ZONING BOARD OF APPEALS

MEETING – FEBRUARY 28, 2013

(Time Noted – 7:04 PM)

CHAIRPERSON CARDONE: I’d like to call the meeting of the ZBA to order. The first order of business is the Public Hearing scheduled for today. The procedure of the Board is that the applicant will be called upon to step forward, state their request and explain why it should be granted. The Board will then ask the applicant any questions it may have and then any questions or comments from the public will be entertained. After all of the Public Hearings have been completed the Board may adjourn to confer with Counsel regarding any legal questions it may have. The Board will then consider the applications in the order heard. The Board will try to render a decision this evening on all applications; but the Board may take up to 62 days to reach a determination. And I would ask when you’re speaking to please speak directly into the microphone because it is being recorded. And also if you have a cell phone please put it on silent or turn it off. Roll call please.

PRESENT ARE:

 GRACE CARDONE

 JOHN MC KELVEY

 BRENDA DRAKE

 MICHAEL MAHER

 JAMES MANLEY

 JOHN MASTEN

 ROSEANNE SMITH

ALSO PRESENT:

 DAVID A. DONOVAN, ESQ.

 BETTY GENNARELLI, ZBA SECRETARY

 GERALD CANFIELD, CODE COMPLIANCE

JOSEPH MATTINA, CODE COMPLIANCE

 (Time Noted – 7:09 PM)

ZBA MEETING – FEBRUARY 28, 2013 (Time Noted – 7:09 PM)

JOSE L. & MARIA PEREZ 8 HOLIDAY PARK, NBGH

 (88-5-2) R-1 ZONE

Applicant is seeking an area variance for increasing the degree of non-conformity of the side yard setback and the combined side yards setback to keep the existing rear deck.

Chairperson Cardone: The first applicant Jose and Maria Perez

Ms. Gennarelli: The Public Hearing Notices for all the new applications being heard this evening were published in The Sentinel on Tuesday, February 19th and in the Mid-Hudson Times on Wednesday, February 20th. This applicant sent out twenty-nine registered letters, twenty-seven were returned. All the mailings and publications are in order.

Chairperson Cardone: For the record, would you please state your name speaking into the microphone?

Ms. Fassnacht: Good evening, my name is Tina Fassnacht. I am the attorney for Mr. and Mrs. Perez that are here before you tonight. My client, Mr. Perez, is seeking an area variance for increasing the degree of non-conformity of one side yard setback and the combined side yards setback to keep the existing rear deck currently on the back of the property.

Ms. Gennarelli: Are the Perez’s here tonight?

Ms. Fassnacht: Mr. Perez is here, yes.

Ms. Gennarelli: Okay, thank you.

Mr. Manley: How long has the applicant lived at the premises?

Ms. Fassnacht: Since 1982…

(Inaudible)

Ms. Fassnacht: 1978 I’m sorry.

Ms. Drake: Did you add the deck yourself?

Ms. Fassnacht: Yes, he did.

Ms. Gennarelli: Could you stand a little closer to the microphone?

Ms. Fassnacht: Sorry, yes he did.

Mr. McKelvey: Did he have a permit?

Ms. Fassnacht: No, I don’t believe he did at that time?

Ms. Smith: Do you know about when you added the deck?

Ms. Fassnacht: I believe that was about in 1984, right.

Mr. Manley: Could you explain to the Board what prompted the a request before the Zoning Board for the variance? Is there something that is currently pending, a title search…?

Ms. Fassnacht: There was a title search; Mr. & Mrs. Perez are trying to sell their home. I believe they had been notified prior to that there might be an issue and they decided to take care of it.

Chairperson Cardone: I have a report from the Orange County Department of Planning, which is Local Determination. Do we have any other questions from the Board?

Ms. Drake: Code Compliance, you’ll need to do inspections for this prior to issuing a…is there anything that you need for being able to do that…from us?

Mr. Canfield: I believe…what prompted them to come here was there was a Building Permit application. That’s how it got denied, disapproved and sent to this Board so yes, to complete the process should the Board choose to approve the variance requested then we’ll proceed with issuing the Permit and do the necessary inspections.

Ms. Drake: Thank you.

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

Ms. Drake: I’ll make a motion to close the Public Hearing.

Mr. McKelvey: I’ll second.

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

No Response.

Ms. Gennarelli: Roll call.

 John McKelvey: Yes

 Brenda Drake: Yes

 Michael Maher: Yes

 James Manley: Yes

John Masten: Yes

 Roseanne Smith: Yes

 Grace Cardone: Yes

Chairperson Cardone: The motion is carried, the Public Hearing is closed.

 (Time Noted - 7:09 PM)

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ZBA MEETING – FEBRUARY 28, 2013 (Resumption for decision: 8:39 PM)

JOSE L. & MARIA PEREZ 8 HOLIDAY PARK, NBGH

 (88-5-2) R-1 ZONE

Applicant is seeking area variances for increasing the degree of non-conformity of the side yard setback and the combined side yards setback to keep the existing rear deck.

Chairperson Cardone: The Board is resuming its regular meeting. Our first application Jose and Maria Perez at 8 Holiday Park seeking area variances for increasing the degree of non-conformity of the side yard setback and the combined side yards setback to keep the existing rear deck. This is a Type II Action under SEQRA. Do we have comment on this application? Any discussion on this application?

Mr. McKelvey: I think that it’s been there for (31) thirty-one years and nobody has complained about it and it’s a nice looking deck. I'll make a motion we approve.

Mr. Manley: Second.

Ms. Gennarelli: Roll call.

 John McKelvey: Yes

 Brenda Drake: Yes

 Michael Maher: Yes

 James Manley: Yes

John Masten: Yes

 Roseanne Smith: Yes

 Grace Cardone: Yes

Chairperson Cardone: The motion is carried.

PRESENT ARE:

GRACE CARDONE

 JOHN MC KELVEY

 BRENDA DRAKE

 MICHAEL MAHER

 JAMES MANLEY

 JOHN MASTEN

 ROSEANNE SMITH

ALSO PRESENT:

DAVID A. DONOVAN, ESQ.

 BETTY GENNARELLI, ZBA SECRETARY

 GERALD CANFIELD, CODE COMPLIANCE

JOSEPH MATTINA, CODE COMPLIANCE

 (Time Noted – 8:40 PM)

ZBA MEETING – FEBRUARY 28, 2013 (Time Noted – 7:09 PM)

ANITA DARRAH 5261 ROUTE 9W, NBGH

 (25-2-3) B ZONE

Applicant is seeking area variances for the maximum allowed square footage for accessory apartments, the maximum allowed square footage of accessory buildings, the maximum allowed height of accessory buildings and shall not increase the degree of non-conformity (to the side property line) to keep a prior built 2nd floor accessory apartment.

Chairperson Cardone: Our next applicant Anita Darrah.

Ms. Gennarelli: This applicant sent out nineteen registered letters, fifteen were returned. All the mailings and publications are in order.

Ms. Darrah: My name is Anita Darrah…

Ms. Gennarelli: Anita, you have to get closer to that microphone. Thanks.

Ms. Darrah: Anita Darrah, applying for area variance for the maximum allowed square footage for accessory apartment.

Chairperson Cardone: Okay and how long has this apartment been there?

Ms. Darrah: Thirty-two years, I inherited it in 2004.

Mr. McKelvey: But you don’t have a C.O.?

Ms. Darrah: My parents were the ones who put the apartment up so a…they’re deceased now and I don’t know what…

Mr. Manley: Mr. Canfield is there any records in the Town that you’re aware of that you were able to locate relative to this? Any Permits or anything that’s outstanding?

Mr. Canfield: As Mrs. Darrah explained this second story on this garage got created a…this is located back off the road a…not highly visible so it was constructed with no Permits some thirty years ago. When it was discovered that they needed a C. of O. that’s how the Permit was applied for and then it came before this Board, all the non-conformities were realized at that point.

Mr. Manley: So prior to a couple of months ago there’s nothing that was taken out thirty years ago, any Permits that show or…?

Mr. Canfield: No, no we have no records of that.

Mr. Manley: And it would not be considered pre-existing non-conforming because it does not predate the Zoning in the Town? Correct?

Mr. Canfield: That’s correct.

Mr. Manley: Okay, thank you.

Chairperson Cardone The report from the County is Local Determination however, they did have a recommendation. And I don’t know if you would like to speak to that. Anita have you seen the report from the County? No? County Planning recommends that the applicant pursue an appropriate cross easement with the adjoining parcel to the north in order to allow continued use of the driveway and apartment access. In the event the adjoining land owner is unwilling to provide the easement, our office recommends that the applicant alter the steps to the south side of the deck and discontinue use of the driveway, re-establishing a vegetative cover. In addition a fence or guiderail may be necessary to prevent continued use of the adjoining parcel. You own the next parcel, right?

Ms. Darrah: My house is right here and then…

Chairperson Cardone: Right.

Ms. Darrah: …there’s only one driveway to come to my house that’s the apartment.

Chairperson Cardone: Right.

Ms. Darrah: So…

Chairperson Cardone: Do you have any comment to…?

Mr. Canfield: According to this…can you hear me?

Ms. Gennarelli: Barely.

Chairperson Cardone: Yes.

Mr. Canfield: The batteries are going weak.

Ms. Gennarelli: Do you have a green light?

Mr. Canfield: I’ve got a green light.

Mr. Canfield: According to the survey there is one driveway and it does enter and access onto Route 9W. It appears that the driveway depicted in the survey does encroach the northern boundary but I don’t know if that driveway goes any further north. Is that correct maam?

Ms. Darrah: Yes.

Mr. Canfield: Yeah, there’s only one entrance and exit a…currently which also you have two dwelling units on this one site, I would think that one driveway would be sufficient.

Chairperson Cardone: Right.

Mr. Donovan: I think the concern is the encroachment with the steps on the driveway.

Mr. Canfield: Yeah, the steps I would think could easily be relocated, the driveway…I’ve not made a physical a…site inspection myself but the…

Chairperson Cardone: We have made site inspections…

Mr. McKelvey: Yeah, we have.

Chairperson Cardone: …all Members of the Board have.

Mr. Canfield: I don’t know what effect discontinuing that portion of the driveway would have as far as ample parking.

Chairperson Cardone: Right, right. I didn’t see it myself either and that’s why I thought it was important to read it. Do we have questions from the Board? Do we have any questions or comments from the public?

Mr. Maher: I see a drawing done for the septic system; do you have an engineering survey of the septic or just the hand written?

Ms. Darrah: Just the hand written one.

Mr. Maher: So are you familiar with the installation or is that what you’re assuming is there?

Ms. Darrah: (Inaudible)

Ms. Gennarelli: Can you get closer to the mic please?

Ms. Darrah: Assuming that’s what’s there.

Mr. Maher: Okay.

Chairperson Cardone: Anything else from the Board? Anything from the public?

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

Ms. Drake: I’ll second that.

Ms. Gennarelli: Roll call.

 John McKelvey: Yes

 Brenda Drake: Yes

 Michael Maher: Yes

 James Manley: Yes

 John Masten: Yes

 Roseanne Smith: Yes

 Grace Cardone: Yes

Chairperson Cardone: Thank you.

Ms. Darrah: Thank you.

 (Time Noted - 7:16 PM)

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ZBA MEETING – FEBRUARY 28, 2013 (Resumption for decision: 8:40 PM)

ANITA DARRAH 5261 ROUTE 9W, NBGH

 (25-2-3) B ZONE

Applicant is seeking area variances for the maximum allowed square footage for accessory apartments, the maximum allowed square footage of accessory buildings, the maximum allowed height of accessory buildings and shall not increase the degree of non-conformity (to the side property line) to keep a prior built 2nd floor accessory apartment.

Chairperson Cardone: On the application of Anita Darrah, 5261 Route 9W, seeking area variances for the maximum allowed square footage for accessory apartments, the maximum allowed square footage of accessory buildings, the maximum allowed height of accessory buildings and shall not increase the degree of non-conformity (to the side property line) to keep a prior built 2nd floor accessory apartment. This is a Type II Action under SEQRA. Do we have discussion on this application?

Ms. Drake: Again, the apartment has been there for (32) thirty-two years and a…she actually inherited it and the fact that she’s cleaning up the Violations and so forth a…I make a motion to approve.

Chairperson Cardone: Do we have a second?

Mr. Masten: I'll second it.

Ms. Gennarelli: Roll call.

 John McKelvey: Yes

 Brenda Drake: Yes

 Michael Maher: Yes

 James Manley: Yes

 John Masten: Yes

 Roseanne Smith: Yes

 Grace Cardone: Yes

Chairperson Cardone: The motion is carried.

PRESENT ARE:

GRACE CARDONE

 JOHN MC KELVEY

 BRENDA DRAKE

 MICHAEL MAHER

 JAMES MANLEY

 JOHN MASTEN

 ROSEANNE SMITH

ALSO PRESENT:

DAVID A. DONOVAN, ESQ.

 BETTY GENNARELLI, ZBA SECRETARY

 GERALD CANFIELD, CODE COMPLIANCE

JOSEPH MATTINA, CODE COMPLIANCE

 (Time Noted – 8:42 PM)

ZBA MEETING – FEBRUARY 28, 2013 (Time Noted – 7:16 PM)

DANIEL HESIDENCE 28 WARING ROAD, NBGH

 (65-3-13) R-3 ZONE

Applicant is seeking area variances for the rear yard setback, one side yard setback, the combined side yards setback and the maximum lot building coverage to convert a garage to a 1-Family residence.

Chairperson Cardone: Our next applicant Daniel Hesidence.

Ms. Gennarelli: This applicant sent out thirty registered letters, I have three that were returned and the other envelope that was sent to me was not has not arrived yet from Long Island City so...the mailings were in order, all mailings and publications are in order. (The envelope, containing all the other returned green cards, was delivered by the Post Office on 3-1-2013 which contained twenty-one green cards - in total twenty-four were returned).

Mr. Hesidence: My name is Daniel Hesidence. I am seeking an area variance for one and combined side yards setback, the rear yard setback, maximum lot building coverage to convert a vacant garage to a single-family residence. In 2010 I purchased this property once the ZBA granted all area variances and permission to convert this garage to a single-family residence. As I began to move forward unexpected financial challenges presented themself impacting my budget and timeline. Because my application has since expired I’m here to reapply. No changes to the existing footprint of this structure will be made. The building was built as an ironworks factory in 1930 I would like to convert it to a single-family residence.

Ms. Drake: Can you just…can you tilt the microphone up a little bit?

Mr. Hesidence: Sure.

Ms. Drake: Thank you. I believe there were some issues with some tanks and those have been resolved between the two parcels?

Mr. Hesidence: Those have been resolved.

Chairperson Cardone: And the plan is the same plan that you submitted in the past?

Mr. Hesidence: It’s…it’s the same footprint there’s a change internally. One of the bedrooms has been taken out because financially I can’t afford to put it in.

Mr. McKelvey: Which bedroom?

Mr. Hesidence: Pardon me?

Chairperson Cardone: On the first floor?

Mr. McKelvey: The first floor?

Mr. Hesidence: On the first floor, yes.

Ms. Smith: It’s going to remain a one-family residence with no business conducted from that?

Mr. Hesidence: That’s correct.

Chairperson Cardone: So essentially it’s because the Permit you had expired, the variance you had expired and so that’s why you are coming back?

Mr. Hesidence: That’s correct.

Chairperson Cardone: Okay. Do we have any other questions from the Board? Any questions or comments from the public?

Mr. Sottile: Ed Sottile, 30 Waring Road…

Ms. Gennarelli: Can you turn that up a little bit towards you so we can hear you? That’s good.

Mr. Sottile: How’s that better?

Ms. Gennarelli: Just get closer.

Mr. Sottile: Ed Sottile, 30 Waring Road, I happen to be his neighbor with the tank issues and we won’t go into that…

Chairperson Cardone: Right.

Mr. Sottile: …but the only thing I want to ask is that a…he does plan on doing some exterior work to this building I would imagine and I’d like to know how he’s going to access the side of the building on the property because this building a…on my end is the property line.

Mr. Maher: So I’m assuming you’re not willing to give him access to the property?

Mr. Sottile: Correct.

Chairperson Cardone: Any other comments from the public?

Mr. McKelvey: Does the owner of the property want to answer that question that he gave?

Mr. Hesidence: Well I’m hoping, you know, I own the property I’m hoping I have the right to maintain my own property just as they have a building that’s right up against my property line, they have the right to maintain their building. This building has been in existence for over eighty years.

Mr. Sottile: Mr. Hesidence bought this property what in 2010 I believe?

Chairperson Cardone: Correct.

Mr. Sottile: He had it looked at presumably? He knew the issues with it and he bought it anyway. Okay? My house does not sit on his property line. I can walk around my house. He doesn’t have that privilege and a…he knew that going into this. It’s a buyer beware situation. I don’t want people on my property that’s the way it is.

Mr. Maher: So let me ask you a question, according to the survey that’s filed here the existing stone garage…I’m assuming is on your property?

Mr. Sottile: The property line goes around the building.

Mr. Maher: Well by (9) nine inches obviously. I find that hard that you could walk around (9) nine inches around the building there but regardless…

Mr. Sottile: The…the property stakes that have been put down there by many surveyors that have come in have put these stakes right up against the building…

Mr. Maher: Against your building?

Mr. Sottile: Against his building.

Mr. Maher: No, no I’m referring to yours right now.

Mr. Sottile: Oh, go ahead, I’m sorry.

Mr. Maher: So it shows a (9) nine inch clearance around the building…

Mr. Sottile: Oh, that’s my garage.

Mr. Maher: Right, no I understand that, that’s what I said…the stone garage…

Mr. Sottile: Right.

Mr. Maher: So basically you have no access to the side of your garage, he has no access to the side of his house…I mean that…

Mr. Sottile: I don’t need to get to my garage, the side of my garage, it’s a stone wall.

Mr. Maher: And you’re...and you’re happy with the current looks of the building and you’re willing to remain like that?

Mr. Sottile: I have no problem with it.

Mr. Maher: Okay.

Mr. Donovan: If I can just kind of orient the Board in terms of what you do when you have a variance that’s been granted by the Board? That essentially the same application comes back to the Board because this is except for some very minor changes a variance of (7.2) seven point two feet instead of (7.4) seven point four and (4) four feet instead of (4.3) four point three otherwise it’s the same variance we granted in April of 2010. Absent any material change in circumstance we are duty bound, this Board is duty bound to follow its prior decision.

Mr. Manley: Yeah, I don’t believe that there’s anything that has been significant that’s been uncovered in these proceedings which would cause this Board to, you know, overturn its decision. There has been nothing new presented that would prevent us from…to change our decision. I think that one of the big complaints that we have had prior to this building undergoing a transformation was the fact that the prior commercial building had a lot of people that were outside, were using it for a bathroom and you know, I think that really detracted from the neighborhood. I think that this particular change is going to a…increase the individual’s property values in the neighborhood. Baring that I also took the liberty of pulling in the area any other requests that neighbors had made for variances and there are a number of requests for variances that were granted by the Board. So this gentleman’s request for a variance is in character with the neighborhood which is part of the decision process when a Board makes its determination. I also found some, to my surprise, that there were a number of Violations and open Building Permits for neighbors in the neighborhood that have never been closed out and are in Violation. So there are issues in the neighborhood that I believe Code Compliance should probably look into and ensure that the neighborhood is…is complying with our Building Codes. But this gentleman has done everything he’s been asked to, he has come before this Board twice now and I see no reason to deny the permit and the application.

Mr. Sottile: I’m not saying don’t give him the variance if he wants it but I’m saying he has no access to the end of the building. He’s not coming on my property, period.

Mr. Manley: That’s your choice.

Mr. Sottile: Okay. The other thing is as far as any what you’re referring to…any open Permits that haven’t been closed or what not…people are still paying taxes on that land…on those changes. Aren’t they? Six months after you have a Permit the tax goes enforced on what the changes were.

Mr. Manley: But you still have an obligation…

Mr. Sottile: Correct?

Mr. Manley: An individual would still have an obligation to close that Permit out.

Mr. Sottile: I’m not saying they don’t but they are paying taxes on the changes.

Mr. Manley: And you also have to comply with the Law so it…it’s a two-way street.

Mr. Sottile: I understand that.

Chairperson Cardone: Do we have any other comments from the public? Anything else from the Board?

Ms. Drake: I’ll make a motion to approve the…to close the Public Hearing.

Mr. Maher: Second.

Ms. Gennarelli: Roll call.

 John McKelvey: Yes

 Brenda Drake: Yes

 Michael Maher: Yes

 James Manley: Yes

 John Masten: Yes

 Roseanne Smith: Yes

 Grace Cardone: Yes

 (Time Noted - 7:25 PM)

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ZBA MEETING – FEBRUARY 28, 2013 (Resumption for decision: 8:42 PM)

DANIEL HESIDENCE 28 WARING ROAD, NBGH

 (65-3-13) R-3 ZONE

Applicant is seeking area variances for the rear yard setback, one side yard setback, the combined side yards setback and the maximum lot building coverage to convert a garage to a 1-Family residence.

Chairperson Cardone: On the next application Daniel Hesidence, 28 Waring Road, seeking area variances for the rear yard setback, one side yard setback, the combined side yards setback and the maximum lot building coverage to convert a garage to a 1-Family residence. This is a Type II Action under SEQRA. Do we have discussion on this application?

Mr. Maher: This is consistent with the last application before us with minor interior changes, the applicant has connected to sewer, I’ll make a motion to approve.

Ms. Drake: Second.

Ms. Gennarelli: Roll call.

 John McKelvey: Yes

 Brenda Drake: Yes

 Michael Maher: Yes

 James Manley: Yes

 John Masten: Yes

 Roseanne Smith: Yes

 Grace Cardone: Yes

Chairperson Cardone: The motion is carried.

PRESENT ARE:

GRACE CARDONE

 JOHN MC KELVEY

 BRENDA DRAKE

 MICHAEL MAHER

 JAMES MANLEY

 JOHN MASTEN

 ROSEANNE SMITH

ALSO PRESENT:

DAVID A. DONOVAN, ESQ.

 BETTY GENNARELLI, ZBA SECRETARY

 GERALD CANFIELD, CODE COMPLIANCE

JOSEPH MATTINA, CODE COMPLIANCE (Time Noted – 8:43 PM)

ZBA MEETING – FEBRUARY 28, 2013 (Time Noted – 7:25 PM)

JOHN K. JOHN LAURIE LANE, NBGH

 (40-3-3 & 40-3-10) R-1 ZONE

Applicant is seeking an Interpretation of 185-18 (A) (1) and 185-18 (C) (3) and/or area variances for the minimum lot area, the minimum lot width, one side yard setback and the combined side yards setback to combine two non-conforming lots to build a single-family residence on the combined lots.

Chairperson Cardone: As I stated before the next application of John K. Jay has been withdrawn so we move on to the next application.

PRESENT ARE:

GRACE CARDONE

 JOHN MC KELVEY

 BRENDA DRAKE

 MICHAEL MAHER

 JAMES MANLEY

 JOHN MASTEN

 ROSEANNE SMITH

ALSO PRESENT:

 DAVID A. DONOVAN, ESQ.

 BETTY GENNARELLI, ZBA SECRETARY

 GERALD CANFIELD, CODE COMPLIANCE

 JOSEPH MATTINA, CODE COMPLIANCE

 (Time Noted – 7:25 PM)

ZBA MEETING – FEBRUARY 28, 2013 (Time Noted – 7:25 PM)

GREENWOOD GARDENS, LLC. 15 CROSSROADS COURT, NBGH

 (HILTON GARDEN INN) (95-1-45.22) I / B ZONE

Applicant is seeking area variances for 185-14-B-1-(c) the total signage allowed for signage announcing a business including freestanding or attached signs and 185-14-B-2-(a) for one freestanding identification sign at each point of access having an area of not more than (3) three square feet apiece and 185-14-B-2-(b) for freestanding internal directional signs having an area of not more than (3) square feet apiece and erecting a sign less than (15) fifteen feet from any street line to erect signage at the Hilton Garden Inn.

Chairperson Cardone: The next application Greenwood Gardens, Hilton Garden Inn.

Ms. Gennarelli: This applicant sent out thirteen registered letters, ten were returned. All the mailings and publications are in order.

Mr. Cordisco: Good evening everyone. Is this on? I think it’s on.

Chairperson Cardone: It should be. Is there a green light?

Mr. Cordisco: Yes, there is a green light.

Mr. McKelvey: Pull that mic, take it off.

Chairperson Cardone: You can take it off. Betty?

Ms. Gennarelli: We’ve been having an issue with the microphones.

Mr. Cordisco: Thank you, thank you. Is that…? That sounds better.

Chairperson Cardone: Much better.

Mr. Cordisco: Okay. Good evening everyone. Once again, my name is Dominic Cordisco from the law firm of Drake, Loeb located in New Windsor and it is my pleasure to be here tonight with Andrew Fetherston on behalf of this application. Just so you’re aware, Greenwood Gardens LLC. is the owner of the Hilton Garden Inn and the owner of Greenwood Gardens LLC. is a fellow by the name of Martin Milano who built and owns the Hilton Garden Inn and unfortunately he could not be here tonight. So you’re left with myself and Andrew Fetherston from Masur Consulting. The project, this is our first appearance before you, we are seeking variances of an area variance nature in connection with signage for the Hilton Garden Inn. The existing Hilton Garden Inn does not have any freestanding sign. Even though this is our first appearance we’ve actually been working on this for quite some time. We need an amended site plan approval and we’ve been before the planning board with a couple of different proposals that have been vetted before we’ve reached you with the current proposal. I’m sure I don’t have to explain to the Board that the nature of the Town’s Zoning Code in connection with how much square footage of signage is allowed is tied directly to frontage, frontage along…along your street for access and as Andrew can point out we have very limited frontage even though this is a primary parcel that has a lot of visual access from 17K as well as from the Thruway. And with that said I’d like to turn this over now to Andrew so that he can walk you through the plan and orient you and we address any questions that you may have.

Mr. Fetherston: Good evening, I’d like to point out first a…the frontage for this lot is according to the Code is solely this one section, a very small section on the cul-de-sac totaling is about (86) eighty-six feet. Cutting that in half it only allows (43) forty-three square feet of…rough numbers…for a total signage for a facility of this size. The only signage that exists, I have a photo I wanted to bring that up to the Board so that they could see it…the only signage for the site and I’ll pass this around is on this second peak from my right a…it says Hilton Garden Inn. I’ll pass that around just so you can see the size of that. The building as it sits…

Chairperson Cardone: We are all familiar with the site and have been to the site.

Mr. Fetherston: I’ll…I’ll…

Chairperson Cardone: I said we’ve all been to the site.

Mr. Fetherston: Okay, a…the signage is about here up high on the building. It’s about (750) seven hundred and fifty feet from 17K a…to where that’s…to where the position where that signage is on the site. It’s…it’s terribly difficult to see from Route 17K and there’s no signage for the Hilton in advance of someone passing, a traveler on 17K.

Mr. McKelvey: Isn’t there a wooden sign? Now Open? On 17K?

Mr. Fetherston: There’s no…there’s no formal sign for a…

Mr. McKelvey: No, but that is a sign. There was a…

Mr. Fetherston: I’m not familiar with that….

Mr. McKelvey: …small sign out front.

Mr. Fetherston: …some photos of the area. I have a book of photos of…that I took now they’re dated…if there is any sign there I don’t know about it a…out on 17K. So what we’re permitted…what we have approximately a…the existing signage a…up on the building is about (21) twenty-one square feet. Deducting that from (43) forty-three we’re only permitted about another (20) twenty square feet of total signage. What we’re proposing is a freestanding sign. It’s (40) forty feet tall is what we’re proposing. On a…adjacent to the right of way of a…Interstate I-87, there’s a high point over here. You can see this all on the photos as well. There’s a high point a…at this location in between the drainage ditch and a…the storm water facilities for a…for the site. The sign that we’re proposing is (40) forty feet high, the building is about (56) fifty-six, (57) fifty-seven feet high so it’s…it’s not as high as the building itself. We’re proposing two signs. We’re proposing the large sign along 87. We’re also proposing just a…a directional sign at the cul-de-sac. The Code requires that that directional sign be (15) fifteen onto our property. Again in that book of photos I…I…I gave the Board Member a…there’s extensive landscaping that’s normally required in any application by the planning board. That extensive landscaping a…in the a…in the a…growing months all but would obscure anything that’s (15) fifteen feet from that property line. So we’re proposing a directional sign be brought much closer to the a…to the roadway so that it could actually be seen. So we’re proposing a…we’re requesting a variance of (378) three hundred and seventy-eight square feet. Also that directional signage the maximum square foot of the directional sign by your Code is (3) three square feet. A…we would like (5) five square feet a…again to make it visible and have our identification on it. A…we do have although the frontage is only (86) eighty-six linear feet at this location as…as your Code a…directs us to measure it. We do have over (600) six hundred feet if you include that a…section that’s along I-87 at this location a…with what we have on the cul-de-sac but that’s not how the Code reads a…that you’re measure. A…as Dominic was saying, we have been through a couple of different a…a…iterations a…of the sign, we’ve reduced the height of the sign to bring it into a…compliance with the Zoning Code. One thing, we were in the planning board back in April and the reason we haven’t gotten to your Board until now is we’ve been going back and for with D.O.T. trying to get a sign on 17K a…the right-of- way of 17K at that location is very large, very, very wide and I’m assuming that because there’s a bridge here on…for 17K carrying 17K over 87 I think that this right-of-way was left that wide should that bridge ever have to be widened they could re-route the road and move the road so we were trying to work with D.O.T. to allow us to have a lease out in their right-of-way to have that sign where you could actually see it. And again, if you go through my pictures you could see that somebody traveling east bound on 17K they don’t see anything until they get past the cemetery because the cemetery is up very high. That’s the original grade and it all but obscures everything until you get to this point. Traveling at the speed limit once you get to this point if you then happen by chance to look over to right to see the Hilton Garden you’re already past the entrance. A…but we weren’t successful in trying to get a…D.O.T. to allow us to get a sign out here. So we removed that from our plan that we a…showed to the planning board.

Mr. Donovan: So if I could just interrupt for a second? So on the referral from the planning board it talks about a variance for a sign not being on the same parcel as the business it is advertising…

Mr. Fetherston: That’s right.

Mr. Donovan: So that…that request would be withdrawn then.

Mr. Fetherston: That was on our proposal but…

Mr. Donovan: Okay but just…

Mr. Fetherston: …it’s no longer a part.

Mr. Donovan: Okay.

Mr. Fetherston: That’s right.

Mr. Cordisco: It was not included in our application because those efforts proved fruitless.

Mr. Donovan: Okay.

Mr. Fetherston: It’s…it’s actually owned by the same gentleman but it wasn’t the same parcel so they were taking it to their letter of the law and a…would not permit that signage so…so it’s very difficult a…so to…to have signage for this facility. So the sign, the only sign that’s there is up high on the building. We’re looking to this sign to try and attract customers traveling on I-87. Again where this is placed and the configuration of the off ramps it’s really going to benefit us, we believe, for the travelers heading north because there is still the opportunity to get off the ramp which is over here. But once you’re traveling south so you…you’ve already passed the ramp, you’re next exit is Woodbury so you’ve already past the hotel. That’s what we’re trying to do.

Chairperson Cardone: Okay, I have a question for Mr. Canfield. The directional sign, do you have a picture of it?

Mr. Canfield: Yeah, it’s an inlay on the plan.

Chairperson Cardone: Right. I have…I have...at the top it says Hilton Garden Inn and at the bottom it gives the direction. Is that common in a directional sign? That it would announce…?

Mr. Canfield: It’s a little more elaborate in my experience a…although the Code does not describe. They give you dimensions but they don’t describe, you know, what the consistency of the sign is.

Chairperson Cardone: Right, and a question for either for you or for Joe, the dimensions. What dimensions do you get in the square footage just so that we’re…?

Mr. Canfield: (4.5) Four point five feet square feet on the directional sign.

Chairperson Cardone: Say that again.

Mr. Canfield: Times two, (4.5) Four point five feet...

Mr. Fetherston: Times one, it’s only facing one way.

Mr. Cordisco: (Inaudible)

Mr. Fetherston: No, no, no it’s here so there’s no point in having any sign facing over there.

Mr. Canfield: So it’s 4.5.

Mr. Fetherston: We said (5) five.

Mr. Canfield: Single faced.

Chairperson Cardone: Okay.

Ms. Drake: And what did you say was the maximum size you can have for a directional?

Mr. Fetherston: (Inaudible)

Mr. Canfield: The Code calls for (3) three square feet for directional signs.

Ms. Drake: Does part of the signage, that directional sign being it has Orange County Choppers on it count as part of the signage for Orange County Choppers?

Mr. Canfield: To answer your question, yes, you’re correct. I just made that comment to Joe.

Ms. Drake: I’m glad I can read your mind.

Mr. Fetherston: You know, once you’re…once you’re down in the cul-de-sac it’s painfully obvious which is which but a…my…my client wanted to get the sign if he could.

Ms. Drake: So if he was to remove the reference to Orange County Choppers would he be able to bring the sign down to the (3) three foot that’s (3.5) three point five that’s allowed (three (3) square feet) and not need an extra variance for that?

Mr. Fetherston: A…possibly…possibly…and take him off the bottom possibly. We didn’t consider that.

Mr. McKelvey: But that…that…Jerry and with Choppers on there would it count toward their signage?

Mr. Canfield: It would be associated with the lot that it’s placed on. I would say for calculation purposes.

Mr. Cordisco: We just thought it would be good planning, you know it’s not…it’s not really an advertisement in terms of logo. It’s just once you’re down there in the cul-de-sac in case you don’t see the big motorcycle.

Mr. McKelvey: I don’t think…I don’t think you could miss…

Chairperson Cardone: Hard to miss.

Mr. McKelvey: …the Chopper’s building.

Mr. Cordisco: You know, I…I…I understand. I understand.

Mr. Maher: You know the only issue is, I mean, there are issues going on currently with the signage for O.C.C.

Mr. Cordisco: Which I would rather not become embroiled in. Thank you.

Mr. McKelvey: So would you consider taking the Choppers off that sign?

Mr. Cordisco: Sure, yes.

Ms. Drake: And would you consider bringing it down to the (3.5) three point five or whatever is allowed (three (3) square feet), reducing that sign a little bit then.

Mr. Fetherston: I think we could do that. Yeah, yeah I think we can do that.

Mr. Cordisco: We can do both.

Ms. Drake: Thank you.

Mr. Maher: Just…just one question for you what was the square footage of the sign on the building?

Mr. Fetherston: The sign…the sign on the building we measured at (20.75) twenty point seven-five square feet.

Mr. Maher: Jerry is that accurate? It seems a little small for the…the size of the sign on the building there.

Mr. Canfield: I don’t have anything, Mike, in front of me. A…I could look at the site plan. I’m sure there was a signage chart on the original site that’s…

Mr. Fetherston: We were not the engineers for the original site plan, that’s where we got it. We had…we had no other means to get up there to get it.

Mr. Maher: No, I understand but it seems…it just seems to be such a large sign to be (10) ten foot by (2) two foot.

Mr. Fetherston: Right. That’s what it is. Yeah.

Mr. Maher: You know it seems like a small amount of square footage for…

Mr. Fetherston: I don’t…I don’t…I don’t know that it’s (10) ten by (2) two but that’s what we got from the site plan.

Mr. Maher: Well that’s (20) twenty square feet…so that’s what I’m trying to say, it seems to be…

Mr. Fetherston: Understood.

Mr. Maher: …a little under what it…what it really is.

Mr. Donovan: And I’m sorry, if I could, I just want to make sure I have this tied together. I keep going back to Mike Donnelly’s letter from December 18th, the referral from the planning board shows (5) five variances. Do I understand that the application is only for (3) three?

Mr. Cordisco: Correct.

Mr. Donovan: Okay.

Mr. Fetherston: Yeah, I think you have an…a…either a dated letter or a…all the variances we spell out clearly on the…

Mr. Donovan: December 18th.

Mr. Fetherston: …on here.

Mr. Donovan: I’m sorry that’s the date of the letter.

Mr. Fetherston: What year?

Mr. Manley: Mike if I pass this…Mike. If I pass this down to you do you think you could ballpark it?

Mr. Maher: I could try. I don’t know.

Mr. Manley: I got a couple of windows there that…it might be close.

Chairperson Cardone: I have a report from the Orange County Department of Planning, which is Local Determination.

Ms. Drake: So in reference to the letter from the planning board attorney when they’re talking about total square footage of signs now that you’re not doing the one on the…along 17K does that reduce some of the variance in the application.

Mr. Fetherston: I don’t know what letter you’re reading, what numbers Mr. Donnelly put in there. We have the accurate numbers that were in the application to your Board and on my plan. I don’t know if that’s incorrect or not. As…as Dominic had said we were before the planning board a number of times with other iterations including that sign and that is not part of our application.

Chairperson Cardone: So item number (4) four on page (2) two of the application has the correct figures. Yes?

Mr. Donovan: And I just want it to be clear since Mike’s letter identified certain variances, obviously it’s your application, you figure out what variances you need and so that the record is clear, you know, that these are the (3) three variances you believe that you need and you are requesting and there may have been modifications for instance the 17K sign but that just explains what could be perceived in the future to be a discrepancy between Mr. Donnelly’s letter and this application.

Mr. Cordisco: Correct. I mean, if I could? As Andrew had mentioned there was a number of iterations of plans before the planning board and so it’s possible a…that Mr. Donnelly a…was looking at a different iteration or multiple iterations a…when he made his referral letter. The point is is that the variances that we’re requesting are less than what Mike had recommended or referred to this Board. And there even less, it’s what shown on the plan because we are committing tonight to making the directional sign meet the Code requirements. We are also removed all reference to the Choppers from that sign so we…we…I think the directional sign should no longer be an issue for the Board. The only other issue would be the stand alone sign.

Ms. Drake: The square footage would still be needed for the variance for the square footage of the directional sign because that’s including in your total overall signs? Sign variance?

Mr. Fetherston: The total square footage for signage permitted, yes, correct. That would be a…I mean; if we said it was…it would be (2) two square feet less. If we said that that sign was (5) five, we bring it down to (3) three that’s (2) two less. We were requesting (378.65) three-seventy-eight sixty-five square feet, we will be requesting 376.65 three-seventy-six sixty-five and that’s what we would…we’ll…we’ll hold with that…that’s fine.

Mr. Cordisco: One…one other comment I’d like to make to the Board is is that in other similar applications while you technically you cannot give credit to the fact that a parcel has frontage along a State Highway such as…as…as the Thruway it’s my understanding that the Board as…as in past practice has at least considered that in its determination as far as the fact that there is a great deal of frontage a…for this parcel along the Thruway and indeed for all practical purposes along 17K although the actual legal frontage is actually quite limited. I only mention it in the sense that it…of course, it doesn’t change the requirements in your Code but it’s something that you could weigh a…when you’re making your determination.

Mr. McKelvey: Jerry, if I think if it’s right they changed it you couldn’t use the footage on the Thruway anymore…when we had the motel come in…the Town…the Town changed that.

Mr. Maher: Right, right.

Mr. Fetherston: We understand that.

Mr. Canfield: It’s been viewed both ways.

Mr. Maher: One question, Jerry, Joe…Joe actually you said that the fact that the…the directional sign is on the parcel for Hilton that it wouldn’t count towards the O.C.C.’s signage? Correct?

Mr. Mattina: Yes.

Mr. Maher: If this sign is placed on the vacant lot which is where you’re putting it, correct?

Mr. Cordisco: No, absolutely not.

Chairperson Cardone: No.

Mr. Maher: No, I’m sorry; I thought…I thought it was going on a corner there on the vacant lot there.

Mr. Fetherston: No, our large sign is here on the lot…

Mr. Maher: Okay, I’m sorry I thought it was in the corner.

Mr. Fetherston: …and the…and the a…directional…

Mr. Maher: The a…oh, the directional is there, okay I misunderstood.

Mr. Fetherston: Everything is on that lot.

Mr. Maher: I thought you were moving it further up toward 17K.

Mr. Fetherston: That was actually our issue with the signage that we were…that we would have like to have had on 17K, it wasn’t adjoining our lot and it wasn’t on our lot so that…that just wasn’t go with a…the D.O.T.

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

Ms. Drake: I’ll make a motion to close the Public Hearing.

Ms. Smith: Second.

Ms. Gennarelli: Thank you. Roll call.

 John McKelvey: Yes

 Brenda Drake: Yes

 Michael Maher: Yes

 James Manley: Yes

 John Masten: Yes

 Roseanne Smith: Yes

 Grace Cardone: Yes

Chairperson Cardone: Thank you.

Mr. Cordisco: Thank you very much.

 (Time Noted - 7:47 PM)

ZBA MEETING – FEBRUARY 28, 2013 (Resumption for decision: 8:43 PM)

GREENWOOD GARDENS, LLC. 15 CROSSROADS COURT, NBGH

 (HILTON GARDEN INN) (95-1-45.22) I / B ZONE

Applicant is seeking area variances for 185-14-B-1-(c) the total signage allowed for signage announcing a business including freestanding or attached signs and 185-14-B-2-(a) for one freestanding identification sign at each point of access having an area of not more than (3) three square feet apiece and 185-14-B-2-(b) for freestanding internal directional signs having an area of not more than (3) square feet apiece and erecting a sign less than (15) fifteen feet from any street line to erect signage at the Hilton Garden Inn.

Chairperson Cardone: On the application of Greenwood Gardens LLC., 15 Crossroads Court, seeking area variances for the total signage allowed for signage announcing a business including freestanding or attached signs and for one freestanding identification sign at each point of access having an area of not more than (3) three square feet apiece and for freestanding internal directional signs having an area of not more than (3) square feet apiece and erecting a sign less than (15) fifteen feet from any street line to erect signage at the Hilton Garden Inn. This is an Unlisted Action under SEQRA. Do we have a motion for a Negative Declaration?

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

Ms. Drake: Second.

Ms. Gennarelli: Roll call.

 John McKelvey: Yes

 Brenda Drake: Yes

 Michael Maher: Yes

 James Manley: Yes

 John Masten: Yes

 Roseanne Smith: Yes

 Grace Cardone: Yes

Chairperson Cardone: Do we have discussion on this application?

Ms. Drake: So long as the directional sign is reduced to the (3) three square foot and removing the language of reference to Orange County Choppers, I’ll make a motion to approve the application.

Mr. McKelvey: I’ll second that too.

Ms. Gennarelli: Roll call.

 John McKelvey: Yes

 Brenda Drake: Yes

 Michael Maher: Yes

 James Manley: Yes

 John Masten: Yes

 Roseanne Smith: Yes

 Grace Cardone: Yes

Chairperson Cardone: The motion is carried.

PRESENT ARE:

GRACE CARDONE

 JOHN MC KELVEY

 BRENDA DRAKE

 MICHAEL MAHER

 JAMES MANLEY

 JOHN MASTEN

 ROSEANNE SMITH

ALSO PRESENT:

DAVID A. DONOVAN, ESQ.

 BETTY GENNARELLI, ZBA SECRETARY

 GERALD CANFIELD, CODE COMPLIANCE

JOSEPH MATTINA, CODE COMPLIANCE

 (Time Noted – 8:44 PM)

ZBA MEETING – FEBRUARY 28, 2013 (Time Noted – 7:47 PM)

ZEF GJURASHAJ 34 PLANK ROAD, NBGH

 (84-2-1.1) B ZONE

Applicant is seeking area variances for the minimum lot area, the front yard setback (Stone Street), the front yard setback (Plank Road), the side yard setback, the minimum lot width and the minimum lot depth to convert an existing residence into an 80-seat restaurant.

Chairperson Cardone: Our next applicant Zef Gjurashaj.

Mr. Raab: For the record my name is Jim Raab…

Ms. Gennarelli: You need the microphone.

Chairperson Cardone: Mic.

Ms. Gennarelli: Thank you.

Mr. Raab: I love this microphone system. A…for the record my name is Jim Raab, I’m with a…the a…engineering firm of Talcott Engineering. I’m also here with Charles Brown who is the principal of the firm and the owner Zef Gjurashaj. A…when we a…when we elected to keep the Public Hearing open last month a…there was a number of things that a…you wanted us to address. I believe I put them, most of them in a letter I re-submitted to the…to the Board…earlier this month. One of them was the building renovations, we submitted a…plans that are actually works in progress to the Building Department to make sure that there wouldn’t be any impact on the variances we’re requesting a...from the Board based on the…the renovations we’re doing to the interior of the building. A…a…Charlie will speak on that a little bit more later but as of that…as that goes we submitted them to the…to…to Jerry for his review. The one thing that came up while we were doing that is that we realized that the stone patio was over a foot high so that the variance really needed to be taken from the corner of the stone patio and not the corner of the house so we…we made the adjustment a…in the variance we need. It’s about a (2) two foot difference and we changed the a…a…the variance table that we submitted to the Board a…early in…at the first meeting. Second thing was the Stone Street improvements a…we met out in the field with Darryl Benedict a…we spent about an hour out there, me and him, a…and we came to the conclusion that we wanted…lets widen this…the road, (24) twenty-four feet along our entire frontage. That’s what we have the ability to do a…and curb it the entire way. To cut off the drainage that flows down there, we pick it up with a trench drain which he suggested and run it down into the swale that exists, further down Stone Street. A…one of the other things that he requested that we…that we attempt do, okay, is to approach the Town Board about getting No Parking along the west side of Stone Street. We can’t do anything about North Plank Road Tavern and their parking on…on Stone Street but we can keep them, if we get No Parking signs, at least there is an attempt made for nobody to block Stone Street the way it is now. It’s really not as…it is narrow in some places but it’s not as narrow as I originally thought but this should help, widen it by about an average of (3 ½) three and a half feet across our frontage and a…that should help…I think should help immensely. A the traffic flow, we met with both a…I met with the facilities manager for 250 Lake Street Properties a…earlier this month to discuss the letter I submitted to the Board and also the easement rights we have across their property and what we could do about forcing the traffic out Stone Street and back to Plank Road and he said that a…both him and his boss would do whatever they could to…they don’t want traffic going through their property to 9W. Not from our property, not from Stone Street, not from anywhere so a…once this…if we can move the access down a little, there was a lot of things discussed and we’re willing to work out whatever we need to work out to make it…make it work between us and them because we want to be friendly neighbors and I think they do to. A…easements as…that was something else we discussed, I supplied them to the…both planning board and your attorney for review a…they are…it’s clear that we have the right to park along the property line on…on the 250 Lake Street property side and we have ingress and egress to Stone Street, not to 9W, to Stone Street. And again, we’re willing to do whatever it takes to make those easements work with 250 Lake Street Properties. If it means a…working out a…a different type of a…wording for a new easement that’s a…protects both of us, both parties, then we’re willing to do that too. I don’t think there’s any problem with that and my client has no problem with it. As far as the parcel size I did a lot of research on the other privately owned restaurants in Newburgh and more than half of them are on parcels that are under a half an acre. A…and most…and almost all of them are on Municipal water and sewer, which we will be. Which brings me to the part…the next subject which was when’s the sewer going to be available? Right now it’s hung up with the D.E.C. a…I spoke with a…Jim Osbourne about when it would be available. He says it’s with them. As soon as it clears them and they get…get the final approval from the D.E.C. that they are going to put it out to bid. They want to get it out as quickly as possible to…the E.P.A. deadline is June…June this year and they want to get this done as quickly as they can to avoid any kind of problem with the E.P.A.. So, that being said, that’s…that’s really most of the things that were discussed at the meeting last month and we have looked into what we could to make it…make this work better. What we can’t do is there’s no way this…we have attempted to buy the property next door from Mac Cullum and he refuses to…he’s just not interested. And even if we could buy property from 250 Lake Street Properties it would have no impact on the variances whatsoever. Most of the variances we need are all up in here. And we believe we can buffer them a…satisfactorily once we get to the planning board and work with their landscape architect, we can buffer the…the closeness this is to…to the two roads a…by…with landscaping. I’m going to turn it over to a…Mr. Brown now who will speak on the a…structural part of this.

Mr. Brown: Thanks Jim, a…let me back up a little bit, as far as the sewer a…at request of the planning board there is an existing manhole out in front of this property. We would have to trench through North Plank Road or a…Plank Road which is an expensive proposition but if in the event the sewer does not go into Stone Street a… we still a…because we are in the sewer district have the right to do that so that is shown on the plans as an alternate with respect to the sewer. A…as far as the building changes…thank you, Jerry…we’re not going to extend the footprint at all a…going to make some minor changes to the roofline which would be in the rear facing our proposed parking lot. A…there is a shed roof across this portion of the building right now that is a…creating leakage problems into the building and what not…(Inaudible) has put a reverse on that a…and are a (Inaudible) entrance off the parking lot, we would create a new roof off over that also. Again, we are not going beyond the footprint or beyond the existing a…ridgeline so we’re not making the a…the overall height of the building any higher.

Ms. Drake: Based on the renovations that you’re doing in the building will it still be an (81) eighty-one seat restaurant?

Mr. Brown: Yes.

Ms. Drake: So therefore parking…

Mr. Brown: (80) Eighty seats.

Ms. Drake: (80) Eighty seats okay, so parking or anything like that has not changed based on the renovations?

Mr. Brown: Correct. Correct, it’s not changed in the floor area either, it’s…it’s actually just creating more you know, architectural a…ambience to the restaurant itself. The…the floor area will stay the same. The footprint will stay the same.

Ms. Drake: Thank you.

Mr. Manley: Mr. Raab, you had indicated a…in your letter to the Board that Talcott Engineering argues that more than half of the privately owned restaurants in the Town of Newburgh, not located in a mall or shopping center are on parcels in less than an acre in size. Ninety percent of those restaurants are served by Municipal sewer and water. So my question is that being the case, do you have or did you provide any documentation to back that up?

Mr. Raab: A…well I…I could name them off. I didn’t really think that it was going to be necessary to name them off but…a…I can go with a…a…the a…The Lake…Lakeview House, okay? Il Ceno Cola although it has an…it has almost an acre of property because of the pond it’s limited to half acre use, okay? A…Pamela’s which is really not in the Town of Newburgh. It’s really in the City of Newburgh but it’s, you know, it’s (Inaudible). The North Plank Road Tavern a…Adiamo’s …a…ah… there’s in…believe it or not there’s not that many privately owned restaurants in…in Newburgh any…anymore but a…a…and I believe if you think about if there’s is any more than I just named a…there…a…no...it…I can’t…I can’t think any over the top of my head I…I had like ten…

Mr. Manley: The reason why I asked that question is, you know part of the Board’s deliberation process is having something in hand that we can see and that you’re, you know, giving the Board as evidence to…to make your case either for or against what you’re looking for and that certainly would be helpful if we had something, you know, with maybe the tax map on it showing the acreage to make that comparison…

Mr. Raab: Understood.

Mr. Manley: …so that if indeed that is the case, you know, if…maybe gives us something to…to sway our decision either way.

Mr. Raab: I didn’t…I…I would Jim, if I had thought about it I probably would have done just that.

Mr. Manley: Okay.

Mr. McKelvey: Well the restaurant…the restaurant across the street right next to you is on a small piece of property.

Mr. Raab: Yes.

Mr. McKelvey: And they don’t have the park…parking that you’re going to have.

Mr. Raab: Well, you know, the parking we’re just supplying…there’s sufficient amount of parking to...to support our restaurant. Okay? And not many restaurants that exist right now can…can speak to that. Okay? Based on the kind of flow they get, especially the popular ones. Okay? Lakeview, they park up Rayland Avenue, you know, a…a…it’s just and because they’re popular. Okay? And we understand that. We, at least, would like to work out a…a…a situation with 250 Lake Street Properties. Okay? That if we do have an overflow maybe we can go to them. Okay? If that…if that in fact happens but we’ve got to get that far first. Okay? But a…we have the required number of spaces you need for an (80) eighty seat restaurant and in…and…and that…that’s the…that’s the biggie I think here. Oh and…I’m sorry. And I’d be willing to supply that information to the Zoning Board if they required it. Okay? If that…they…they in fact…if you in fact want that backup information I go…but like I said there’s between (6) six…between (7) seven and (10) ten restaurants in...that are privately owned and half of them are on half acre a…on less than half acre properties.

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

Mr. Kelson: Good evening ladies and gentlemen, my name is Todd Kelson; I’m an attorney, New Windsor, New York. I’m…I’m speaking tonight on behalf of 250 Lake Street LLC, the adjoiner to this property. I’ve had a chance to review the plans, I’ve had a chance to have some conversations with the a…representatives of the applicant and of course, with my client. My client is not taking a position for or against the application. We’re not speaking against the application this evening. What I do want to bring to the Board’s attention however, is that I do take issue with the characterization of the easement a…effecting my client’s property. It’s our position that the proposed a…use of…of the parking spaces is an overburden of an existing easement. Counsel can discuss that with the Board if it wishes. An overburden is where we take an existing easement and use it for a…for a purpose more extensive that was originally contemplated by the parties. In this case, the original easement was…was a…retention with a residential use and not with a…not in connection with this commercial use. Having said that, my client has indicated, as…as Mr. Raab has…has alluded that we are willing to engage in good faith negotiations with the applicant with the hope of coming to a…a…a proper resolution of the matter. What we really have is an obsolete agreement, an obsolete document and a…what we would seek is I guess a modern easement agreement that a…adequately protects the parties and adequately a…defines what the rights are. The rights are very ill-defined. I think…have you all seen the…the…the language of the existing easement?

Mr. Donovan: I don’t know if all the Board Members, I certainly have and I’ll speak to the issue briefly.

Mr. Kelson: Thank you David.

Mr. Donovan: Number one, as I indicated at the last meeting there’s no a…parking issue before the Zoning Board. There is not a request for a variance for parking, ZBA (planning board) didn’t refer it for this matter obviously it’s come up because it’s important to the site. I don’t know that it’s important to the ZBA in our deliberations though because there’s request for a parking variance. In terms of the documents that were delivered to me by Mr. Raab that I have reviewed, I can’t indicate whether or not they can provide for or they allow for the type of use that is proposed. Mr. Kelson has identified the issue that’s there which is the overburdening of…of the easement or whether or not the easement when granted was intended to accommodate the use that’s proposed. Again, I’m not sure it’s an issue for our Board. It’s certainly an issue for the planning board. I did speak to the planning board attorney this evening before I came and what Mike Donnelly indicates to me is that at the end of the day, should this get approval from this Board and site plan approval, a condition of the site plan approval would be a recorded agreement between the applicant, a…250 Lake Street LLC that whatever parking is required by the site plan is in fact, agreed to by 250 Lake Street LLC. So there would need to be…the planning board would require, according to what Mr. Donnelly told me, as a condition of approval once you get that far that you agree to provide…your client agrees to provide the parking as shown on the site plan.

Mr. Kelson: And that think that analysis is exactly right, Mr. Donovan. Thank you.

Ms. Pearl: Hi, I’m Christine Pearl; I was before the Board last time as well on this issue. I think most of my problem is the parking and I understand what you’re saying about it going before planning but a…it’s something that really, really needs to be dealt with because like I said last time if North Plank Road Tavern is crowded and this restaurant is crowded and like one of the gentlemen just said that a…they’re willing to let it go, you know, they just don’t want the traffic flow through their property yet they’re creating the traffic flow and then the traffic flow then goes right past my property or the other residents of Stone Street. That has to be resolved in some way. There has to be…once they work together I will be willing to speak with them as well but something has to be resolved in terms of how people are going to get in and out of this restaurant. You’re hoping that it’s very busy, both of them but I’ve lived by the North Plank Tavern which is only a (50) fifty seat restaurant. I worked there for (7) seven years and I lived right next door to it so I know the traffic that’s created. If you put No Parking on one side of west of Stone Street or the lane as it’s called in the deeds then they have no choice but to come up Stone Street and park if they want to eat in the restaurant, in either one of them. It’s happened for years it’s going to continue to happen so it has to be resolved. But there was one question I had too. You mentioned drainage and putting in something to fix the drainage. Where does the…?

Mr. Raab: Not fix the drainage no…I… (Inaudible)

Ms. Pearl: Divert it? Just wondering where it comes from?

Mr. Raab: Oh, it was the concern of Mr. Benedict that the drainage along…the drainage along Stone Street especially coming from Plank Road wouldn’t cut across this property like this. Right now it runs down Stone Street towards the…the dead end portion of this lane. What we’re doing is we’re picking up with a trench drain and forcing it back into the swale that carries the water now. What we would be doing with the entrance would be cutting off the swale and with the trench drain what we’re doing is picking up the water that would be going down the swale anyway, down the side of a…Stone Street and forcing it back into the swale that carries it back down to the dead end portion of Stone Street. A…that’s…that’s what I was talking about.

Ms. Pearl: But where does all the water come from? It’s part of what tears up Stone Street all the time, there’s pot holes and ditches, all between that piece of property and the Tavern. I just don’t know where all the water comes from. What’s the requirement for the parking, is there a per person in a restaurant? We’ve been saying (20) twenty seats (spots) is good for (80) eighty…for (80) eighty people, the requirement plus staff. You have (80) eighty people plus staff.

Mr. Raab: Yes, yes, that’s…that’s the way the...that’s the way the a…requirement reads is that it’s a…one space per (4) four seats.

Ms. Pearl: (1) One per (4)? (4) Four people come in one car?

Mr. McKelvey: I have to…I have to agree I went by the other restaurant well down Plank Street and the other restaurant at 11:30 in the morning, the parking lot wasn’t full but there was a car parked on Stone Street and I don’t see how they get away with it.

Ms. Pearl: Was it a green van?

Mr. McKelvey: No, it was a black car.

Ms. Pearl: Oh, okay, the green van is Mr. Costa, that’s how he gets away with it.

Mr. McKelvey: No this was a black car.

Ms. Pearl: Okay. It happens all the time and if you drive through Stone Street you’ll see what my frustration is. Again, I’m not against your project. Anything to make the area look nicer, the same with Ted buying the…the whole thing, it…it can only be great for the area but there’s so much else that has to be dealt with at the same time. It’s probably more a commitment from the Town rather than this gentleman because he is obviously willing to do a lot.

Mr. McKelvey: We’ve all been by the property, we know…we know what the…

Ms. Pearl: Up and down Stone Street?

Mr. McKelvey: Yes.

Chairperson Cardone: Yes.

Ms. Pearl: Yeah, someone passes you, you have to pull over and stop and let them go. It’s a big issue and complicating it with more traffic doesn’t…doesn’t help us.

Mr. Maher: Have you or your neighbors ever petitioned the Town for No Parking signs on Stone Street?

Ms. Pearl: There are…No Parking…well the regular winter signs, you know that go up throughout the Town I guess…during…

Mr. Maher: Right.

Ms. Pearl: …you know, from maybe a…October to April, No Parking during the night…

Mr. Maher: Right.

Ms. Pearl: It doesn’t matter if they don’t have driveway space they’re, they’re on the street.

Mr. Maher: So you mean…so you mean residents are parking on the street then?

Ms. Pearl: As well, yes.

Mr. Maher: So residents add to the problem not only the businesses in the area?

Ms. Pearl: Correct. The street has to be fixed is what I’m saying; you know the whole area which I was hoping when the sewer went in that a lot of that would be dealt with.

Mr. Maher: Well true…

Mr. McKelvey: I’m sure it will.

Mr. Maher: …by fixing the street though is not going to add parking places on private residents’ property though.

Ms. Pearl: That part is true too then enforcement...

Mr. Maher: But you still have the same issues…

Ms. Pearl: Then it’s enforcement you know, and…and it doesn’t get enforced either.

Mr. McKelvey: The problem you have in that area is all the houses are so close together.

Ms. Pearl: Correct.

Mr. Manley: I think the one concern that I have is you have a bad situation and potentially this is going to make it a lot worse than where it’s at right now but…traffic is not our issue. Correct?

Mr. Donovan: Correct.

Mr. McKelvey: Traffic will have to be taken up with the planning board. I would assume.

Ms. Pearl: I certainly will.

Mr. McKelvey: Because we don’t…we don’t…we can’t control that.

Ms. Pearl: Right…right but you have to…they have to be able to get in and out of this restaurant. You’re approving variances and there has to be worked out ingress and egress.

Mr. Manley: Mr. Raab, you had indicated at the last meeting that you believe that there may be some outside music, maybe entertainment…?

Mr. Raab: No, no, no and I did not say that when you asked me that question and I said no.

Mr. Manley: Was there…was there music…?

Mr. Raab: I said there’s going to be outside tables, no music.

Mr. Manley: Any, any music at all?

Mr. Raab: No, none, absolutely none. That’s…that’s…you did ask me that question, Jim and I answered it and I said yes, there’s going to be outside tables.

Mr. Manley: Absolutely not?

Mr. Raab: There are going to be on the patio that’s why we’re roofing that front stone patio but there will be no outside music, no entertainment.

Chairperson Cardone: Anything else from the public? Mr. Hughes?

Mr. Hughes: Mr. Donovan, maybe you can enlighten me on a couple of items here that just seem to be slapping me in the face and I can’t imagine why none of the Board have picked this up. We’re talking in a hypothesis here that these two adjoining properties are going to work out a way to create parking, six or seven of them are which are on someone else’s land and don’t show anywhere in the formula that I’ve seen where that variance is needed to sustain this restaurant and the number of parking spaces that have been provided provide for the (80) eighty seats only. Are they hiring ghosts to work in the kitchen that come in on brooms or what are we doing with the help? So to me the parking war here that exists that hasn’t been addressed or is not cognizant by anyone in the room is blowing my mind. You’ve got (6) six of these (20) twenty parking spaces they talk about on somebody else’s land. And I agree with Mr. Kelson that this is way overboard on what the original intention was. When this was granted it was a residential grant for an easement to Mr. Augustino so he could get in and out of his house because when the properties where chopped up and North Plank Road was cut off he had no way to get in and out of there. Another big thing that just is blowing my mind is everybody keeps referring to this (30) thirty foot lane as a road. It was never a road. It’s not a road. The Town plows it and whatever back scratching over the fence goes on that’s not a legitimate road in the Town nor is it wide enough to service or is it enforceable to service with the proposal as it stands. So I’d like to know how no one has picked up on this parking that’s on someone else’s property and why it’s not a requested variance? And I can’t imagine why there hasn’t been any appropriate parking spaces for the help as well.

Chairperson Cardone: I think that you gave the answer when you said that the parking is not an issue before us. You said, I can’t understand why they’re not requesting…

Mr. Hughes: Oh, I think it should be an issue.

Chairperson Cardone: …a parking…but that’s not before us at this time.

Mr. Hughes: Well then the application is incomplete and I…at this point I would think that the Public Hearing should be held open until you can get all the ducks in a row that’s necessary to make a project that could become complete at some point. There’s another thing too…

Mr. Donovan: Well you’re making a presupposition that a property owner couldn’t enter into an easement with another property owner to provide the parking.

Mr. Hughes: Oh I’m not, I don’t…the most of the people here that are a part of that said that they were willing to work something out but the application as it stands on its face right now is wrong. You don’t have secured parking spaces under your control, there’s no lease agreements, there’s nothing going on that says so and there’s no indication that there’s any appropriate spaces for help as well. Madam Chairman, there was a report from the Orange County that you read in at the last meeting and…

Chairperson Cardone: Correct.

Mr. Hughes: …and there was an abeyance in that report that said at this time they weren’t going to get into something. Do you have a subsequent report that narrates what they were talking about?

Chairperson Cardone: No I don’t. Would you like me to re-read that report?

Mr. Hughes: Well no but I…I would…well for those that weren’t here the last time, for the benefit of the public.

Chairperson Cardone: Okay. The report from the Orange County Department of Planning, the proposed action is in conformity with the existing surrounding land uses. Our office will have some comments related to the site plan yet will reserve those for when the application is referred by the planning board in accordance with the GML 239. County Planning recommends that the Board make a decision only after weighing the benefit to be realized by the applicant against the potential detriment to the health, safety and general welfare of the neighborhood and/or community. So my understanding is they are waiting for a referral from the planning board when it reaches that point.

Mr. Hughes: I follow the logic…

Chairperson Cardone: When it becomes a site plan application.

Mr. Hughes: I follow the logic in that but again I’ll say that this application isn’t complete for the required number of variances because the parking is way out of line and so is a lot of other stuff. There are many substantial things that exist here. You don’t even have (15,000) fifteen thousand square feet, you’re supposed to have (40) forty and it goes on and on. There were (8) eight things that were listed, (7) seven of them were deficient and (3) three of them were substantial so with the lane not being a real road and the parking not being worked out and the application appearing to be incomplete because all of the variances that would be required are not listed at present I would ask this Board to keep this Public Hearing open until this went on further because if it gets passed through here with the “if’s” and it doesn’t get scrutinized at the planning board we have we have another neighborhood with another mess created because nobody is talking to each other. Thank you for listening to what I have to say. I’d like some answers to.

Chairperson Cardone: Okay, perhaps Mr. Donovan can clarify it but my understanding is we can only act on the application that is before us.

Mr. Hughes: Knowing that it’s incomplete?

Mr. Donovan: Well that is a conclusion that’s you’re reaching. I don’t know that the conclusion for this Board to reach. If you recall the application before us was referred for (5) five different variances. They determined they needed (3) three variances. There application was for (3) three variances. The planning board didn’t refer this matter for a parking variance. The applicant has not asked for a parking variance. Parking…that’s not to say parking is not an issue. Parking is clearly an issue. It’s clearly an important issue but it’s not an issue before the Board. And in terms of Stone Street, Jerry do we know is that a Town road?

Mr. Canfield: I had a conversation with Darrell Benedict, the highway superintendent today; he indicated that it is a Town road. However, I should comment that is not my area of expertise.

Mr. Donovan: Understood, understood. I guess my question would be if it’s not a Town road what the heck is it doing out there.

Mr. Hughes: That was a road that was left over from the John’s estate and it was a back road to get into there and… (Inaudible) Stone Street went east and west…

Ms. Gennarelli: You have to use the microphone. You need a microphone.

Mr. Hughes: Do I need a microphone?

Ms. Gennarelli: Yes, please it’s not going into the record.

Mr. Raab: Yeah, you do.

Mr. Hughes: I thought I was loud enough to (Inaudible)…

Ms. Gennarelli: You know it doesn’t work that way.

Mr. Hughes: Stone Street runs east and west, this is a lane that crossed Stone to go to the back to the John’s home, then it went around the back of all those houses on Stone Street. This is not Stone Street, this is a lane, this is an access lane, it served the North Plank Road Tavern and the John’s home and some houses in the back there on Stone Street. It was never a road.

Mr. Donovan: Well, my…my question is a legal question.

Mr. Hughes: So is mine.

Mr. Donovan: You can call a lane, you can call it a way, you can call it a road, is it maintained by the Town of Newburgh Highway Department?

Mr. Hughes: Very poorly.

Mr. Donovan: And if it is…if it is then it’s a Town road if not, if we don’t have a deed to it then it’s a Town road by use.

Mr. Kelson: Thank you Mr. Donovan that is exactly what I was going to say. Thank you, Town road by use.

Mr. Hughes: So then tell me…the statue

Ms. Gennarelli: Ron, mic.

Chairperson Cardone: Pick up the microphone please.

Mr. Hughes: Are we going to go by the lady with the blindfold and the scales or the three monkeys, see no evil, hear no evil, when we know there is something wrong here but we’re not going to look at it?

Mr. Donovan: Look at…look at what?

Mr. Hughes: The parking deficiencies.

Mr. Donovan: If there’s not an…if the planning board…

Mr. Hughes: It’s not on the application so we’re going to go with the monkeys?

Mr. Donovan: No, we’re not going to go with the monkeys. Okay, what we’re going to do is we’re going to rule on the application before the Board.

Mr. Hughes: (Inaudible) ... want some questions I just want a straight answer, that’s all.

Mr. Donovan: You always get a straight answer from me and you know it.

Mr. Hughes: And then I’m giving you a straight thing to think about to and you know it.

Mr. McKelvey: Got a hand up back there.

Chairperson Cardone: Yes, please take the microphone; don’t know where it ended up.

Mr. McCullum: I’ve been listening to this and all the arguments make sense. My concern is twofold really. There is a supposition here, the supposition is that the sewers are going to be approved and go it. That’s a supposition, there’s nothing written and etched in stone about that. Okay? That bothers me that it’s a supposition still…

Chairperson Cardone: Could I just stop you, you did not give your name; we just need that for the record.

Mr. McCullum: Sure, Ben McCullum…

Chairperson Cardone: Okay.

Mr. McCullum: McCullum.

Chairperson Cardone: Thanks.

Mr. McCullum: …the McCullum property

Chairperson Cardone: Thank you.

Mr. McCullum: So that’s a supposition. That bothers me a little bit also with all due respect to Jimmy, how many properties have two restaurants side by side on half acre properties? Okay? That’s the question I got. And thirdly, I’m not against this thing, I’m trying to get some answers here. So what happens on the overflow? Your client is entering you know conversations right? There’s nothing written in stone about that is there? Am I correct?

Mr. Kelson: Not at this time but there have been substantive conversations and…and I have been advised that a…the parties are…are…are…he’s willing to enter into an appropriate agreement with respect to the parking subject to a…a…working out the details with the applicant.

Mr. McCullum: Thank you but still a supposition. A…and that’s not really my point, my point is if we get these…if these suppositions are still hanging in the air, what happens? That’s the question I have for the Board. A…are we approving or disapproving on these suppositions? Are they part of this? That’s the question a…it’s not so much a statement or a comment or am I worried. Look we have property there; is there going to be overflow or people driving onto our property and…and really creating a liability for us as such? I don’t know. Is it possible? Yeah. So but the other suppositions are still in my mind, hanging out there. I just don’t understand, I…I don’t see anything concrete there, that’s the question. Is there? So…

Chairperson Cardone: There wouldn’t be anything concrete until it goes before the planning board. And that’s when all of these issues have to be resolved.

Mr. McCullum: Okay, I’m just…I’m just asking the question.

Chairperson Cardone: Right.

Mr. Manley: Now from what I gather with respect to the sewer you’ve indicated if Stone Street is not available to hook up to sewer that there is a second alternative which you’ve indicated which is Plank Road where there is the main.

Mr. Brown: (Inaudible) Existing manhole…

Ms. Gennarelli: Just grab…grab that mic, I’m sorry.

Mr. McKelvey: And you already have water on the property.

Mr. Raab: I’ll speak to that. A…we have the alternate to go directly into the main, yes, we already…no, we have to connect…this parcel is on a well right now we’re going to have to run and connect into the waterline on Stone Street. We need to do that anyway because the restaurant needs to be sprinklered.

Ms. Drake: (Inaudible) …you’re going to need an easement to get all …on to somebody else’s property?

Mr. Raab: No, no we’re going right on back onto Stone Street after we leave our property we’re going right on back out on to Stone Street. As soon as…as soon as we leave our property…

Ms. Drake: (Inaudible)

Mr. Raab: …we are going on…back onto the Stone Street.

Ms. Drake: And you don’t have your separation distance from the proposed sewer main then?

Mr. Raab: Oh, yes, absolutely we wouldn’t do it any other way.

Mr. Brown: (Inaudible)

Mr. Raab: Can it…yeah, there’s also water on Plank Road if we needed to do that. We’re just thinking of a…a less expensive way to do it than going under Plank Road because it would have to be burrowed.

Ms. Drake: And provided you were able to address all the parking whether it be on your property or through the easement you would not be, obviously, fixing the parking issue for the other restaurant? That’s still going to stay there because that’s an existing situation that you have no control over.

Mr. Brown: That’s correct.

Ms. Drake: Right, just wanted to make that clear.

Mr. Manley: In the event that you’re not able to secure an agreement with the other party with respect to those (6) six parking spaces that would leave you then (14) fourteen, correct? At that point what would you do if that happened in your…in your process?

Mr. Brown: It would actually be (15) fifteen because we have (21) twenty-one spaces. So, we would have to reduce the seating in the restaurant to correspond to the parking.

Mr. McKelvey: You…you…it was stated though that you are going to need parking for the help.

Mr. Brown: Well we’re following the Zoning now if the Zoning specifies (1) one space for (4) four seats a…and doesn’t specify additional parking for a…help then that’s what’s in the Zoning a…and that’s, you know that’s would be it. And again, we’re…we’re not here for a parking variance a...you know these issues will be worked out with the planning board a…and for the people in the audience we do another Public Hearing at that a…at that level and that would address all these issues that a…you seemed to be concerned about.

Mr. Maher: One more question for you Charlie, I notice on the note that…that Jim has sent that in conversation with Mr. Costa a…advised that he does have a plan to remove the septic and connect to sewer once its installed and to expand his parking area, that’s a conversation you’ve had with him so far?

Mr. Brown: A…yeah now I don’t know how he would expand his parking area because Tommy has not elaborated on that with me and back to his septic there has been problems with that and that could be some of the a…water issues that have gotten into Stone Street a…but you know, we really have no control over his property. I have no idea what his intentions are as far as expanding his parking.

Mr. Raab: Just to speak to that Mike is that, he would…he...right here in front of his…his property where the septic is that’s where he would expand his parking to and that’s just for his…probably for his residence because they share the parking and they’re the ones that are basically parking on the street along with the customers for…for North Plank Road Tavern but they…they’re the ones that are all the time parked on the street.

Ms. Pearl: Since you spoke to that and this isn’t about Mr. Costa where is…isn’t there a wall…a wall here, like where is his septic as opposed to that wall?

Mr. Raab: Over here.

Ms. Pearl: So the wall gets taken down?

Mr. Raab: We…we only…again…

Ms. Pearl: So well…then you can’t really say that that’s going to happen right?

Mr. Raab: No, (Inaudible)

Mr. Brown: (Inaudible)

Ms. Pearl: Because he’s got a…he’s got a huge stone wall around that septic system, the parking lot is over here so you can’t say that that’s going to solve a problem though, right?

Mr. Brown: No.

Mr. Raab: No.

Ms. Pearl: Okay, forgive me because I’ve been dealing with it for (20) twenty years, okay.

Mr. Brown: The septic for the restaurant is actually under this parking lot.

Ms. Pearl: Under the parking lot?

Mr. Brown: Yes.

Ms. Pearl: So how is going to the septic (sewer) going to make this parking lot bigger and relieve this problem?

Mr. Brown: Again, I can’t…

Ms. Pearl: Yeah, it’s not, okay. Thank you.

Chairperson Cardone: Do we have anything else from the public or the Board?

(No response)

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

Ms. Drake: I’ll make a motion we close the Public Hearing.

Chairperson Cardone: Do we have a second?

Mr. McKelvey: Second.

Ms. Gennarelli: Roll call.

 John McKelvey: Yes

 Brenda Drake: Yes

 Michael Maher: Yes

 James Manley: Yes

 John Masten: Yes

 Roseanne Smith: Yes

 Grace Cardone: Yes

Chairperson Cardone: The Public Hearing is closed. Jim, a…later I’ll ask you. Okay, before proceeding the Board will take a short adjournment to confer with Counsel regarding legal questions raised by tonight’s applications. If I could ask in the interest of time if you would wait out in the hallway and then we’ll call you back in for the decisions shortly.

 (Time Noted – 8:29 PM)

ZBA MEETING – FEBRUARY 28, 2013 (Resumption for decision: 8:44 PM)

ZEF GJURASHAJ 34 PLANK ROAD, NBGH

 (84-2-1.1) B ZONE

Applicant is seeking area variances for the minimum lot area, the front yard setback (Stone Street), the front yard setback (Plank Road), the side yard setback, the minimum lot width and the minimum lot depth to convert an existing residence into an 80-seat restaurant.

Chairperson Cardone: On the next application Zef Gjurashaj, 34 Plank Road, seeking area variances for the minimum lot area, the front yard setback, the front yard setback (Plank Road and on Stone Street), the side yard setback, the minimum lot width and the minimum lot depth to convert an existing residence into an 80-seat restaurant.

Chairperson Cardone: This is an Unlisted Action under SEQRA. Do I have a motion for a Negative Declaration?

Ms. Drake: So moved.

Mr. Manley: Second.

Ms. Gennarelli: Roll call.

 John McKelvey: Yes

 Brenda Drake: Yes

 Michael Maher: Yes

 James Manley: Yes

 John Masten: Yes

 Roseanne Smith: Yes

 Grace Cardone: Yes

Chairperson Cardone: Do we have discussion on this application?

Mr. Manley: I have concerns with the minimum lot area, and there’s other factors but the biggest is the…the minimum lot area.

Chairperson Cardone: Is there any other discussion?

Mr. Maher: I think the…obviously there is some a…issues with the parking that were highlighted but unfortunately we’re not looking at any of those issues at this time, that is definitely a planning board a…problem to review and approve. There was some discussion as far as helping a…the Town out…I’m sorry, the residents out with in the Town with the a…size of the road and make sure the road is done. Based on Mr. Raab’s letter it appears they’re…they’ve talked to the Highway Superintendent and they’re looking at some options to a…take care of some of the issues on the east side of the property on Stone Street there.

Chairperson Cardone: Do I have a motion for approval on this application?

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

Ms. Drake: Second.

Ms. Gennarelli: Roll call.

 John McKelvey: Yes

 Brenda Drake: Yes

 Michael Maher: Yes

 James Manley: No

 John Masten: No

 Roseanne Smith: Yes

 Grace Cardone: Yes

Chairperson Cardone: The motion is carried.

PRESENT ARE:

GRACE CARDONE

 JOHN MC KELVEY

 BRENDA DRAKE

 MICHAEL MAHER

 JAMES MANLEY

 JOHN MASTEN

 ROSEANNE SMITH

ALSO PRESENT:

DAVID A. DONOVAN, ESQ.

 BETTY GENNARELLI, ZBA SECRETARY

 GERALD CANFIELD, CODE COMPLIANCE

JOSEPH MATTINA, CODE COMPLIANCE (Time Noted – 8:47 PM)

ZBA MEETING – FEBRUARY 28, 2013

END OF MEETING (Time Noted – 8:47 PM)

Chairperson Cardone: Do we have any other business this evening?

(No Response)

Chairperson Cardone: Everyone has a copy of a proposed Newburgh Town Law amending the application of Public Hearing notification provisions of Chapter 83, entitled Clearing and Grading, Chapter 125, entitled Noise and Illumination Control, Chapter 163, entitled Subdivision of Land, Chapter 168, entitled Telecommunication Facilities, Wireless and Chapter 185, entitled Zoning of the Code of the Town of Newburgh. Does anyone have any comments that they would like this Board to pass on to the Town Board?

(No response)

Chairperson Cardone: Well I think some of these issues we’ve already commented on in the past.

Mr. McKelvey: Yeah.

Mr. Maher: Yes.

Chairperson Cardone: Okay and I’d also like to bring to the Board’s attention the 2013 Spring Planning and Land Use Course which is offered by the Orange County Municipal Planning Federation. There were two…there were two workshops that I thought might be of interest to the Board. One is an evening from 7 to 9, Monday May the 13th, The Roles and Responsibilities of the Zoning Board of Appeals and the other one was a full day session for new Board Members and that is on April the 12th from 8:30 to 3 and those are two courses that I would recommend that people take a look at. Has everyone read the minutes of the last meeting? Do we have any additions…?

Ms. Drake: Did we get them by email?

Ms. Gennarelli: Yes.

Ms. Drake: I looked for the email just recently and couldn’t find it.

Chairperson Cardone: Do I have a motion to approve?

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

Ms. Smith: Second.

Chairperson Cardone: All those in favor say Aye?

Aye - All (except Brenda Drake - Abstain)

Chairperson Cardone: Opposed?

No Response

Chairperson Cardone: Anything else? Do we have a motion to adjourn?

Mr. Maher: So moved.

Ms. Drake: Second.

Chairperson Cardone: All in favor say Aye?

Aye All

Chairperson Cardone: Opposed?

No response.

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

PRESENT ARE:

GRACE CARDONE

 JOHN MC KELVEY

 BRENDA DRAKE

 MICHAEL MAHER

 JAMES MANLEY

 JOHN MASTEN

 ROSEANNE SMITH

ALSO PRESENT:

 DAVID A. DONOVAN, ESQ.

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