ZONING BOARD OF APPEALS

MEETING – SEPTEMBER 24, 2015

(Time Noted – 7:00 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 and try to render a decision this evening; but may take up to 62 days to reach a determination. I would ask if you have a cell phone to please put it on silent or turn it off as the meeting is being recorded and when speaking speak directly into the microphone. Roll call please.

Pledge of Allegiance to the Flag led by James Manley

 (Time Noted – 7:02 PM)

Mr. Manley: Madam Chair.

Chairperson Cardone: Yes?

Mr. Manley: I’d like to make a motion that the meeting be temporarily suspended for some additional business that the Zoning Board has this evening. Is there a second to my motion?

Mr. Scalzo: I’ll second the motion.

Mr. Masten: I second.

Mr. Piaquadio: We don’t want to interrupt your meeting here but I think there is a thing of business that we have to attend to being you have been a Member of this Board and many years as a Chairperson. We read this Proclamation from the Town Board.

WHEREAS, Grace Cardone has been an outstanding role model for all people in the Town of Newburgh; and

WHEREAS, Grace Cardone was initially appointed as a member of the Zoning Board of Appeals on September 6, 1988 to fill a vacancy caused by the passing of an incumbent member, was appointed to a full term early the following year, and was made Chairperson in the late 1990’s in which her leadership abilities and detailed knowledge of zoning law, and basic common sense won for her the respect of the general public and her fellow ZBA members alike; and

WHEREAS, Grace Cardone, a native of Philadelphia, has been an Orange County resident since her parents moved to Central Valley when she was still a small child, and is product of Monroe-Woodbury public school system, and spent her adult life as a highly successful and respected educator, including many years of service as Principal of the Vails Gate School and Balmville School: and

WHEREAS, her bedrock beliefs in principles of Americanism led her to serve in leadership positions in the Conservative Party of Orange County; as well as long and faithful service to the women’s auxiliary of the American Legion Post #1420 in the Town of Newburgh, including service as President of that organization; and

WHEREAS, she was a board member of the Selective Service in Newburgh, and became beloved by many of our senior citizens for her volunteering service helping them complete their tax returns every spring as part of the tax assistance program sponsored by the AARP; and

WHEREAS, she has been an active member of the Assembly of God Church, joining in many charitable acts;

BE IT RESOLVED, the Town Board of the Town of Newburgh, on behalf of a grateful public, hereby expresses its deep appreciation for the outstanding services that Grace Cardone performed for our community, and expresses its regret that she is retiring to California where she will be near her son; and

LET IT BE FURTHER RESOLVED, that we hereby declare Friday, September 25, 2015 to be known as “Grace Cardone Day” in the Town of Newburgh. Signed, Town Board of the Town of Newburgh.

Audience applauded

Chairperson Cardone: I am overwhelmed and I have to say it has been a pleasure living and working in the Town of Newburgh for all of these years and I certainly appreciate the support that I have received from the Town Board.

Audience applauded

Chairperson Cardone: Well that was a surprise now they expect me to conduct the meeting. Hi, I see my sisters and a friend of mine back there.

PRESENT ARE:

 GRACE CARDONE

 RICHARD LEVIN

 MICHAEL MAHER - JOINED MEETING LATE

 JAMES MANLEY

 JOHN MASTEN

JOHN MC KELVEY

 DARRIN SCALZO

ALSO PRESENT:

 DAVID A. DONOVAN, ESQ.

 BETTY GENNARELLI, ZBA SECRETARY

 GERALD CANFIELD, CODE COMPLIANCE

(Time Noted – 7:06 PM)

ZBA MEETING – SEPTEMBER 24, 2015 (Time Noted – 7:06 PM)

ROBON REALTY LLC. 341 LAKESIDE ROAD, NBGH

 (47-1-59.1) R-1 ZONE

Applicant is seeking an area variance for increasing the degree of non-conformity by increasing the floor area of second dwelling unit where only one dwelling unit is permitted per lot; an area variance for each dwelling unit requires a 1500 sq. ft. minimum habitable floor space; area variances for minimum one side yard and minimum combined side yards setback and increasing the degree of the non-conformity of the side yard by increasing the height to 22’9” and an area variance for the maximum lot building coverage to reconstruct a second dwelling unit on an existing lot.

Chairperson Cardone: Our first applicant Robon Realty LLC.

Ms. Gennarelli: The Public Hearing Notices for all the new applications being heard this evening were published in the Mid-Hudson Times on Wednesday, September 16th and in The Sentinel on Friday, September 18th. This applicant sent out thirty-seven letters. All the mailings, publications and postings are in order.

Chairperson Cardone: And for the record please identify yourself.

Mr. Lichwick: Jason Lichwick from Minuta Architecture.

Chairperson Cardone: You may begin.

Mr. Lichwick: We’re before you tonight to request a…to ask for a variance to put a new two fam…a…single family, two-story residence on the existing foundation or footprint of a single-family home that was existing is no longer there. The property contained two dwellings on one parcel and a…we need a variance for the side yard, rear yard and (inaudible) the front yard, the size of the lot is already existing non-conforming lot, the lot was a nineteen thousand two fifty-eight square feet and Code a…zoning requires thirty (forty) thousand, a…side yard the one to the north is required thirty feet and we’re requesting we don’t have twelve foot three and side yard two to the south a…we only have twenty-two foot nine a…the rear yard we’re required at forty feet we only have twenty-one foot ten but we are moving the footprint further back away from the lake where the existing one sat closer at a… ten feet less than ten feet from the lake…lake front. We also…we’re going to be connecting the new sewer to the Municipal sewer line instead of having the existing septic that was there. We’re also increasing the building in height a…but we stayed within the building height limit of the required thirty-eight (thirty-five) feet we have twenty-four foot five inches.

Mr. Manley: What was the height of the home that was there prior?

Mr. Lichwick: We don’t know it’s already been taken down.

Mr. Manley: What year was the home taken down?

Mr. Lichwick: This year.

Mr. Manley: And, what was the reason it was razed?

Mr. Lichwick: A…structural issues with the building that’s what we would call it.

Mr. Manley: This particular property (building) is larger than the one that was there, correct?

Mr. Lichwick: The new…

Mr. Manley: In height and footprint?

Mr. Lichwick: Yes, yes, it’s going be a…one thousand, one hundred forty-two square feet.

Mr. Manley: Seven variances is quite a bit for a…a request.

Mr. McKelvey: This is a spec house?

Mr. Lichwick: A pre-fab.

Mr. McKelvey: I said is this going to be a spec house?

Mr. Lichwick: No.

Mr. Manley: Mr. Canfield, is there any information that the Town might have to let us know what the height of the prior structure may have been?

Mr. Canfield: The survey submitted by the applicant’s representative indicates that it was a one-story house a…I do have recollection of the Demo Permit that was issued, it was a one-story house, overall height in the vicinity of fifteen to twenty feet.

Mr. Donovan: Do you have any idea how long ago the house was occupied?

Mr. Lichwick: I do not.

(Mr. Roth) Four years.

Mr. Lichwick: Four years.

Mr. Manley: Is the other premises going to be razed after this one is constructed?

Mr. Lichwick: No.

Mr. Manley: So you are going to be keeping two…

Mr. Lichwick: Two…two a…

Mr. Manley: …structures on one lot?

Mr. Lichwick: Correct.

Mr. Manley: Which is also not normal within the Town.

Mr. Lichwick: Yes, but previously it had two dwellings on the property prior to the zoning that changed to only allow a single dwelling on the lot.

Mr. Manley: But normally I believe it probably has lost its protection as far as being grandfathered because of the length of time. Would that be correct?

Mr. Lichwick: Well we’re looking to…to have it grandfathered to allow two dwellings on the property.

Mr. Donovan: Well I don’t know if you are asking for it to be grandfathered, you’re seeking a series of variances so…because you’re not…you’re not building…well I’ll need to ask this…are you building on the same exact footprint?

Mr. Lichwick: Most of the house would be sitting on the same footprint, the one side does come out a little bit past the existing but we’re bringing…we’re also bringing this back a…away from the lake so the corner on north…on the east south side this corner will remain on the existing footprint and the other…the old house was long and narrow. We’re actually moving it back and a little bit wider.

Mr. Manley: And then just the other…the other last question, are you aware of the…the Orange Lake has certain viewshed requirements pursuant to the zoning? And that has to do with height as well as encroachment into the Orange Lake area and that was specifically changed a number of years ago because that particular area is having a lot of redevelopment with respect to the cottages. These were all cottages and a lot of them have been razed and you know, you get these mc mansions that people are building on the lake and it just the property can’t support the size of the a…of the houses. The property to the front that is going to remain that is currently there is that one on sewer presently or is that on septic?

Mr. Lichwick: That I can’t…

(Mr. Roth) It’s on sewer.

Mr. Lichwick: It’s on sewer.

Mr. Scalzo: It appears from the site plan as well as from the survey you are decreasing the side yard from the former residence there approximately seven feet on the north property line?

Mr. Lichwick: Yes, on the north side of the…of the new (inaudible)…

Mr. Scalzo: Correct.

Mr. Lichwick: …yes.

Chairperson Cardone: Mr. Canfield, could you answer a question? I see that they are not asking for a use variance. Does that mean that it is grandfathered?

Mr. Canfield: It is in our opinion deemed as existing non-conforming as far as the use goes. There is no proposal to change the intent of the use. It will still remain the same. A…one of the variances that are requested in…in most of these cases are what’s increasing the degree of non-conformity which that’s what it’s here before this Board. But as far as the use goes it’s permitted its existing a…and they are just continuing the use.

Mr. Donovan: So Jerry let’s take a look at…if we can, 185-19-A-4 that says a non-conforming use…well let’s go non-conforming uses, can we agree or do we agree that two principal dwellings on one lot is not an allowed use?

Mr. Canfield: In today’s standards.

Mr. Donovan: So…

Mr. Canfield: Well, let me…let me correct that.

Mr. Donovan: All right.

Mr. Canfield: If an applicant were to come before the Building Department and propose to put two structures on a single lot it would constitute a site plan and send it before the planning board. Okay? Which is permitted providing there’s a site plan although that’s not the case here, this is an existing.

Mr. Donovan: I’m just taking a look at discontinuance which says under non-conforming uses…a non-conforming use shall not be reestablished if such use has been discontinued for any reason for a period of one year or more. And if we’re four years and I think you said four. Right? So it would seem to indicate to me that the use is to having two houses on one lot is no longer allowed.

Mr. Scalzo: I’m sorry Dave can you bring me back to the zoning…?

Mr. Donovan: 185-19-A-4. And I’m ready to be corrected Jerry if you think I’m wrong.

Mr. Maher: Dave you’re viewing as to the fact it was unoccupied for the four years correct?

Mr. Donovan: That’s correct. Yeah.

Ms. Gennarelli: Can you pull your mics in down there?

Mr. Scalzo: Do you have your sign today?

Ms. Gennarelli: No, I left it…

Mr. Canfield: If you look at 185-19-C…D, excuse me D and it talks about normal maintenance. And it says nothing in this chapter shall be deemed to prevent normal maintenance or repair of any building or carrying out, upon the issuance of a building permit, of major structural alteration or demolition in the interest of public safety. In granting such a permit the Building and Code Enforcement (Officer) shall state the reason or the precise reason why of the altercation (alteration) demolition… I would think that because they’re replacing the structure I wouldn’t think that it’s a non-compliance use.

Mr. Donovan: Yeah, I guess I’m focusing on the four year discontinuance of the use and I think that it means that it loses its non-conforming protection which would then put it in the use variance category. Because if it came in today, if it came in today Jerry would you and the zoning only allows one house on one lot would you look at two houses on one lot? I know you said planning board - site plan but would you look at that as an allowed use? Two houses on one lot? Or not allowed? Because only one house is allowed.

Mr. Canfield: I would send it for a site plan. As far as the use though I wouldn’t look at this as a new application though and that’s where I’m going with this.

Mr. Donovan: And I’m only looking at it that way because of the four year discontinuance of the…of the use…the abandonment of the house for four years.

Mr. Canfield: Has it been established definitely that the house has been uninhabited for four years?

Mr. Donovan: That’s what…that’s what was said by…

Mr. Canfield: Okay.

Audience Member speaking

Mr. Donovan: If you could do us a favor just identify yourself and use the microphone.

Ms. Gennarelli: Yes, please you have to go up to the microphone, thank you.

Mr. Roth: I’m Bob Roth and I’m…basically I’m the owner of Robon Realty and also Lakeview House and the property next door to it. And the bank had the house and it was rented and then it became un-rentable because of the structure. It was a…doors were open, the animals were getting in there…it was totally unsafe but it was still according to the bank rentable but they couldn’t find a renter that would, you know, be in the premises so…that’s why it was empty but it was still on the market to be rented before I bought it and that was through foreclosure at the Wells Fargo.

Mr. Manley: So then both properties were…the first property that’s still there…

Mr. Roth: That’s still rented.

Mr. Manley: …was also in foreclosure with that other property.

Mr. Roth: That’s correct it was combined together and it was rented then that’s the other house and then continued to be rented…so they both were rental properties.

Mr. Manley: And who had to tear the property down? Was it the bank that actually did that or…?

Mr. Roth: No, I did. I did.

Mr. Manley: Okay.

Mr. Roth: I did, you know having the restaurant next door to, it was an eyesore and it was a hazard to, you know, the customers that were there and it just had to go…it was too dangerous to rent.

Chairperson Cardone: Do we have any other questions from the Board…relative to any other issues?

Mr. Donovan: I…I’m prepared to be convinced otherwise but as I read the zoning the lapse in four years means that the non-conforming status protection has been lost and permitted uses in the R-1 are single family dwellings not to exceed one dwelling unit per lot. So to me that means it needs a use variance.

Mr. Canfield: Yeah, we didn’t look at entertaining 185-19…a…that’s the way Mr. Mattina reviewed it. It was pretty thorough and on the surface I would have to agree with him. If I may suggest to the Board if you could give Code Compliance some time to research this a little further and then get back to the Board a…a more adequate reason why we don’t think 185-19 applies? I know that’s a unique request, typically it’s the applicant that requests time but Dave does bring up a valid point and to be quite frank I’m not prepared to respond to that…

Mr. Donovan: And I’m sorry, I didn’t mean to put you on the spot.

Mr. Canfield: No, no that’s okay. You kind of took me off guard because we didn’t apply 185-19 at all. So if I may have some time to research that and come back to the Board with a response?

Chairperson Cardone: I would suggest that we keep the Hearing open but I don’t want a motion to that effect yet because there may people here from the public that may wish to speak to this application.

Mr. Manley: I just have one other question and that is if Mr. Canfield comes back next month and reports back that yeah, we seem to think that you know this may definitely fit in the form of a use variance it would have to be re-noticed then…?

Mr. Donovan: Right.

Mr. Manley: Because it’s a completely different variance.

Mr. Donovan: Right.

Mr. Manley: Would it be possible or would it be in the applicant’s best interest that they advertise for next month, either or? This way if it ends up being a use variance it doesn’t hold them up if they wish to move in that direction.

Mr. Donovan: I think the only…the advertisement is easy, I think the quantum of proof that is required for a use variance is very stringent and I don’t know if you want to put them through that…those paces now before there is a determination made.

Mr. Manley: Fair enough.

Mr. Levin: Jerry, is the a…factor that the house was not…when was the house burned down, how long ago?

Mr. Roth: I think June, July.

Mr. Levin: That it still existed, would that be a factor a…in it’s that the house was still in existence up to that period of time, nobody lived in it but…

Mr. Canfield: On the section of the Code that Dave is citing which is accurate in that opinion a…and it says occupied.

Mr. Levin: Occupied.

Mr. Canfield: It doesn’t say in existence so...

Mr. Levin: Okay.

Mr. Maher: June or July of this year or last year?

Mr. Roth: This year.

Mr. Donovan: What I’m hung up on Mike is the fact that it apparently it hasn’t been occupied for four years so it hasn’t been used as a single-family home that’s what I…

Mr. Maher: I understand that but I mean if in fact it was a rental, you couldn’t rent it but it was listed…

Chairperson Cardone: It seems to me you could look at it that way. You know I didn’t at first, I looked at it as a use variance but then I guess you could make an argument for that.

Mr. Maher: I mean…if…I mean you look literally, I guess if you had any…any structure you couldn’t rent it for a year, two or three years and it was unoccupied you technically could lose its grandfather in that method…

Mr. Donovan: Let me just, the last sentence in paragraph, sub paragraph 4, it says intent to resume a non-conforming use shall not confer the right to do so. So we’d have to wrestle with that a little bit. There are other Codes that say intent to resume but not resuming raises a rebuttable presumption which would…which means no listen they came back and said, hey listen we tried to rent it for four years and we did…here’s our proof, here’s the ads, here’s the sign, here’s this and we couldn’t well then the Board would have the ability to say well it…it’s not been abandoned. It’s still a permitted, pre-existing non-conforming use. We don’t have that language here so we’d have to kind of wrestle with that sentence, intent to resume shall not confer the right to do so but it doesn’t confer the right but does that mean it doesn’t give us the ability to say, hey listen they put their proof in front of us? I think you’d want to see some proof that says, you know this is what we did for the period of time and couldn’t rent it. I mean, you didn’t own it the so we probably have to get something from the bank a…

Mr. Roth: Well the other property was rented and prior to the a...inhabitants that moved out they did try to rent it because it was still owned by the existing owner and then the a…the bank took it over and you know so the existing owner could no longer rent it and that’s pretty much what happened. But it was up for rent and the other one, the two were rentals, we didn’t own it at the time but they were rentals and there were people occupying it.

Chairperson Cardone: Do we have anyone from the public that wishes to speak to this application? Yes, please step to the microphone and just for the record identify yourself.

Mr. Langer: I’m Greg Langer I’m on the board of directors of the Orange Lake Homeowner’s Association formerly the Orange Lake Civic Association and I just have a letter that I’d like to read.

Chairperson Cardone: Yes.

Mr. Langer: This letter was written by our president Alfie Bochmuel

Dear Chairperson Cardone…congratulations by the way.

Chairperson Cardone: Thank you.

Mr. Langer: …and Board Members:

I’m writing you in regards to the above referenced application appearing before your board on Thursday, September 24. I’ve met with the applicant to better understand the nature of the requested variances and I’ve also reviewed the submitted site plans and architectural renderings. This information was shared with the Orange Lake Homeowner’s Association Board of Directors at a recent meeting and consensus of our board was that the requested variances should be granted. The construction of the proposed single family residence will be a nice architectural addition to the lakefront and although non-conforming the impact to the adjacent properties will be minimal if at all. Thank you for considering this recommendation during your review.

Chairperson Cardone: Thank you. Okay, yes I believe there’s a lady in the back that would like to speak. You could just take that off or pull the microphone down, whichever you’d like.

Ms. Daigel: My name is Lyn Daigel and I’m next door neighbor to a…what their property that we’re talking about. My question is if the property was in foreclose and therefore the bank had it tied up should the person who purchased it then be penalized…for that time frame, that four year timeframe?

Chairperson Cardone: That would be a legal question.

Mr. Donovan: I’ll…the last thing I’m trying to do is penalize anybody.

Mr. Daigel: Well…

Mr. Donovan: I just want to make sure that the Board goes in the right direction because this could happen someplace else in some other place in Town and so whatever we do does establish a precedent.

Ms. Daigel: I see.

Mr. Donovan: I just want to…I just want to…not looking to make anyone’s life miserable believe me. I just want to make sure we do it the right way.

Ms. Daigel: Right, no and I appreciate that. I just think that it seems interesting that he couldn’t do anything with the property; nobody could do anything with it. The bank had it and it was tied up so a…you know it would be nice to see it improved finally and improve our neighborhood. Thank you.

Chairperson Cardone: Okay, thank you. Yes, the gentleman over there.

Mr. Toporowski: Chairperson Cardone, congratulations by the way, my name is John Toporowski and I’m a homeowner on 318 Lakeside Road and I have a vested interest in the property that is under consideration because I have lake rights and my question would be…I haven’t seen the architectural renderings, I understand they are seven feet to the north, closer to the Lakeview House. Is there going to be any impediment to my lake rights?

Mr. Roth: No.

Mr. Toporowski: To use my lake rights?

Mr. Roth: No.

Mr. Toporowski: No problem at all?

Mr. Roth: Not any at all.

Mr. Toporowski: Okay, the only question I had.

Chairperson Cardone: Thank you. Did we have anyone else from the public that wished to speak?

No response.

Chairperson Cardone: Do we have any further questions from the Board? Mr. Canfield?

Mr. Canfield: I do have a few questions with respect to…there are several encroachments on the property line a…I’m not certain legally what we can do about that but I think it’s worthy of discussion with the applicant’s representative of how we propose to address those issues. The encroachments I’m referring to is one is the propane tank; it looks like it’s over the line. Further to the east would be a one-story building that is somewhat over the line and then on the other side which actually would be to the south there’s…there is a plastic fence that’s over the line. So I just think at this time though it should be addressed and how we propose to handle those.

Mr. Scalzo: Dave, would something like this be considered under a license agreement rather than have to go through the…?

Mr. Donovan: Well I think you know the…the thing that we need to kind of figure out how we want to handle is…it’s not, as I understand it, it’s the neighbor encroaching on us not…not vice versa so I don’t know whether in the context of this variance there is anything we can do about it. Did you have anything in mind Jerry? Because I don’t know…I mean it’s an issue…

Mr. Canfield: Yeah.

Mr. Donovan: …but it doesn’t necessarily present itself in the context of this variance application.

Mr. Canfield: I think in the past a…to be consistent is we’ve discussed it, brought it out in the open, it’s aware…it’s made aware of, it’s in the minutes and a…again it becomes a civil issue between property owner’s. Up to the north if what I’m hearing it’s the same property owner owns that property potentially are no issues there a…but again by making mention of it at least it gives the public a true picture of what is actually there and gives them the opportunity to comment. I don’t know if there’s any folks in the audience that owns this property a…to the south where that fence is over there but I believe that it’s just worthy of making note of it and at least getting it in the minutes that it does exist.

Mr. Roth Inaudible

Chairperson Cardone: Take the microphone please it is being recorded.

Mr. Roth: They’re actually not encroaching on the other side… the south side actually her property line is basically over onto our property line…

Mr. Maher: Right, that’s…

Mr. Donovan: Right.

Mr. Maher: …what Jerry is identifying I believe.

Mr. Roth: Yeah, and the north side is the Lakeview House which I mostly own, you know, so we’re only encroaching on the lake side not on the south side.

Chairperson Cardone: Jerry, were you referring to the neighbor encroaching on their property?

Mr. Canfield: Yes.

Chairperson Cardone: Is that what you’re referring to?

Mr. Canfield: Yes, in the past we’ve always identified encroachments...

Chairperson Cardone: Right.

Mr. Canfield: …if for nothing else but conversation and it’s in the minutes…

Chairperson Cardone: Right.

Mr. Canfield: …that it exists and the Board acknowledges that it existed and also should the public be present give them an opportunity to discuss it.

Mr. Donovan: If I could just say relative to your application for a…an area variance I think and I can’t…I don’t want to speak for the Board but I think to the extent that you can develop some evidence or proof to the Board that there has been a continuous intent to…notwithstanding what’s in the Code…but a continuous intent to rent this building to no avail that the Board may be able to rely upon that to keep this in the area variance category because the use variance is a very different…difficult standard to satisfy so the extent that you can develop proof that would be helpful to your case.

Chairperson Cardone: And you wouldn’t have to do that tonight if we hold it open you would have until next month.

Mr. Roth: There’s no way I can gain proof of that because it was between two banks that were arguing and they have total control of the property and there’s no way I can, you know, obtain from either one of the banks…

Mr. Donovan: They didn’t have them listed with a broker or anything like that?

Mr. Roth: They had it listed with a broker for a while but then…then the a…the foreclosure went into effect because the primary and secondary, the title company had switched them so it was a fight between the two banks and neither one of them would give and eventually one of the banks, which was Key Bank made the decision to drop their case. And then it went to Wells Fargo and then they took quite a long time…

Mr. Donovan: Can you put any type of chronology together about what happened over a period of time? This could be helpful to you because…

Mr. Roth: I know, I know but I, you know I know I’ve been working on this for five years. I made the original offer, I signed a contract, I gave a deposit, it was accepted and we were going forward foreclosing and then the banks had their issue between the primary and secondary and that’s what delayed everything otherwise this would have been a done deal you know five years ago.

Chairperson Cardone: Can you put dates to that though?

Mr. Roth: Yes, my lawyer Joe Rones from Finkelstein has all the dates and the deposits that we made and the broker that we were dealing with and we were set to close at any time and I provided financial information that we could close and it just was delayed and delayed and delayed, it was strictly a bank to bank thing.

Chairperson Cardone: Right.

Mr. Roth: But I did have the okay from the original owner that he accepted my offer you know, so…

Mr. Scalzo: Was the dwelling rented when you…

Mr. Roth: Yes.

Mr. Scalzo: …went to contract five years ago?

Mr. Roth: Yes, it was rented, both units were rented and that’s what I was going to continue with that and like I said it took five years that I worked on it to this point where we could buy it and again I own the restaurant next door and it was quite an eyesore. I wish we had pictures to show you and you know it was bad for our business, bad for the community and bad for the lake.

Chairperson Cardone: If you could, by next month, get all of that together and do a chronology…

Mr. Roth: I could have Joe Rones do that tomorrow.

Chairperson Cardone: Okay.

Mr. Roth: He’s got all the details…

Chairperson Cardone: Right.

Mr. Roth: …and he was the one that a…

Mr. Donovan: You can get Joe to move that fast?

Mr. Roth: He’s a good friend of mine. I think he will but he…if the Board wants you know I could have Joe contact whoever you want and he can provide you with all that information, the date that we put the deposit down, the date of the contract and you know, what transpired during that whole period of time. Again, we worked on this for five years.

Chairperson Cardone: Right.

Mr. Roth: But Joe definitely can give you…

Chairperson Cardone: Okay, thank you. Do I have a motion to hold the Public Hearing open until next month?

Mr. Scalzo: I’ll make that motion.

Mr. Maher: 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: Now if there is anyone interested in that application you will not be re-noticed. Your notice is taking place right now and next month’s meeting will be October…

Ms. Gennarelli: October 22.

Chairperson Cardone: October 22 at 7:00…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

 GERALD CANFIELD, CODE COMPLIANCE

 (Time Noted – 7:28 PM)

ZBA MEETING – SEPTEMBER 24, 2015 (Time Noted – 7:38 PM)

WESTPORT MANAGEMENT, LLC. 643 GARDNERTOWN ROAD, NBGH

 (47-1-70) R-1 ZONE

Applicant is seeking an area variance for a front yard setback on Lot #1 for an existing single family dwelling for a proposed four-lot subdivision.

Chairperson Cardone: Our next applicant Westport Management, LLC.

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

Mr. Peters: Good evening Members of the Board my name is Zachery Peters from Mercurio, Norton, Tarolli, Marshall representing the applicant. The project site is approximately a ten acre parcel located on Gardnertown Road; it also has some frontage on Route 52. The site is located in the R-1 zoning district which has a front yard setback of fifty feet required. There is an existing single-family dwelling on the site currently. The dwelling is located close to Gardnertown Road and has a two foot setback, a two foot front yard setback. We’re currently working with the planning board, the Town Board and their consultants to develop a subdivision at the project site. The lot configuration you see on my board might be slightly different a…over here based on some comments we had from those consultants regarding the driveways but that does not have any effect on the variance. As a result of the subdivision the existing dwelling is going to lose a…lose its classification (protection) as a pre-existing, non-conforming structure which would be the reason we’re here requesting the variance.

Chairperson Cardone: I believe that we have an issue with the address. Are you aware of that?

Mr. Peters: Of the property?

Chairperson Cardone: Right.

Mr. Peters: I was not aware of that. The address I believe is 643 Gardnertown Road.

Mr. Donovan: Who wants to run through this? Jerry, do you want to? Okay.

Mr. Canfield: I’ll stand up and take my lickens. The applicant’s representative had no way of knowing the address for the property has not been advertised correctly through no fault of anyone in this room. It has been determined that the correct address for the property is 640 Gardnertown Road with the correct section, block and lot of 47-1-72.1 (47-1-70). How this came about was probably in nineties when the 911 addresses had changed and part of the requirement for that addressing task was to affix section, block and lots and marry them up with property addresses for reasons other than just the 911 reporting. For many years this deficiency had existed and because there was not activity or change in any of the parcels it was never noted or noticed. The tax bills were as depicted on tonight’s agenda which was incorrect for many years. Even the County rolls, the RPS system which a lot of people bring their data, that’s where they collect their data from when making these applications it all coincided with what’s on the agenda. However the fact of the matter is and Betty discovered it was that it’s the incorrect address. The address of this parcel is 640 Gardnertown Road with the correct section, block and lot of 47-1-72.1…

Ms. Gennarelli: Jerry, I think this is 70.

Mr. Canfield: I’m sorry, 643 is that.

Ms. Gennarelli: Yes.

Mr. Canfield: This 47-1-70, right. So it’s the address that’s off and it is 640. The issue is that it was noticed as such.

Mr. Donovan: So if I live in the neighborhood and I wanted to know where this application is would I think…would I think that it’s 640. Would I think this property is 643…if I looked at any public information and saw 643 would I drive to this address?

Chairperson Cardone: If you drove to that address you would see that the sign posted is on the right property…the sign is on the right property. I drove there I know.

Mr. Canfield: It’s just the way it was published and noticed.

Mr. Donovan: What I’m…the idea behind a Public Notice is that so a person in the public knows where to go to see where the application is. So I’m kind of trying to figure out if we did it correctly at 640 would they have known it to go for this property? Because if they looked at the public records it’s 643. I mean it’s wrong.

Mr. Canfield: If you’re from the area and you know the neighborhood and of course, if you know the 911 system, the addressing system odd is on one side of the road, even numbers are on the other. 640 for this property to be on the right from the origination point is consistent with what’s there, 643 across the street. So your question is, it’s advertised as 643 and I wanted to go to 643 and look at this property no you wouldn’t see this property. If you went to 643 it’s across the street.

Mr. Peters: This property does have frontage on both sides of Gardnertown.

Mr. McKelvey: Across, yes.

Chairperson Cardone: And Savannah.

Mr. Peters: So Savannah Lane is here, Gardnertown Road is here, the property actually…Gardnertown Road goes through the center of the property so we had…there were notices posted on both sides of Gardnertown Road as well as Savannah Lane and there’s one on 52 as well. I don’t know if that…

Mr. Donovan: So the issue is would someone be misled? Would a member of the public be misled by this address snafu? If a member of the public would have been misled to say I’m not going to come tonight because this doesn’t interest me but if it was a different address it would then we have a problem. If it’s just a…an error to the extent that it’s not going to mislead anyone in the public then we’re okay.

Mr. Maher: Jerry, if you get to the size of the property does the property not encompass 640 and 643?

Chairperson Cardone: No.

Mr. Canfield: No, no, not to be confused Mike that this property there is a match line, if you look. This property tonight goes both sides of Gardnertown Road.

Mr. Maher: Right, that’s what I’m saying so in essence would it actually incorporate both numbers in that on that parcel?

Mr. Canfield: No.

Chairperson Cardone: No, there is a house there that is 643.

Mr. Maher: Okay, I just want clarify it so…

Mr. Canfield: It’s across the street.

Mr. Maher: …if in fact there’s two different complete addresses is what I’m trying to say.

Mr. Canfield: Right. For…for noticing requirements if you were to take the property in question and draw your circle and that’s all that gets noticed inside that circle the distance between 643 and 640 from the corner of this property is minimal, it’s like a hundred feet. It’s across the street so how many people potentially could you have missed on the noticing. I guess that’s the way to look at it too and that would be nil.

Mr. Donovan: The other way is a question for Mr. Peters because if the Board makes a determination that a reasonable would know where this application is and goes forward and it’s challenged as an improper notice that becomes an issue for this client.

Mr. Peters: I guess our stance on that would be we were following what’s on the tax roll’s available information which had it listed as 643 and though obviously now that’s not the case a…

Mr. Donovan: Well through no fault of you it’s wrong so…the safer course of action is to do this over.

Chairperson Cardone: I would agree with that that just to…I would agree with listening to what you have to say this evening, hearing from anyone that wants to speak but then holding it open, holding the hearing open and re-noticing in the newspapers.

Mr. Peters: Okay, would we have to do the mailing notices as well?

Mr. Donovan: Correct, yeah.

Mr. Peters: And there’s enough time to do that…without a problem?

Mr. Donovan: For next month?

Chairperson Cardone: Yes, for next month, sure.

Mr. Peters: Well I mean it’s not preferred obviously but I think would I guess agree with that. It’s probably a wiser course.

Mr. Donovan: Well if there is a challenge in the future…

Mr. Peters: Yeah.

Mr. Donovan: …you’re going to lose a lot more time and your client will lose a lot of time and money so that’s just a…

Mr. Peters: Yeah, I guess I would agree with that…with moving forward on that.

Chairperson Cardone: Not yet.

Mr. Donovan: Grace is doing this on purpose because she won’t be here next month.

Mr. Scalzo: She is loading us up for next month.

Chairperson Cardone: I had this all planned…

Mr. Scalzo: I’ll make a motion we…

Chairperson Cardone: Well first I would like to see if anybody from the public would like to…

Mr. Scalzo: My apologies.

Chairperson Cardone: Okay, anyone from the public that would like to address this application?

No Response.

Chairperson Cardone: Okay.

Mr. Scalzo: I make a motion we keep the Public Hearing open.

Mr. McKelvey: 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. Peters: Thank you.

Chairperson Cardone: Okay and once again if anyone is interested in this application you will…well you will be re-noticed.

Ms. Gennarelli: Zach, do you want to email me or you can call me tomorrow? Thanks.

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

 GERALD CANFIELD, CODE COMPLIANCE

 (Time Noted – 7:50 PM)

ZBA MEETING – SEPTEMBER 24, 2015 (Time Noted – 7:55 PM)

RUDY WOOD & SHARON KENNEDY 34 DOGWOOD HILLS ROAD, NBGH

 (78-3-17) R-1 ZONE

Applicant is seeking an area variance an accessory building shall not project closer to the fronting street than the front of the main building to build an accessory structure (two-car detached garage 24 x 26).

Chairperson Cardone: Our next applicant Rudy Wood and Sharon Kennedy

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

Mr. Wood: Good evening my name is Rudy Wood I’m here tonight to request a variance to put up a detached garage at 34 Dogwood Hills Road. Sharon is not with us tonight she is attending an open house at school. She is a school teacher in the district.

Mr. Manley: Did you consider at all with the garage actually doing an attached garage to the present…?

Mr. Wood: Well because of the topography of the lot it’s not ideal for me. There is a two car garage in the existing house. It’s a raised ranch and you pull in and you get into your house that way, you know, it’s flush with all the other exterior walls. I just feel like I…more requirements are for more storage space.

Chairperson Cardone: And I do notice that it would be very difficult for you to put it back any further because of the…

Mr. Wood: There’s a very nice retaining wall there…

Chairperson Cardone: Right. Yes, right.

Mr. Wood: …and I don’t want to destroy it.

Chairperson Cardone: Right.

Mr. Wood: And a…you know, the width is a standard twenty-four foot two-car garage and that puts me I think seven feet, from memory, in front of my house and that was the issue. It was closer to the road than my house the face of my house was.

Chairperson Cardone: Right.

Mr. Levin: Are you using the garage in your house?

Mr. Wood: I certainly do, yes.

Mr. Levin: And you intend to continue using that?

Mr. Wood: Yes. Yeah, I have two regular cars that I drive daily and myself and my partner and I have an antique car that I would like to keep in this new garage and tools and things, you know, garages just get full of stuff you need more room.

Chairperson Cardone: Do we have anyone from the public that would like to address this application?

No response.

Chairperson Cardone: You said that it would be seven feet from the front were you including the porch on your house when you said that? Because it didn’t look like it from the drawing.

Mr. Wood: I was told from the a…Building Inspector that the porch isn’t part of the house it…it’s the living wall, the straight up wall…

Chairperson Cardone: Right.

Mr. Wood: …so that overhang of the porch if it’s five feet or whatever it is doesn’t count…

Chairperson Cardone: Right.

Mr. Wood: …so, yeah.

Chairperson Cardone: Because looking at it when I went to look at it didn’t look it would be that much in front of the house.

Mr. Wood: It’s not that big a deal really difference but that’s the…that’s the Code…

Chairperson Cardone: Right.

Mr. Wood: …so that’s why I’m here.

Mr. Manley: But I think it may have the appearance that it is even with the house, with the porch and the overhang…

Chairperson Cardone: Right.

Mr. Manley: …I don’t think it will be that noticeable.

Mr. Wood: Right and it’s really the only suitable spot on that lot to put it.

Chairperson Cardone: Right. Okay, any other questions from the Board?

No response.

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

Mr. Levin: I’ll second it.

Mr. Wood: 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 - 7:55 PM)

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ZBA MEETING – SEPTEMBER 24, 2015 (Resumption for decision: 9:34 PM)

RUDY WOOD & SHARON KENNEDY 34 DOGWOOD HILLS ROAD, NBGH

 (78-3-17) R-1 ZONE

Applicant is seeking an area variance an accessory building shall not project closer to the fronting street than the front of the main building to build an accessory structure (two-car detached garage 24 x 26).

Chairperson Cardone: On the application of Rudy Wood and Sharon Kennedy, 34 Dogwood Hills Road, seeking an area variance an accessory building shall not project closer to the fronting street than the front of the main building to build a two-car garage. This is a Type II Action under SEQR. Do we have discussion on this application?

Mr. McKelvey: I think with the wall and the hill in the back they don’t have any choice.

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

Mr. McKelvey: 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

 GERALD CANFIELD, CODE COMPLIANCE

 (Time Noted – 9:35 PM)

ZBA MEETING – SEPTEMBER 24, 2015 (Time Noted – 7:57 PM)

MARK & CHRISTY PULEO 1 MAJESTIC COURT, NBGH

 (102-1-27) R-2 ZONE

Applicant is seeking an area variance for the rear yard setback to build a rear deck (6x10) on the residence.

Chairperson Cardone: Our next applicant Mark and Christy Puleo.

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

Chairperson Cardone: Just identify yourself for the record.

Ms. Puleo: I’m Christy Puleo.

Mr. Puleo: And I’m Mark Puleo.

Chairperson Cardone: And just state your request.

Ms. Puleo: Okay, our request is for an area variance for a rear yard setback to build a rear deck that would be six by ten.

Chairperson Cardone: And that’s so that you can get out that sliding glass…

Ms. Puleo: Correct, correct. Yeah, it’ll be attached to the house and you know, the reason for the area variance is obviously is a pre-existing non-conforming plot and the other reason for our request and our reason for doing it is we have a special needs child that needs, you know, a suitable usage of his own home and he can’t negotiate steps very well so the deck coming off the back of the house will just be an easier transition for him into his backyard than negotiating steps right out of the sliding glass door.

Mr. McKelvey: It would be pretty hard to get out of there right now.

Ms. Puleo: Correct.

Chairperson Cardone: Any questions from the Board?

No response.

Chairperson Cardone: Any questions or comments from the public?

No response.

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

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

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: Thank you.

 (Time Noted - 7:57 PM)

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ZBA MEETING – SEPTEMBER 24, 2015 (Resumption for decision: 9:35 PM)

MARK & CHRISTY PULEO 1 MAJESTIC COURT, NBGH

 (102-1-27) R-2 ZONE

Applicant is seeking an area variance for the rear yard setback to build a rear deck (6x10) on the residence.

Chairperson Cardone: On the application of Mark and Christy Puleo, 1 Majestic Court, seeking an area variance for the rear yard setback to build a rear deck on the residence. This is a Type II Action under SEQR. Do we have discussion on this application?

Mr. McKelvey: That porch is needed so they can get out of the back of the house.

Mr. Manley: The variance is definitely not excessive at all and it seems to conform to the other residences within the area. 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

 GERALD CANFIELD, CODE COMPLIANCE

 (Time Noted – 9:36 PM)

ZBA MEETING – SEPTEMBER 24, 2015 (Time Noted – 7:57 PM)

LAWRENCE LUBKERT 13 WINDWOOD DRIVE, NBGH

 (90-6-14) R-1 ZONE

Applicant is seeking area variances for the minimum rear yard setback, the maximum lot building coverage, the maximum lot surface coverage and increasing the degree of non-conformity of one side yard setback and the combined side yards setback to build a rear addition (20’6” x 42’6” ) with a covered front patio (10 x 26) on the residence.

Chairperson Cardone: Our next applicant Lawrence Lubkert.

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

Mr. Lubkert: Larry Lubkert, good evening, I’m requesting a…a number of actually different variances due to an addition off the back of my home for a family room. And if I may, before I start I wanted to actually thank the Board for two years ago approving a variance that I did. My wife and I put on a bedroom, bathroom and a closet which came out fantastic and I have pictures to show the before and after if I present that to the Board?

Chairperson Cardone: Okay.

Mr. Lubkert approached the Board

Chairperson Cardone: Thank you.

Mr. Lubkert: That was much needed space that we truly love. A…to be honest with you I was not planning on doing this addition anytime soon a…I always had visions of doing something like this however this past winter we had an enclosed porch a…with the snow and the ice that we got last winter there’s not much pitch on my back porch and we got considerable water damage a…to the structure was actually starting to cave in and I had to a…reinforce that to keep that from coming in. A…contacted our insurance company we got money to rebuild so now we would like to actually make it a full family room a…we would be extending that porch size. The original size was a twelve by twenty. Originally that room I wanted to be a twenty by twenty-six a…I had to make a change just this past week. When my engineer came over he saw that the end of the line where the addition was coming from the a…that last beam was actually running smack dab in the middle of where I have a large cast iron pipe which is an exhaust pipe for my furnace and I would wish not to disturb that. There’s no problems with it, it’s been there for fifty some odd years and so I’d rather leave that be and he recommended we bump it out two more feet so that we could that within a…the new roofline put a flange on that and make that real tight. I would like to also just a…clarify something also because I know there’s a number of variances, area, percentage, all the stuff. The a…it is almost like two rooms that we’re putting on without a wall separating between the two so it will act as one large room a…which is a twenty-eight and a half by twenty and a half and a fourteen and a half by sixteen. Including into the variances is a patio that I’m doing off of the back which is a twenty-four by ten patio a…I am extending the roofline to make it a covered patio so I’m extending the gable end. It’s a gable end to the A-framed building and I’m extending that over so I can have that covered but I have not intentions of ever turning that into another three-seasons room, I just want it to be a covered patio. So that’s basically two hundred and forty square foot of unlivable space that’s included in this variance. Also the living space where the building will actually come off of my…it’s going to be twenty feet out, the depth of it and that actually is within that back space variance. I think it’s forty feet I have to be off my property line. The…it’s actually forty-one point two feet off the property line, it’s actually that ten feet of patio that puts me in a violation of that. And the percentages of course are considerable, as twenty-two point seven percent of the overall square footage that is being asked for in the variance.

Chairperson Cardone: Do we have questions from the Board?

Mr. McKelvey: The…the addition…the addition that you’re putting on the back is actually bigger than the original size of the house.

Mr. Lubkert: It’s actually it’s…the one room is five hundred and eighty-four square feet which is twenty-eight by five…twenty-eight point five time twenty point five. The side room that is going to be connected to this is a fourteen and a half by sixteen that’s two hundred and thirty-two square feet and mind you, this is actually the footprint, not the actual square footage and that comes to eight hundred and sixteen square feet a…the actual inside square footage is seven hundred and seventy-seven square feet. The original home was ten forty. It is a considerable size room, yes. A…but I know we love living in the Park. It’s really a…a fantastic place to live. My wife wants nothing more than to take the reins of doing Thanksgiving dinners, Christmas dinners a…her mother is getting old and a…our…both of our families are in considerable size. A…as the house stands now and the living space where we have our living room, dining room, kitchen after about seven or eight people in there we’re…we’re pretty much at max capacity. So that a…to stay where we are in our location a…it would make us very happy to stay in the Park.

Mr. Manley: Can you…can you maybe share with the Boar how many homes within Colden Park are the size that this house would be? So if you have to…there’s what about a hundred and fifty homes maybe in the…?

Mr. Lubkert: There’s two hundred a…

Mr. McKelvey: Two hundred two.

Mr. Lubkert: …and two I think homes…twenty…?

Mr. McKelvey: Two hundred and two.

Mr. Lubkert: Yeah, two hundred and two homes.

Mr. Manley: And out of the two hundred and two homes are approximately this size?

Mr. Lubkert: I don’t know the square footage of every home. I can tell you there are a number of homes that are very close if not over the size of that house a…just to the left of me that is…that’s a…I think 9 Westwood they have a considerable addition that goes off the left hand side of the house and continues into the back. I know a…then there’s a couple of houses down a…Mr. Presutti he has a full addition that goes the entire length of his back of his house and goes back considerable. John Hussy down the street he’s got a…eighteen by twenty some a…living room off the back of his house. A…I know up on…going up Westwood on the left hand side, I don’t know what number it is large white house that’s considerably larger than hours. A…Linden Drive there’s another house that did almost like a double story thing with…off the back. There’s actually a double story house in the back, a house that once burned a…there’s a number of split ranches that have extra additions off to the side and the back…a…there’s quite a…quite a bit of homes I…I would venture to say at least a couple of dozen homes. It’s not something that’s uncommon.

Mr. Maher: So directly behind your house what’s behind your house?

Mr. Lubkert: Woods.

Mr. Maher: No other residence back there?

Mr. Lubkert: There are no residents back there, correct.

Mr. McKelvey: Did you have to mail to the property owners of that property behind you?

Mr. Lubkert: I did, I actually a…talked the a…owners of that property. I a…am happy to be the president of the Homeowner’s Association for Colden Park, we’re in contact with that property owner. We’re in contact with the…with that property owner a…I know he’s venturing to one day develop that property a…so I was in conversation with that and also letting him know what I was going to do.

Chairperson Cardone: Jim, you had mentioned other houses that are that size but you have to look at the size of the house and relate it to the size of the lot a…

Mr. Lubkert: Actually the size of that…

Chairperson Cardone: …and I think that…

Mr. Lubkert: I’m sorry.

Chairperson Cardone: …the…the issue here seems to be the building coverage which is a…ninety point five five (ninety-two point one five) percentage over.

Mr. Lubkert: Correct. If I may also maam?

Chairperson Cardone: Okay.

Mr. Lubkert: A…and that’s another thing which at…at glance that seems like a very large number and…

Chairperson Cardone: Right.

Mr. Lubkert: …and it seems like I have this property with a house just as big as the property. The a…property size is a hundred and twenty-five feet by a hundred and five feet so that’s thirteen thousand, one hundred and twenty-five square feet. The house at the end of day, the…the…the…footing…the foot plan of the whole house would be two thousand four hundred and thirty-two square feet of the outside perimeter a…that accounts for eighteen point five percent of the lot. So yes, with the variance we are asking for ninety-two percent (ninety-two point one five) a…but it’s ninety-two percent of…I believe with the percentage of what my lot is at the end of the day you’re only really allowed about thirteen hundred square feet of home on that lot. So that’s where the ninety-two percent (ninety-two point one five) comes in. I’d be considerably less than a quarter of that lot size for the whole.

Mr. Manley: I think the concern they have when you start to get a large lot coverage is runoff with respect to rainwater and if everybody in the neighborhood had huge houses it would just inundate with flooding conditions so that…that becomes an issue to that…that’s why you have the limitation on…on size…lot size compared to the…the residence.

Mr. Lubkert: I can tell you from being there for the next…the last few years the only time we ever had a serious problem with flooding was when we had the hurricane a…since then we put in a…a full drainage system with a sump pump through a drywell a…throughout the existing foundation a…it is a low water table that we have in Colden Park in that entire area. A…more of the issue is actually water…ground water coming up rather than off of anywheres a…like I said the…the house size, I mean, it…it…it’s a…it’s a good home size that we would have at the end of the day. It’s no by…it’s no means the largest home in Colden Park a…

Mr. Levin: Is there a sewer in that area?

Mr. McKelvey: Yes.

Mr. Lubkert: Yes, we have Town sewer.

Chairperson Cardone: Yes.

Mr. Lubkert: Correct. Town water, Town sewer.

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 I have a motion to close the Public Hearing?

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

Chairperson Cardone: Do we have a second?

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

 (Time Noted - 8:10 PM)

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ZBA MEETING – SEPTEMBER 24, 2015 (Resumption for decision: 9:36 PM)

LAWRENCE LUBKERT 13 WINDWOOD DRIVE, NBGH

 (90-6-14) R-1 ZONE

Applicant is seeking area variances for the minimum rear yard setback, the maximum lot building coverage, the maximum lot surface coverage and increasing the degree of non-conformity of one side yard setback and the combined side yards setback to build a rear addition (20’6” x 42’6” ) with a covered front patio (10 x 26) on the residence.

Chairperson Cardone: On the application of Lawrence Lubkert at 13 Windwood Drive seeking area variances for the minimum rear yard setback, the maximum lot building coverage, the maximum lot surface coverage and increasing the degree of non-conformity of one side yard setback and the combined side yards setback to build a rear addition with a covered front patio on the residence. This is a Type II Action under SEQR. Do we have discussion on this application?

Mr. Manley: My feeling is it’s a little excessive and the applicant stated that there’s tons of homes in the development that are that size and I don’t…I don’t necessarily agree with the statement. I mean there wasn’t any photos or proof shown that there’s anything consistent with that. I have concerns with the extent.

Chairperson Cardone: Okay. Do we have a motion for approval on this application?

No response.

Chairperson Cardone: Do we have a motion for disapproval on this application?

No response.

Chairperson Cardone: I need some type of a motion.

Mr. Donovan: I was once at a meeting where a Board Member said I make a motion to make a motion.

Mr. Manley: I’ll make a motion for disapproval.

Mr. Levin: If that’s not seconded I will make a motion for approval.

Chairperson Cardone: Okay now I have a motion for approval is there a second?

No response.

Mr. Maher: There’s area for some further discussion. Are the homeowners still here?

Chairperson Cardone: No, they left.

Mr. Scalzo: They left and I think they…

Mr. Donovan: I think they thought they got the variance. I mean they were awful happy.

Chairperson Cardone: Would you like to Reserve Decision on this application?

Mr. Scalzo: Actually I would, I would like to make a motion to Reserve Decision. I would just like them back.

Mr. Donovan: Alright, we got three…three motions…

Mr. Scalzo: Three motions right now going on.

Mr. Donovan: Yeah.

Chairperson Cardone: Right. Well we see if we can get a second to one of them.

Mr. Maher: Second to Reserve Decision.

Chairperson Cardone: Okay, that’s good.

Ms. Gennarelli: Okay.

Mr. Maher: Discussion?

Chairperson Cardone: Discussion?

Mr. Maher: To see if there’s an alternative to reduce some of the coverage obviously…

Mr. McKelvey: It’s big.

Mr. Maher: …to reduce some of the a…I…I…in my opinion your argument as far as the coverage how the a…property, in essence really the surface coverage is only nineteen percent over. A…while the building coverage is definitely is excessive I think the…the fact that the covered porch incorporates roughly twenty-two percent of that overage a…I think there’s…there’s some give and take on that that may obviously help out a little bit. The coverage it would reduce the coverage. It would reduce the overage on the surface coverage a…well I think that that… Jerry, would that…taking the roof off of the rear patio would that reduce the surface coverage?

Mr. Manley: No.

Mr. Canfield: No.

Chairperson Cardone: No.

Mr. Maher: You still have the patio there.

Mr. Canfield: Still would uncovered.

Mr. Maher: But again you would…you wouldn’t be able to a…reduce the building coverage which is obviously the largest variance requested and that would also eliminate the rear yard setback completely, correct?

Mr. Canfield: Possibly.

Mr. Maher: Because you would get forty-one foot versus forty foot so that eliminate that if in fact the…that rear patio cover was removed from the application that would reduce the building coverage to a… roughly seventy percent, remove the rear yard setback completely and obviously the non-conforming would be increasing the degree.

Mr. Manley: And this is all a great conversation but probably should have been conversation that we probably as a Board should have had with the applicant here.

Mr. Scalzo: Well that’s and that’s why I asked…pardon me, that’s why I asked for a Reserved Decision. If they were here we could have had that.

Mr. Manley: Right, see with the Reserved Decision they necessarily may not be here next month unless somebody calls them to tell them to be here next month because we didn’t leave it open so they were…when they left they probably assumed that we were going to vote on it tonight or that we already voted on it. I have no problem with the Reserved Decision I just think that, you know, this just goes to inconveniencing the applicant to have to come back again. If they had been here and as a Board we would have said hey, you know, this is a little bit too big…that’s why input is so important so that they applicants can hear that and maybe have the opportunity to say well, I can get rid of this or I can take this off. That’s all, I just…

Mr. McKelvey: Yeah but they shouldn’t assume something. Can we have Betty notify?

Chairperson Cardone: Well right now we have a motion and a second to Reserve Decision.

Ms. Gennarelli: Okay, shall I take a vote?

Chairperson Cardone: We should really take a vote on that.

Ms. Gennarelli: Okay, this is a vote on Reserved Decision.

 Richard Levin: Yes

 Michael Maher: Yes

 James Manley: Yes

 John Masten: Yes

John McKelvey: Yes

 Darrin Scalzo: Yes

 Grace Cardone: Yes

Mr. Gennarelli: And that would be to October 22nd…it will be on the October 22nd Agenda.

Mr. Scalzo: Now is that something…

Ms. Gennarelli: You have sixty-two days.

Mr. Scalzo: …Betty can make a phone call and…and…?

Ms. Gennarelli: If the Board is asking me to.

Chairperson Cardone: I think it might be a good idea to let the applicant know that we’ve Reserved Decision.

Ms. Gennarelli: Right.

Chairperson Cardone: And we would like him to be present.

Mr. Donovan: And if I could make a suggestion, maybe you want to send him a copy of the minutes as well so he understands what was discussed?

Ms. Gennarelli: Right.

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

 GERALD CANFIELD, CODE COMPLIANCE

 (Time Noted – 9:42 PM)

ZBA MEETING – SEPTEMBER 24, 2015 (Time Noted – 8:10 PM)

CHRISTOPHER CAGNA 19 COLDEN HILL ROAD, NBGH

 (86-1-5.22) R-1 ZONE

Applicant is seeking an area variance for ground mounted solar panels shall not exceed the area of ground covered by the largest building (habitable space) on the lot to install eighty ground mounted (1417 sq. ft.) solar panels on the premises.

Chairperson Cardone: Our next applicant Christopher Cagna.

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

Representatives distributed materials to the Board.

Mr. Sicari: I want to thank you so much for seeing us tonight. We really appreciate everyone’s time in looking at this and congratulations Mrs. Cardone on everything. I mean the service and everything you’ve done for us. What I’m seeking is a variance…

Chairperson Cardone: Just for the record you have to identify yourself.

Mr. Sicari: Sure, my name is Anthony Sicari, owner of NYS Solar Farm a…based out of Modena a…accompanying me is Bianca Cauchi she does all the rebates and interconnections a…and leads that team for all of our customers to get all the state funding for their home solar system. I’ve had the privilege to work with a…Nicholas…a Nicole and Christopher Cagna over the past year and seeing their family and what they’re up against. They had a daughter that passed away this past year and they also have a home in their local and she’s a…runs a…like a green business with all her products and a…she also has physical ailments where she seeks physical therapy and she has the pool outside of her house that you’ll see in the pictures, that she does physical therapy in. What we’re doing is we’re installing a ground mount solar on her…in the backyard of her home. The variance that we’re seeking is six hundred and sixty-five square feet to install the ground mount solar system because it exceeds the footprint of her home. We really worked out a lot of different solutions for her home and we in doing a lot of ground mounts throughout the Hudson Valley area it’s definitely our priority to get the system sizes as small as possible because we know the variances that we run into in different areas. And as a company what we do is we really make a commitment to use the best product and since we’re here we want to make sure don’t have those service calls on that product. And what the Cagna family is doing is they’re leasing their solar system so they don’t have to pay anything for it and they’re saving from that electric bill right off the bat. But what they’re doing is also the whole house is electric. So you may say why do they this cropped out solar system in the backyard? But their whole house is running off electric, hot water and everything. But what we do is we use Sunpower product, this is the solution we came up with in doing our ground mount systems and what this allows us to do is use a lot less modules that produce a lot more and we’re not sacrificing anything by doing that. So what I’ve put in front of you guys is a…you’ll see those modules and there’s little cut sheets…what I really wanted to show you is a…I know everyone sees solar and it’s going up in a lot of different places but just like cars all solar isn’t created equal. There…there’s big differences in the different products that are out there. What we’re using, what you’ll see right here, this is a standard efficiency cell. This is what everybody on the market is using. This is what you’ll see on everybody’s roof and it has these little ribbons in the front of it and what these ribbons are doing is blocking actually the sunlight that hits the cell so what happens is that’s taking away from the usable space and it’s getting a lot less sun than you see on the other side which is our Sunpower cell which is actually in the ground mount system that we’re using on the Cagna family. And what you’ll see is just in the quality of the product on a typical cell that you see on a lot of different homes if you crack that cell or just in half what happens is the bond breaks in that cell and it falls apart. And especially being in the northeast with thermal expansing and the extreme hots and the extreme colds you want a product that could really withstand the test of time and that’s what we did. And as you can see on this cell, this is the one that the Cagna family is using, this is the Sunpower cell, if you snap this in half it’s still…it doesn’t break apart, it’s still connected on the back which lets current run through the cell so in the Cagna family situation we used the highest quality product to really take up the least amount of space on her property but we still need to seek this small variance to make it possible for…for their family.

Chairperson Cardone: Actually it’s not a small variance it’s eighty-eight point forty-six percent over.

Mr. Sicari: On the total size of the home though I believe it was sixteen…we have it right…sixteen percent out of the total property, sixteen percent of it a…is really occupied by the solar system. A…you can see on their property lines that I set up a…really the borders from the property, the solar system from the road is two hundred feet a…from the neighbors on the eastern side it’s thirty and then forty and to the back of the property it’s eighty and the good thing about the property is it’s kind of sloped down in the back so it’s really…to compared to the size of the home the visibility of it it…it wouldn’t be that bad of an impact and it’s just tough because if we could take you know, the other usable spots of the home, of the shed, the deck and the…the pool it would work out but it’s just if we’re sticking with the footprint of the home it’s…you’re…you’re exactly right it’s over…

Mr. McKelvey: Jerry does…do they have to be screened?

Mr. Canfield: I’d have to look John at the…the article as far as far as screening but what’s before you is the area because of the size of the panels.

Mr. McKelvey: I understand.

Mr. Canfield: The size of the whole array. Give me a quick second and I’ll read through the section.

Mr. Sicari: It’s a good question though cause we in other areas we do come up with screening and we right of the bat told the customer that and what they are going to do is plant arborvitaes on the back side of the array where the sun is not hitting to block anything from the neighbors and we…we put that in original doc.

Mr. Maher: So the entire house, you say, is electric?

Mr. Sicari: Yes.

Mr. Maher: And you’re proposing a twenty-six kilowatt system?

Mr. Sicari: The system size…it’s not twenty-six…oh yeah, oh system size twenty-six K, that would be correct.

Mr. Maher: So what kind of…obviously that’s an expense involved for the…the owners of the residence correct…with the electric bills and such? I mean…

Mr. Sicari: Inaudible.

Mr. Maher: …there’s obviously the entire house…there’s a large expense involved there?

Mr. Sicari: Yeah, definitely.

Mr. Maher: On a monthly…monthly basis.

Mr. Sicari: Yeah.

Mr. Maher: So this is sized to accommodate that? Or oversized or…?

Mr. Sicari: No this…this is sized perfectly to...to accommodate their usage. So we didn’t go over, we didn’t go under, we just did the…the perfect amount.

Chairperson Cardone: Excuse me; the heat in the house is electric?

Mr. Sicari: Electric. And their current family situation is, you know, not being able to…to change that at this time, their furnaces and so forth.

Mr. Manley: How high off the ground are these panels going to be, you know, off of the…the ground area?

Mr. Sicari: A…from the bottom on the edge of the array to the ground it’s going to be two feet from the top module to the ground it’s going to be just under eight feet.

Mr. Levin: How do they maintain the lawn?

Mr. Sicari: Say that again, I’m sorry.

Mr. Manley: And they’ll generally the way they sit is kind of like, you know, kind of at an angle, correct, like this?

Mr. Sicari: Exactly, they’re at a twenty-five degree tilt.

Mr. Manley: So you’re saying that the bottom part would be about two feet from the bottom of the…of the ground in the backyard here?

Mr. Sicari: Exactly.

Mr. Manley: And then at this angle here, if you measure from here to the ground it’s going to be eight feet?

Mr. Sicari: Eight feet. If you look on a…I’m not sure if you have the plan set for the job but you’ll see on the one scale it goes…it gives the whole layout of the array and the (Inaudible) Can I give this to you or…?

Mr. Manley: Yeah, I have it up here.

Mr. Maher: It actually states that the front leg height would forty-two inches.

Mr. Sicari: That’s the front leg height a…but from the bottom of the array to the ground if you go from where the…the module comes down.

Mr. Maher: Okay, so there’s an overhang there?

Mr. Sicari: Yeah, right the overhang. It’s…like with the way it goes like with the variance if you took the array and laid it into a square and laid it right on the ground you’re right, you would come up with that surface area or that square footage for it but with the array being at that tilt it’s really not taking up that surface area but it’s on the tilt but yeah, if you take the array that…that’s the square footage of it.

Mr. Levin: My question, do you remove the lawn or do you have a way of mowing the lawn?

Mr. Sicari: Do we remove the lawn? Oh...of?

Mr. Levin: Underneath.

Mr. Sicari: No, everything stays the same, we’re using helical posts and it’s actually cork screwing directly in the ground…each post.

Mr. Levin: How…how do they cut the lawn?

Mr. Sicari: You can go under it, I mean, you can go under it with a tractor and weed wack around the front of it.

Mr. Levin: A tractor can go underneath it?

Mr. Sicari: Yeah, there’s…you can fit a tractor underneath…underneath the array so…

Mr. Levin: Portions, yeah.

Chairperson Cardone: Mr. Canfield?

Mr. Canfield: Yes, to answer your question John, screening is required. 185-81-D-5 specifically says that a ground mounted and free-standing solar collectors shall be screened when possible and practicable from adjoining lots and streets, right of ways through the use of architectural features, earth berms, landscaping, fencing or other screening which will harmonize with the character of the property and surrounding area. The proposed screening shall not interfere with the normal operations of the solar collectors.

Mr. McKelvey: Thank you.

Chairperson Cardone: Jerry, were you involved with the figures when they did the maximum for the…for the ground. I mean, we’re looking at…this is something that was just passed recently by the Town, these regulations and they seem to think that seven hundred and fifty-two would have been a fair amount for the property and this is almost double that. Do you have any comment on that?

Mr. Canfield: I was not involved in all of it. I did provide some information with respect to firefighter’s safety and the new Building Code applications which this coordinates is a little bit ahead of the curve, New York State is a little behind in their Code accepting process. We’re still enforcing the 2010 Building Code. A lot of this is based on the 2015 Code which is soon to come so we’re told by the Governor’s office, if you wish to believe that. But in any event, the…

Mr. Donovan: Before 2015 is over, Jerry?

Mr. Canfield: …the zoning portion of it I do know that they did take into consideration the zones setbacks. They did classify these solar arrays, ground mounted, as accessory structures and in doing so they took into consideration formulas similar to accessory structures such as detached garages, tool sheds and that type structure whereas there is a calculation of the overall structures to be placed, you know, surface coverage. So I guess to answer your question in short yes, they did take that formula into consideration. In this case it’s with respect to the size of the…the main structure, the largest structure on the lot which generally refers to the residence in this case.

Chairperson Cardone: Right.

Mr. Donovan: So my question is if the Code allows seven hundred and fifty-two square feet of…ground mounted solar panels why can’t you provide electric to the house within that framework?

Mr. Sicari: If…we could provide electric within that framework but it…it wouldn’t make sense for them but it would just only cover half of their electric bill so if we took…if we took that array, seat both arrays one in front of the other and usually we actually have those arrays going straight out across so instead of the…the one array, instead of the two arrays, you’d have one full array it’s actually cheaper to do it that way but by breaking them up we’d actually, you know, it decreases the visibility of the system instead of having one long array in the backyard. But by doing it for them it just…it wouldn’t make sense to just do one array for their situation. They…they really want to lock in their future of energy with…with…with an entire system that they can get the State grant on and the problem we face with it is if we only do half now and then do half later the…the grant that they could lock in and the savings they could have now they’re…they’re not going to have in six months or…or two years from now.

Mr. Donovan: And that’s because they’re…well, let me ask you this…are they selling power back to the grid?

Mr. Sicari: No, it’s only being used just for the home.

Mr. Donovan: Okay, so what the Board has to evaluate is if you can...if can provide electric to the house under seven hundred and fifty-two square feet worth of solar array of ground mounted panels then you don’t need a variance. If you…if you can’t you need to explain to the Board the size that you are proposing.

Mr. Sicari: The reason that we need the size that we are proposing is to fit the whole array, everything there that…that we did propose so they could go forward with the system, to get the offset that they want for…for their family.

Mr. Maher: So do you have any supportive documentation to say, the electric bill is X and that the system is going to supply this much of energy?

Mr. Sicari: Yeah, absolutely, that…that’s no problem.

Mr. Maher: You do have it? Or you don’t?

Mr. Sicari: I…I do have it in my bag somewhere it’s digital but…I do have all of that and with the company that we’re working with and Sunpower we can’t and according to interconnection for Central Hudson and local utilities companies we can’t build the system more than ten percent more of the homeowner’s usage so we would never oversize them because they can’t sell that power back to the grid that they overproduce. They get actually a discounted rate for anything overproduce throughout the course of a year so it’s really important when we’re doing a lease or a solar system that we only do what they use if not just a little under because they’re paying for all that power.

Mr. McKelvey: My problem is is size, if we grant size like this we are going to set a precedent around the Town.

Mr. Canfield: I think that’s a very accurate statement John that you’re aware of and Grace had stated that this…the local law was just recently passed. You’re cutting edge here, on this. I think that the Board needs to be very cautious into taking this into consideration and of course you always have, you’ve set a precedence from this point forward in what you’ve done. I do know as I…as I said before the Board, the Town Board when they enacted this legislation did take into consideration structure sizes and again viewing these as accessory structure however, I think you have a balancing act before you as well should the applicant’s representative present enough evidence to you. And I’m sure Mike will echo…or Dave would echo this that…

Mr. Donovan: And Mike would too, Jerry.

Mr. Canfield: …yeah, he would too, I know, his voice is echoing but they must display to you to justify, you know, the need for the larger panel array. I think it needs a lot of consideration and again in…in light of a balancing act that what is the right thing to do and what will you be asked in the future? I do have a question, is there a maximum wattage on this array that you are proposing?

Mr. Sicari: Twenty-six KW is the total, twenty-six thousand kilowatt hours is the system size or 26 KW is the max size that we’re (inaudible)…

Mr. Canfield: Did I hear you say that there will be no sellback value to this? I think Dave had asked if there would be a sellback benefit for the (inaudible)?

Mr. Donovan: And let me, the reason, another municipality that I represented, there was a…I’ll tell you, the people from Siemens were there indicating that was what was going to happen that they were going to sell it…the excess energy was going to be sold back to the grid. So I’m interested for you to say tonight that they can do that.

Mr. Sicari: No, no they…they could sell, that’s how net metering works so net metering works is…you have a meter on your house that Central Hudson installs, it’s now a…a net meter. The way net metering works is if a…you use a hundred kilowatt hours a year you could offset that hundred kilowatt hours a year with what you produce from your solar systems so when we’re designing a solar system, let’s just say it’s a hundred kilowatt hours you use we design a solar system that offsets a hundred kilowatt hours of that usage. If that system is going to produce less in the wintertime and then it’s going to produce you more in the summertime so what happens is, you’re exactly right, during the summertime that system is producing, producing, producing more than the home is using. You’re building up those credits when the winter comes you’re using up all those credits that you produced throughout the summertime and that’s when you’re spinning the meter backwards so it’s a constant net and net zero effect throughout the day when you’re…when you’re away, at work you’re producing electric and then at home when you come at night you’re using all that electric that you produced during…during the day so… In Gardiner we’re doing the first solar farm in New York State which is really exciting and that’s…that’s a different concept. That’s where we’re actually putting nineteen thousand panels in a field and taking that energy and sending it back to the grid for payment. That’s like a larger scale utility project, community energy project. But in this case the homeowner has his net…net metering and we’re just net metering to zero out their system.

Mr. Manley: Now what happens if you have a really good year and in the wintertime we have really nice weather, the sun seems to be stronger than normal and it produces more in the…in the case of the individual let’s say that they were supposed to produce a hundred KW and let’s say they produced one twenty. What happens to that other twenty KW, do they get a refund check for that extra money that was produced back?

Mr. Sicari: You’re…you’re exactly right, they do…they get a refund check back for it but right now the rates for Central Hudson are around fifteen cents. The rate that they get back is one and a half cents so there’s no incentive for that homeowner to sell…to sell that power back to the grid because it’s actually the utility company that is making out because buying that electric from you for one and a half and then sending it to your…your neighbor for fifteen cents. So that’s why we really have to stay super conservative when designing our leases and I…I would…I would definitely for this homeowner not want to put a system up if they didn’t…if they didn’t need that size and it’s a big…there…there’s so many checks and balances that we have to do to get to this point to make sure that their utility bill fit exactly the system size because when Bianca puts in the NYSERDA app to the State they look at what’s the homeowner’s usage, what’s the offset, alright it qualifies and then they approve the system so…

Mr. Manley: One other question that I have on the house here, what is the possibility of putting one panel on the ground and I know you’re reluctant to put panel on the roof but you might be able to fit a bit of a panel here on the…on the one story portion and then on the two story portion putting it on the back side of the house?

Mr. Sicari: No, we…we totally thought of that. Originally we were, the concept was to put on the house but with the usage being so high and the roof not facing dead south the production levels off that roof weren’t where they needed to be so it’s just…it didn’t make sense for that…to…to put it on the roof and…and then to split the array to put some on the ground and some on the roof it just would bring the cost of the job so excessively up from where it currently is then it wouldn’t make sense for…for them to go solar.

Mr. Manley: So but I guess my question is is it a possibility to do that? Is it beyond the…what you’re saying is a cost factor but could you achieve what you need to do by doing the split system?

Mr. Sicari: No.

Mr. Manley: You would not be able to get the amount of KW that you need?

Mr. Sicari: No, we wouldn’t be able to because that roof facing the direction that it’s facing wouldn’t give us the…the solar access or sunlight that we need to make it…to make it work. And that’s part of us being solar installers that’s the biggest thing we come up against. Out of every ten people that call us up for solar only one can actually do it because the roof is facing either east or north west and it’s you really need to be a good south facing roof to make solar work and…and you’re exactly right you see a lot of systems right now facing every direction but it’s just…and getting solar but those are conglomerate national box solar players that really don’t have the best interest at mind for…for that that homeowner.

Mr. Manley: I think the big issue too here is I think the reason why the…the Town designed around a certain…they had to come up with a, you know, regulation relative to keeping these things large enough where people get some relief from their electric bill but at the same time keeping it small enough that it doesn’t become an eyesore or you know where…where it becomes an eyesore to neighbors. And I think that was probably part of the concern that they had because there really is no way to dress them up, you can screen them but…

Mr. Sicari: Yeah, I mean the modules we’re using they’re all AR coated which is anti-reflective so it’s the neighbors don’t see a glare coming it like a mirror so it’s that’s a big part because we want all that sun hitting it. The experience that we had with other municipalities when doing ground mounts is really we get the best arborvitae from Adam’s Fairacre Farm that blocks up the whole back side of the array which it…I mean some of them grow up to fifteen feet tall and our ground mount is only eight feet so we really have the whole backside of the array blocked a…it’s just…like…like you said before that National Fire Protection Code we do those classes at our office and that’s a very big deal because having that three foot setback rule around the roof to…to do solar now it actually…it’s going to make ground mounts more prevalent because now homeowners can’t put that solar on the roof because you have a three foot setback and it just doesn’t work in a lot of different cases.

Mr. McKelvey: You know that the neighbors know that they are going to do this?

Mr. Sicari: Yeah, absolutely and the Cagna family walked to the neighbors and…and actually consulted them. If…if some were here tonight I’m not too sure but a…

Chairperson Cardone: Let me ask that question. Is there anyone from the public that would like to address this application?

No response.

Chairperson Cardone: Mike, you mentioned that you would like to see documentation do you feel that you do not have enough information to make a decision at this point?

Mr. Maher: I…I guess my concern is obviously setting a precedent like John had mentioned is…is important for the same token though if in fact a…the Zoning that was enacted for solar panels makes it not an option for a lot of residents that’s determining too. I mean if we are going to have solar being you know one of the ways of the future to have you know a…efficient energy and not having the ability to do so efficiently on…on residences again it’s a balancing act. What’s the…what’s the trade off to get a system that works versus one that doesn’t? Yeah, I mean, I guess…I guess if you’re stating the fact that the size of the array required based on the…on the cost of the…on the yearly basis then that’s something that I’d like to see presented you know to the Board to obviously be able to take into consideration as far as the…the amount of money or the cost that’s involved in the kilowatt usage to show that it’s consistent with what’s currently being used. I mean obviously NYSERDA is you know if you follow NYSERDA regulations, I’m assuming it does, but I’d like to see that in person if possible.

Mr. Donovan: I think what you need to bear in mind is you know this is a relatively recent Ordinance for the Town of Newburgh.

Mr. Sicari: Right.

Mr. Donovan: So, the first application that comes to this Board says you need twice the size than what’s allowed so that…that makes the Board sit up and take notice because it’s not you know the first one out of the box…

Mr. Sicari: Yeah.

Mr. Donovan: …it’s double the size so you know how do we justify that and what does it do to the future and as Mike points out is the Code correct to begin with? I mean there’s a whole host of issues that the…the Board has to struggle with.

Mr. Sicari: Again I…

Mr. Maher: Let me ask you a question, so in addition so the…the product that you’re supplying is there another product in the market that you may or not be familiar with?

Mr. Sicari: I think so.

Mr. Maher: …that you may be familiar with that generates more wattage per…per panel per square footage then what you’re product does?

Mr. Sicari: Absolutely not and I can tell you with…with a hand on a bible that I mean Sunpower Works they’re…they’ve been in business for thirty years it’s the only solar company that’s outlived their twenty-five year warrantee. It took me five years just to offer their modules to go through their dealer vetting process. This module that we’re putting up, each module that’s five by three is actually three hundred and twenty-seven watts. The modules that every other installer that you see putting up is right now two hundred and fifty to two hundred and eight watts so the power per square foot that we’re putting up a…really exceeds expectations. If we did the same 26KW system with a standard efficiency we’d be looking I’d say an additional twenty-five modules which you definitely…definitely wouldn’t…wouldn’t…you wouldn’t want there so…by using what we use there we definitely maximized as much as we could the power per square foot.

Mr. Manley: Now the applicant uses twenty-six thousand KW a year for their home? Can you tell me what the average home utilizes in a year…KW?

Mr. Sicari: That’s actually around the typical system size that we do. We do systems between 14KW to 35KW so that’s really the average that…that we see.

Mr. Manley: Now what does the average homeowner utilize per year with KW? Now obviously you have some on the higher end that are all electric and you have people that have you know gas heat, they’ve got your oil heat and they’ve got gas for hot water…

Mr. Sicari: Yeah.

Mr. Manley: …so they have you know mixed. So what is the average?

Mr. Sicari: I’d say the average system is as high as 14KW…average system that we have.

Mr. Manley: So, in their particular situation it’s almost twice what the average is. Their use of KW is almost twice as much.

Mr. Sicari: A…it…it’s…it’s tough to say that because the average system size is 14KW that we install but everyone’s usage is…that’s usually…no they…they’re…they’re…I would say, in the norm of where…what we could do. The problem that we face is usually restrictions where we just don’t have the space to put any other module so it’s a…between 14 to that 25 KW range. As…I mean on our house we have a 35 KW system in Gardiner, we have it on the roof and then we actually have it on the ground in the back so it real…it’s really so diverse where these systems go a…but the more…

Mr. Manley: Are there more there 10K systems? Are there people that use…?

Mr. Sicari: Oh, there’s 3KWs, we’re doing a 2KW so the spectrum is like really all over on people’s usage and we definitely try to get their usage down before we…we do the solar and the only thing that’s tough because if we went to their neighbor’s house and put this system up this system would fit in the footprint of the neighbor’s home. It’s really this house, on that street is really…it’s like a postage stamp compared to all the rest of the homes. And all the rest of the homes would totally qualify for a system of this size but this house it just…it…it’s a little smaller than…than the rest of the homes on that street so a...that would be the consideration that I ask that. The neighbors would be able to do that system size but this…this home wouldn’t based on its size.

Chairperson Cardone: Well I think we’d need to figure that out. I’m afraid I have to say that this should be held open.

Mr. Maher: Imagine that.

Mr. McKelvey: Imagine that.

Chairperson Cardone: I really didn’t plan it this way

Mr. Sicari: Is it possible that I could maybe come back later at the end of everyone’s presentation to furnish that information with use? Its…the only restraint we have on us is the grant constantly dropping from NYSERDA so…it’s really that each month that we wait it’s really another additional twenty-five hundred that we lose in funding for their project so…if it’s possible if not I would totally understand.

Chairperson Cardone: That’s up to the Board because whether or not we close or open a hearing is on the vote of the Board. It’s not a one person decision.

Mr. Manley: I…I would, the reason I was asking the electric and is there documentation, that may be something to that we…that I’d like to see is something that shows how much KW they…they use in one year something from Central Hudson...

Mr. Sicari: I…I have all of that yeah.

Mr. Manley: …the other thing is if you’re saying that you know the average person uses about fourteen thousand KW a year if that were to be…if this was the average home then that…they’d only need one…a…one panel, right, one large panel because one large panel would do approximately the fourteen thousand KW.

Mr. Sicari: Right.

Mr. Manley: Each one of those panels is about thirteen, if you were to split it, thirteen and thirteen for twenty-six, roughly?

Mr. Sicari: Roughly. Each…each mod…each solar panel by itself is roughly 5 x 3, five feet by three feet so…

Mr. Manley: So, you know, one of those forty-one foot sections would take care of roughly about thirteen thousand maybe close to fourteen thousand so if they were a…a average electric user that’s what…so the formula would kind of work that…kind of the Town has. It’s just in this particular case this homeowner has a much higher electrical demand than most people because they have electric heat, electric stove, electric dryer, electric everything…

Mr. Sicari: Right.

Mr. Manley: …so that’s driving their electric usage way up and kind…

Mr. Sicari: Yeah.

Mr. Manley: …skewing the amount of panels that they need.

Mr. Sicari: Yes, yeah…the…the yeah whole house is full electric and usually yeah it…it’s…that…that’s why their usage is so and a lot of people are making the shift to…to go solar and it’s exactly like you said because they have that high…everything is electric but you’re right that…that’s what I’m saying.

Mr. Manley: Now they have a pool in the back, is the pool heated?

Mr. Sicari: A…I’m not exactly sure on that.

Mr. Manley: Okay, that would be something that…to find out as…as well. If the pool is or isn’t heated, that does take obviously if it’s electric it’s going to take a tremendous electrical demand.

Mr. Sicari: Right.

Mr. Scalzo: I just want to go back to you discussed the heights before, I’m looking at sheet 2 of 10, the view from the west side, the scale ¼ inch equals a foot. You’re rear post is seven feet, six inches and…and I’m not picking on it here but it appears that it’s closer to ten feet at its highest point.

Mr. Sicari: Yeah, I can get you the…the exact from…from the bottom to…to the ground it’s no problem. From our rear post seven foot six but I can get you that, that’s not a problem.

Mr. Manley: Ten feet is kind of approaching the size of a small garage height.

Mr. Sicari: Right, yeah, it…it’s definitely not ten feet but I’ll get you the…the correct answer on that.

Mr. Maher: On your application it…it states that the a…again there’s…there’s as you say, there’s a unique energy need a…that there’s a therapeutic space that requires extensive electrical power. What exactly is that?

Mr. Sicari: She just has all the…the tables for her all these different machines that I…I don’t exactly know what she suffers from, I just know she has a lot of these electric physical therapy machines that work on the legs. It’s…it’s almost like the ones when you see someone has an ACL injury and they go back and forth and it’s amazing cause you walk…you talk to her, you walk around the whole site…

Chairperson Cardone: (To audience members) Excuse me, could you take your conversation outside or…?

Mr. Sicari: …don’t think anything is wrong with her in the house she has all these different types of machines that she uses, almost like physical therapy equipment.

Chairperson Cardone: Do we have a motion to either close or hold the Public Hearing open?

Mr. Maher: I’ll make a motion to hold it 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

Ms. Gennarelli: That’s October 22nd.

Chairperson Cardone: October 22nd and anyone interested in that you will not be re-noticed.

Mr. Sicari: Can I just ask what to supply for that meeting?

Chairperson Cardone: We’ll start with Mike had wanted...

Mr. Maher: Yeah, I would, I mean obviously you know, as Mr. Manley said, information from Central Hudson, you know, I would imagine that they…you could gather the last twelve months of bills and so we can see the highs and the lows there to see its effect. Whatever documents from NYSERDA that says you called and arranged as far as what’s required on the size of the unit. The size of the array is consistent with their usage. And about the facts about the pool also that it’s heated by…it’s heated by electric also. That’s what I would like to look at I’m not sure about everyone else.

Chairperson Cardone: Okay, Jim did you have anything additional?

Mr. Manley: Whether or not the pool is heated a…the other issue would be the height, verification of the height from the ground to the top…the very top of the array not the top of the support but the top their array. I just re-checked what you looked at and it looks like it’s probably going to be a little bit higher than ten and a half feet. That’s what it look like. So I’d like a verification on that.

Mr. Sicari: Wow.

Chairperson Cardone: Did anyone need anything else? Darrin…? Very clear on what’s needed?

Mr. Sicari: Yes.

Mr. Canfield: Grace?

Chairperson Cardone: Yes.

Mr. Canfield: Just one thing the Board may want to consider how the applicant proposes to handle the screening should the Board chose to entertain that.

Mr. McKelvey: That’s why I said that.

Chairperson Cardone: Yes. Okay.

Mr. Sicari: Thank you so much for the time everyone.

Mr. Donovan: Let me just make one point and I know this is not what you do so this is not a criticism but all the times I seen when people come…understand that this, what you propose doesn’t comply with the zoning.

Mr. Sicari: Yeah.

Mr. Donovan: So like going to the ZBA is not like going to the supermarket and getting a quart of milk, you pay three, fifty dollars and you get your variance. You got to...you got to give us; you’ve got to give the Board proof. You’ve got to give them a reason why you need a solar array panel of this size to provide electric to this house. And understand it’s important because this is the first one out of the box and so now we’re…we’re…as I said we’re seeing double of the requirement so, you know, I…this is not at all a criticism, this is not what your job is, this is not what you do, I understand that but you’ve got to…you got to prove your case.

Mr. Sicari: No, totally I…it’s actually it’s the first time we’ve ever come across that we needed to supply usage to support a solar system that we’re putting up residentially so…because usually we have to conform in the State guidelines for it. But totally…now I understand…this is a special case so I’ll…I’ll get it together…

Mr. Donovan: Yeah, cause the Board is saying how come you can’t provide the electric at seven hundred and fifty two square feet.

Mr. Sicari: I got you, a hundred percent, 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

 GERALD CANFIELD, CODE COMPLIANCE

 (Time Noted – 8:45 PM)

ZBA MEETING – SEPTEMBER 24, 2015 (Time Noted – 8:48 PM)

JORG UWE FRISCHKNECHT 2 CHEVY STREET, NBGH

 (70-3-1) R-3 ZONE

Applicant is seeking area variances for the front yards setbacks for an existing house on Lot #2 of a proposed two-lot sub-division (proposed Lot #2 would have two front yards Chevy Street and East View Road).

Chairperson Cardone: Okay held over from June meeting Jorg Frischknecht. And I’d like to…refer back to the minutes of August the 27th and at that point Mr. Scalzo made a motion to leave the Public Hearing open and I asked the question for what further information. And Mr. Scalzo responded to see if we can get the property owner here to discuss his intentions, for clarification on the Building Department’s acceptance that it’s not being used currently as a flop house, I’m just quoting from the minutes.

Mr. Cella: The owner, in the red shirt is here, Mr. Frischknecht and the other question was for Mr. Canfield.

Chairperson Cardone: Correct.

Mr. Canfield: From the Building Department I did send an Inspector down to the property on September 22nd at approximately 6:30…6:40 actually Mr. LaPierre inspected the property. At that time he was unable to ascertain if the second story was occupied or not. The pictures that he has depicted here and I can share them with the Board they show one vehicle in the driveway, there was a youth playing in the yard but that was it. There was no other vehicles, no other people at that time of night. We did not get entry into the building to actually verify whether it was or was not being used. I can only comment on what was there at the time that he visited.

Mr. Cella: In discussions with the owner last time it was stated that there was lights on upstairs once in a while and the owner…the owner stated that the…the lights are on because he’s…there’s no one there but they’re cleaning the building the upstairs and that’s the reason why the lights would be on.

Mr. Manley: At 2 in the morning?

Mr. Cella: Either left on but I don’t know.

Chairperson Cardone: (To audience member) Excuse me, anyone who speaks has to the microphone and be identified.

Mr. Cote: Yes maam, I’m Alan Cote, I’m the neighboring house for two months back I’m tired of these people come in here, I’m tired of coming back to the same situation. They’re lying. They’re just plain lying. I live across the street. I see what goes on over there and nobody is going to tell me a different story. My house looks straight at that house. Every day, every night, when I come in, when I leave at 2 o’clock in the morning to go to work, there are people upstairs. I’m not saying 24/7, on the weekends usually on the weekends people come and that upstairs is filled with people upstairs. Alright there’s a kid kicking a ball on the street, no question about the people downstairs. They are very nice people. I’m not questioning that. I’m questioning the people that go upstairs, the garbage and everything else. He is cleaning up the place but he’s cleaning it up for you people. That’s all that he’s doing. He’s cleaning it up for you.

Chairperson Cardone: Okay, Mr. Scalzo were your questions answered or you have further questions?

Mr. Scalzo: I didn’t…I…I think Mr. Canfields answered the question I had as a…as best the Code Compliance can verify what they verified. Testimony from the neighbor disputes that it appears. It’s a large home, we’ve all seen it, it’s rented currently to a single family.

Mr. Cella: Yes.

Mr. Scalzo: And that family has access to the upstairs at this point?

Mr. Cella: No.

Mr. Canfield: Just if I may comment one thing. I think what’s appropriate here is if the owner who is here tonight, he’s willing to allow us access to this upstairs apartment and then perhaps we can ascertain because of the amenities in this area if it’s a livable area or not. I know there’s history with this property whereas one time in the past the owner had removed kitchen appliances to revert it…to return it back to a one family house. If the owner is agreeable we’ll go and inspect the interior of the residence. I mean I have no reason to believe testimony from the neighbors that he’s seeing people there. I can only tell what I seen the outside. Okay? Also while I’m on that there still needs to be some cleanup in the rear of the structure. There is some furniture and broken down materials around the back that I have pictures which I will share with you and I think it would be appropriate if you agree to this Board that you will clean the rest of the property.

Inaudible - Audience member

Chairperson Cardone: Excuse me, once again because…

Inaudible - Audience member

Chairperson Cardone: …I’m sorry it’s just that it has to…

Ms. Gennarelli: It’s being recorded.

Chairperson Cardone: It’s being recorded.

Mr. Cote: You can’t hear me back there?

Ms. Gennarelli: It’s being recorded you have to speak into the microphone.

Chairperson Cardone: Right.

Mr. Cote: What do you call the back of the property?

Mr. Canfield: You can look at this picture right here whatever side of this house is what you call it but that’s the garbage I’m referring to.

Mr. Cote: That’s the side of the house.

Mr. Canfield: Okay, then so be corrected then the side of the house needs to be cleaned. Okay?

Chairperson Cardone: Are there any questions from the Board?

Mr. Levin: Can I ask the owner…

Chairperson Cardone: Yes.

Mr. Levin: …to speak for our record into the mic and tell us what the second floor is used for?

Mr. Frischknecht: Good evening my name is (Jorg) Uwe Frischknecht and I as far as I know I own the house…at least paid for. And the second floor right now I challenge anyone who wants to go go up there and see what there is. It’s absolutely empty and it’s inhabitable, inhabitable, cannot be lived in. It’s destroyed, the bathroom is destroyed, everything is gone. It’s not supposed to be used and it’s not being used by anyone that I know of and I’ve been there every day.

Mr. McKelvey: What happens…this gentleman talks about the weekends?

Mr. Frischknecht: I cannot talk for him. I can talk for me. As he talks for his, I talk for me.

Mr. Maher: So you said it should not be used?

Mr. Frischknecht: It is not…

Mr. Maher: No, right you’re stating what you should not and as far…

Mr. Frischknecht: It is…

Mr. Maher: …as far as you know it’s not being used.

Mr. Frischknecht: As far as I know it is…as far as I’m concerned I’ve been there every day.

Mr. Maher: Okay.

Mr. Frischknecht: It has been in process, being cleaned all the mess that the tenant that used to live there left behind and the place is inhabitable, inhabitable.

Mr. Maher: So there was one tenant there prior? Or there was multiple tenants or…?

Mr. Frischknecht: I’m sorry.

Mr. Maher: …on the…on the second floor there was…there was one tenant that lived there or multiple tenants?

Mr. Frischknecht: There was one…one lady that lived there.

Mr. Maher: Just one person?

Mr. Frischknecht: Just one, but she had…yes, I rented for one person. Was that the question?

Mr. Maher: Okay then, no, let’s clarify the question. You rented for one person?

Mr. Frischknecht: Yes.

Mr. Maher: How many people were actually occupying the second floor?

Mr. Frischknecht: When you say occupying mean living?

Mr. Maher: There on…there on a regular basis.

Mr. Frischknecht: I don’t…I cannot answer that. I know that she was living there as a single woman…

Mr. Maher: Okay.

Mr. Frischknecht: …and she had friends that eventually would visit beyond that I cannot tell.

Mr. Maher: Okay. So okay, you say the upstairs was trashed?

Mr. Frischknecht: Right now.

Mr. Maher: But obviously by the last tenant?

Mr. Frischknecht: Oh, yes, oh my…God, oh my God you should see it…

Mr. Maher: So…

Mr. Frischknecht: No you should not.

Chairperson Cardone: Well actually somebody would like to see it and that’s from the Building Inspector’s office.

Mr. Frischknecht: If I may answer the question that there is no access or access to debate or if or not from inside the house is access to upstairs? The inspector who inspected and the process is finished he saw and stated that it’s okay, there is an access going from the house going upstairs without needing to go out of the house.

Mr. Cella: Last month there was a question raised if there was access in between…inside, inside the residence from the first floor to the second floor and…floor to floor. That was a question raised last month and there is access, interior access, I was not able to answer that question.

Mr. Maher: There is or isn’t?

Mr. Cella: There is.

Mr. Frischknecht: There is.

Chairperson Cardone: He is saying there is.

Mr. Frischknecht: Yes, absolutely, there is.

Mr. Cella: That was a question that was raised last month.

Mr. Frischknecht: There is a direct access from the house inside the house to go upstairs.

Chairperson Cardone: Mr. Canfield, you said that the inspector that went there could not access to the house.

Mr. Canfield: He didn’t try.

Mr. Cella: It was an un…as far as I know it wasn’t a scheduled visit…

Mr. Canfield: Correct.

Mr. Cella: …with the owner.

Chairperson Cardone: Would it be possible to arrange a schedule visit?

Mr. Frischknecht: It’s free no problem, anytime, anyone…and any surprise time. I will tell you this; I will leave the door open. You go there without telling me when you go so by surprise so you can see by yourself without me preparing any scenario.

Chairperson Cardone: Okay.

Mr. Canfield: Are you available Tuesday at 10 o’clock?

Mr. Frischknecht: The building is available at any time, you want to go now?

Mr. Canfield: Are you available to accompany me Tuesday at 10 o’clock?

Mr. Frischknecht: If the good lord gives me that day to live, yes.

Mr. Canfield: Very good, it’s an appointment sir. Please be there. Okay?

Mr. Frischknecht: When’s that?

Chairperson Cardone: Tuesday at 10 o’clock.

Mr. Canfield: Tuesday at 10 O’clock.

Chairperson Cardone: 10AM.

Mr. Frischknecht: Okay, I will expect you?

Mr. Canfield: Yes. I’ll be there.

Mr. Frischknecht: All right, all right.

Mr. Scalzo: My questions have been answered. Thank you.

Mr. Cella: See you next month?

Mr. Maher: Well that’s quite convenient. I’ll make the motion…

Chairperson Cardone: To do what?

Mr. Maher: Hold it over.

Mr. McKelvey: 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. Cella: May I ask one question? One question, if…

Chairperson Cardone: Yes.

Mr. Cella: …if there is anything else, any other request that we might hear them tonight so that we’d like to wrap this up?

Chairperson Cardone: Is there anything else from the Board that you would like to hear?

Mr. Levin: I have one question, when you, are you redoing the upstairs?

Mr. Frischknecht: No.

Mr. Levin: You’re not getting…you’re just leaving it alone? It’s going to be empty from now one?

Mr. Frischknecht: Dead.

Mr. Levin: Okay.

Mr. Frischknecht: Dead.

Mr. Levin: So, you don’t expect it to be ever rented out?

Mr. Frischknecht: Nope, nope.

Mr. Levin: Okay.

Chairperson Cardone: Okay, thanks.

Mr. Frischknecht: As long as I live.

Mr. Levin: I hope it’s a long time.

Mr. Frischknecht: Thank you, thank you.

Mr. Scalzo: The access issue, we can’t address that here, correct? For Chevy Street?

Mr. Donovan: Well why not?

Mr. Maher: Why not?

Mr. Donovan: I mean it’s a question.

Mr. Scalzo: The deeds of record show that you have access to a…off Fifth Avenue but it does not indicate that you have access to…is it Chevy Street?

Mr. Frischknecht: Chevy, yah, the address of the house is Chevy Street.

Mr. Scalzo: That may be the case; however the deeds do not state that you have the right to use Chevy Street.

Mr. Frischknecht: Really? I cannot use the private road to access my house?

Mr. Scalzo: Well actually the road off of Fifth Avenue is a private road as well. However, when it takes that right hand turn onto Chevy Street your deed does not mention that you are allowed to use that.

Mr. Cella: I had a recent discussion with the owner and a…it’s my understanding that the homeowners paid to pave from East View to Chevy Street and he made his…he did contribute his share of that.

Mr. Frischknecht: So I have the right to pay but not the right to use?

Mr. Cella: The homeowners divided the cost to pave from Fifth Avenue to the end of Chevy Street and the…Mr. Frischknecht paid for his portion of that.

Mr. Donovan: But let me just roll back a little bit. The issue that came to us and I’m sorry that I folded up my map and put it in my briefcase but we needed to know, this Board needed to know that if we issue the variance which would allow you to proceed with the subdivision whether or not the people on the back lot would have access to the public road. So the deeds that were provided to this Board indicated…did not mention Chevy Street at all… I’m sorry my eyes aren’t good enough…what’s this?

Mr. Cella: East View Road.

Mr. Donovan: East View, so the deed certainly provided access over East View to the public street but not…did not mention Chevy Street at all.

Mr. Frischknecht: Are you talking access from the point of view of a car, driving? Is that what you…?

Chairperson Cardone: Correct, correct.

Mr. Frischknecht: Walking, I still can walk?

Chairperson Cardone: You can walk in the front of your house.

Mr. Donovan: I can’t grant you the ability to walk or not to walk. The question is whether or not the people who live in the back house can use Chevy Street or not.

Mr. Frischknecht: I just wanted to verify if you are talking about driving.

Chairperson Cardone: Right, driving and parking and I think that the issue was that there would…or their suggestion was that the entrance to this entrance would be from East View.

Mr. Cella: There is an existing driveway…

Chairperson Cardone: There is, there is what looks like a driveway there.

Mr. Cella: The driveway is from East View.

Mr. Frischknecht: That’s actually right now it is being used as driveway to park there.

Chairperson Cardone: Right but there should be absolutely no parking on the street that’s in what looks like the front of the house, it’s the back of the house actually, Chevy Street.

Mr. Frischknecht: So I cannot…?

Chairperson Cardone: No parking on that street at all.

Mr. Frischknecht: Nobody can park on that street?

Chairperson Cardone: Nobody from that residence, correct.

Mr. Frischknecht: The resident across the street can park there?

Mr. Scalzo: We didn’t review his deed.

Chairperson Cardone: No.

Mr. Frischknecht: Because there is a little house in front of the street that parks right there next to the hydrant.

Inaudible audience member

Chairperson Cardone: That’s the only way…the one house that’s the only way it can be accessed is from that street.

Mr. Frischknecht: Oh, so because I have the privilege to have two accesses I have to pick one, which is East View?

Chairperson Cardone: Correct.

Mr. Frischknecht: Is that what you’re saying?

Mr. Donovan: No, we’re saying that’s what the deed to the property says.

Mr. Frischknecht: The deed?

Mr. Donovan: The deed that was provided to us.

Mr. Cote: May I speak maam?

Chairperson Cardone: Yes, just take the microphone. I’m sorry but…

Mr. Cote: I, I’m the resident across the street, he made that second access. He tore down a stone wall which was a concrete wall, there were pillars and he tore it down to make access parking and the ability for him to park there because that is the back of the house, the front of the house faces Fifth Avenue. That house never had an address of Chevy Street until he moved it and changed it and I always asked the tenants how could you change the address to a house that’s only been 72 Fifth Avenue that’s why we had to change all our addresses because everybody up there was 72 Fifth Avenue at one time until 911 came into effect. Then they said no you’ve got to be this, you’ve got to be this, this is…72 Fifth Avenue is this house, you can’t use that because if an ambulance everybody is going to come to that house, they are not going to come to each individual house which we all got our mail at 72 Fifth Avenue so we had to start changing everything and that’s when we ended up with Chevy Street, we ended up with East View…

Chairperson Cardone: East View.

Mr. Cote: And he made that…that driveway back there himself. He tore down the side of the road and decided well we’re going to do this. Well he wasn’t supposed to but he did.

Chairperson Cardone: Thank you. Yes?

Mr. Frischknecht: That’s it?

Chairperson Cardone: Yes.

Mr. Frischknecht: I did not change the address. When I bought the house it was 2 Chevy Street. That’s the address I bought when I bought. Now about the deed that he mentions I had no knowledge about that.

Chairperson Cardone: Okay.

Mr. Frischknecht: So I didn’t change the address. I bought what it is and I didn’t change anything.

Chairperson Cardone: Well I think that the other gentleman said that the address when they were doing the 911…

Mr. Frischknecht: That was prior to my time to own the house. I bought in 2010.

Mr. Maher: So if in fact you are going to use it…keep it as a one-family residence…

Mr. Frischknecht: Yes.

Mr. Maher: …there’s no issue utilizing the driveway off of East View, correct?

Mr. Frischknecht: Can you repeat the…?

Mr. Maher: Sure, so if in fact it’s going to be a one-family residence…

Mr. Frischknecht: Yes.

Mr. Maher: …then the access to your property off of East View is sufficient for you use, correct?

Mr. Frischknecht: I believe it’s okay. I have no problem. I have just from the ideological problem point of view it sounds a little weird that I cannot have the address of my house that says my house.

Mr. Maher: No I…I understand that.

Mr. Frischknecht: That it sounds a little bit strange...

Mr. Maher: Obviously it’s you know as…

Mr. Frischknecht: …to me, but I’m sorry I’m not familiar with that.

Mr. Maher: No again, I understand, obviously as the attorney stated that you know it’s what’s in the deed itself not what we’re telling you it’s what the deed states...

Mr. Frischknecht: I understand, I understand…it’s not you personally it’s what the…

Mr. Maher: …right, so in the end, the access you have to that residence will be off of East View and you’re comfortable with that?

Mr. Frischknecht: I…do I have a choice?

Chairperson Cardone: Jerry, is it possible to get the address changed on that? If he indeed makes the access off of East View then he should have a number off of East View and not off of Chevy Street.

Mr. Canfield: I can arrange that.

Chairperson Cardone: Thank you. Did you understand that?

Mr. Frischknecht: I understand if I am happy or not that’s a different question, right?

Chairperson Cardone: Okay. So we had a motion, am I correct?

Mr. Maher: Yes.

Ms. Gennarelli: And a vote.

Mr. Levin: Yes.

Chairperson Cardone: And a vote.

Mr. Cella: There was a vote yeah.

Chairperson Cardone: Yes, that’s what I thought.

Mr. Frischknecht: Oh, the change, I’m sorry just a quick question, the change of the address being East View instead of Chevy is that part of the…the process that we are asking you for the variance? Is that a consequence of the variance?

Chairperson Cardone: No.

Mr. Frischknecht: It has nothing to do with the variance.

Chairperson Cardone: Right, nothing to do with the variance.

Mr. Frischknecht: Because the variance was something to do with the distance from the house to East View…

Chairperson Cardone: Right.

Mr. Frischknecht: …I understood. But the physical number that you’re suggesting now to have changed is nothing to do with the variance itself.

Chairperson Cardone: I think it would make it even clearer for an emergency vehicle coming in because if we don’t want cars going on…that the street where the number is I would think that you would want the emergency vehicle to go to the correct driveway and the correct driveway is on East View.

Inaudible Audience Member

Chairperson Cardone: I…I understand the correct driveway was on Fifth Avenue. I do know that.

Mr. Canfield: And that was going to be my comment that there’s a degree of responsibility on the owner here to make sure that he is to utilize East View and I also think that it’s appropriate that the ZBA communicate with the planning board as this application will go back to the planning board should you chose to approve this variance and so it’s incorporated in the subdivision.

Chairperson Cardone: And fortunately we have a planning board member here this evening.

Mr. Canfield: Is he here in official capacity?

Chairperson Cardone: I have no idea.

Mr. Canfield: But yeah, I…I…I think there should be a degree of communication between the two boards so you’re on the same page here.

Chairperson Cardone: Right.

Mr. Canfield: And…and there a…aware of your conversation and findings, I’m certain that Dave or Mike, excuse me…

Chairperson Cardone: I would hope they would read the minutes of any meetings we have that pertain to anything that is before the planning board.

Ms. Gennarelli: They do get the minutes.

Chairperson Cardone: They do get the minutes.

Mr. Canfield: This is a referral I think the subdivision…

Ms. Gennarelli: Yes, the do get the minutes.

Mr. Canfield: …is what brought them here.

Chairperson Cardone: Anything else?

Mr. Canfield: You’re going to miss me.

Chairperson Cardone: I know, I know I am...so we will see you next month you know the date.

Mr. Cella: Tuesday at 10 o’clock.

Chairperson Cardone: And again, you won’t be re-noticed but unfortunately you’re going to have to come back next month.

Ms. Gennarelli: October 22nd.

Mr. Frischknecht: I don’t have to come back or I do have to come back?

Chairperson Cardone: No, I was speaking to the gentleman in the back.

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

 GERALD CANFIELD, CODE COMPLIANCE

 (Time Noted – 9:12 PM)

ZBA MEETING – SEPTEMBER 24, 2015 (Time Noted – 9:12 PM)

LEONARDO VILLACHICA 14 KNIGHTS CIRCLE, NBGH

 (108-4-13) R-1 ZONE

Applicant is seeking area variances for the minimum rear yard setback and the maximum lot surface coverage to keep a prior built pool and pool deck.

Chairperson Cardone: Also held open from the May…thank you…

Mr. Frischknecht: That’s it?

Chairperson Cardone: …that’s it, yes, thank you for coming tonight.

Chairperson Cardone: Held open from the May 28th meeting Leonardo Villachica. Is anyone here regarding that application?

No response.

Mr. Manley: I did get a copy; we did send them a letter so…

Chairperson Cardone: And would you like me to read that for the record?

Mr. Donovan: Sure.

Mr. Manley: Would you like me to read it for you?

Mr. Donovan: I’ll apologize in advance though for misspelling Newburgh on the second page. I have no one to blame but myself for that so.

Mr. Manley: The letter is dated September 9th to Leonardo Villachica, 14 Knights Circle. Re: The application of Leonardo Villachica, Town of Newburgh Zoning Board of Appeals:

Dear Mr. Villachica and Ms. Rojas: In accordance with your written request your application to the Town of Newburgh Zoning Board of Appeals seeking area variances for the minimum rear yard setback and maximum lot surface coverage to allow you to keep a prior built pool and pool deck was adjourned until August 27, 2015. Unfortunately you did not appear at the meeting held on August 27, 2015 nor did you submit the additional information that was requested by the Board during the May 28, 2015 meeting. I write to advise you at this time that Town of Newburgh Zoning Board of Appeals did discuss your application at the August 27, 2015 meeting. A copy of the minutes from the meeting relating to that discussion are enclosed. Based on the Board’s discussion your application has been adjourned until the next meeting of the Town of Newburgh Zoning Board of Appeals which will be held September 24, 2015. Please be advised if you fail to appear at the September 24, 2015 meeting the Town of Newburgh Zoning Board of Appeals, the Board intends to vote on your application based upon the information that you have provided the Board to date. Please give this matter your attention. Very truly yours, David A. Donovan

Chairperson Cardone: And no one is here to address that application then I would ask for a motion to close the Public Hearing on this application.

Mr. McKelvey: I make a motion we close the Public Hearing.

Mr. Manley: 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: Okay, before proceeding the Board will take a short adjournment to confer with Counsel regarding legal questions raised by tonight’s applications. If I would ask in the interest of time if you could wait out in the hallway and…I believe I finished all of the Public Hearings…we just have a Reserved Decision…and then we’ll call you in shortly.

Mr. Cordisco: Mrs. Cardone may I just…I one brief statement regarding the Polhamus application if I may? I realize I’m not a member of the public I’m representing the applicant.

Chairperson Cardone: I would say you may but later when we discuss this application.

Mr. Cordisco: Certainly and thank you for the opportunity.

 (Time Noted - 9:15 PM)

ZBA MEETING – SEPTEMBER 24, 2015 (Resumption for decision: 9:42 PM)

LEONARDO VILLACHICA 14 KNIGHTS CIRCLE, NBGH

 (108-4-13) R-1 ZONE

Applicant is seeking area variances for the minimum rear yard setback and the maximum lot surface coverage to keep a prior built pool and pool deck.

Chairperson Cardone: Next we have Leonardo Villachica, 14 Knights Circle, seeking area variances for the minimum rear yard setback and the maximum lot surface coverage to keep a prior built pool and pool deck. This is a Type II Action under SEQR. Do we have discussion on this application?

Mr. McKelvey: Since they didn’t follow our directions in the letter from the attorney I think we make a motion to disapprove.

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: Yes

 Grace Cardone: Yes

Chairperson Cardone: The motion to disapprove 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

 GERALD CANFIELD, CODE COMPLIANCE

(Time Noted – 9:43 PM)

ZBA MEETING – SEPTEMBER 24, 2015 (Resumption for decision: 9:44 PM)

SALLY N. POLHAMUS 65 BALMVILLE ROAD, NBGH

 (43-3-34.2) R-1 ZONE

Applicant is seeking area variances for the lot area, lot width, one side yard setback, combined side yards setback, maximum lot building coverage and maximum lot surface coverage to keep the existing dwelling on Lot #1 and area variances for the lot area, lot width and lot surface coverage and Section 185-43 (E) tennis court screening and (F) no tennis court shall be located in the front yard to keep the prior built tennis court and also accessory structures (gazebo) must be in a side or rear yard to keep both the prior built gazebo and tennis court as an accessory use contingent on the building of a two-story single-family dwelling on Lot #2 of a proposed two-lot subdivision before the planning board.

Chairperson Cardone: Okay we had Reserved Decision from August 27th meeting for Sally Polhamus at 65 Balmville Road and I believe you would like to speak, just for the record identify yourself.

Mr. Cordisco: Yes, certainly, I don’t think this is on so…

Ms. Gennarelli: Okay, see if it is muted then. Is there a light?

Mr. Cordisco: Now I think it is on. Yes, thank you very much Chairwoman Cardone and Members of the Board I’m Dominik Cordisco from the law firm of Drake Loeb. It’s a…I am representing the Polhamus’s. I know that you’ve been looking at this now for several months and I really just wanted to put it in context for you. If…if I may a very brief statement? A…the Polhamus’s tried in 2007 to put an addition onto their home, they owned two lots at that time. Members of this Board actually recommended that it would be better for them to combine those two lots and that’s exactly what they did. In fact one member in particular, Mr. Hughes, said that it would be better for your application. It’s in the minutes that says if you combine those two lots and that’s exactly what they did. They went off and combined those two lots and then they came back before the Board and the Board making its deliberations turned them down. So what they were left with was one large lot and no addition. So what they’ve been trying to do now effectively is just to put it back the way that it was before 2007 so that they could have their two lots again. And in order to get to this particular moment they had to remove a shed, they had to remove an oil tank from the property and they’ve also had to do, at their expense, septic test on this lot to show you that this lot which was previously created could still con…a…a…support a a single family residence. So you can balance all the factors and you can consider the impact on the neighborhood but the impact on the neighborhood is exactly what it would have been back in 2007 had they just proceeded with selling that additional lot and to somebody else who would put up a house on it and we’re just trying to go back to that point in time. And that’s exactly where we’re at and I think that you could find a lot of reasons to turn this down. You could say that well you know its five different variances or the variances are substantial and in your opinion although in my opinion I don’t think that they are given these circumstances. You can find reasons to turn this down but I implore on you to put them back in the position that they were in before they tried to convince the Board to allow them to have their addition on their house. Thank you very much for the opportunity to present these comments.

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

Mr. Scalzo: I think this has been one of the more challenging a…decisions that we’ve had in front of us, well in my, you know, eighteen…fifteen months here as opposed to your many, many more.

Chairperson Cardone: Right.

Mr. Scalzo: I had asked Betty to gather some information for me from previous meeting minutes a…for the 2007 action. And in that I read Mr. Hughes’ comments but they also had testimony from a person that was representing Tierney which was a neighbor to the north and apparently there was an action in 1999 where the Tierneys were looking to subdivide and what I had dugout from the meeting minutes Mr. LeClair who lived two lots away from the subject parcel stated some of the reasons they purchased their home was they were looking to move into a well-established neighborhood with Zoning Ordinances to protect their investment. And…and there’s plenty of other information that really I could lay on but the Giants are on…a they also had introduced a Mr. Buchalter who was a certified general appraiser a…who went on to say you know, generally he thought the lots in the area were one and a half to three acres in size. A…if the lot size and road frontages are permitted to be reduced the character of the neighborhood is subject to impact and it sets a precedent to serve as a benchmark for future requests for subdivisions and variances. And Mr. Buchalter closed that off with based on the reasons stated in his report that he submitted to the Board it is his opinion that the building construction and the subdivision would be a detriment to nearby properties. There’s testimony also a woman Donna Cornell spoke on behalf of Mrs. Nelson who said the size of the lot as well the location of the house and septic create problems and do not warrant the issuance of a variance. This was very difficult a…on the ZBA at that time. Their subdivision was a…they did not get the ZBA approval that they needed for that subdivision and they were asking for area variances less than what’s in front of us now although they didn’t have the situation that you just described. They did not…they did not start with two lots, consolidate and then go to trying to separate them again. They were looking for one side yard setback and lot area relief for about five thousand square feet. The smaller of the lots was thirty-five thousand square feet, the other was over forty. So I don’t…I’m just giving this information to the Board for, you know, us to make an informed decision on.

Chairperson Cardone: Okay, do we have any other comments?

Mr. Levin: Well I was listening to Darrin and I…I…I a…I personally feel that a subdividing it is not going to change the neighborhood. There would be no detriment on the neighborhood. We’re talking about sizes of buildings and everything. I think it would be a…fine.

Chairperson Cardone: Any other comments? Do we have a motion for approval on this application?

Mr. Levin: I guess I should make a motion for approval.

Chairperson Cardone: And do we have a second?

No response.

Chairperson Cardone: Do we have a motion for disapproval on this application?

Mr. Scalzo: I would make a motion for disapproval.

Chairperson Cardone: And do we have a second?

Mr. Masten: I'll second it.

Chairperson Cardone: Okay, this is on a motion to disapprove.

Ms. Gennarelli: Okay, roll call.

 Richard Levin: No

 Michael Maher: Yes

 James Manley: Yes

 John Masten: Yes

John McKelvey: Yes

 Darrin Scalzo: Yes

 Grace Cardone: Yes

Chairperson Cardone: Motion for disapproval 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

 GERALD CANFIELD, CODE COMPLIANCE

 (Time Noted – 9:53 PM)

ZBA MEETING – SEPTEMBER 24, 2015

END OF MEETING (Time Noted – 9:53 PM)

Chairperson Cardone: Okay, we do have further business. Since I will be leaving, we will need a new Chairperson and so I’m looking for a nomination.

Mr. McKelvey: I’ll make a motion that Jim Manley become Chairman.

Mr. Maher/Mr. Scalzo: I’ll second it.

Mr. Levin: Let them be second, I’ll be third.

Mr. Manley: Can there be discussion before we go any further?

Chairperson Cardone: By everyone except the party we’re discussing.

Mr. Manley: Oh.

Mr. McKelvey: We could have made the motion next month when you’re away.

Chairperson Cardone: Just kidding.

Mr. Manley: I was just going to say that I would not vote, I would abstain but I did want to bring to the attention of our Attorney that a…there was something that came up that you were probably a…did Grace brief you on that? The Town Law?

Mr. Donovan: Correct.

Mr. Manley: Is the decision that we make just an advisory to the…?

Mr. Donovan: So ultimately what the…what the Code provides is that the Town Board gets the final say. Historically, at least in my eight years here the Board has always voted for its Chairman.

Chairperson Cardone: And…and in my twenty some years.

Mr. Donovan: And the Town Boards gone along with that.

Chairperson Cardone: Yes.

Mr. Donovan: But ultimately if they don’t like the color of Jim’s shirt I guess they could appoint somebody else but that hasn’t happened in my experience anyway.

Chairperson Cardone: Right and in mine.

Mr. Manley: You never know.

Mr. Levin: Can I say something to not sound selfish a…

Mr. Manley: Oh, you want it?

Mr. Levin: No, no, no, no Jim. I only hope when we vote you in that you continue making your comments and opinion. I…I love to listen to you speak in that way and not just run…concentrate on the meeting but make sure we know what you’re thinking all the time.

Mr. Manley: But the…the Chair has to somewhat be…somewhat impartial, they’re just the orchestrator…

Mr. Levin: And that’s what I’m worried about.

Mr. Manley: …and that’s you know, the nature of the…of the position is you’re not supposed to really a…you ask questions and it’s up to the…

Chairperson Cardone: And that’s why the Chair votes last also.

Mr. McKelvey: Yeah.

Mr. Levin: Okay.

Mr. Maher: Are you going to be able to restrain yourself?

Mr. Manley: I’m going to try. You’ll just see me smile…but you know it’s really going to be up to everyone…it’s really is incumbent on everybody really you have to participate.

Chairperson Cardone: Right.

Ms. Gennarelli: We didn’t close the meeting yet…

Chairperson Cardone: And we haven’t voted yet.

Mr. Donovan: We haven’t voted yet.

Ms. Gennarelli: They’re taking all the things down.

Chairperson Cardone: Okay, we have a motion and a second.

Ms. Gennarelli: Okay…

Mr. Masten: I’ll second it.

Ms. Gennarelli: …we have a second…we have four seconds now.

Chairperson Cardone: Four.

Mr. Levin: No, I’m a third.

Ms. Gennarelli: Okay we are going to take a vote now.

 Richard Levin: Yes

 Michael Maher: Yes

 John Masten: Yes

John McKelvey: Yes

 Darrin Scalzo: Absolutely Yes

 Grace Cardone: Yes.

Chairperson Cardone: The motion is carried.

Mr. Manley: The first order of business, next month I won’t be here.

Chairperson Cardone: And one other thing is to vote on the minutes of last month. Any corrections, deletions, additions? Motion to approve?

Mr. Masten: I make a motion.

Mr. Levin: I’ll second it.

Chairperson Cardone: Okay, all in favor?

Aye - All

Chairperson Cardone: Opposed?

No response

Chairperson Cardone: And now we need a motion to adjourn the meeting till next month.

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

Mr. Manley: Second, I’ll make a motion we adjourn with…

Ms. Gennarelli: Grace, can you use the gavel?

Chairperson Cardone gaveled the end of the meeting.

Chairperson Cardone: Quiet Manley.

Mr. Manley: We adjourn with regrets.

Chairperson Cardone: All in favor?

Aye All

Chairperson Cardone: Opposed?

No response.

Mr. Canfield: I have one question, is Grace Cardone Day going to be a paid holiday?

Chairperson Cardone: That’s funny.

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

 GERALD CANFIELD, CODE COMPLIANCE

 (Time Noted – 10:00 PM)