTIN MILANO 1 CROSSROADS COURT, NBGH

 (95-1-45.12) I / B ZONE

Applicant is seeking area variances for Section 185-27 - the maximum allowed height of buildings, the maximum lot surface coverage and Section 185-18-C-4-(c) - the minimum front yard setback requirements of all properties fronting Route 17K; and for the maximum amount of signage to erect signs on the building and a free-standing pylon sign for construction of a new hotel and restaurant facility.

Chairperson Cardone: Our next applicant which was held over from the October 23rd meeting is Martin Milano.

Mr. Scalzo: As I did last meeting I am need to recuse myself from this action.

Mr. Bazydlo: How is that? Okay, all right, very good. Very good, I promise I won’t sing. So okay, anyway my name is Charlie Bazydlo I’m counsel for Mr. Milano on the application. We were here last month our original application were for…was for four variances. First dealing with building height, second dealing with overall amount of signage on the property, fourth was for a…excuse me third was for yard setbacks along Route 17K in the special landscaped area section that’s in the Code for that and the last was the lot coverage, impervious surface. A…since the last meeting we have revised the sketch plan and turned in a revised plan to the Board. The previously a…proposed hotel…excuse me, restaurant facility has been eliminated from the plan a…this reduces our…our a…impervious surface area from the previous sixty-three percent down to fifty-eight point four percent. That is below the a…the maximum allowed in the Code so that…that variance is no longer required. In addition, we would…with that reduction the amount of parking spaces has gone from two hundred forty spaces down to two hundred. The Board last time had a…one of the issues that come up that there was a question about a…how this hotel compares against a…the prototype for a Hampton Inn and Suites. The architect is here and she can explain, we were asked to present information as to what reductions we’ve made from the prototype to the specific proposal for this project to show the reductions we’ve a…built in to this design so Christine if you just want to go over that.

Ms. Gennarelli: Please you can either tilt it (mic) down or take it off.

Chairperson Cardone: Take that off.

Ms. Gennarelli: It pops right off.

Ms. Raymond: Christine Raymond, Kaczmar Architects, Inc. As Charlie mentioned you should have a…some details submitted of the Hampton Inn and Suites prototype compared to the details of our proposed hotel. The aspects that we reduced from the prototype include the typical floor to floor heights which of a typical Hampton Inn and Suites are at ten foot and we are go…we are designing this hotel with a nine foot eight floor so that’s four inches of reduction times the four elevated floors for one and a half feet lower than the prototype. Also the typical parapet height of the prototype is five feet above the roof structure and we are proposing a four foot parapet and again this…these parapets are required in…in order to screen the roof top mechanical units as well as meet the Hampton Inn and Suites brand standards. And then lastly the sign panel we are proposing a sign panel at…above the main entry with the Hampton Inn and Suites sign on it of twelve foot nine versus a thirteen foot ten prototypical sign panel so that is one foot one lower than the prototype. When you add of all of these items together essentially it’s a net reduction of almost two and a half feet from the prototype design. I’ll just add just to refresh everybody’s memory that our roof deck is at fifty feet so our roof structure is within the allowable height limit but what we’re requesting a variance for decorative parapets to screen the mechanical units.

Mr. Bazydlo: Two other issues I’ll point out to the Board a…the 239 Referral letter that come from the County before a…for the variances, the one variance that the County had an objection to was about the lot coverage a…so we have…we have removed that variance on the application and the a…the other remaining ones were determined for …just said for Local Determination for the Board so…and the last thing I’ll point too is that in removing the restaurant from the plan we were able increase our available on the site for landscaping on…on that portion of the property. So we actually will…will have more landscaping on the property than what we had previously proposed on the application just a…just wanted you know quickly show that to the Board.

Mr. Dates: Justin Dates with Maser Consulting a…just to a… (Inaudible) what Charlie is describing a…previously and where we’re looking for that variance from that landscaping buffer, these islands were about one space a…skinnier so we’ve expanded those about nine feet a…to the south to provide for additional landscaping along that 17K a…frontage a…as opposed to the previous plan and that actually a…helped our…our coverage as well. You know, the reduction of forty…we took forty space a…off the previous plan as well as the restaurant pad and loading area a…to get us down below the sixty percent maximum a…lot coverage.

Chairperson Cardone: Okay, do we have questions from the Board?

Mr. Levin: I would like to question the sign variance, signage…

Ms. Gennarelli: Now Richard could you just pull your microphone in or get closer to it? Thanks.

Mr. Levin: I’d like to question the signage variance I see that you have tremendous exposure on the Thruway. I don’t really know how much that is needed and Mr. Milano said himself at the planning board meeting that he didn’t really need it. I don’t…I don’t have it in front of me but I marked it off in yellow and you felt that it was not necessary and you said the pylon would be very expensive and you didn’t feel you needed it. I think when you drive up the Thruway and you look over at that hotel, the way it looks, you don’t need any signage a…additional signage. I’m talking about you’ve signage on the building understand, I’m talking about additional signage on the pylon and I think that variance can be eliminated.

Mr. Bazydlo: I think the visibility of…of this property when you’re traveling one direction on the Thruway yes, the building would be visible but coming the other direction I think actually this property is partially…will be partially blocked by the facility next door and so the pylon sign would allow you to have notification that the hotel is…that the hotels there if we don’t happen to be looking off to the side as you go by so we certainly don’t want to spend more money than we have to to advertise the building so a…a…we…you know, we…we do think it is necessary to make the facility successful.

Mr. Manley: So what you’re saying is that the signage that if you were just to have signage on the building would not be adequate. Is that what you’re saying?

Mr. Bazydlo: Would we have a concern that it…that it would not be adequate? Yes. And that…that…you know again as you are driving up the Thruway you’d like to be able to see the sign at the speeds that you are going on the Thruway, make note that the facility is there, have an indication that you’d then get off the next exit or perhaps on another trip back through the area realize that, you know, the facility is there perhaps make use of it on your next trip down.

Mr. Manley: Okay, I just wanted to get on the record whether or not you felt that it was a necessity to have the pylon sign versus just to have signage on the building only and it’s your testimony today that yes, that is the case.

Mr. Bazydlo: Yes, that we need…we need both. We need both.

Mr. Manley: And it has to be that size that you’ve indicated in the plans? No deviation from that?

Mr. Bazydlo: We…we’d like to have it be that size.

Mr. Dates: Could I just point out one thing just the location of the signs? The building mounted signs are on the a…the east and western facades of the building a…and the pylon sign is down in the southwest corner here and really the building mounted signs traveling south on the Thruway you are not going to be able to see either until you are past the building and you have to turn around of turn around to kind of look at it. So that pylon sign really benefits southbound traveling a…potential customers understood that you already passed the exit a…at that point but if…

Mr. Manley: So that means you have to go to Harriman and turn around and come back?

Chairperson Cardone: Right.

Mr. Bazydlo: Well if it’s really a good facility we hope they will, yeah, but…but in reality it’s the idea that you…you know that…then you know that it’s there.

Mr. Maher: So you’re covering both bases?

Mr. Dates: It’s not saying…

Mr. Maher: It’s your testimony that the southbound traffic is the issue and it’s your testimony it’s the northbound traffic is the issue so it’s covered…covered both directions there?

Mr. Dates: Yes, they’ve covered both.

Mr. McKelvey: There’s no objection from the Thruway?

Mr. Bazydlo: No.

Mr. Donovan: Now the size of that pylon sign presumably you just didn’t like put numbers in a shaker and shake them out…there’s…there’s…there’s a reason or…is there some objective reason why the pylon size is the size that it is?

Mr. Bazydlo: You’re talking about the area of the sign?

Mr. Donovan: Yeah.

Mr. Bazydlo: Because the height is in compliance so the area of the sign? It…it’s…it’s a typical sign…a typical sign for this …this type of facility.

Mr. Donovan: I mean is there some metric that’s used that as you’re driving down the NYS Thruway at sixty-five miles an hour at a certain distance you need a size of a sign of a certain size so you can identify what that is?

(Inaudible)

Mr. Donovan: So maybe you did just put it in a shaker and whatever came out…?

Mr. Milano: Martin Milano, good evening, thank you for hearing our a…our application. I did rethink the issue with this sign and what I’m trying to do is and I do believe that this hotel is the best name in the business. I have a choice of quite a few different but this I think is the best fit for this area and what we’re trying to create is a destination and it’s true you can see the building very well from the a…the Thruway coming north and you can see it and you can get off but I’m concerned with going south. A lot of these…and I’ve been in this business twenty-five years so I know the traffic patterns. People that go from Canada down south travel that corridor and they stop and they stay on their way that could be…be their midpoint of their trip down south so we have these people and on the way back usually they come back and stay the same way. I’m missing all this visibility for the people traveling south that I want them to be aware that okay maybe they haven’t stayed there before but now they know this facility is there. And I’m thinking that because we’re on a six acre site and I know if a forty foot sign may sound like it’s a big sign. It would be if it’s in your backyard. But if you’re traveling along the Thruway forty feet is not that high and I think from one of the other signs that I did, the sign company recommended a higher sign and I know that our regulations in our Town are forty feet I believe. And a we…in that…is sixty-five bigger? Better…it may be better but forty I think fits in there and that’s what the other…

Mr. Donovan: But Charlie, I wasn’t questioning the height?

Mr. Bazydlo: The size.

Mr. Milano: The size of it to see the copy that’s…that’s figured out by the sign company and that’s typical right there. I mean they always like bigger but that will work for this facility because you’re driving sixty-five miles an hour, many people drive faster than that. But because we’re on this corridor you need a good size sign and even the Thruway itself like the signage you can rent they want it so that you can see it, not like keep looking and wants it…the easier the visibility the safer it is for the…the travelers but I certainly wouldn’t put a sign in front of this project that I thought would be a blight to the area. I think it’s a necessity or I wouldn’t want to spend the money for it. If it is an expensive item but I’m thinking for our recognition on that corridor which is the captive audience that’s best advertising money you can have because of people that travel up and down that thoroughfare will know we’re there for the next time and for the brand awareness and I think it’s a…it’s a great name that we’re advertising and…and I want them to come to our exit and patronize…they’ll also be patronizing other businesses so a…that’s my logic for it. I thought maybe I could get away without it but I realize going south there is no identification of this facility and it’s a very, you know, nice size facility on six acres. I don’t think that that sign considering the size of our project is…is you know out of line and I really would appreciate that consideration because I think can help us be successful and that’s typical in that business being on the highway. Any other questions I mean that’s logic behind that and I don’t think it’s unattractive and a nice…nice well done up sign is almost like an enticement to go to it and you know that you know we didn’t try to cut corners because we didn’t want to buy the sign which many people probably do. We didn’t do that. Any other questions?

Mr. Manley: Just as a…just as a matter of point I think a lot of people today and I do a fair amount of traveling prior to my traveling I usually plot out where I’m going to go or where I’m going to be and usually today most people and I’m a little bit older but a lot of young people thirties, twenties utilize the internet or their smartphones and that’s a lot of times where they’re getting their…their location of where they’re going to stay and they’re looking at reviews and a…so when…when I stay I don’t predominately just, you know, like from the forties and fifties most people just got in their car and just drove. Today a lot of times people especially younger people do research on where they’re going to stay and you know, they’re using the internet as their basis of booking and for you know finding their…their destination of where they’re going to go. So signage today you know in the grand scheme of things is not as important as it was in the past. Mostly today its internet based for a lot of stuff not just a…

Mr. Milano: You are completely right about that but there’s another factor here that we’re not looking at a…when there’s a situation which we have a lot of here with inclement weather and a…when different roadways are jammed and this and that okay, these people don’t have the opportunity to do that and when they see the sign and see the hotel they get off and they identify that with that exit and that’s very important. But people do their work as…and I do the same thing, try to locate it but what about when you’re traveling the Thruway and you know, a lot of times people they get tired and they didn’t have time to plan. Like we don’t always get people that planned on staying with us, when bad weather hits our hotels usually sell out because people have to get off the Thruway and…and find lodging at…without a lot of notice and…and I think to identify that exit with hotel. Oh, we know there’s a Hampton Inn there we’ll stop there next time or we know that it’s available to us and I think that’s important to have them come to area and to you know, patronize our businesses. If we have other area with signage and they’re more identifiable they may not come to our exit they may go there. Just because they didn’t you know people are when they travel sometimes that’s why you always like the old saying, location, location, location. Travelers want to get what they see and go there easily without trying to figure out that type of thing but you’re right the marketing has changed but that’s still very valuable for us.

Mr. Manley: Right and the location from the exit, nobody wants to go eight miles from where they get off to a…to a destination I…I got that.

Mr. Milano: All right. Thank you.

Chairperson Cardone: I have a question that doesn’t relate to that. Has Form 7460-1 been filed with FAA, the form?

Mr. Milano: Yes, it has and they have information to address the a…you know, the Hilton Garden Inn, I gave them the a…Permit that I have for that for the height regulations and its almost very similar how close feet from was it what a foot difference?

Mr. Dates: Eight feet different between the…

Mr. Milano: And there’s building behind us that are taller than us so the planes have to go over the taller buildings anyway but we don’t anticipate any issues at all with the FAA and we should have their response very shortly.

Chairperson Cardone: Right, because the letter I have was dated November 18th and they were saying that the proponent needs to file with the FAA Form 7460-1 which can be done electronically.

Mr. Bazydlo: It has been…it has been done long before the letter was written but there is a waiting time for them to…to come back to us. But we feel very confident that we’re going to satisfy that again as Mr. Milano said…

Chairperson Cardone: Right.

Mr. Bazydlo: …the building next door a…which only ends up something like seven point something feet shorter than our proposal…

Chairperson Cardone: Right.

Mr. Bazydlo: …actual above sea level and there’s other buildings right in the immediate area that are actually taller that have passed…

Chairperson Cardone: Right.

Mr. Bazydlo: …that FAA review so we…we don’t expect any problem with that.

Chairperson Cardone: Okay, thank you.

Mr. Levin: Mr. Milano, I just have one question. I just come back to that’s the biggest hotel on the Thruway as far as I’m concerned, driving from Newburgh to Albany and to New York. That in itself to me sells, that’s your sign. I don’t know why you need the other sign. That building is large.

Mr. Milano: You are correct but when we are traveling south…

Ms. Gennarelli: Can you please speak into the microphone? You can take that off. That’s good. Thanks.

Mr. Milano: Okay, when you’re traveling south along the a…the Thruway this way the building is tilted away from that and the reason that that was done is we didn’t want to block the visibility of the other facility and when we’re traveling north you could see it and you could get off but when you’re traveling south you have no idea what this facility is and you know, if you don’t know it’s the Hampton Inn there you may not come back there but if you see it and you know you have this a…wonderful new facility here you may plan your next trip around that and go to there and I…I think it’s very valuable to have that for our business. And…and not also a…they’ll know, if you get off at this exit that you know following the highway signage you can get there pretty easily. I think it’s a necessity after I reevaluated my comments from the a…planning board meeting I realized going south that we don’t have any presence at all and we need a presence for our building that’s…our customers travel the Thruway. Really, you know, that’s our captive audience, I…I’d really like to be visible for them.

Mr. Manley: I just wanted to ask, this would be the Thruway going south right here, correct?

Mr. Milano: Yes.

Mr. Manley: And this is the rear of the a…

Mr. Milano: Yes.

Mr. Manley: …proposed building? There would be signage on the back here?

Mr. Milano: Yeah, see the way it’s tilted, it’s tilted away…

Mr. Donovan: Jim is it possible…I’m sorry to interrupt…is it possible to pick that up so the Board Members can see what you’re…?

Mr. Milano: From the front of the building where you pull in you’ll see the identification here but this is the back, traveling south it’s tilted away and you wouldn’t see it. Same thing with the Hilton Garden Inn when you’re traveling north the building is tilted away from you and you can’t see it. You pass, you have no idea, you see a building there but you don’t know what it is. Here the car is coming down, the sign is here, you’re…you’re going to miss it and it’s tilted that way. With the sign there they will see it and…and know that that’s what we’re doing. I feel it’s very important to have it and with a six acre site it’s not an extraordinarily sized sign. If it was on one acre it would be you know a different situation but we’re on six. I think it fits you know it’s like (Inaudible).

Mr. Levin: It’s much easier to see it that way than before.

Mr. Milano: Yeah and then we’ll see it going south that way or this way you’ll know it’s there and you’re going to identify that exit with that hotel which I think is…is a great thing to have or else they’ll see a big building and they won’t know what brand it is and we want them to know what we have there. We believe in that brand.

Mr. Levin: There was another issue at the last meeting the height of the building…

Ms. Gennarelli: Richard, I’m sorry, Richard, I’m sorry could you just…?

Mr. Levin: I’m sorry; the height of the building was an issue at the last meeting. We were talking about it and we also mentioned a…a fire truck getting in there to the top of the building. Did you find out which fire department you are in and do they have a ladder to get high enough?

Ms. Raymond: Again, I’m Christine Raymond a…my notes from the last meeting a…from Code Compliance said it was Orange Lake Fire? And that they have a hundred and five foot tower ladder. I’ll just…I’ll just note our highest possible occupy-able floor level is only forty feet. While the building variance we’re requesting sounds a lot higher, sixty-two foot nine, the actual occupants will only be at forty feet.

Mr. Dates: Just to…to follow up on that, Orange Lake is the fire district, they have…the a…the sketch plan before them that shows that height. They were having a meeting a…last Wednesday so November 19th the a…the Fire a…Commissioners and they were to be reporting to Mr. Canfield’s office but no response has come in from them on that. If I could also a…just touch on the FAA had some supporting information that I’d like to give to the Board. We have a…it’s a shot of what we did submit electronically to the FAA to get their feedback that was done on a…October 22nd a…so we’re still on that. It’s about a forty-five day review period so I…I’d like to hand that off to you also we have as Mr. Bazydlo mentioned, the FAA no hazard to air navigation response for the Hilton Garden Inn, I have that letter here. That …that is a fifty-seven foot building so that too is over the fifty foot a…the maximum height in this…in this zone a…the top of that building was about four hundred and twelve feet above sea level. Ours is estimated to be about four nineteen point seven five so four twenty a…which is still forty-five feet lower than the…the elevation of the runway itself. We also a…our…our firm in 2010 worked on a a Holiday Inn hotel project which is…was off of 300 right next to…it’s been the Quality Inn, the Knights Inn, it’s been a few a hotels it’s changed its name quite often but a…we also had to go to the FAA during that a…SEQR review and I have a copy of the no hazard air navigation letter from that and the top of that building although not needing a…a…variance the top of that building was at four hundred and forty-three feet. So twenty-three feet higher than what we are and they issued a no hazard a…a…navigation letter on that so I have a copy of that as well that I’d like to (inaudible) to the Board.

Chairperson Cardone: Okay, thank you.

Mr. McKelvey: You have on the other end…on the other runway with Toyota building.

Mr. Bazydlo: The Toyota building yeah, but again that’s about the same elevation as the runway probably runs up more with a direct line with the runway at that end so…

(Inaudible)

Mr. Donovan: If I…if I could for my edification could you repeat what you said before about the landscape buffer?

Mr. Dates: The dimensions?

Mr. Donovan: Yeah. If you could what you were proposing when you came here last month and as a result of your redesign what you’re proposing now.

Mr. Dates: Okay, so the…our a...access driveway is ten feet off of our property line the beginning of this…this curve along the northern property line a… previous landscape islands just to the south of that were about nine to ten feet narrower on the previous application so in reducing our…our a…lot surface a…taking forty spaces, forty parking spaces away you know, as part of exercise we’ve expanded these islands along that frontage to provide for additional landscaping a…in the a…the a…17K frontage.

Mr. Donovan: Great, just to be clear you still are requesting…you still need the variance…

Mr. Dates: We still need the variance.

Mr. Donovan: …you just increased the landscaping that you’re providing?

Mr. Dates: That’s correct.

Mr. Maher: With the (Inaudible) on the property line?

Mr. Dates: Correct.

Mr. Maher: So you…you didn’t move the driveway down, the driveway is…

Mr. Dates: The driveway is the same location.

Mr. Maher: Just the islands size?

Mr. Dates: That’s correct.

Mr. Manley: Who is the landscape architect for the planning board currently? Is it Karen Arendt still?

Mr. Dates: A…I…I believe so; she does do the reviews for the planning board as far as I know, yes.

Mr. Manley: Okay.

Mr. Dates: And I…I…I am a landscape myself too so.

Mr. Manley: Okay.

Mr. Bazydlo: Plus…plus from a landscaping point of view we also point out the area that before that was designated as a restaurant is now going to be maintained as a grassed area also that…that’s a rather large area on…on the property itself.

Chairperson Cardone: And you’re aware of the letter, excuse me, you’re aware of the letter from the City of Newburgh? That…because I see that you have addressed one of a…the one paragraph you know which…which concerned the a…the total site acreage of coverage.

Mr. Bazydlo: Yes.

Chairperson Cardone: And the other part they were addressing the landscaping.

Mr. Bazydlo: Landscaping, yes.

Chairperson Cardone: Right.

Mr. Bazydlo: And again the details of the landscaping…

Chairperson Cardone: So you were responding to that…

Mr. Bazydlo: Yes.

Chairperson Cardone: …when you changed it.

Mr. Bazydlo: Yes.

Chairperson Cardone: They were concerned about the surface runoff and the snowpack from 17.

Mr. Dates: Just to point out to the a…and these were some of the dimensions that we gave at the last…last hearing, a…our…from the a…the edge of pavement of 17K to our property line a…ranges between seventy-seven feet and ninety-one feet so we’re substantially removed a…from…from that a roadway and then you could add another additional ten feet onto our property from our property line to the a…to the access drive curbing so…

Chairperson Cardone: Right.

Mr. Dates: …so we are substantially removed a…buffer a…from 17K.

Chairperson Cardone: Are there any more questions from the Board?

Mr. Maher: The…the current pylon sign for the Hilton, do you know the height of that off hand?

Mr. Bazydlo: Forty feet.

Mr. McKelvey: I think when they came before us we moved it down to forty feet. They wanted to go higher.

Mr. Maher: Right, so I guess my question there is if it’s on the same…on the same plane as the other one is one block the other now?

Mr. Dates: There actually there is some…they are eschewed slightly.

Mr. Maher: Okay.

Mr. Dates: So the Hilton Garden sign is…certainly behind the Hampton Inn sign but you’re also approaching it at an eschewed angle as well. If we were coming at it a…head on in this manner then there you know there would be some obscurity of each…of each of the signs.

Chairperson Cardone: Any questions or comments from the public?

No Response.

Chairperson Cardone: Anything further from the Board?

Mr. Donovan: One of…one of the issues that we discussed last time we don’t have to decide now which is just to remind us was the SEQR Review. The planning board sent it to us and said you know, go on an Uncoordinated Review basis which means which we could conduct our own, issue our own Negative Declaration. The other thing we talked about, although to be fair, was mostly in the context of the lot surface variance was whether or not to conduct SEQR on a Coordinated Review basis meaning we’d have to wait for the planning board to issue a Negative Dec before we could act.

Chairperson Cardone: Right.

Mr. Bazydlo: And I would put out for the Board that variance is no longer before the Board and that was the one issue that the, I believe, the representative from the City of Newburgh was…

Chairperson Cardone: Yes.

Mr. Bazydlo: …concerned about.

Chairperson Cardone: Right.

Mr. Bazydlo: That issue is no longer before the Board and as your Counsel has pointed out you know, the planning board did send a referral over specifically saying this Board could act on its own from a SEQR point of view they were not requesting a Coordinated Review.

Chairperson Cardone: If there is nothing else do we have a motion to close the Public Hearing?

Mr. Masten: I’ll make a motion to close it.

Chairperson Cardone: Do we have a second?

Mr. Levin: I’ll second it.

Ms. Gennarelli: Roll call.

 Richard Levin: Yes

 Michael Maher: Yes

 James Manley: Yes

 John Masten: Yes

John McKelvey: Yes

 Darrin Scalzo: Recused

 Grace Cardone: Yes

Chairperson Cardone: Thank you. Okay, before proceeding the Board will take a short adjournment to confer with Counsel regarding legal questions raised by tonight’s applications. I would ask in the interest of time if you could wait out in the hallway and we’ll call you in shortly.

 (Time Noted - 8:39 PM)

ZBA MEETING – NOVEMBER 25, 2014 (Resumption for decision: 9:14 PM)

MARTIN MILANO 1 CROSSROADS COURT, NBGH

 (95-1-45.12) I / B ZONE

Applicant is seeking area variances for Section 185-27 - the maximum allowed height of buildings, the maximum lot surface coverage and Section 185-18-C-4-(c) - the minimum front yard setback requirements of all properties fronting Route 17K; and for the maximum amount of signage to erect signs on the building and a free-standing pylon sign for construction of a new hotel and restaurant facility.

Chairperson Cardone: On the application Martin Milano at 1 Crossroads Court, seeking area variances for the maximum allowed height of buildings, (Section 185-18-C-4-(c) -) the minimum front yard setback requirements of all properties fronting 17K; and for the maximum amount of signage to erect signs on the building and a free-standing pylon sign for construction of a new hotel and restaurant facility. This is an Unlisted Action under SEQRA do I have a motion for a Negative Declaration?

Mr. McKelvey: And we knocked that restaurant out of there?

Chairperson Cardone: Right. Do I have a motion for a Negative Declaration?

Mr. Maher: I’ll make a motion for a Neg Dec.

Mr. McKelvey: I’ll second it.

Ms. Gennarelli: Roll call.

 Richard Levin: No

 Michael Maher: Yes

 James Manley: Yes

 John Masten: Yes

John McKelvey: Yes

 Darrin Scalzo: Recused

 Grace Cardone: Yes

Chairperson Cardone: Okay, do we have discussion on this application?

No Response.

Chairperson Cardone: Any discussion on this application?

No Response.

Chairperson Cardone: Do we have a motion to approve this application?

Mr. Maher: Grace, are we doing it in part or in whole?

Chairperson Cardone: Would you rather do it…?

Mr. Donovan: Well that’s up to…

Chairperson Cardone: …that’s…do you prefer to do it in part?

Mr. Donovan: The lot surface coverage variance…

Chairperson Cardone: That’s eliminated.

Mr. Maher: Removed…

Mr. Donovan: …request has been removed, it’s not necessary as a result of the redesign so that they meet the lot surface coverage requirements. You are left with three variances if you wish to vote on them collectively or individually that’s up to you.

Mr. Manley: Well I think one of the…one of the variances should be conditioned and that would be a…if it was the Board’s decision to approve the height I would probably condition it with a…receiving authorization and approval from the FAA. It seems like they’ll probably approve it but in the event that they are not able to get that hurdle I think that variance should be withdrawn if they can’t get it. So I…I would be willing to a…make a motion to approve the height that the applicant is looking for subject to a…notification and approval by the FAA.

Chairperson Cardone: So you want to do them separately and not include the a…front yard setback?

Mr. Manley: Correct.

Chairperson Cardone: Okay.

Mr. Maher: I’d second his motion.

Ms. Gennarelli: Roll call.

 Richard Levin: Yes

 Michael Maher: Yes

 James Manley: Yes

 John Masten: Yes

John McKelvey: Yes

 Darrin Scalzo: Recused

 Grace Cardone: Yes

Chairperson Cardone: The motion is carried. The next item we’re looking at is the minimum front yard setback requirements for all properties fronting 17K.

Mr. Maher: Your overall setback is large to begin with and I think the a…additional a…landscape they are providing the islands have been enlarged will make it more pleasing. I’d make a motion to approve that front yard setback requirement.

Mr. McKelvey: I’ll second that.

Ms. Gennarelli: Roll call.

 Richard Levin: Yes

 Michael Maher: Yes

 James Manley: Yes

 John Masten: Yes

John McKelvey: Yes

 Darrin Scalzo: Recused

 Grace Cardone: Yes

Chairperson Cardone: Okay now we’re looking at the maximum amount of signage to erect signs on the building and a free-standing pylon sign for the construction of a new hotel and rest…well we take out restaurant. Do we have discussion on that part?

Mr. Manley: Well the pylon sign is a little bit larger than I…I really would have like to seen based on the amount of square footage that they’re looking for. A…we didn’t get…we got testimony but we didn’t get any professional…anything in writing specifically saying that this would actually be needed based on speed a…roadway conditions, etc., etc. A…so I…I’m just not certain if that entire amount would be needed.

Mr. Donovan: And if I could just for clarification they’re requesting seven hundred ninety-five point five eight square feet where four forty-nine point five square feet is allowed, maximum allowed, I’m sorry the maximum allowed.

Chairperson Cardone: Do we have any other discussion on the signage? Do we have a motion for approval?

Mr. Maher: While I do think it is a little larger than necessary I do understand the reasoning for the…the sign on the roadway there. I believe it was consistent with what the Hilton Inn was given as far as the pylon sign goes.

Mr. Manley: Remember when the Holiday Inn was before us we had the issue with the big billboard that they had and…

Mr. Maher: Right.

Mr. Manley: …scaling that down, I’m just trying to compare.

Chairperson Cardone: I’ll ask again. Do we have a motion for approval?

No Response.

Chairperson Cardone: Do we have a motion for disapproval?

No Response.

Chairperson Cardone: We need some kind of a motion.

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

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

Chairperson Cardone: Do I have a second?

Mr. Maher: I'll second it.

Chairperson Cardone: Okay.

Ms. Gennarelli: Roll call.

 Richard Levin: Yes

 Michael Maher: Yes

 James Manley: No

 John Masten: Yes

John McKelvey: Yes

 Darrin Scalzo: Recused

 Grace Cardone: Yes

Chairperson Cardone: The motion is carried.

PRESENT ARE:

 GRACE CARDONE

 RICHARD LEVIN

 MICHAEL MAHER

 JAMES MANLEY

 JOHN MASTEN

JOHN MC KELVEY

 DARRIN SCALZO - RECUSED

ALSO PRESENT:

 DAVID A. DONOVAN, ESQ.

 BETTY GENNARELLI, ZBA SECRETARY

 (Time Noted – 9:23 PM)

.

ZBA MEETING – NOVEMBER 25, 2014 (Resumption for decision: 9:23 PM)

DAVID MARUCA 280 FOSTERTOWN ROAD, NBGH

 (20-1-21) R-2 ZONE

Applicant is seeking area variances for the maximum allowed square footage of accessory structures, the maximum height of accessory structures and the maximum allowed storage for not more than (4) four vehicles to build an accessory structure (50’ x 33’ x 28’6” two-story detached garage). (Reduced to 1108 sq. ft. x 20’ H)

Chairperson Cardone: Next we have a Reserved Decision from October 23rd David Maruco and what we were asking for was…we were asking for drawings. And I do have the revised, the drawings were…were given to the Building Department and the building height was reduced to twenty feet and the building height had been twenty-eight feet was reduced to twenty feet. And it was ninety per cent over which was reduced to thirty-three point three percent and the square footage was thirteen fifty-six reduced to (1108) one thousand one hundred and eight and that from sixty-three point six percent to thirty-three point seven percent. And I believe a…someone had requested to give me some additional information and would you at that time state your name and give me the information you have.

Mr. Bennett: Hello my name is Rob Bennett and I live on the property behind David so a…I didn’t realize that you know…

Chairperson Cardone: That the Public Hearing was closed.

Mr. Bennett: Yeah and I wanted to make an additional statement a…David likes buy cars and fix them and sell them which I don’t know how many cars it takes to be a business but I’m a little concerned about like air ratchets and sounds constantly. It’s going to be close to my property.

Chairperson Cardone: Okay.

Mr. Bennett: I just wanted to voice that concern.

Chairperson Cardone: Okay.

Mr. Bennett: Maybe the yard he could…I mean I still oppose any variances but he did come down a lot from the size. If I could request that he put some kind of acoustic a…a…matting in this building or I…I’d imagine he’s probably going to insulate it anyway…you know it would have some kind of acoustic value I think that would help.

Chairperson Cardone: Okay.

Mr. Bennett: That’s all I have to say.

Chairperson Cardone: Okay, thank you.

Mr. Bennett: Inaudible.

Chairperson Cardone: This is a Type II Action under SEQR. Do we have discussion on this application?

Mr. Manley: I just had a quick question maybe Mr. Maruco could just…just so I could get a little clarification. A hundred and forty square foot little bump out in the back there…

Mr. Maruco: Yes?

Mr. Manley: Is there going to be a doorway to get in? I don’t see it on here.

Mr. Maruco: Yeah, there’s an opening from inside the garage going to be going out say it’s just a storage so in order to be able to access that storage area there will be a doorway going into it.

Mr. Manley: From the garage?

Mr. Maruco: Yes.

Mr. Manley: Going into that little area.

Mr. Maruco: That’s correct.

Mr. Manley: And then will there be another door to go out…?

Mr. Maruco: Yes, yup.

Mr. Manley: …so there will be two doors?

Mr. Maruco: Correct.

Mr. Manley: One goes into the storage area and then one goes into the main garage?

Mr. Maruco: Yes.

Mr. Manley: And there will also be a door in the front?

Mr. Maruco: Yes.

Mr. Manley: A doorway not a garage door but a doorway to go into the…the garage?

Mr. Maruco: Actually there will be a total of four doors.

Mr. Manley: Four doors?

Mr. Maruco: One on each side and in the front and one in the back.

Mr. Manley: And what exactly was that hundred and forty square foot used for?

Mr. Maruco: Just for a storage…

Mr. Manley: Of what?

Mr. Maruco: Just…a…equipment that I have like a lawnmower in there and I had no shed or no storage at all so a…just for storage of equipment.

Mr. Manley: Okay.

Mr. Maruco: A back pack blower and a…

Mr. Manley: That won’t fit in the main part?

Mr. Maruco: No because I have…I have two classic cars so I…I really hate to put storage around it in case something happens to it it’s an expense to fix it…to fix the cars the paint or whatnot.

Mr. Manley: Okay. Okay, thank you.

Mr. Maruco: You’re welcome.

Mr. Scalzo: I have another question if you don’t mind. So we’ll call the area the bump out that Jim was mentioning. That’s the north side of the building, correct?

Mr. Maruco: Yes.

Mr. Scalzo: Are there…are you proposing any windows on the back side?

Mr. Maruco: No.

Mr. Scalzo: The door that’s going to lead out into the backyard towards the back property line is that going to be a solid door?

Mr. Maruco: Yes, yes actually I want a solid steel door so you know, break ins…if someone were to try to break in it would be much difficult. And actually the side doors too would be a…steel because from my house looking out I can’t see it so I want to make sure that I got it pretty solid so nowhere there’s a chance of breaking in.

Chairperson Cardone: And do you have any comment concerning the noise?

Mr. Maruco: A…it’s a garage to park cars and I mean...as far as noise what…?

Mr. Maher: There’s no excessive body work going on, there’s no air ratchets constantly day and night? There’s no…

Mr. Maruco: You know I mean I will…I want to change my oil and you know things like that.

Mr. Maher: No, I understand.

Mr. Maruco: But no…

Mr. Maher: But not excessive to bother the neighbors obviously that is the concern.

Mr. Maruco: No, not at all and it will be insulated. I’m not running a business out of it. It’s my hobby, personal hobby. I work a lot of hours at…at my job so the amount of time I would be spending in there will be very, very minimal.

Chairperson Cardone: And you are planning to put insulation, you said?

Mr. Maruco: Yes.

Mr. Manley: Will it be sheet rocked?

Mr. Maruco: Yes.

Mr. Manley: So the entire inside will be sheet rocked?

Mr. Manley: Right. Okay. Are you going to have any lifts at all in the…in the garage?

Mr. Maruco: As of now, no.

Mr. Manley: Okay. Do you plan on having any lifts in the future?

Mr. Maruco: No I don’t…I don’t plan on it but I…the reason I have the height I have jeeps so you pull…pull the jeep in there and I can take the top off it for the storage that hangs from the ceiling. This way I don’t have to take it out and put it in the yard and just have it sitting in the yard because it would…it gets ruined when it’s sitting out there on…on the ground like that.

Mr. McKelvey: Are you going to have heat?

Mr. Maruco: No heat.

Mr. McKelvey: Electric you’ll probably have?

Mr. Maruco: That’s why I’m insulating to try to keep it from the cold you know, from the frigid cold to get on it.

Mr. Scalzo: But if you’re going to finish with sheet rock are you going to tape and spackle and if there is no heat in there then you’re going to…it’s going end up you know, peeling, ruining…

Mr. Maher: It’s not conducive to having taped joints but it’s not prohibitive either.

Mr. Manley: Guess it depends who you get, huh?

Mr. Maher: Well I mean, it’s…it’s not the best application but…it is…it is a potential…depends…you know doable.

Chairperson Cardone: Okay, do we have a motion for approval on this application?

Mr. Masten: I'll make a motion.

Chairperson Cardone: Do we have a second?

Mr. McKelvey: I'll second that.

Ms. Gennarelli: Roll call.

 Richard Levin: Yes

 Michael Maher: Yes

 James Manley: Yes

 John Masten: Yes

John McKelvey: Yes

 Darrin Scalzo: Yes

 Grace Cardone: Yes

Chairperson Cardone: The motion is carried.

Mr. Maruco: Thank you.

PRESENT ARE:

 GRACE CARDONE

 RICHARD LEVIN

 MICHAEL MAHER

 JAMES MANLEY

 JOHN MASTEN

JOHN MC KELVEY

 DARRIN SCALZO

ALSO PRESENT:

 DAVID A. DONOVAN, ESQ.

 BETTY GENNARELLI, ZBA SECRETARY (Time Noted – 9:32 PM)

ZBA MEETING – NOBEMBER 25, 2014 (Resumption for decision: 9:32 PM)

ANTHONY ALAN GIANCOLA 613 GIDNEY AVENUE, NBGH

 (76-9-2) R-3 ZONE

Applicant is seeking an area variance for the maximum allowed square footage of accessory structures to build a carport (26 x 30).

Chairperson Cardone: The next we had Reserved Decision on Anthony Alan Giancola on 613 Gidney Avenue who seeking an area variance for the maximum allowed square footage of accessory structures to build a carport (26 x 30). And let me go to the minutes and part of the discussion at the end was that there were some items that had to be cleared up and there were some Violations and it said he needed to clear up some of these Violations to get a Building Permit and was asked to clear those up. He was going to meet with Mr. Canfield, if I’m not mistaken…

Ms. Gennarelli: Or someone from the Code Compliance Department.

Chairperson Cardone: …or someone from the Code Compliance and that did not happen. He’s obviously not here this evening. He wasn’t here last month and so we need to make a decision on this application this evening. This is a Type II Action under SEQR.

Mr. McKelvey: It seems that he…he…with everything that he’s done on that property he’s just been lackadaisical.

Mr. Scalzo: I recall from his testimony that he was citing some financial difficulties for rectifying the open items but yet he was looking to build the carport which also costs money.

Chairperson Cardone: Right. So do we have a motion for approval on this application?

Mr. Manley: I would just add that the you know, the carport really doesn’t fit in the character of the neighborhood with what else…what else is in the neighborhood so I…I would just go ahead and move that at this point that the applicant hasn’t followed through in addition to those other items that were brought up by Board Members that the variance be a…I make a motion for denial.

Chairperson Cardone: Do I have a second?

Mr. Scalzo: I'll second that.

Ms. Gennarelli: You were second? Okay.

Chairperson Cardone: Okay we have a motion for denial…

Ms. Gennarelli: Roll call.

 Richard Levin: Yes

 Michael Maher: Abstain

 James Manley: Yes

 John Masten: Yes

John McKelvey: Yes

 Darrin Scalzo: Yes

 Grace Cardone: Yes

Chairperson Cardone: The motion for denial is carried.

PRESENT ARE:

 GRACE CARDONE

 RICHARD LEVIN

 MICHAEL MAHER

 JAMES MANLEY

 JOHN MASTEN

JOHN MC KELVEY

 DARRIN SCALZO

ALSO PRESENT:

 DAVID A. DONOVAN, ESQ.

 BETTY GENNARELLI, ZBA SECRETARY

 (Time Noted – 9:35 PM)

ZBA MEETING – NOVEMBER 25, 2014 (Resumption for decision: 9:35 PM)

JIN KANJANAKIRITUMRONG-GRABEK 349 MEADOW AVENUE, NBGH

 (66-2-3) I / B ZONE

Applicant is seeking a use variance to allow a personal service business in an I / B Zone to convert an existing single-family dwelling into a hair salon.

Chairperson Cardone: Okay, next we have a Reserved Decision on (Jin Kanjanakiritumrong-) Grabek that was 349 Meadow Avenue. I actually have two letters here one from Darren Doce and the other from Daniel Sullivan.

Ms. Grabek requests that you reserve your decision on use and area variance for the above referenced parcel and place her application on the December’s Agenda. At the December 10th Town Board meeting there will be a Public Hearing a local law that would allow personal service establishments in the I/B zone. Ms. Grabek requests you reserve your decision in order to see if this local law is adopted.

That was on the 19th. The next day I received a letter from Daniel Sullivan

My client Jin Grabek agrees to extend the sixty-two day period under Town Law. We would reserve the right to terminate this waiver upon thirty days’ written notice to the Board.

This…this letter concerned me actually in two ways. First he said she agrees as though we had made the suggestion and what we really wanted was for them to…them to request but I think Mr. Doce’s letter kind of covered that part of it. But I felt that reserving the…reserve…they are reserving the right to terminated within thirty days written notice left it too open ended. We’ve had a problem in the past where something went on for almost a year….it was not a year. So I…I would ask for a motion to extend the sixty-two day period until next meeting and at that time we may get a letter. I would prefer that they ask month by month…

Mr. McKelvey: Yeah.

Chairperson Cardone: …every month by month and then in that case you know if it does go on too long we’re able to then deny it and then make a decision. Leaving it this way it looks like we’re not able to make a decision until they say it’s okay to make a decision. Am I reading that wrong?

Mr. Donovan: You…you are not reading it wrong. Just so the record is clear a…Mr. Sullivan, Ms. Grabek’s attorney contacted me and said that she would like to waive the sixty-two period a…as you know there is a Public Hearing that’s going to be held in front of the Town Board potentially to change the zoning regulations in an area that would benefit her so Mr. Sullivan said we want to a…waive the time period and I…so I suggested the letter along these lines which he’s done. He wasn’t trying to do anything on toward. He was following my advice when in fact what I should have done is to say you should agree to waive the time period and we’ll put it on the Board’s agenda this evening so the Board can consider what it would like to do since it’s…that’s a Board decision. That’s not my decision.

Mr. McKelvey: The hearing is on the next Town Board meeting, it’s already set.

Mr. Donovan: Okay.

Chairperson Cardone: Do we have a motion?

Mr. Levin: I will make that motion. I can’t repeat everything you said Grace but I agree with what you said.

Mr. Manley: Second.

Mr. Maher: Thirty days or to the next scheduled meeting.

Chairperson Cardone: Yes. That’s very good Mike.

Ms. Gennarelli: December 23rd.

Chairperson Cardone: Or until the next scheduled meeting. I like that.

Mr. Maher: Just in case.

Mr. McKelvey: Everybody going to be here?

Mr. Manley: Well I will not be here the twenty-third.

Chairperson Cardone: Well we’ll discuss that in a minute.

Ms. Gennarelli: Okay we’ll have a vote now.

Chairperson Cardone: Yes.

Ms. Gennarelli:

 Richard Levin: Yes

 Michael Maher: Yes

 James Manley: Yes

 John Masten: Yes

John McKelvey: Yes

 Darrin Scalzo: Yes

 Grace Cardone: Yes

PRESENT ARE:

 GRACE CARDONE

 RICHARD LEVIN

 MICHAEL MAHER

 JAMES MANLEY

 JOHN MASTEN

JOHN MC KELVEY

 DARRIN SCALZO

ALSO PRESENT:

 DAVID A. DONOVAN, ESQ.

 BETTY GENNARELLI, ZBA SECRETARY

 (Time Noted – 9:40 PM)

ZBA MEETING – NOVEMBER 25, 2014 (Resumption for Decision – 9:35 PM)

JIN KANJANAKIRITUMRONG-GRABEK 349 MEADOW AVENUE, NBGH

 (66-2-3) I / B ZONE

Applicant is seeking area variances for the lot area, the lot width, one side yard setback, the combined side yards setback and accessory structures setback to convert an existing single-family dwelling into a hair salon in an I / B Zone.

**Same minutes used for both the use variances and the area variances**

Chairperson Cardone: Okay, next we have a Reserved Decision on (Jin Kanjanakiritumrong-) Grabek that was 349 Meadow Avenue. I actually have two letters here one from Darren Doce and the other from Daniel Sullivan.

Ms. Grabek requests that you reserve your decision on use and area variance for the above referenced parcel and place her application on the December’s Agenda. At the December 10th Town Board meeting there will be a Public Hearing a local law that would allow personal service establishments in the I/B zone. Ms. Grabek requests you reserve your decision in order to see if this local law is adopted.

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Mr. McKelvey: Everybody going to be here?

Mr. Manley: Well I will not be here the twenty-third.

Chairperson Cardone: Well we’ll discuss that in a minute.

Ms. Gennarelli: Okay we’ll have a vote now.

Chairperson Cardone: Yes.

Ms. Gennarelli:

 Richard Levin: Yes

 Michael Maher: Yes

 James Manley: Yes

 John Masten: Yes

John McKelvey: Yes

 Darrin Scalzo: Yes

 Grace Cardone: Yes

PRESENT ARE:

 GRACE CARDONE

 RICHARD LEVIN

 MICHAEL MAHER

 JAMES MANLEY

 JOHN MASTEN

JOHN MC KELVEY

 DARRIN SCALZO

ALSO PRESENT:

 DAVID A. DONOVAN, ESQ.

 BETTY GENNARELLI, ZBA SECRETARY

 (Time Noted – 9:40 PM)

ZBA MEETING – NOVEMBER 25, 2014

END OF MEETING (Time Noted – 9:40 PM)

OTHER BOARD BUSINESS

Chairperson Cardone: I still have other things here.

Mr. Manley: Oh boy.

Chairperson Cardone: Dunkin Donuts, I don’t know if everyone has a copy of this or everyone had a chance to…Betty, did everyone get a copy?

Ms. Gennarelli: They should, yeah.

Chairperson Cardone: Joe Mattina sent a letter (dated October 16, 2014) to us, I’m not going to read the whole thing but a…since everybody does have a copy and the bottom line the appliance schedule fails to even list the microwave oven, will the addition of these cooking appliances and the lack of a microwave oven affect the Board’s previous interpretation and decision? Then we got a letter on November the 17th from Mr. Bloom (dated November 13, 2014 sent to Mr. Canfield) …which contained definitions…and in essence or maybe a…Dave you can correct me if I’m wrong. Does the essence of the letter that they would like to make an application for an Interpretation?

Mr. Donovan: A new application?

Chairperson Cardone: Well that’s what I’m…that’s what I’m…

Mr. Donovan: So paragraph number eight of the Michael Nafash affidavit says I hope this information will be of assistance in making any necessary determination regarding my application. In that regard I respectfully offer to a company representative from the Town of Newburgh to visit with me my other Dunkin Donuts site in Newburgh on Homewood Avenue. I don’t…I don’t…I’m not reading it that way. I think the…what has to happen a…is if Code Compliances says we don’t think that the plans submitted are in compliance with the Board’s interpretation I think Code Compliance has to deny their Building Permit Application and then they can appeal that denial.

Mr. Maher: But I think that based on the information provided here they have a hard time denying the application, my…my opinion. It’s consistent with the other a…franchises from…from what I can tell. I…I did have a question when…when Joe brought to our attention last time with the…with the…with the…the picture of the a…the fryer we’re going to call it and the glazing machine whatever because I know the way that the products are during delivery so I was kind of surprised that was…that’s what would be going on in a small location like that so this, I think this is more consistent so. If this is the information they are giving to…to…to Code Compliance and it’s consistent with a…not cooking then I guess would be the reason for denial then.

Mr. Donovan: Grace, pass me Joe’s letter.

Mr. Scalzo: This question might be late in the game but is the operation at this point regulated by the Orange County Health Department.

Mr. Maher: Sure.

Mr. McKelvey: Yeah.

Mr. Scalzo: And if it were only a microwave would they still be?

Mr. Maher: Yeah, no matter what your foods, I believe, it’s regulated by them.

Mr. Donovan: Right, right Darrin.

Mr. McKelvey: They all have microwaves.

Mr. Scalzo: Yeah.

Mr. Maher: Well they’re not actually microwaves, they’re more…they’re really convection ovens…

Mr. McKelvey: Yeah.

Mr. Maher: …I think that’s where…I think that’s where the…the confusion or something is…if you look at, you know, any Dunkin Donuts you go to they have convention ovens to begin with if to heat the bagels or whatever…whatever you…you know, whatever sandwich you purchased from them.

Mr. Donovan: You know, my frame of reference is the convenience store that I go to down the street from my house to get my coffee in the morning before I go to work and they of course, they have microwaves and they also have a griddle where they make bacon egg sandwiches so a…I…I guess I’m unclear as to and Joe’s specific question with the addition of these cooking appliances and the lack of a microwave oven affect the Board’s previous interpretation. I mean the better course of action I guess is to send it back to us if Joe thinks so because we’re supposed to be an appellate Board a…but on the other hand if…I don’t know how the Board feels a…you can…you can indicate no, we don’t…if everyone agrees with Mike and…and just give Joe that informal kind of a…opinion. Because what’s happened in the past, I think we’ve had…we have that provision in…in our decisions that say we approve essentially what’s on your application and the plans you’ve submitted. Any material deviation you have to come back here. And we’ve had that once or twice with other…

Chairperson Cardone: Right.

Mr. Donovan: …decisions in the past. I…I don’t know how that…if the Board says, hey listen, it doesn’t make a difference to me it’s still a as far as I’m concerned a convenience store and it…and it’s that simple…

Mr. Maher: Well the product is being…

Mr. Donovan: …we can tell him that.

Mr. Maher: …the product is being served and the method in which they’re…the method in which they’re heated are consistent with other…facilities or other franchises from…what I look at what they’re going to be doing is consistent with…with North Plank Road or…or Union Avenue I’m thinking the same thing. I don’t think it’s…

Chairperson Cardone: But that…right…

Mr. Maher: … deviated from that.

Chairperson Cardone: …but that’s not…but that’s not the issue. The issue was that the interpretation was that it would be a convenience store…rather than…

Mr. Maher: No, I…no I understand that but I was basing my...I was basing that on…on the other facilities that I’m…

Chairperson Cardone: Right.

Mr. Maher: …familiar with so…in my opinion it wouldn’t change…

Chairperson Cardone: Oh, I see what you’re saying.

Mr. Maher: …it wouldn’t change my...what would have changed if…if the information Joe provided they were actually frying the donuts on site and…and that part then that would make a difference to me as far as I’m concerned. That’s…that’s actually the cooking of the product on the site. A…you know a little more where you’re providing with hoods and stuff like that whereas what they’re doing here is re-heating it. I…I think it’s…I think it’s on the same a…the same idea they had to begin with I think is still here. Now that I have information here that is consistent with the other…other locations a...you know I know convenience store was the issue and I think we addressed that at the meeting.

Chairperson Cardone: Do we have any other thoughts on it?

No response.

Chairperson Cardone: Well we need to…we need to respond in some way to a…to Mr. Mattina. So I guess I’ll ask each person individually. Would that be appropriate with the addition of these cooking appliances and the lack of a microwave affect the Board’s previous interpretation? Mike said it would not affect his interpretation.

Mr. McKelvey: Yeah, I think I’d have to agree with him because all…all those places operate the same.

Mr. Levin: I thought it was used for defrosting or are they cooking appliances?

Chairperson Cardone: The appliances they’re using?

Mr. Levin: They heat frozen a…

Mr. McKelvey: They heat sandwiches and…

Mr. Maher: Right.

Mr. Levin: How come they haven’t moved forward at all? Nothing has happened there.

Chairperson Cardone: They have to get past the planning board.

Mr. McKelvey: They were sent here and we send them back.

Mr. Levin: Send them back, okay.

Mr. Maher: Why, you anxious to get a cup of coffee there? Anxious for the product, not anxious for the traffic?

Mr. Levin: I think we should make a motion that David cannot eat bagels and donuts.

Mr. Scalzo: Or eggs and bacon anymore.

Mr. Donovan: Okay, okay.

Mr. Maher: Would that be convenience store you’re using in the Town of Newburgh?

Mr. Donovan: That one is actually out in the Village of Goshen so…

Chairperson Cardone: He’s not going to tell you where it is.

(Inaudible)

Chairperson Cardone: So…they are saying there will be no baking on the premises, Item #5 of the Affidavit signed by Michael Nafash. So…

Mr. McKelvey: I don’t know if I’d consider that baking though they’re just reheating.

Mr. Maher: Yeah, it comes in a frozen state and they reheat everything, yeah.

Chairperson Cardone: Well in that case I would say that it would be in line our interpretation. I know that a microwave was what was stated at the meeting but there are many ways heat things up from a frozen state.

Mr. McKelvey: Yeah.

Mr. Scalzo: Item #5 E - you know we do not every fry, proof or roll donut and then you read the rest of the paragraph a…a service company that approved by Dunkin would flash freeze the product at that point they’re not saying whether it has already been baked or not.

Chairperson Cardone: Okay, you’re on a different 5 than I was looking but I’ll find that one. Okay, I see that.

Mr. McKelvey: Maybe when the throw it…throw it in the…it doesn’t take them long to heat it.

Chairperson Cardone: Well he says we do not every fry, proof or bake any donut product from scratch.

Mr. Scalzo: From scratch but when they…when they receive it is it…has it been baked once?

Mr. Maher: It does say, this is either done at the central kitchen that is located in New Windsor or done at the food service company approved by Dunkin Donuts. So they’re saying it’s baked either at their central kitchen or the food service company.

Mr. Levin: Okay, I’m good then.

Mr. Maher: By Dunkin that would…I guess… it should say then flash freeze a…but according to them the way that I’m reading it it’s either done at the central kitchen or the food service company approved by Dunkin. Dave does your convenience store bake any muffins in the morning possibly?

Mr. Donovan: They do not, no. They have really good bagels though Mike, I have to tell you but they are not there until 7 o’clock so if you get up early like me you’ve got to wait till 7.

Chairperson Cardone: Should we handle this by a vote or…Dave?

Mr. Donovan: I guess, yes…if it’s the pleasure of the Board to say this is not a problem then it would be a motion to indicate that the addition of the cooking appliances being a double convection and a donut glazer would not a…change the prior interpretation issued by the Board.

Mr. Maher: Per the information submitted on November 17th…it covers the entire letter.

Mr. Donovan: Okay.

Mr. Maher: I’m just saying this way it at least it encompasses the entire…the entire document that was handed to us instead of specifying any parts to it.

Mr. Donovan: Do you mean November 13th Mike?

Mr. Scalzo: Well it was accepted on the…

Mr. Maher: Oh, mine says it was received on the 17th I’m sorry.

Mr. Donovan: Okay, I’m looking at the date, okay. Yeah, that’s fine, if that’s what you want to do.

Mr. Maher: I made enough motions somebody else make a motion.

Mr. McKelvey: I’ll make a motion. You can second it.

Mr. Levin: I’ll second it.

Chairperson Cardone: Okay, we’re ready for a vote.

Ms. Gennarelli: Okay.

 Richard Levin: Yes

 Michael Maher: Yes

 James Manley: Recused

 John Masten: Yes

John McKelvey: Yes

 Darrin Scalzo: Yes

 Grace Cardone: Yes

Chairperson Cardone: Okay, Dave you’ll write a letter to that effect?

Mr. Donovan: Sure you want me to write a letter to Joe?

Chairperson Cardone: Yeah. Also we…everyone has a copy of the Local Law Amending Chapter 185 entitled Zoning of the Code of the Town of Newburgh to add a definition of personal service store or use and to provide for personal service stores and uses as a permitted principal use subject to site plan review in the I/B Zoning District. I do need comments in writing. I asked for them I think it was the last meeting. I didn’t get any. So we’ve had nothing that came from the Zoning Board and now that they have written up the Law if you would please read over what it has to say and e-mail me any comments that you have so that I can get them to the Town Board in a timely fashion. Let’s see what else I have here. Betty made copies for every one of the Washington Lake Case Study by Peter Smith. You know, and that’s an area that has been coming up with the Watershed Alliance. Do you think that it would be valuable for us to have a Work Session possibly where we could have this presented to us? We could arrange that.

Mr. Maher: Let me ask you a question, I mean I got a copy of the pictures and some map information but there’s no…

Chairperson Cardone: There’s no, right, that’s exactly what I mean we have the pictures but we don’t have…

Mr. Maher: …okay, I wasn’t sure if I missed something.

Chairperson Cardone: No, no you didn’t miss anything.

Ms. Gennarelli: There was a slide show that he had sent, that was it.

Chairperson Cardone: Right.

Ms. Gennarelli: And a movie that we could not…

Chairperson Cardone: We couldn’t open the movie.

Mr. Manley: I think that might be a good a…

Mr. McKelvey: A good idea.

Chairperson Cardone: I’m sure he has comments for each of the slides. Obviously he made some type of a presentation somewhere and these were the slides that went with it. So that’s something we should look into.

Mr. Manley: If he could make a presentation here I think that would be great. Perhaps we can invite other boards, zoning boards, planning board if we had it on a particular date?

Chairperson Cardone: I think if we…if we had it we would probably want to do it…

Mr. Manley: Before our meeting.

Chairperson Cardone: …before our meeting. Not in December.

Mr. McKelvey: No.

Chairperson Cardone: That’s the next question, how many people are going to be here December the 23rd?

Mr. Maher: I’ll be in Town.

Ms. Gennarelli: Darrin, yes. Mike, yes. Richard, yes. John McKelvey, no.

Mr. McKelvey: I’m not positive yet.

Chairperson Cardone: Yes.

Ms. Gennarelli: You’re not positive yet?

Mr. McKelvey: No.

Ms. Gennarelli: Yes. Yes. No.

Mr. Manley: I won’t be.

Ms. Gennarelli: Okay, we have one definite no and John said maybe.

Chairperson Cardone: So I think we should plan on a meeting.

Ms. Gennarelli: Okay.

Chairperson Cardone: I would not think that the agenda would be too full though.

Ms. Gennarelli: I don’t know. Did we clear it out tonight?

Mr. Manley: Yeah, we got a lot cleared out.

Ms. Gennarelli: I have one so far.

Mr. McKelvey: That’s all you had last week.

Ms. Gennarelli: Oh, and the use variance. He’s coming back.

Chairperson Cardone: Right.

Ms. Gennarelli: And the reserved decision.

Mr. Donovan: I’ll be in touch with Jerry before then.

Chairperson Cardone: Okay.

Ms. Gennarelli: Dave, can you make it?

Mr. Donovan: Yes, I here, definitely yes.

Ms. Gennarelli: What about the other question about availability for…I know it’s far away…for the December meeting next year if we change it?

Chairperson Cardone: If we…for next…?

Ms. Gennarelli: Next December, if it’s any problems for anybody on any days.

Chairperson Cardone: Right, well I already know that Dave is only available the something Tuesday of the month. What was it?

Mr. Donovan: The fourth Tuesday.

Chairperson Cardone: The fourth Tuesday.

Ms. Gennarelli: The fourth Tuesday…we were thinking of moving it to the third week instead.

Mr. Donovan: Okay.

Ms. Gennarelli: Moving it up one week…

Mr. Donovan: The third Thursday?

Ms. Gennarelli: No, the planning board is then.

Chairperson Cardone: We can’t.

Mr. Donovan: The third Tuesday?

Ms. Gennarelli: It depends on what the Town Board allows us to do because they are getting a new member. Tuesday and Friday would be open, Tuesday might be…

Mr. Donovan: Be better than Friday, yeah.

Ms. Gennarelli: Well it’s up to you, you know.

Mr. Maher: To clarify, to do what now?

Chairperson Cardone: This is next December… not…

Ms. Gennarelli: 2015 we’re planning.

Chairperson Cardone: 2015, we have to do the calendar right now for 2015 and again in December…

Mr. Maher: Oh just December?

Ms. Gennarelli: Yes.

Chairperson Cardone: Right.

Mr. Maher: Oh I thought I heard move the meeting.

Chairperson Cardone: No, no, no. Just December of 2015, it also falls not on Christmas Eve…

Ms. Gennarelli: Christmas Eve.

Chairperson Cardone: It does fall on Christmas Eve right.

Ms. Gennarelli: Yes Thursday.

Chairperson Cardone: The Thursday is Christmas Eve and we were thinking of trying to schedule it the week before.

Mr. Maher: I…I…all right, whatever I don’t…

Mr. Donovan: The third Tuesday is Walden Village Board; I’m the Village attorney there so they meet the first and third Tuesday.

Ms. Gennarelli: Okay, so that wouldn’t be good for you.

Mr. Donovan: Then Friday.

Mr. Manley: If we had the meeting in Walden.

Ms. Gennarelli: It’s not that far.

Mr. Donovan: Unless you had it at a different time but I thought that would be inconvenient for everyone.

Ms. Gennarelli: Well the Town Board may say that we can’t have that night. We won’t know until…

Mr. Donovan: Okay.

Chairperson Cardone: Right.

Ms. Gennarelli: …the January meeting when they bring in their new Board Member.

Chairperson Cardone: We won’t know until January.

Mr. McKelvey: Are they meeting on the third Monday? They’re only meeting once in December this year.

Ms. Gennarelli: John, they are getting a new Board Member so they said…Andy said if they decide that they are busy on Monday and Wednesday and they want it changed to a different day they will take that day first before us.

Mr. Maher: They let a new Board Member dictate?

Ms. Gennarelli: Evidently.

Mr. Donovan: The third Monday right now is one of the nights I have available.

Ms. Gennarelli: Okay.

(Inaudible)

Ms. Gennarelli: This is what Andy said to me, that’s all I have…I said please just tell them we would like a consideration of that week, let us know when.

Chairperson Cardone: Right. Okay, everybody had the minutes from last month. Are there any corrections?

No response.

Chairperson Cardone: Do I have a motion to approve the minutes?

Mr. Masten: I'll make a motion.

Mr. McKelvey: I’ll second.

Chairperson Cardone: All those in favor say Aye?

Aye - All

Chairperson Cardone: Opposed?

No response.

Chairperson Cardone: Do we have a motion to adjourn?

Mr. Maher: So moved.

Mr. McKelvey: Second.

Chairperson Cardone: All in favor say Aye?

Aye All

Chairperson Cardone: Opposed?

No response.

Chairperson Cardone: The motion is carried. The meeting is adjourned.

PRESENT ARE:

 GRACE CARDONE

 RICHARD LEVIN

 MICHAEL MAHER

 JAMES MANLEY

 JOHN MASTEN

JOHN MC KELVEY

 DARRIN SCALZO

ALSO PRESENT:

 DAVID A. DONOVAN, ESQ.

 BETTY GENNARELLI, ZBA SECRETARY

 (Time Noted – 10:11 PM)