ZONING BOARD OF APPEALS

MEETING – MARCH 24, 2016

(Time Noted – 7:04 PM)

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

PRESENT ARE:

 RICHARD LEVIN

 MICHAEL MAHER

 JAMES MANLEY

 JOHN MASTEN

JOHN MC KELVEY

 DARRIN SCALZO

ALSO PRESENT:

 ROBERT DICKOVER, ESQ.

 BETTY GENNARELLI, ZBA SECRETARY

 JOSEPH MATTINA, CODE COMPLIANCE

Pledge of Allegiance to the Flag led by Michael Maher

(Time Noted – 7:08 PM)

ZBA MEETING – MARCH 24, 2016 (Time Noted – 7:08 PM)

GRACIANA IRIART & JOSEPH ZAINO 283 CARTER AVENUE, NBGH

 (26-4-24.1) R-3 ZONE

Applicant is requesting an area variance for increasing the degree of non-conformity of the front yard setback to enlarge an existing non-conforming covered front porch on the residence.

Mr. Manley: The first application this evening that the Board is going to be hearing is Graciana Iriart and Joseph Zaino, 283 Carter Avenue in Newburgh. They’re seeking an area variance for increasing the degree of non-conformity of the front yard setback to enlarge an existing non-conforming covered front porch on the residence. This is going to be considered a Type II Action under SEQR. Good evening.

Ms. Gennarelli: Can I just give the…?

Mr. Manley: Yes, the mailings.

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

Mr. Manley: Thank you.

Ms. Gennarelli: You’re welcome.

Mr. Manley: Good evening. Could you share with the Board this evening what you’re looking for with respect to your variance?

Mr. Zaino: We’re doing renovations to the existing structure that’s there and a…we’d like to rebuild the porch that’s been there since 1912 a...with some minor alterations. We’d like to extend the…the sides of the porch so that it aligns with the existing foundation walls of the main structure so that’s about eleven and a half inches on both sides and but we don’t want to protrude any further into the front yard setback than it already is. And the…the roof overhang itself kinds of goes to those points it’s just the porch that set inward and we’d like to extend it outward. I mean to the sides.

Mr. Manley: Okay, are there other similar porches in your neighborhood that look like your particular house?

Mr. Zaino: Yes.

Mr. Manley: How many would you say on average there is in the neighborhood?

Mr. Zaino: Two nearby.

Mr. Manley: Okay. So would you say that that particular porch is consistent with other porches in the neighborhood?

Mr. Zaino: Yes.

Mr. Manley: Do you feel that the request that you’re going before the Board this evening is…substantial in nature or is it a small request?

Mr. Zaino: I think it’s less than minor actually.

Mr. Manley: Okay. I have no other questions if there’s anyone else from the Board that has questions for the applicant.

Mr. McKelvey: That’s just going to go to the edge of the house?

Mr. Zaino: That’s correct, sir.

Mr. McKelvey: That’s what it looked like.

Mr. Scalzo: Yeah, but I don’t believe that the…side yard is not the issue it’s…it’s the front yard that’s the issue.

Mr. Maher: Well by increasing the width of it.

Mr. McKelvey: The width.

Mr. Maher: It’s the issue there.

Mr. Levin: It looks like you’re doing a lovely job on the house.

Mr. Zaino: Thank you very much.

Mr. Manley: If the Board doesn’t have any questions for the applicant…if there’s no other questions at this point we’ll ask if there is anybody in the audience here that has any questions with respect to this application?

No response.

Mr. Manley: Hearing none do we have a motion from the Board to close the Public Hearing?

Mr. McKelvey: I’ll make that motion.

Mr. Masten: I’ll second it.

Ms. Gennarelli: Roll call.

 Richard Levin: Yes

 Michael Maher: Yes

 John Masten: Yes

John McKelvey: Yes

 Darrin Scalzo: Yes

 James Manley: Yes

Mr. Manley: At this point, the Public Hearing is closed; the Board will take up the vote at the end of the meeting.

Mr. Zaino: Thank you.

Mr. Manley: Thank you.

 (Time Noted - 7:12 PM)

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ZBA MEETING – MARCH 24, 2016 (Resumption for decision: 8:48 PM)

GRACIANA IRIART & JOSEPH ZAINO 283 CARTER AVENUE, NBGH

 (26-4-24.1) R-3 ZONE

Applicant is requesting an area variance for increasing the degree of non-conformity of the front yard setback to enlarge an existing non-conforming covered front porch on the residence.

Mr. Manley: The Board is resuming our regular session. At this point, we’re going to vote on each of the items that are before us this evening that have not been put off. The first item on tonight’s agenda is Graciana Iriart and Joseph Zaino, 283 Carter Avenue in Newburgh, they’re requesting an area variance for increasing the degree of non-conformity of the front yard setback to enlarge an existing non-conforming covered porch…front porch on the residence. This is a Type II Action under SEQR. We will start with discussion on the area variance criteria. The first criteria the Board will look at is whether the benefit can be achieved by other means feasible to the applicant. Does the Board have any discussion on that?

Mr. Levin: No.

Mr. McKelvey: No, they can’t.

Mr. Manley: The second one is the undesirable change in the undesirable change in the neighborhood character or detriment to nearby properties?

Mr. Maher: No, it’s pretty consistent with the neighbors.

Ms. Gennarelli: Are everybody’s mics on? Mike? I cut the whole system. Thank you.

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

Mr. McKelvey: No, I don’t think so.

Mr. Scalzo: No, I don’t believe so.

Mr. Manley: I’d have to say they pretty much testified it’s eleven inches each side not…not that much at all. Whether the request will have adverse physical or environmental effects?

Mr. Masten: No.

Mr. McKelvey: No.

Mr. Levin: No.

Mr. Scalzo: No, I think quite the opposite. I think it would have a positive effect.

Mr. Manley: And whether the alleged difficulty is self-created? This is relative but it’s not determinative in nature. It is self-created but definitely it…it’s not a big deal in relation to everything. With that in mind, going over the tests involved do we have a motion for the applicant?

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

Mr. Masten: I'll second it.

Ms. Gennarelli: Roll call.

 Richard Levin: Yes

 Michael Maher: Yes

 John Masten: Yes

John McKelvey: Yes

 Darrin Scalzo: Yes

 James Manley: Yes

Mr. Manley: The variance is approved.

PRESENT ARE:

 RICHARD LEVIN

 MICHAEL MAHER

 JAMES MANLEY

 JOHN MASTEN

JOHN MC KELVEY

 DARRIN SCALZO

ALSO PRESENT:

 ROBERT DICKOVER, ESQ.

 BETTY GENNARELLI, ZBA SECRETARY

 JOSEPH MATTINA, CODE COMPLIANCE

 (Time Noted – 8:50 PM)

ZBA MEETING – MARCH 24, 2016 (Time Noted – 7:08 PM)

GAIL MAC DONALD 3 RIDGEVIEW DRIVE, NBGH

 (98-1-14.3) R-3 ZONE

Applicant is requesting an area variance for the front yard setback for an existing dwelling on Lot #1 of a two-lot sub-division application before the planning board.

Mr. Manley: The next application before the Board this evening is Gail Mac Donald of 3 Ridgeview Drive in Newburgh requesting a area variance for the front yard setback for an existing dwelling on Lot #1 of a two-lot sub-division an application that’s before the planning board. This is also a Type II Action under SEQR. We also have County comments. Ms. Gennarelli do we have the mailings?

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

Mr. Manley: Thank you.

Ms. Gennarelli: You’re welcome.

Mr. Manley: Good evening.

Mr. Willingham: My name is Andy Willingham with Willingham Engineering. We are the engineers for the proposed subdivision. We’re currently proposing a two-lot subdivision in front of the planning board and the existing home that was built in the late sixties was built thirty-eight point seven feet from the front lot line and the…the Code requires forty feet. So the planning board has sent us here to obtain a…a area variance for the front setback for what will be proposed lot #2 and the…the proposed…or proposed Lot #1 sorry…and proposed Lot #2 will meet all zoning requirements.

Mr. Manley: Could you share with the Board other similar homes along that street…most of the Board Members make site visits so we have been out to the property, could you share with the Board what the average frontage is for the homes that are on the property in that neighborhood?

Mr. Willingham: Can’t say that I measured all of them but the home in question is very consistent with that neighborhood as far as distance from the road.

Mr. McKelvey: I think the ones across the street were very close.

Mr. Maher: There’s no change being made to the current home it’s just a question of the subdivision creates the problem…

Mr. Willingham: Right.

Mr. Maher: …it’s an existing condition correct?

Mr. Willingham: Right.

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

No response.

Mr. Manley: At this point, we’ll open it up to the public. Is there any question from the public with regard to this application?

No response.

Mr. Manley: I’d like to enter into the record that Orange County has sent us a letter with regard to this application. The Department of Planning has reviewed and went over the submitted materials regarding the appeal for the area variance. While the Zoning Board of Appeals must weigh the local issues in balancing the needs of the appellant with the potential impacts on the surrounding area it does not appear that inter-municipal or countywide impacts would result if the Board finds that granting relief is warranted in this matter. Recommendation of the County is Local Determination. That is dated February 22nd, 2016. I’ll just check one more time to see if there’s anybody from the public here for this application.

No response.

Mr. Manley: If not, we’ll look for a motion to close the Public Hearing.

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

Mr. Levin: I’ll second that.

Ms. Gennarelli: Roll call.

 Richard Levin: Yes

 Michael Maher: Yes

 John Masten: Yes

John McKelvey: Yes

 Darrin Scalzo: Yes

 James Manley: Yes

Mr. Manley: The Public Hearing is closed.

Mr. Willingham: Thank you.

 (Time Noted - 7:12 PM)

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ZBA MEETING – MARCH 24, 2016 (Resumption for decision: 8:50 PM)

GAIL MAC DONALD 3 RIDGEVIEW DRIVE, NBGH

 (98-1-14.3) R-3 ZONE

Applicant is requesting an area variance for the front yard setback for an existing dwelling on Lot #1 of a two-lot sub-division application before the planning board.

Mr. Manley: The next this evening is Gail Mac Donald, 3 Ridgeview Drive, Newburgh seeking an area variance for the front yard setback for an existing dwelling on Lot #1 of a two-lot sub-division application before the planning board. This is also a Type II Action under SEQR. Do we have discussion on the balancing tests for the area variance? The first of course whether the benefit can be achieved by other means feasible to the applicant.

Mr. McKelvey: No.

Mr. Levin: Not possible.

Mr. Scalzo: It’s impossible.

Mr. Manley: Is there going to be any undesirable change in the neighborhood character or detriment to nearby properties?

Mr. Levin: No.

Mr. Masten: No, I don’t think so.

Mr. McKelvey: No, I don’t think so either.

Mr. Manley: Whether the request is substantial in nature?

Mr. Levin: No.

Mr. McKelvey: No.

Mr. Scalzo: Not a foot and a half, no.

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

Mr. Levin: No.

Mr. McKelvey: No, I don’t think so.

Mr. Manley: Whether the alleged difficulty is self-created?

Mr. Maher: Well it’s only self-created due to the fact they are sub-dividing the property. There’s no changes to the structure.

Mr. Manley: Okay going through the tests involved do we have a motion from the Board?

Mr. Masten: I’ll make a motion.

Mr. Manley: A motion for approval or disapproval?

Mr. Masten: Approval, Jim.

Mr. Manley: Motion for approval.

Mr. Maher: Second.

Ms. Gennarelli: Roll call.

 Richard Levin: Yes

 Michael Maher: Yes

 John Masten: Yes

John McKelvey: Yes

 Darrin Scalzo: Yes

 James Manley: Yes

Mr. Manley: The variance is granted.

PRESENT ARE:

 RICHARD LEVIN

 MICHAEL MAHER

 JAMES MANLEY

 JOHN MASTEN

JOHN MC KELVEY

 DARRIN SCALZO

ALSO PRESENT:

 ROBERT DICKOVER, ESQ.

 BETTY GENNARELLI, ZBA SECRETARY

 JOSEPH MATTINA, CODE COMPLIANCE

 (Time Noted – 8:52 PM)

ZBA MEETING – MARCH 24, 2016 (Time Noted – 7:12 PM)

AUTO PARK REALTY LLC. 200 AUTO PARK PLACE, NBGH

 (HUDSON VALLEY CHRYSLER DODGE RAM) (97-2-11.2) I/B ZONE

Applicant is requesting an area variance for the maximum allowed amount of signage to install signage on the lot.

Mr. Manley: The next applicant before the Board this evening is Auto Park Realty LLC., 200 Auto Park Place in Newburgh, Hudson Valley Chrysler Dodge Ram. They’re seeking an area variance for the maximum allowed amount of signage to install signage on the lot. This is an Unlisted Action under SEQRA. If the Board so chooses to move forward and approve this it would require a Negative Declaration. We also have County comments. Ms. Gennarelli…

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

Mr. Manley: Thank you. Good evening.

Mr. Meissner: How’s everyone?

Mr. Manley: Good.

Mr. Meissner: My name is Terry Meissner from Saxton Signs Corporation. What they’re looking for is five signs on the front of the building most of them base illuminated to represent the a…cars that they sell the franchises for the Chrysler, Dodge, Jeep and Ram and Hudson Valley the name of the business. A…they would like to relocate their pylon to the corner of their lot and a…on the side of the building they want a mopar sign and then three box signs that say Service and Express Lube and there’s a directional.

Mr. Manley: Pardon?

Mr. Meissner: And a directional as well.

Mr. Manley: Okay. Does the directional have any advertisement or a name on it at all or is it just…?

Mr. Meissner: No it does not. It says Showroom and Service with arrows.

Mr. McKelvey: Is the pylon sign going to be the same size?

Mr. Meissner: The same exact sign, they just want to move it out of the middle of the parking lot…

Mr. McKelvey: Okay.

Mr. Meissner: …and put it on the corner of the lot.

Mr. Manley: Can you share with the Board whether or not the requested signage that you’re applicant is looking for is consistent with other signage that particularly is in that area and if so could you give us some examples of other places?

Mr. Meissner: A…in the area, I’m not really familiar with the area. I’m not from here. It’s part of their branding that they’ve been doing with all of their other locations that they’ve had. They a…were doing all the storefronts and everything a…looking around at of this that did it just recently it looks similar to the other sites. I mean there’s other car dealerships there but I didn’t really pay attention to be honest with you.

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

Mr. Maher: On…on the signs themselves for the a…Chrysler, Dodge, Jeep, Ram signage itself is that consistent with…with normal corporate…corporate signage? It’s not oversized or beyond the scope of what’s required or…?

Mr. Meissner: For that size location yeah that’s what they are going to use.

Mr. Manley: At this time I’m going to go ahead and enter into the record the reply from the Orange County Department of Planning. The Planning Department has reviewed the submitted materials regarding the appeal for an area variance. While the Zoning Board of Appeals must weigh the local issues in balancing the needs of the appellant with the potential impacts on the surrounding area it does not appear that intermunicipal or countywide impacts would result if the Board finds that granting relief is warranted in this matter. We note that the Town of Newburgh submits multiple area variance requests related to the allowable signage area for commercial businesses. If the Town chooses to modify the Town Code County Planning would be happy to provide technical assistance. The recommendation of the County is Local Determination.

Mr. Maher: Do you have any calculations as to what the existing signage on the building prior to the change being made was?

Mr. Meissner: No, I don’t. I’ve got some pictures.

Mr. Maher: Alright I see the…I have the pictures also I just curious if it was…

Mr. Meissner: No, I don’t.

Mr. Maher: …similar to existing signage square footage (inaudible).

Mr. Manley: Now some of these signs are double sided signs, yes? The pylon sign?

Mr. Meissner: Just the pylon.

Mr. Manley: And you’ve included both sides of the sign? Correct? In the calculation?

Mr. McKelvey: Yes.

Mr. Manley: You did see that?

Mr. McKelvey: Here’s the sign, just going to move it.

Mr. Manley: That tends to eat up a lot of your signage right there…because they count both…they count both sides not just one…

Mr. Meissner: Yep.

Mr. Manley: So…any other further questions by the Board?

No response.

Mr. Manley: If there’s no further questions I’m going to open the comments to the public. Is there anybody here from the public that has questions regarding this application or comments?

No response.

Mr. Manley: Hearing none, at this point I would ask that the Board move to close the Public Hearing.

Mr. McKelvey: I’ll make that motion.

Mr. Levin: Second it.

Ms. Gennarelli: Roll call.

 Richard Levin: Yes

 Michael Maher: Yes

 John Masten: Yes

John McKelvey: Yes

 Darrin Scalzo: Yes

 James Manley: Yes

Mr. Manley: The Public Hearing is closed. We’ll take this up at the end of the meeting.

 (Time Noted - 7:19 PM)

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ZBA MEETING – MARCH 24, 2016 (Resumption for decision: 8:52 PM)

AUTO PARK REALTY LLC. 200 AUTO PARK PLACE, NBGH

 (HUDSON VALLEY CHRYSLER DODGE RAM) (97-2-11.2) I/B ZONE

Applicant is requesting an area variance for the maximum allowed amount of signage to install signage on the lot.

Mr. Manley: The next item before the Board this evening is Auto Park Realty LLC., 200 Auto Park Place in Newburgh, (Hudson Valley Chrysler Dodge Ram) seeking an area variance for the maximum allowed signage to install signage on the lot. This is an Unlisted Action under SEQR. If the Board does decide they want to make a motion for approval they’ll have to first start with a Negative Declaration at which point you can then make a motion. If you’re inclined to deny it you would not need to make a Negative Declaration you would just make a motion to deny. Discussion on the application as to whether or not the benefit can be achieved by other means feasible to the applicant?

Mr. Levin: No.

Mr. McKelvey: No.

Mr. Masten: No.

Mr. Manley: Does the Board feel there will be an undesirable change in the neighborhood character or detriment to nearby properties?

Mr. McKelvey: Not really it’s all business.

Mr. Manley: It is an I/B Zone, yes, there are quite a few businesses that have similar signs. Whether or not the request is substantial in nature, is there any discussion with respect to that?

Mr. Maher: No, it’s I don’t see…I don’t feel it’s substantial it’s…it’s consistent like John said with the a…area and there’s no…there’s very little duplication of any signage.

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

Mr. McKelvey: No.

Mr. Levin: No.

Mr. Scalzo: No.

Mr. Manley: And the last is whether or not the alleged difficulty is self-created? And of course in many of the area variances they are. At this point, does the Board have either motion for either denial or a motion for a Negative Declaration to move towards a motion for approval?

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

Mr. McKelvey: I’ll second that.

Ms. Gennarelli: Roll call.

 Richard Levin: Yes

 Michael Maher: Yes

 John Masten: Yes

John McKelvey: Yes

 Darrin Scalzo: Yes

 James Manley: Yes

Mr. Manley: The Board has approved a Negative Declaration. At this point is there a motion for approval?

Mr. Maher: I'll follow with a motion.

Mr. McKelvey: I'll second.

Ms. Gennarelli: Roll call.

 Richard Levin: Yes

 Michael Maher: Yes

 John Masten: Yes

John McKelvey: Yes

 Darrin Scalzo: Yes

 James Manley: Yes

Mr. Manley: The variance is granted.

PRESENT ARE:

 RICHARD LEVIN

 MICHAEL MAHER

 JAMES MANLEY

 JOHN MASTEN

JOHN MC KELVEY

 DARRIN SCALZO

ALSO PRESENT:

 ROBERT DICKOVER, ESQ.

 BETTY GENNARELLI, ZBA SECRETARY

 JOSEPH MATTINA, CODE COMPLIANCE

 (Time Noted – 8:55 PM)

ZBA MEETING – MARCH 24, 2016 (Time Noted – 7:19 PM)

DON & TAMMY MURPHY 299 LAKESIDE ROAD, NBGH

 (50-1-22) R-1 ZONE

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

Mr. Manley: The next item on this evening’s agenda is a hold over held over from the January 28, 2015 (2016) meeting Don and Tammy Murphy, 299 Lakeside Road in Newburgh. They’re requesting area variances for the maximum allowed height, the maximum lot coverage and increasing the degree of non-conformity of one side yard setback and the combined side yards setback to add on to the second floor, expand the existing first floor and add front and rear covered porches on the residence. This is a Type II Action under SEQR. All mailings were in order at the time. Is the applicant here this evening?

No response.

Mr. Manley: Is the applicant’s representative here?

Ms. Gennarelli: Daniel Contelmo.

No response.

Mr. Manley: What we will do at this time is we will move the place on the agenda to the end of the meeting to see whether or not the applicant does show up this evening.

(Time Noted – 7:20 PM)

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(Time Noted - 8:27 PM)

Mr. Manley: Sir, are you the representative for Don and Tammy Murphy?

Mr. Contelmo: Yes, I am.

Mr. Manley: Okay, we just actually skipped over you because there was nobody here.

Mr. Contelmo: Okay.

Mr. Manley: I’d like to bring you up and have you present, we have quite a few people from the public here to hear it and I don’t want to hold them up this evening so…you can use the easel right up here and there’s a microphone right there if you want to present there or you can use the microphone in the front whichever you prefer. And if you could just give us your name for the record please?

Mr. Contelmo: My name is Dan Contelmo, I’m the…

Ms. Gennarelli: Could you raise that (mic) up a little bit?

Mr. Manley: You might need to raise that (mic) up just a wee bit there.

Mr. Contelmo: Is that better?

Mr. Manley: There you go.

Mr. Contelmo: Okay, my name is Dan Contelmo I am the architect representing Don and Tammy Murphy. Now, I know that you had seen them a couple of months ago and they had made a presentation about some of the changes they want to make to their home a…with additions and a…it was I guess held over and they couldn’t be here tonight so they asked me to meet for them. They did make some changes a…to the…to the addition and what…what we’re showing a…is four new elevations. The overall shape of the house especially from the front is the same a…the height was reduced and we changed it to a hip roof to cut back the gables and we pulled back the rear of the house from where it was to be in line with the existing first floor. So the grey shading around the outside shows where the addition was drawn at the previous meeting so previously there was a…a gable roof over a second story porch that came out to this point. So by one taking the roof off the porch, the second story porch completely and pulling the second story back in line and then taking the gable roof that was here and shifting it back to a hip we open up this space. I don’t know if the front is quite as important to the neighbors as…or to the Board a…but we did make some adjustments in the front as well. We created another hip which changes this gable a…so that it’s balanced front and back a…this…this right here is a dormer which sits in the middle so from the side straight on you (inaudible) with perspective you would not really see the dormer only if you’re looking from the front or directly from the rear you would see a similar dormer. So again we removed the…the roof over the porch but we did leave a second story porch but it’s open. The first floor porch has rooms on either side of the middle deck. A…I think they mentioned it in the last meeting but the deck currently sits pretty high out of the ground so we…we brought the a…this line right here is the existing first story line and it continues out and the deck is in line with it so we dropped the great room floor a foot and then dropped again another seven inches down to the deck. So we’re almost a foot and a half lower with the deck than it currently is.

Mr. Manley: The question that I have is the concerns from a lot of the public that were here earlier was the protrusion of the home further out therefore blocking the view scape which is something within our Town Code that the Town Board a number of years ago adopted a view shed ordinance within the Town for the Orange Lake area and that’s the one concern that I think a lot of the neighbors had we had kind of had made the suggestion instead of going so far back why not just reverse it and go the other way, you know, towards the road versus out towards the lake. Was that something that was considered and if it was, why wasn’t that made part of the decision process?

Mr. Contelmo: A…so…well for one I…we did pull back the addition so it currently exists that the house…this is the edge of the house right here as it exists now with you know, the roof coming back in here. It’s actually another hip roof so we are staying in the same line as the existing house. So we did pull it back and again this is the existing house line, this is the existing deck line so we’re staying in the same plane. Previously the living space came out closer to the lake that the existing first floor line.

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

Mr. Scalzo: Sir, you have been to the site itself and looked at the house and looked at the dwellings near it I’m assuming?

Mr. Contelmo: That’s correct.

Mr. Scalzo: I…I was out there again yesterday, this one is pretty interesting, I have a couple of photos that I’m going to send down for the Board. I stood at the front porch…the lake side porch a little bit in front of it at the Steele residence and I took a photo north and then I turned and in exactly the same spot took a photo south. What I found interesting is where the porches line up for the houses to the north is in line with the enclosed porch of the applicant. So the deck actually sticks out much further than all of the other properties there and when you look to the north a very similar situation occurs as well. So as you look up…when they go up on the second story over the existing covered porch they’re now…the second story solid whereas on the same line as the porches are of the surrounding dwellings. I don’t know if that makes sense the way I said it but I’ll send these photos down for you to see and…and that’s just an observation. But what we heard testimony months ago was the Orange Lake a…Society…Homeowner’s Association they were looking for it to be pushed back and now it makes a lot of sense to me why they were asking for this.

Mr. Contelmo: It also appears that the houses the way they are constructed is that they have second floors over the porches as well so the structure of the roof which is where the second floor is built within starts at the same line. So even though they have porches here they have roofs coming up with living space built within them.

Mr. Scalzo: Okay. Mr. Steele can you step up here please?

Mr. Steele: Sure. I’m Benjamin Steele I live next door the Murphy’s on the lot that’s north.

Mr. Scalzo: The photos that I’m sending down were between your house and the applicant…the applicant’s house. I…I didn’t recall seeing living space over your porch. Do you have living space over your porch?

Mr. Steele: Yes, there are a lot…a lot of the houses, you know, that have living space but it is set back off the porch so where the porch starts living space actually starts back you know, eight feet from the actual edge of the property. The issue that we have is that it’s where the…if you take a look at all the other houses and…and some of the information that I tried to provide a…before depicts where the original foundation was and where the houses were all built all in one line.

Mr. Scalzo: Quite honestly that’s what led me to go take that picture.

Mr. Steele: Well when you take…when you take a look at some of the documentation that we…that I provided the Board you can actually see underneath the porch. The porch is…was kind of an afterthought so to speak. The original porch and the original foundation is underneath…

Mr. Scalzo: Aligned with yours.

Mr. Steele: …the porch that’s it all of the same line between mine, the Millers, right on up there’s the whole row of houses when they were built back in the you know, early 1900’s that was one of the reasons why that they…they chose to do that. I believe it was written in some sort of a Town Code. That’s why all the trees were all planted you know, you’ll notice like a lot of the major trees are all aligned, all the houses were aligned. So that the issue that we have is that it blocks the view from…not so much from my house…it does impact me a…but Mrs. Miller is on the south is greatly impacted. She loses her view up north and her house is actually closer (inaudible). Our issue is not necessarily that they have a you know a porch or (inaudible) you know if they had moved it back to where the existing foundation was or that same area you know our view would not be as impacted.

Mr. Scalzo: Thank you.

Mr. Maher: Well here’s my question based on the…on the… pictures that were submitted…

Mr. Steele: Yes.

Mr. Maher: …they all depict the blocked view based on the…on the addition as it was originally…

Mr. Steele: As it was presented to us last month but now I see that that still remains an issue is that they…they haven’t moved back…if I may, this is where the house is still so is this (inaudible) or is this old…is this new?

Mr. Contelmo: This is what was presented and is no longer.

Mr. Steele: Okay. This is something new that we haven’t seen yet.

Mr. Maher: We just want to make sure you aware that you know, roughly twelve foot I believe it was brought back twelve feet or so that’s what the difference was?

Mr. Contelmo: Yeah, and this was a…you’re looking at the house from the front…you’re to the right?

Mr. Steele: Well the problem is…

Mr. Contelmo: From this tree…

Ms. Gennarelli: Excuse me, we need…we need the other mic.

(Inaudible)

Mr. McKelvey: You have to get the other mic.

Ms. Gennarelli: Mr. Steele…you need the other mic.

Mr. McKelvey: Get the mic.

Mr. Contelmo: So a…

Mr. Steele: I’m from the north.

Mr. Contelmo: Yeah, this…this move architecturally was in response to your concern which was a little different I think in…in not so much in view in…in one concern it had to do with light so…by just changing the roofline and tipping it you can see the difference in what kind of light, sunlight would come. Granted there’s an enormous tree there that in the summer is probably taking care of all the light that would have come this way anyway but we don’t tend to focus on that because there’s winter views, the tree could die, whatever, you know so… But in reality there is an enormous tree that’s…that’s right here and it’s…it’s as much blocking the view as this porch will. A…but we did do this specifically because of the concern about light.

Mr. Steele: And this is actually the first time that we’ve seen these…these renderings.

Mr. Contelmo: And frankly it’s a more expensive way to do it but a…you know, I was advised by the clients to find a solution that would take care of that problem so…and then getting rid of the second story porch roof is another, I think, you know big help.

Mr. Steele: Well I understand that this that a…one of my other concerns is that they’ve created a hardship for the neighbors based upon our view. And I would like to understand what the hardship is that the Murphys have demonstrated in order to get, you know, granted relief for the…a…because I have not yet seen anything other than they wish to build a four to five bedroom home on a lot that does not meet today’s requirements of either the setbacks or the eighteen hundred square feet requirement for the building size. Other than that they’ve bought a house that does not meet their needs.

Mr. Contelmo: Do you know when the rear porch was built?

Mr. Steele: The rear? The deck?

Mr. Contelmo: Right.

Mr. Steele: The deck was probably on there I would probably say maybe fifteen years.

Mr. Scalzo: I believe it appears…is the survey from 1989 that was supplied? It appears on that.

Mr. Contelmo: Okay.

Mr. Manley: And as you know the Board has to weigh and balance the request of the applicant based on public comment, based on a…the amount of the variance that’s being requested. You know, it does fall within the height requirement that the Town has however, because it’s increasing the degree of non-conformity if the Board finds that the height is a factor and that because the other houses in the neighborhood are at a lower height you know, the Board could look at that as a factor in not wishing to increase the degree of non-conformity of the structures. You know and then the only option at that point would be for the Board to, you know, vote to deny the application so I…I had a chance and the residents provided and I don’t know if you saw a copy of this but they did put up a balloon at thirty-five feet now mind you it’s now down to thirty-two feet, nine inches but looking at it that balloon certainly overshadows dramatically the other…the other houses in the area.

Mr. Contelmo: I think that photo is completely dis …misleading because it’s a perspective view of thirty-five feet. It’s not a straight on view but your…if that balloon was hanging here it would show three feet from the balloon to the house but it would also show the neighbor’s homes being much closer because this is a two-story house, the neighbor’s house is a two-story house. So…and…and with a sloping roof on all four sides we’re minimizing the impact of the roof itself so the thirty-two feet that the house is in height is only a single line. It’s not…in perspective if you were standing looking at this from here you would not even see the roof. You’d only see the eaves of the house. And the houses are close enough that if you stand…if…if this is Mr. Steele’s house right here relatively the same distance away and you look up you will not see that peak from that point of view. So to hang a balloon here and then stand back here and take a photo it’s going to increase the view as though the balloon looks like it’s forty-five feet there. So elevations are deceiving because they’re taking as though you’re looking at it from on the ground, ten feet in the air, twenty feet so you’re always looking perfectly horizontal but that’s not the case. If you were standing on the ground you’re only seeing it from your eyes at five foot six above the ground. And then a perspective view so you would never see this house looking like this unless you were standing on the roof of the neighbor…

Mr. Scalzo: Or driving into the driveway.

Mr. Steele: Driving into the driveway for instance if…

Mr. Contelmo: No, but even still this house the way it…again with this roof falling back is…is not overpowering at all and two houses down there’s house that’s much bigger than this. So to put it in context with the neighbors I think you have to take all of the neighbors not just the adjacent neighbors and say well, you know, it was built as a bungalow eighty years ago and you’re living within the attic on the second floor that because of that…that in 2016 we shouldn’t build an addition that has an eight foot ceiling.

Mr. Manley: Right but also the…what this Board is is to grant relief under the Code not necessarily reinvent the Code by allowing people to build large you know…

Mr. Contelmo: We’re not asking for relief from height.

Mr. Manley: But there is relief that you’re asking for, you know, and height is…does fall under non-conforming. You’re increasing…the home already does not conform so anything that you do to that home to increase it whether you’re going up or out is increasing the degree of non-conformity which falls within the Board’s purview so it is something that we do…that…that we have the ability to you know to look at is does it fit within the character of the neighborhood or is this going to start changing the character of the neighborhood because the more that the Board grants relief to houses along the lake the more that we’re changing you know the actual look of the lake and you know from now until the future. So you know we have to maintain that balance and I think that’s what everybody on the Board…at least that’s what I’m struggling with.

Mr. Contelmo: And I think that’s what we attempted to do with by putting a hipped roof on we’re actually keeping it in character with the neighbor’s homes but I think…I mean this is what I do for a living, I design homes and I think if any of the neighbors were about to put an addition on they would probably not say let’s build one with a really small attic roof that we are going to then live within as our addition. Why not push it up to eight feet which is not unreasonable and comply with the height requirements so we don’t even need a variance for a height? This is an unreasonable request especially since the variance starts with the side yard setbacks which we really have no…no boundaries here to…to work like if you…if you were to follow the zoning strictly and the hardship is that it’s a non-conforming structure the setback lines would cross over each other so you couldn’t build a house on this lot. If your house burned down, God forbid, and you tried to rebuild some Towns say you can’t build unless you meet the zoning you can’t build the house because the setbacks cross so there’s no guideline for setbacks a…except to say that it’s extremely common that you ask for variances when you stay in line with the existing structure which is what we’ve done.

Mr. Steele: Okay. Now this still looks to me that you have living space on the third floor because there are…

Mr. Contelmo: There isn’t…

Mr. Steele: …stairs as…

Mr. Contelmo: …it’s an unfinished…

Mr. Steele: …you go up the (Inaudible)…

Mr. Contelmo: …it’s an unfinished attic. Again, you know, we design a lot of homes where you put in a pull down stair or a scuttle or…

Mr. Steele: But that’s not the case in…

Mr. Contelmo: …or…or a staircase.

Mr. Steele: …that’s not a case here, is that correct?

Mr. Contelmo: No it’s a staircase to make it easy to get to the attic.

Mr. Steele: Right, okay. But…

Mr. Contelmo: But again when you’re up there there’s limited headroom for fifty percent of the…of the attic.

Mr. Manley: What…what is the height in the attic?

Mr. Contelmo: A…well it…that’s…it varies because when you’re in the attic and this line is the attic floor, right here is zero and probably…and right…right here at the head of the window it’s seven feet so there’s only a triangle of space left that would actually meet Code for what headroom would be.

Mr. Maher: Let me ask you a question, the windows that are on either end of the structure on the floor attic area, do they meet egress?

Mr. Contelmo: A…I don’t know but they could, that wasn’t a goal.

Mr. Maher: No I understand but it doesn’t depict whether it can be finished or not it’s finished space.

Mr. Contelmo: Oh, I don’t know. It wasn’t…it wasn’t designed that way; it was designed to limit the roof structure of what’s adjacent because this is what the neighboring homes look like which is hipped roof and dormer. A…the other thing I wanted to mention is the hardship starts with the fact that they own a home which has a deck which was built almost twenty years ago as far as we know a…it’s…I don’t know if it’s ever been an issue the deck itself but I hate to see this as an opportunity to remove the deck, tear down living space and push the house back that…that would create a hardship for the owners. And so this is a living room regardless of how it got here before they purchased the home…

Mr. Steele: You’re already changing…

Mr. Contelmo: …it is living space.

Mr. Steele: …you’re already moving the floor down…

Mr. Contelmo: It’s still living space.

Mr. Steele: …you’re already changing your…so you’re on and modifying that whole structure because you already said you’re dropping it down two feet.

Mr. Contelmo: We’re dropping it down to get the deck closer to the ground.

Mr. Steele: Right.

Mr. Contelmo: So there’s a…there’s a logic to doing that but my point is to ask someone to tear down the back of their home to push it back to here so that when you’re sitting sideways on your porch they’re not in your view I think is…that creates a hardship. Now we all know the history of the house you can…like I said you can see the foundation. I saw it a…it’s…it was built the same as all the other homes. Since then there’s a lot of homes on that side of the lake that are probably thirty-five feet tall. They’re just…they happen to be in the stretch of like seven or eight homes that were the similar type, you know, bungalow type house that was built.

Mr. Steele: Or as close to those other…

Mr. Contelmo: Yeah.

Mr. Steele: …houses as this you know and that’s some of the, you know, the a…issues that have a…shown up in front of this Board was because of those areas issues. So we would just like to prevent that from happening.

Mr. Contelmo: Well again the only way you prevent this from changing is having them literally take away their living room and start the house here and move the deck back where it was, that would be a…that would be a precedent I think to ask someone to do that. So we felt moving this back in line, lowering the deck even though it’s in the same location was a step in the right direction a…and I did analyze the photos and a…unfortunately they are based on this old scheme…

Mr. Steele: Right and everything that we’ve seen before…tonight…

Mr. Contelmo: Right.

Mr. Steele: …this is the first time that even the Board has even seen this.

Mr. Contelmo: Well yeah, I mean it was submitted before the meeting obviously for them to review prior but in analyzing the photos individual a…the view is only disturbed by a very small percentage of the view so if you…if you’re sitting on your porch and you’re looking out a…let me just show you...I have your photos here so…so your house is here, right? I don’t know if you can see it from there?

Ms. Gennarelli: You can take that mic off and go over if you’d like, it just pops off.

Mr. Contelmo: So your house is…this one…

Mr. Steele: This one.

Mr. Contelmo: Just put a dot on it, right. So here’s the a…this is the Murphy’s house. What...what I’m showing here and you know, this isn’t meant to offend you at all because I’m here just to present…

Mr. Steele: Yeah, sure.

Mr. Contelmo: …for them and this is…this is what we have to do. But if you’re sitting on your porch this line right here is average peripheral view for a human being. Okay? If you draw line to where their…let’s say that the…the corner of their porch is the most offensive part of the project which is…there’s a column supporting the roof and you look at that line and compare it to…that’s a pretty big view.

Mr. Steele: Well it’s…and part of this problem is it’s…I understand that I myself don’t have an issue but if you notice Mrs. Miller’s now…

Mr. Contelmo: So we’ll do the same thing.

Mr. Steele: Do the same thing from here, from there and it runs right into the…

Mr. Contelmo: There is there sixty degree angle which is average, sixty degree from center and do the same thing…why don’t we use the tree as the…as the thing that’s actually in their view instead of the house because it’s what four feet across and you take that view, it’s not quite a hundred and eighty degrees of the lake. So the only way that you see the neighboring home is if you turn sideways in your chair and look at their house. Now I know you commented about the dining room which is…fair to say if you are in your dining room but if they’re in their dining room they are going to see your house as well…because the dining room is set back and you’re looking sideways out of the window…

Mr. Steele: Right.

Mr. Contelmo: …so it’s like you’re looking…let’s say, you know, your dining room window is there it’s the same type of thing but…but the vertical structure is no different…

Mr. Steele: So…

Mr. Contelmo: …in this drawing than it is today.

Mr. Steele: So as right now as far as I see it when I stand on these (inaudible) and I’m not necessarily going a hundred and eighty degrees it’s…it’s less than you’re moving back so your point of view in Mrs. Miller’s dining room is back here so all these X’s and O’s don’t mean anything because it’s back further here and…and it’s much narrower…

Mr. Contelmo: Are…but is Mrs. Miller here to talk about this?

Mr. Steele: Yes, she is.

Mr. Contelmo: Okay then maybe it would be good to hear from her but the point is that if you want to go back into the house now you’re looking through a window.

Mr. Steele: And you’re proposing us to look underneath.

Mr. Contelmo: Not if you’re in the house looking through a window you cannot see this addition because you’d have to see their house today. The only thing that changes from today…

Mr. Steele: But they…

Mr. Contelmo: …is…

Mr. Steele: …is that they have a porch…you have a…you have columns over top of…

Mr. Contelmo: Right. The only thing that would change in the view potentially is a column.

Mr. Steele: More than one column.

Mr. Contelmo: Right.

Mr. Steele: Four columns.

Mr. Contelmo: And the columns…

Mr. Steele: Or three columns.

Mr. Contelmo: …in Mrs. Miller’s per…perspective are always to the right hand side of an enormous tree so we can look at your photos because they confirm what I am saying.

Mr. Scalzo: If…if I could ask a question, it’s been stated that the deck would be dropped approximately two feet in elevation…

Mr. Contelmo: Right.

Mr. Scalzo: …and there would be a roof on top of that…

Mr. Contelmo: Right.

Mr. Scalzo: …so let’s say a six foot tall man was standing on the deck today his head would be right where the roof is going to be, correct? You’re going to have an overhang over the deck…

Mr. Contelmo: Well…except it’s…it’s higher so it’s only eighteen inches and because we’re dropping the deck but leaving the ceiling line the same the…the porch roof is only going to be six inches different. So it would not a six foot man more like a seven and a half foot man.

Mr. Scalzo: And…and you don’t think that that would also lend to the obstruction?

Mr. Contelmo: No.

Mr. Scalzo: Because you can look through it?

Mr. Contelmo: Yes…so here’s a picture…

Mr. Steele: And (Inaudible) sitting on that without any furniture on that porch.

Mr. Contelmo: …this is the first photo in…this is number three in a series of twenty-four, twenty-five…so…here’s the way that it’s presented and it shows the porch columns of the Millers and the obstructed view is whited out. Here’s what it will actually look like. The pink is what would be in the view. So not only are you seeing the lake through column you’re seeing it to the right of two, three much larger columns on their own porch and the tree. You have to look to the right of the tree just to be able to look through the columns on the porch. So this is…this is real…this isn’t…you know, this is exaggerated because there’s no holes in the…in the porch. This is what it will look like. Now again this on the Miller’s porch but not looking at the lake, looking at the neighbor’s porch to the right of the tree so you have to…turn your chair and sit sideways to see it. As soon as you step off your porch or your porch or any of the neighbor’s porches everything disappears because you’re already past any view of you know decks. You’d literally be looking perfectly sideways there’s no lake view a…so this is the first a…this is another view a…for the porch steps and this is what it will look like…again from the porch steps now again you have to look to the side. I mean based on again this…this angle we’re not talking about a hundred and twenty degree angle. We’re talking about a hundred and sixty degree angle to be able (Inaudible) you can’t even see it looking straight ahead like I can’t see my ands right now.

Mr. Steele: Would that…so…you have to believe that what’s there today is what’s…what’s proposed is an impact regardless of where you’re looking at it from?

Mr. Contelmo: So black and white it’s an impact, correct, absolutely.

Mr. Steele: And even if you’re upstairs and in the bedroom and you’re looking out…?

Mr. Contelmo: It’s an impact.

Mr. Steele: …it’s an impact.

Mr. Contelmo: The question is is it a fifty percent impact or is a two percent impact?

Mr. Steele: But it’s more…much more of a…

Mr. Contelmo: (Inaudible)

Mr. Steele: …it’s an impact on the neighbors but there is no impact on the Murphys or the hardship that the Murphys have.

Mr. Contelmo: Well you don’t ask for variances you know, for those reasons, you don’t ask because of that, you ask so that you can have relief from the…the zoning ordinance which would not allow them to build anything. Just like if you wanted to build something you’d be here yourself asking for permission. That’s all we’re doing so we’re trying to use again to improve the house. I think it will certainly improve the value of the house which in turn improves the value of your property but I think to say block view would mean building in the back yard that would block your view. This does not block your view because the view is to the lake. It’s not the gentleman to my left or this gentleman to my right. Is he in my view? He is now but I can’t see that wall now when I look at him. I want to see the wall because that’s why people buy these houses to see the lake. I understand your concern and it’s obviously an emotional concern because…

Mr. Steele: The reason why we bought there…

Mr. Contelmo: …you’ve put a lot of time into this.

Mr. Steele: …and we’ve been there for…well that was just because we had nothing to go on…

Mr. Contelmo: Right.

Mr. Steele: …with what was presented before was nothing more than a…than a wall. We never saw any of the…we never had the…the ability to take a look at these…the changes that you’ve made. Tonight is the very first time that we’ve even seen any of these changes. I mean, I’ve looked on the website. I kept looking every…every couple of days to see what was on there.

Mr. Contelmo: Well they were submitted…

Ms. Gennarelli: I believe I posted them.

Mr. Contelmo: Yeah, they’re posted. I…I mean I saw them today posted but they were submitted ten days before the meeting which is the requirement.

Mr. Steele: What I…what I saw was nothing more than floor plans. I saw…I saw floor plans that were changed that depicted a four or five bedroom house. All I...I didn’t see…

Ms. Gennarelli: That’s true, that’s true.

Mr. Scalzo: I’m pretty sure they were…I usually check the website myself; I believe they were there at least a week ago.

Mr. Steele: Well the floor plans were.

Ms. Gennarelli: The floor plans were I think that’s what I had.

Mr. Scalzo: But not the elevations.

Mr. Steele: But…but the elevations we’ve never seen the elevations. We had no idea what they changed from…

Ms. Gennarelli: That’s true.

Mr. Steele: …thirty-five to thirty-two or whatever.

Mr. Manley: What I can do Mr. Steele is a…I’m done with my copy here I’d be more than happy to give you my copy of the plans so you can share it with your neighbors.

Mr. Steele: Okay.

Mr. Manley: What I’d like to do though is open up the meeting to the other residents that they can have comments and then that way we can get that entered into the record.

Mr. Steele: Okay.

Mr. Manley: But I’ll give you this for now.

Mr. Steele: Thank you.

Mr. Manley: And let me give you this other piece too…here’s the elevations.

Mr. Steele: Thank you.

Mr. Manley: Alright, you’re welcome. We want to make sure that we give everybody ample time to comment. Is there anybody here with regard to this application that would like to comment with respect to the application? If you could just state your name for the record?

Mr. Bochemuhl: Good evening, I’m Alfie Bochemuhl I’m president of the Orange Lake Homeowner’s Association a…at the last meeting I had expressed the concerns of our board with regard to the front (rear-lake side) face of the house and how it did not conform to the adjacent properties. One thing I’d like to…to bring to the attention of the Board and it’s in photos that a…Mr. Steele has submitted to the Board. At some point in time years and years and years ago a porch existed on this house. It’s currently underneath the existing living room I believe. I believe it’s stacked rocks some type of decorative porch. That porch at point in time was considered the porch for the house. The point that we tried to make at the last meeting was that we felt that that should maintain…should be maintained as the front porch of the house despite the fact that there’s already a porch on there that doesn’t conform. A…so our position still stands to…to conform to the adjacent houses we would like to see something to that effect and we had suggested bringing the house back construction wise to conform. You had mentioned earlier that it created a hardship for the owners a…to move the house back ten feet and make that the porch. I question that. And I question that because there’s a stacked stonewall porch under that house right now. You mentioned lowering the living room floor by a foot now I haven’t taken any detailed measurements but it would seem to me that to conform to the Building Code and make that change would require a significant amount of work to that porch that’s buried there now. So I…I…I question whether you’re going to go through that effort why not move the house back ten feet and conform. A…the other issue that I…I question was the height of the house. I know it’s currently proposed below the thirty-five foot threshold; I think again in Mr. Steele’s presentation he’s showed the balloon. I think he was at twenty-three feet on his house and this house is proposed at thirty-three feet, thirty-two feet…?

Mr. Contelmo: Right.

Mr. Bochemuhl: …roughly a fifty percent increase above the adjoining houses and if you were to stand in Mr. Steele’s dining room looking out the window all you’re going to see is structure so with that view being due south the sun, the light there’s a…a host of things that come into that but the fact that it’s fifty percent higher than the adjoining houses I think you know that’s something that should be looked at.

Mr. Manley: So is it the position of the Homeowner’s Association and as the president of the Association that a…it’s your belief that the request that the applicant has come before the Board is substantial in nature or no?

Mr. Bochemuhl: It is substantial in nature.

Mr. Manley: Okay and what is the board’s position with regard to the applicant potentially being able to achieve the results that they are looking for a…in another manner? Do you believe that it’s feasible for the applicant or does the board feel that it’s feasible for them to achieve what they want to do in another manner or no?

Mr. Bochemuhl: We do, we do, there’s…there’s an addition going on in the front of the house and we feel as though that addition…if they can maintain that floor…that floor space that they’re looking for by shifting it towards the road.

Mr. Manley: Okay and roughly how many residents does the association represent?

Mr. Bochemuhl: Two hundred…

Mr. Manley: Okay.

Mr. Bochemuhl: …roughly.

Mr. Manley: Okay was there any formal vote taken at the association with regard to this or was this just a consensus of the executive board or…?

Mr. Bochemuhl: A consensus of the executive board.

Mr. Manley: Okay. Great is there anything else that you’d like to add?

Mr. Bochemuhl: No.

Mr. Maher: I…I do have a question though.

Mr. Bochemuhl: Sure.

Mr. Maher: So has the board approved any houses to have roofs in similar height?

Mr. Bochemuhl: Approved? No.

Mr. Maher: Or have they been against without (Inaudible) either? So are there homes in…in Orange Lake Homeowner’s Association that currently meet that height requirement…that…that thirty-two…thirty feet in that ball park? Are there currently homes in…?

Mr. Bochemuhl: Ask me that question in a different way I don’t…I don’t follow your question.

Mr. Maher: Are there currently homes that exist on the lake that encompass the Homeowner’s Association that may have roof height similar to this one proposed?

Mr. Bochemuhl: Yes.

Mr. Maher: And has the board had a consensus in prior meetings against those homeowners or…?

Mr. Bochemuhl: Not that I’m aware of.

Mr. Maher: Okay. And what would be the difference between those with higher roofs than this one?

Mr. Bochemuhl: A…I’d have to give you my personal opinion because I can’t speak on behalf to the entire board but it’s in proximity.

Mr. Maher: To?

Mr. Bochemuhl: Proximity to adjacent homes. If you have a home that’s fifteen feet away that’s only a sixty percent in height compared to a home that could be in my…in my case my house is thirty-five feet tall and the next house is seventy-five feet away. It doesn’t…it doesn’t give that appearance that it doesn’t…that it stands out above all the rest.

Mr. Maher: Okay, thank you.

Mr. Bochemuhl: Thank you.

Mr. Manley: At this point the Board will entertain any other comments from the public with regard to this application. Do we have any other…? Yes sir.

(Inaudible)

Ms. Gennarelli: Can you stand up and go to the mic? And just identify yourself?

Mr. Zaino: I’m just curious. Is it thirty-five feet to the ridge or is there an average height? Because I noticed you used the hips.

Mr. Contelmo: Right, in this Town it’s thirty-five feet to the ridge is the maximum height.

Mr. Zaino: What would be your average height though because the hips do reduce the a…the…the visual a… (Inaudible) as massive as a gable roof?

Mr. Contelmo: Right so the average height would be (Inaudible)…

Ms. Gennarelli: And if you could just identify yourself on the tape for the record?

Mr. Zaino: Excuse me, Joseph Zaino.

Ms. Gennarelli: Thank you.

Mr. Contelmo: So the average height…would be about twenty-four.

Mr. Zaino: Twenty-four feet.

Mr. Contelmo: Right to you know to the middle of the…

Mr. Zaino: I think that’s a more accurate measurement to use than you using the hip roof.

Mr. Contelmo: Well especially with a hip and then this is a…this is one of the photos that was submitted and I believe this is one house north of Mr. Steele’s house. Now that third level window with a two-stories and an attic even at eight feet each has to be…twenty-seven feet to the ridge but based on the way that this is constructed is more massive than the way this is constructed because of the roof. And a…a lot of the…well the houses down the row are actually two-story homes. Yours is a one and a half story home basically a…it’s kind of hard to tell in the photo where yours starts but again if you…if this is your rear porch here and your roof is going like this and gets you to…to twenty-two with a…with a dormer let’s say right, like that. We’re really comparing this line to that line and considering a fifty percent increase it’s not. In…in mass it’s not even close to that. If we were to take the same house, the Murphy’s proposed house and draw a roof line like that we could be at the same height as your house. You wouldn’t say that was better and it blocks so much less light that it’s worth it because again we’re looking at a line in the side view it…it’s that we just knocked seven feet off the house. We made it look worse but maybe you would feel better about that I…I mean the reduction in height not making it look worse but I don’t think that really helps anything to do that. So I think the roof discussion to me doesn’t seem to really be leading anywhere. We’re not going above what the zoning is asking for. I think at that point it probably should be a moot point but it’s the style of the house and the hip of it that make it…that reduces the whole volume of the attic and makes it more like your home and the Miller’s home than really the other houses on the street which are really a…I mean I can see them right here, there’s a bunch in a row it’s just that what they do is they turn the roof the other way so you’re seeing…you’re seeing the gable of the roof straight on…I’m sorry, you’re seeing the (Inaudible) you’re not seeing a gable until you’re on the side of the house. So this view those homes look this but their ridges are not much different than that. But this house standing from your side yard looking to the north is going to appear taller than looking at this proposed house looking to the south because the roof is folding away in this case it’s going. So I…I don’t really know that the roof is really the issue. I…I mean that’s my opinion and again we made attempts to minimize it.

Mr. Manley: What I’d like to do is a…and it’s going to be up to the Board, perhaps the best thing to do is give the residents an opportunity to really digest, especially the people that are going to be living there digest the information that they received this evening with respect to the change of plans. Some of them had not seen them. Give them an opportunity to comment to the Board on the new material that has been presented. This way when the Board goes to make their decision and deliberate we’re deliberating with all of their comments, all of your comments and a…you know, we could probably have you know, a better opportunity to make a more informed decision. I don’t know how the rest of the Board feels at this point. I…I think we’ve digested quite a bit tonight and I think that, you know, and I don’t think how the residents feel but Mr. Bochemuhl as the president of the association would you feel more inclined if the Board were to consider holding this over until next month and allow the association and the residents to review those and make comments to the Board?

Mr. Bochemuhl: I would appreciate that we have a…a meeting on April 4th with our executive board we could discuss it at that time.

Mr. Manley: Okay, also the homeowner and the applicant will be back next month, correct?

Mr. Contelmo: Right.

Mr. Manley: So it will give them an opportunity maybe even to reach out to some of the residents to you know, kind of go over this a little further outside of this venue. How does the Board feel?

Mr. Levin: I think that’s an excellent idea.

Mr. McKelvey: (Inaudible)

Mr. Scalzo: Yes, I actually had one more question for Joe Mattina actually. Joe, your Code Compliance sheet I see now the revised site plan shows a…the initial site plan show the square lot garage. Now they show the actual dimensions…

Ms. Gennarelli: Joe, take the mic with you, thanks.

Mr. Scalzo: The original submission showed the block garage here. It had been expanded to now a thousand and eighty square feet. Has the application been revised to include that for the building lot surface coverage? I don’t believe it has.

Mr. Mattina: Yeah, I’m going to…I’m going to say no because my original document was done in October. This was submitted in March so my numbers are from the October of 2015.

Mr. Scalzo: Okay.

Mr. Mattina: So you’re holding it open I’ll take the information and I’ll have the new numbers next week.

Mr. Scalzo: Thank you very much.

Mr. Manley: And that probably makes sense that we hold it over then so we get the new information as well. So at this point do I have a motion to keep the Public Hearing open until our April 28th meeting at 7PM? The residents will not be re-noticed so just keep in mind that we will be back here next month April 28th to visit this if the Board so votes to approve the extension. Do I have a motion for that?

Mr. Scalzo: I will make that motion.

Mr. Masten: I’ll second it.

Ms. Gennarelli: Roll call.

 Richard Levin: Yes

 Michael Maher: Yes

 John Masten: Yes

John McKelvey: Yes

 Darrin Scalzo: Yes

 James Manley: Yes

Mr. Manley: So the Board has voted to hold the Public Hearing open until next month. If you could, if you are going to present anything like you did before ten days before if you could make your submittals to the Zoning Board office and we’ll get it in our packets. So thank you very much for coming this evening. We appreciate it.

PRESENT ARE:

 RICHARD LEVIN

 MICHAEL MAHER

 JAMES MANLEY

 JOHN MASTEN

JOHN MC KELVEY

 DARRIN SCALZO

ALSO PRESENT:

 ROBERT DICKOVER, ESQ.

 BETTY GENNARELLI, ZBA SECRETARY

 JOSEPH MATTINA, CODE COMPLIANCE

 (Time Noted - 8:27 PM)

ZBA MEETING – MARCH 24, 2016 (Time Noted – 7:20 PM)

MADISON ROSE PROPERTIES LLC. 16 MADRE DE CRISTO ROAD, WALLKILL

 (1-3-13) A/R ZONE

Applicant is requesting an area variance for the front yard setback to continue with the construction of the single-family dwelling unit.

Mr. Manley: At this point we’ll move on to the next held open from our February 25th, 2015 (2016) meeting Madison Rose Properties LLC., 16 Madre De Cristo Road, Wallkill seeking an area variance for the front yard setback to continue with the construction of the single-family dwelling unit. This is a Type II Action under SEQRA. All mailings were in order at the time. Good evening. Good, you’re back. The Board had I guess some questions, also wanted to confer with the Building Department. We do have Mr. Mattina here from the Building Department this evening. Do you want to just a…for the purpose of Mr. Maher who was not present just recap why you’re here again and also for the public what you’re here for?

Mr. Lytle: Ken Lytle representing Madison Rose Properties and we’re here for this evening a foot and a half variance for a front yard area setback. The house when it was built was actually constructed too close to the front yard and we’re here for a front yard variance for that.

Mr. Radke: And if it helps, if you want me to…I…I…I’m the builder of the house and I’m the one…

Ms. Gennarelli: Excuse me, can you just get closer? Thanks.

Mr. Radke: I’m sorry. I’m the builder of the builder of the house and I did take complete responsibility. It was my failure to get the survey there in time and I thought I could do it myself by measuring off the curb. And I have been building in Newburgh for thirty years. I have never been in front of you before. This has never happened to me and I don’t plan on it happening again.

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

Mr. Scalzo: I tried to recreate how you got your offset to your front corner. I was out there today. I measured from the back of curb to back of curb it’s twenty-six feet. If you split the difference it’s thirteen. Typically right-of-ways are fifty feet wide so therefore from the back of the curb would be twelve additional feet to your property line. From the back of the curb to the front corner of the house should be sixty-two feet. I got sixty and a half which is exactly what you’re survey…plus or minus. When you were here last time you described that there was an easement or a utilities that had not considered. I…I was trying to find where that was that would have lead you astray.

Mr. Radke: Well I thought that the setback was fifty feet from the front yard and I was assuming that the curb was the fifty feet and I took an additional ten feet for any utility easement. I did not see personally see the utility easement on…on the plan when I was looking it over when I did it but that’s what the impression I was under that’s why I pulled sixty-two feet. I thought I was covered. I really did.

Mr. Scalzo: Okay, a…it…it’s framed; it’s got a roof on it…how much you got into that house right now?

Mr. Radke: I’d say seventy-five thousand without the purchase of the lot.

Mr. Scalzo: I understand myself mistakes happen but my question for you last month had to do with the process with the Building Department.

Mr. Radke: Correct.

Mr. Scalzo: So, Joe Mattina is here tonight and I was going to lean on Joe to enlighten me to as far as the process…the application itself, is the application clear that no framing is to take place until the foundation survey is provided.

Mr. Mattina: The way the application is laid out in sequences of inspections you would do your footing, your foundation wall and then there is a note stating no other inspections until the foundation location is submitted and reviewed. Between that inspection and the framing inspection there’s generally six or seven other inspections that are normally done so it doesn’t specifically say no, stop because that would be unrealistic…

Mr. Scalzo: Okay.

Mr. Mattina: …but you have waterproofing, you have slabs, you have backfill, you have, you know, underground plumbing, all these inspections that you need before framing is why we don’t issue a Stop Work Order and we take you at your word that you are going to get us foundation location before you get too far ahead.

Mr. Scalzo: Okay. In some of the correspondence I received with the package you’re also building another house a few lots down. Joe is it…is it a fair statement to say that they provided the foundation survey relatively close to a…immediately following the foundation pouring on the other lot?

Mr. Mattina: Right, he is also working on 22 Madre De Cristo and we performed the foundation inspection on 1-11-2016, he passed his inspection and we had our as built on 1-13 so two days later we had it and reviewed it.

Mr. Radke: I learned my lesson.

Mr. Scalzo: Okay, so yeah I…

Mr. Lytle: If I can add something in there? Again I think the reason again he went on again Joe, with the other inspections, it was cold, we had frost in the ground so he went on to the framing cause generally you don’t want to pour the slab and do all the underwork…under slab inspections stuff during that time so you can go on as you get it enclosed and we’ve done it many times ourselves, we poured actually with wheel barrows again inside when it’s warm and dry and not getting the moisture on there. Cause unless you freeze the top layer of the concrete you get a rough surface…

Mr. Scalzo: I understand.

Mr. Lytle: …so I understand what happened. (Inaudible)

Mr. Scalzo: No, I…I understand the building process. There were a…there was a Stop Work Order issued.

Mr. Radke: Correct.

Mr. Scalzo: Quite honestly, I don’t think two feet is a big deal as far as a variance goes in certain applications. Where I’m having a real struggle with this is that work continued after a Stop Work Order was issued. I was at the site again today I understand the Stop Work post had been reinserted at the lot but it’s down again.

Mr. Radke: I explained to you last time…it blew away and I told John the Building Inspector who is handling that job of that event.

Mr. Scalzo: Well nothing has happened in the last month I do know that but a…the posting…the stick was still up but the posting was…

Mr. Maher: The posting was gone, yeah.

Mr. Scalzo: …the posting was gone.

Mr. Lytle: But again the…the Public Hearing has been closed that’s why that…

Mr. Manley: It’s supposed to remain.

Ms. Gennarelli: The Public Hearing is not closed.

Mr. Lytle: I thought it actually…I thought the Public Hearing was closed…

Ms. Gennarelli: The Public Hearing is not closed.

Mr. Lytle: Well I apologize.

Mr. Manley: It’s supposed to remain until the actual Public Hearing is closed and the Board votes.

Mr. Lytle: I thought the Public Hearing was closed. I was under the impression it was closed last month.

Mr. Scalzo: Well it’s nice to see you followed up with that other lot. The underground plumbing was installed after the Stop Work Order was issued Joe (inaudible)?

Mr. Mattina: As far as I know I know, yes. I haven’t physically been there but from what the…

Mr. Scalzo: Well there was plumbing in place I saw again today.

Mr. Mattina: …the inspectors, yes, they told me there was additional work after that then the windows and under slab plumbing.

Mr. Radke: No the windows are not in.

Mr. Scalzo: No windows are not in.

Mr. Lytle: There at the site…

Mr. Radke: I called to ask if they could be put in and what happened…if I may, it was only a matter of four days when a…John came…or Jim came to do another inspection on another house and he had seen the underground plumbing and I did not…it was my…again my problem, I did not communicate with the plumber yet but there was a Stop Work Order on the job and everybody knew that on Monday when John came to inspect another house and that’s when I apologized to John and I actually called Jim and apologized to him because Jim is the one who dropped the Stop Work Order off and John is the inspector that’s for the house. So I apologized to them both repeatedly…both. The house has been sitting for three months there’s been no work done since that time.

Mr. Scalzo: I don’t have any other questions.

Mr. Levin: I just wanted to review the sequence. When you inspect the foundation and found it was in the wrong spot was there work done after that?

Mr. Mattina: After we do our foundation inspection we…we require that an as built be submitted from a surveyor so we know. When you’re out there doing a site inspection you don’t know where the property lines are so that’s why we rely on the surveyor to submit the documents to us…from that time on, the house was framed and you know, under slab plumbing was installed…

Mr. Scalzo: And that’s a risk typically builders would take once they get their foundation in place because there is no requirement to have that foundation survey.

Mr. Mattina: Correct.

Mr. Scalzo: Alright.

Mr. Mattina: I mean our…our application is very well documented, the sequence of inspections that our office does and after the second one it clearly states, you know, submit the foundation survey.

Mr. Scalzo: Right.

Mr. Maher: One question I’m looking at the minutes from last month, you stated that on…on the other house down, two lots down that the foundation was poured and the as built was submitted right away?

Mr. Radke: Yes.

Mr. Maher: In the minutes it states that as a matter of fact we’re doing a house right now, two lots down, we framed the whole house before the as built on the foundation was done.

Mr. Radke: No, that was…there’s the first house lot 13 we’re talking about, the house in question.

Mr. Maher: Okay.

Mr. Manley: My only question for you is, if the Board were so inclined to grant the variance for the two feet (one and a half feet) would there be any possibility back here again in the future for an error?

Mr. Radke: Like I said, I’ve been building for thirty years and you haven’t seen me before and I don’t want to come back.

Mr. Manley: Because the next time the Board may not be so inclined to grant relief.

Mr. Radke: I would feel the same way.

Mr. Manley: I mean this is a self-created hardship.

Mr. Radke: It is.

Mr. Manley: And that’s one of the factors that we look at.

Mr. Radke: I understand.

Mr. Scalzo: Joe, I have just one…as I’m reading from last month’s meeting minutes and then your comments to follow. There are four or five other inspections needed before a framing inspection so I understand you…you have the foundation in place…at his own risk and framed, the other inspections a…there’s an underlined note that states no further inspections allowed until the review and approval of the foundation as built. So of these four or five other inspections was…did that come up at all?

Mr. Mattina: No, he…he neglected to schedule any of them.

Mr. Scalzo: Okay.

Mr. Mattina: That’s…that’s where the backfill comes in, water proofing foundation, slabs, haunches…

Mr. Scalzo: Okay.

Mr. Mattina: …you know all the…

Mr. Scalzo: So none of those four or five were…were scheduled at all?

Mr. Mattina: Correct, we would not schedule them without the foundation location.

Mr. Scalzo: Okay, so the…what…the submission of the foundation location is what called everyone’s attention to what the issue was?

Mr. Mattina: Correct.

Mr. Scalzo: Okay, thank you.

Mr. Mattina: We try to safeguard with that so this doesn’t happen. You know, we can’t…like I said…we can’t stop every job at foundation because it would just be a real…

Mr. Scalzo: No, no, I understand that’s…I do.

Mr. Lytle: Darrin one comment with that…again, he actually went ahead with the things he could at his own risk there…a…could do a…without getting his other inspection because again we’re gonna back fill it in, you have frost (Inaudible) that’s why he went ahead and get it enclosed so he could do the rest of the work.

Mr. Scalzo: There weren’t many frozen days this winter.

Mr. Lytle: No there weren’t but it is cold and it doesn’t take much.

Mr. Maher: So in essence what is the actual request as far as setback goes?

Mr. Lytle: I believe it’s a foot and a half if I’m not mistaken.

Mr. Maher: And that’s consistent across the front or it’s only on the corner?

Mr. Lytle: On the corner.

Mr. Maher: The current angle?

Mr. Lytle: It’s on the right hand side.

Mr. Maher: And is that based off of the…that’s based on the corner of the foundation, correct?

Mr. Lytle: That’s correct.

Mr. Manley: Do any of the other Members have any further questions for the applicant?

No response.

Mr. Manley: Hearing none at this point I’m going to open the Hearing to the public. Is there anybody here from the public to hear the matter of Madison Rose Properties LLC. at 16 Madre De Cristo Road in Wallkill?

No response.

Mr. Manley: Hearing no further if the Board doesn’t have any further questions I look for a motion to close the Public Hearing.

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

Mr. Masten: Second.

Ms. Gennarelli: Roll call.

 Richard Levin: Yes

 Michael Maher: Yes

 John Masten: Yes

John McKelvey: Yes

 Darrin Scalzo: Yes

 James Manley: Yes

Mr. Manley: The Public Hearing is closed and we’ll vote on the matter at the end of the meeting.

Mr. Radke/Mr. Lytle: Thank you.

 (Time Noted - 7:35 PM)

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ZBA MEETING – MARCH 245, 2016 (Resumption for decision: 8:55 PM)

MADISON ROSE PROPERTIES LLC. 16 MADRE DE CRISTO ROAD, WALLKILL

 (1-3-13) A/R ZONE

Applicant is requesting an area variance for the front yard setback to continue with the construction of the single-family dwelling unit.

Mr. Manley: The next item this evening is the Public Hearing for Madison Rose Properties, LLC., 16 Madre De Cristo Road, Wallkill, seeking an area variance for the front yard setback to continue with the construction of the single-family dwelling unit. It is a Type II Action under SEQR. Do we have discussion on the first item on the area variance criteria which is whether the benefit can be achieved by other means feasible to the applicant?

Mr. Scalzo: Well it could be but it would be but it would be very expensive.

Mr. Manley: That’s true. Does the request create an undesirable change in the neighborhood character or detriment to nearby properties?

Mr. Levin: I don’t think so.

Mr. Masten: No.

Mr. Scalzo: I believe because the sub-division has not matured with all the development it will really be missed on the homes that aren’t there yet.

Mr. Manley: Whether or not the request is substantial?

Mr. Maher: That as it appears it’s only a foot and a half or so in one corner as stated.

Mr. Manley: Whether the request will have adverse physical or environmental effects? The only thing I’d add on that is a…if the…in my opinion if the Board is inclined to grant the variance that we put a caveat in our approval if the Board is so inclined that the applicant follow to a T the requirements of the Building Department until completion of the a…the project and not deviate.

Mr. Levin: I agree with you. I would request that he never come back here again.

Mr. Maher: For this anyway.

Mr. Levin: Yes.

Mr. Manley: And then the last is whether or not the alleged difficulty is self-created? I think that we pretty much made that pretty clear.

Mr. Maher: It is.

Mr. Scalzo: It is that.

Mr. Manley: Going through the balancing tests of the area variance what is the pleasure of the Board do we have a motion of some sort?

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

Mr. Masten: I'll second it.

Ms. Gennarelli: Roll call.

 Richard Levin: Yes

 Michael Maher: Yes

 John Masten: Yes

John McKelvey: Yes

 Darrin Scalzo: Yes

 James Manley: Yes

Mr. Manley: The variance is granted.

PRESENT ARE:

 RICHARD LEVIN

 MICHAEL MAHER

 JAMES MANLEY

 JOHN MASTEN

JOHN MC KELVEY

 DARRIN SCALZO

ALSO PRESENT:

 ROBERT DICKOVER, ESQ.

 BETTY GENNARELLI, ZBA SECRETARY

 JOSEPH MATTINA, CODE COMPLIANCE

 (Time Noted – 8:57 PM)

ZBA MEETING – MARCH 24, 2016 (Time Noted: 8:27 PM)

SARA (EGAN) DAVIS 25 HOPEVIEW COURT, NBGH

 (23-2-44.2) R-3 ZONE

Applicant is requesting area variances for the maximum height, the maximum allowed square footage of accessory structures, the maximum allowed four vehicle storage and shall not be closer to fronting street than the main building to build a three-car detached garage and pool house (36’6” x 52 x 21’6”) on the premises.

Mr. Manley: The next item before the Board this evening is the Reserved Decision from February 25, 2016 meeting for Sara Egan Davis, 25 Hopeview Court. We do have a Reserved Decision but there were some updates just wanted the architect or someone to update us on what you actually did and this way the Board could consider it.

Mr. Fiola: My name is Tom Fiola I was the architect and we looked at changing it around and trying to lower the height because that seemed to be the concern but there’s just with the roof pitches that are there and to get it aesthetically pleasing there’s not much I can do with that height. The height is already down to a six on twelve roof pitch so to lower it any more aesthetically it’s not going to look right. And again, it’s…it’s the whole theory behind this was it’s sitting on a lot basically even though the lots were combined it’s sitting right in front of the curb cut of the lot before he purchased it was going to be putting a house on it. So we…trying to maximize the space for my client and also have it kind of blend in to the neighborhood thought this is the best way to go because a…lowering it I think it’s going to get lost to be honest with you and we have a four foot difference from the pool to the driveway so the pool house has to be four feet higher. So there’s not again with them butting up against each other there’s not much we can do and that’s why we’re before the Zoning Board. And again, we’re…we’re fifty feet from the property line to the neighbor and the neighbor’s house is at least another twenty feet. I don’t know what the setback is but it’s got to be at least twenty feet there so there’s still quite a bit of distance to the neighbor’s house and there is seventy-eight feet to the existing house of the Davis’s.

Mr. Manley: Now the other thing that there just was an issue on there was the square footage…question.

Mr. Fiola: The square foot I didn’t take into consideration the covered pool area in the back the open porch…

Mr. Manley: Right which…

Mr. Fiola: …which should be included.

Mr. Manley: Correct, that was the one thing I was going to let you know is that that does get included because it’s covered and as long as it’s covered it gets included in…in your square footage.

Mr. Fiola: Right and that wasn’t on the initial what we submitted that was not included that’s why there was a discrepancy in the square feet.

Mr. McKelvey: What’s your square footage now then?

Mr. Scalzo: 1508 is that what I’m looking at?

Mr. Fiola: It’s an additional two hundred and eight square feet.

Mr. McKelvey: Okay.

Mr. Dickover: And it was eighteen ninety-eight, is that right so we’re adding two hundred and fifty to that or two hundred point eighty?

Mr. Davis: No sir. The eighteen ninety-eight was with the…the enclosed back porch area.

Mr. Fiola: I had it at 1508.

Mr. Manley: Okay.

Mr. Fiola: So add two hundred and eight to that 1508.

Mr. Manley: Okay. In his…one of his documents had that backed out of that. Do any of the Board Members have any questions at all?

Mr. Scalzo: Just so I’m clear Mr. Fiola this is…it’s really an aesthetic issue?

Mr. Fiola: Yes, I mean I…to be honest with you I could get this down to fifteen feet but is that really what you know, it’s a nice neighborhood and I want…

Mr. Scalzo: Yeah, it’s beautiful.

Mr. Fiola: …and I’m trying to keep that look throughout and accomplish getting them what they are asking.

Mr. Manley: So if there is nothing further and nobody has anything further this is a Reserved Decision we’ll hash it out when we come back from our…we’re going to enter into an adjournment so that we can confer with Counsel and a…regarding any of the legal questions raised this evening. If I could ask that in the interest of time if the people could wait in the hallway and what we’ll do is we’ll call you back in shortly after we’ve had an opportunity to meet with Counsel.

 (Time Noted – 8:31 PM)

ZBA MEETING – MARCH 24, 2016 (Resumption for decision: 8:57 PM)

SARA (EGAN) DAVIS 25 HOPEVIEW COURT, NBGH

 (23-2-44.2) R-3 ZONE

Applicant is requesting area variances for the maximum height, the maximum allowed square footage of accessory structures, the maximum allowed four vehicle storage and shall not be closer to fronting street than the main building to build a three-car detached garage and pool house (36’6” x 52 x 21’6”) on the premises.

Mr. Manley: The next item before the Board this evening is a Reserved Decision from our February 25, 2016 meeting. Sara Egan Davis, 25 Hopeview Court in Newburgh, seeking an area variance for the maximum height, the maximum allowed square footage of accessory structures, the maximum allowed four vehicle storage and shall not be closer to fronting street than the main building to build a three-car detached garage and pool house (36’6” x 52 x 21’6”) on the premises. This is a Type II Action under SEQR. We’ll go through the balancing tests for the area variance criteria. The first being whether the benefit can be achieved by other means feasible to the applicant. The applicant this evening did testify that…the architect testified on behalf of the applicant that a…they could bring the height down however it would create a view issue with respect to the house and the other neighboring houses so that’s one of the reasons why he has kept the height above that of the fifteen feet.

Mr. McKelvey: I have to say they are all big houses there.

Mr. Scalzo: Yeah, you don’t want to drive through a lovely neighborhood and identify the shed as opposed to the pool house so I…I have to…I understand the aesthetic value of leaving it at the height that was proposed.

Mr. Manley: The next would be whether or not there would be an undesirable change in the neighborhood character or detriment to nearby properties.

Mr. Maher: Based on the size of the residences in the area I don’t…I don’t think it’s going to be or any…any a…negative change in the neighborhood. It’ll improve the area as far as the a…with the looks of the building.

Mr. Scalzo: Well that and we’ve had no testimony from any of the adjoining neighbors to…to the contrary.

Mr. Levin: Both times, yeah.

Mr. Manley: The only detriment that could be created and we can handle that perhaps in…in a motion if the Board is inclined would be to insure that there’d be no residential habitation of it. You know, the concern would be obviously that it would be turned into a secondary residence on the premises. The applicant has testified that that’s not their intent but at the same token if the applicant does move and there are new people that come into the home we can’t control that unless we have something memorialized here that it’s not going to be used for that.

Mr. Levin: Not to be used as a guest house.

Mr. Manley: No…

Mr. Levin: Any habitat…

Mr. Manley: …living.

Mr. Levin: …yes.

Mr. Manley: The next is whether or not the request is substantial in nature.

Mr. Levin: I think it is but based on the testimony from the architect I believe it’s not going to look bad in that neighborhood. It’s substantial for…for what currently what meets what regulations are.

Mr. Manley: Well to kind of keep thing I guess in comparison is with the amount of property that’s there, you know, if he had a much smaller property half an acre then you’re looking at more substantial request.

Mr. Levin: Yeah.

Mr. Manley: The last is…the other is whether or not will have adverse physical or environmental effects.

Mr. Maher: I don’t believe so.

Mr. Scalzo: I don’t believe so either.

Mr. Manley: And the last being whether or not the alleged difficulty is self-created. And again…

Mr. McKelvey: And again…

Mr. Manley: …it is self-created there’s no way to get around that. And that’s why it’s a balancing test weighing the items.

Mr. McKelvey: I understand they sold one of the cars?

Mr. Davis: Yes I did.

Mr. McKelvey: Can we get it back to only four cars on the property?

Mr. Manley: You could…we could set that as a condition.

Mr. McKelvey: Yes, like to do that.

Mr. Maher: I…I’d have to ask the reason why actually if we were to grant a variance for a larger garage area why would we restrict the cars? I mean if the individual has…

Mr. McKelvey: Normally you’re only allowed four on the property…

Mr. Maher: But that there’s a request for a variance.

Ms. Gennarelli: What you usually do is just not grant a variance for more than four…that’s what Dave usually says. Right, if he doesn’t need it anymore?

Mr. Manley: He had five cars which would require a variance.

Mr. Maher: No, I understand that.

Mr. Manley: Now that he only has four he doesn’t need that fifth…that variance for that fifth car.

Mr. Dickover: So the question is the storage itself the structure…is it still going to be designed to hold more than four?

Mr. Scalzo: The structure I don’t believe is holding more than four, the combination of the structure plus the home…

Mr. Dickover: Yeah, the home holds…my understanding is the home holds two and the…

Mr. Maher: Three.

Mr. McKelvey: Three.

Mr. Dickover: Alright three and the accessory structure is going to hold…

Mr. Maher: Three.

Mr. Scalzo: Two. It was going to be…I thought…

Mr. Davis: It’s three now sir.

Mr. Dickover: It was three and three?

Mr. Davis: It was basically to move the cars off the driveway so that the cars are not an eyesore to the neighbors. I’m the only house that has like cars on the driveway.

Mr. McKelvey: He doesn’t use the garage for his cars in the house. He uses it for other things right?

Mr. Davis: Yes, I have two cars in there, the kids bikes, the kids have a lot of electric (Inaudible), big stuff that’s usually spread out.

Mr. Dickover: Do you need the variance for more than four vehicles any longer? You’re down to four anyway.

Mr. Davis: Oh so, no, I don’t need it anymore.

Mr. McKelvey: So we make that a stipu…

Mr. Dickover: Are you willing to withdraw that requested variance at this time?

Mr. Davis: Sure I will withdraw it.

Mr. McKelvey: Okay.

Mr. Manley: So let the record note that the applicant withdraws the request for the fifth car for the variance. And if the Board’s pleasure is to approve I would suggest that we approve with the…with the questions.

Mr. Maher: But one question before you do that. The…the variance on the square footage so the eight ninety eight is the final number as far as the square footage goes?

Mr. Mattina: Yes it is because of the overhang, yes.

Mr. Maher: I’ll make a motion to approve with the a…with the a…four vehicle variance withdrawn.

Mr. Scalzo: I’ll second that.

Mr. Manley: Are there any conditions?

Mr. Levin: Can I? Only it will be used as a pool house and there will be no dwelling there.

Mr. Davis: No, it will only be the (Inaudible) just so you know too work in Newburgh City I also had a house there it was (Inaudible) Terrace eleven hundred square foot townhouse…

Ms. Gennarelli: If you’re going to talk you’re going to have to come up the microphone. Thank you Mr. Davis.

Mr. Davis: Just to clear it just so you guys know that’s why I don’t even want…so basically when we moved over to a Bridgeview (Hopeview) I was having problems selling that. I had three very good tenants that were in there and that was still a pain in the butt. I do not want to be a landlord. I don’t want anybody living on my property or nothing. I don’t want to have anything like that, none at all; I don’t have the capacity for it or the patience.

Mr. Levin: I understand what you are saying but down the road we’re protecting a…

Mr. Davis: Sure, I’ll sign whatever you need to. I’m just being honest with you. I don’t plan on selling the place I don’t plan on leaving there at all. I’m just trying to make that my own little special haven so I don’t have to go anywhere to save money for a…vacations and stuff like that.

Mr. McKelvey: Well I’ll make a motion we approve under those stipulations.

Mr. Masten: I’ll second it.

Ms. Gennarelli: Okay, roll call.

 Richard Levin: Yes

 Michael Maher: Yes

 John Masten: Yes

John McKelvey: Yes

 Darrin Scalzo: Yes

 James Manley: Yes

Mr. Manley: The variance is approved with conditions.

PRESENT ARE:

 RICHARD LEVIN

 MICHAEL MAHER

 JAMES MANLEY

 JOHN MASTEN

JOHN MC KELVEY

 DARRIN SCALZO

ALSO PRESENT:

 ROBERT DICKOVER, ESQ.

 BETTY GENNARELLI, ZBA SECRETARY

 JOSEPH MATTINA, CODE COMPLIANCE

 (Time Noted – 9:07 PM)

ZBA MEETING – MARCH 24, 2016 (Resumption for decision: 9:07 PM)

DRA FIDELCO NEWBURGH, LLC. 68 STEWART AVENUE, NBGH

 (97-1-47.2) R-3 ZONE

Applicant is requesting reconsideration of the request for an interpretation and the issuance of a special permit in accordance with Section 185-19-A-(3) to permit the conversion of an existing building to an accessory storage facility for the sole use of the rental community tenants residing in the Summit Lane at Newburgh Rental Community. This reconsideration is based upon newly submitted information.

Mr. Manley: The next item before the Board this evening is the Reserved Decision from our February 25, 2016 meeting DRA Fidelco Newburgh, LLC., 68 Stewart Avenue, Newburgh requesting an interpretation reconsideration of the request for an interpretation and the issuance of a special permit in accordance with Section 185-19-A-(3) to permit the conversion of an existing building to an accessory storage facility for the sole use of the rental community tenants residing in the Summit Lane at Newburgh Rental Community. This reconsideration is based upon newly submitted information. At this point the Public Hearing is closed the Board has had an opportunity to review the documents. Is there deliberation and discussion with regards to the interpretation?

Mr. Scalzo: I have read the meeting minutes from last month and that’s an awful lot of information to digest. Although I still feel as though I wasn’t compelled to change my decision from the previous meeting even with that information.

Mr. Manley: I think the biggest thing that I looked at when they came for the…the reconsideration was the documents that were submitted that we went over specifically narrowing…I was narrowing my concentration on that. In addition, you know, I have had an opportunity with…with you know Code Compliance and also you know, I look at how is the interpretation going to impact or effect the overall Town as a whole. And, there were no affidavits that were presented to the Board that said that it was used that way and I just don’t a…I don’t see that you know, they have reached the burden of proof to sway my…my vote.

Mr. McKelvey: I have to agree with that.

Mr. Manley: I mean there’s been a lot of information we’ve received on this. This is a Type II Action under SEQR. Does the Board have any further discussion on this?

No response.

Mr. Manley: Any questions for counsel at all?

No response.

Mr. Manley: Well at this point, if the Board is satisfied with their review we’d look for either a motion for approval or a motion for disapproval of the interpretation.

Mr. Scalzo: I’ll make a motion for disapproval of the interpretation.

Mr. McKelvey: I’ll second that.

Ms. Gennarelli: Roll call.

 Richard Levin: Yes

 Michael Maher: No

 John Masten: Yes

John McKelvey: Yes

 Darrin Scalzo: Yes

 James Manley: Yes

Mr. Manley: The motion to deny the interpretation has passed.

Mr. Dickover: Disapproved.

PRESENT ARE:

 RICHARD LEVIN

 MICHAEL MAHER

 JAMES MANLEY

 JOHN MASTEN

JOHN MC KELVEY

 DARRIN SCALZO

ALSO PRESENT:

 ROBERT DICKOVER, ESQ.

 BETTY GENNARELLI, ZBA SECRETARY

 JOSEPH MATTINA, CODE COMPLIANCE

 (Time Noted – 9:10 PM)

ZBA MEETING – MARCH 24, 2016 (Resumption for decision: 9:10 PM)

DRA FIDELCO NEWBURGH, LLC. 68 STEWART AVENUE, NBGH

 (97-1-47.2) R-3 ZONE

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

Mr. Manley: The next…

Ms. Iriart: Excuse me, we’re just the last ones left and we wanted to say thank you just before we leave.

Mr. Manley: You’re very welcome.

Mr. McKelvey, Ms. Gennarelli: You’re welcome.

Ms. Iriart: Now we can move along and we can make it look good.

Mr. Scalzo, Mr. McKelvey, Mr. Manley, Ms. Gennarelli: Good luck.

Mr. Levin: I’ll say you’re doing a beautiful job.

Ms. Iriart: Thank you most of it we are doing it so that’s why everything it’s taking us so long.

Mr. Levin: It looks great.

Mr. Manley: The next item before the Board is a Reserved Decision from the November 24, 2015 meeting for DRA Fidelco Newburgh, LLC., 68 Stewart Avenue, Newburgh requesting a use variance to permit the conversion of an existing building to an accessory storage facility for the sole use of the rental community tenants residing in the Summit Lane at Newburgh rental community. The use variance is only required if the request for an interpretation under Section 185-A-(3) is denied by the Zoning Board. If the Board is so inclined to approve the use variance it would require a Negative Declaration first before you could move forward with the approval. If the Board were to deny the use variance then they would not need to do SEQR. We will go through the requirements for a use variance criteria and we could discuss, you know, each one of the criteria, the first being that the applicant cannot realize a reasonable return substantial as shown by competent financial evidence. So the applicant is asking to utilize the home there for storage which at this point they are requesting a use variance to do so.

Mr. Dickover: Chairman, on this item the Board should be reminded that the…this element of the proof needs to be demonstrated by dollars and cents proof that this use or this building cannot be used for any of the other permitted uses in the zoning district. And ask yourself the question whether or not that proof was presented to you? Yes or no? And if it wasn’t then that would be your finding. If it was then you would discuss it and make a finding of whether or not it was sufficient.

Mr. Manley: Does the Board feel that the applicant, and we’ll go to each of the Members, has given this Board substantial competent financial evidence that they could not obtain a reasonable return on that particular structure for each of the uses in that…within that zone?

Mr. Scalzo: I recall in one of our meetings, because we’ve been through this one for a few, someone had mentioned one of the Board Members had mentioned another one of the proper…or another one of the dwellings was converted into a rental unit. They could just as easily convert this into a rental unit. I…I don’t recall hearing any dollars and cents reason why they…they couldn’t do that and at least get a return on the investment of the property.

Mr. Manley: Right, and if that ends up being this Board’s finding that would be the answer to that first…that first item would be no if that’s the case.

Mr. Scalzo: And from what I understand on use variances, sir, this is not a two out of three ain’t bad. They need to meet all four criteria.

Mr. Manley: Correct.

Mr. Maher: I think it’s obvious there are other uses they can utilize that building for above and beyond the storage.

Mr. McKelvey: I think you asked them why don’t they convert it to a house.

Mr. Manley: And their thought was that storage was a better option for them.

Mr. McKelvey: Yeah, they thought that.

Mr. Scalzo: But they provided no financials on the contrary to even give us a return rate on using it as a rental.

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

Mr. Dickover: Again you can ask yourselves the question whether any proof was given to you by the applicant in the presentation or in their documentation that this property is unique within the neighborhood or is it the same a…the same hardship as other properties similarly situated? Again if there was no proof or demonstration that could be your finding.

Mr. McKelvey: I don’t think there’s any other storage building in the area there.

Mr. Scalzo: Its previous use was unique as a daycare center.

Mr. McKelvey: Right.

Mr. Levin: Correct.

Mr. Manley: And had received a use variance at the time.

Mr. Scalzo: Correct.

Mr. McKelvey: It was used as an office and daycare center.

Mr. Manley: And there was testimony given you know, for that use variance at that point compelling to the Board to grant the use variance at that point in time. They were in the process of changing the zones, I believe, and it went…the zoning change went through. The next criteria is whether or not the requested variance will not alter essential character of the neighborhood so by granting the use variance does the Board feel it will alter the essential character of the neighborhood by having storage there?

Mr. Scalzo: The exterior of the building will not be changed. I don’t believe that would apply. I don’t…I don’t believe the character of the neighborhood would change.

Mr. Levin: Yeah, I agree, I concur.

Mr. Manley: And the last and final one is whether or not the alleged hardship has not been self-created.

Mr. Maher: I think it’s obvious it’s self-created.

Mr. Levin: Well they had a building there a…it’s trying to create something to use it for and…

Mr. Maher: Right, the…the use but the use that they want to use it for is self-created.

Mr. Levin: Yeah, self-created.

Mr. Maher: They have options besides the use of storage.

Mr. Manley: So at this point with the four which do the Board feel that they have not met? Did they meet the…the first one? Does the Board feel at all that they met the first…?

Mr. Maher: In my opinion, one, two and four they have not met.

Mr. Scalzo: I concur.

Mr. McKelvey: The same.

Mr. Masten: I agree too, Jim.

Mr. Levin: I concur to that.

Mr. Manley: Okay, based…you know based on that and based on the requirements for a use variance then do we have a motion from the Board?

Mr. Scalzo: I’ll make a motion we deny the use variance.

Mr. Manley: Okay so we have a motion from Darrin to deny do we have a second?

Mr. Masten: I’ll second it.

Mr. Manley: We have a second from John.

Ms. Gennarelli: Roll call.

 Richard Levin: Yes

 Michael Maher: Yes

 John Masten: Yes

John McKelvey: Yes

 Darrin Scalzo: Yes

 James Manley: Yes

Mr. Manley: The request for a use variance was denied.

PRESENT ARE:

 RICHARD LEVIN

 MICHAEL MAHER

 JAMES MANLEY

 JOHN MASTEN

JOHN MC KELVEY

 DARRIN SCALZO

ALSO PRESENT:

 ROBERT DICKOVER, ESQ.

 BETTY GENNARELLI, ZBA SECRETARY

 JOSEPH MATTINA, CODE COMPLIANCE

 (Time Noted – 9:19 PM)

ZBA MEETING – MARCH 24, 2016

END OF MEETING (Time Noted – 9:18 PM)

Mr. Manley: At this point we have a couple of housekeeping items. Was everybody able to go through the minutes and review the minutes from the last meeting?

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

Mr. Scalzo: I’ll second.

Mr. Manley: All those in favor say Aye?

Aye - All

Mr. Manley: Opposed?

No response

Mr. Manley: The next item that we need to just go over is I have a letter from LZL Equities, LLC., 82 Alize Drive, Kinnelon, New Jersey dated March 17th to the Town of Newburgh Zoning Board, Re: 301 Route 32, Newburgh, NY would be 14-1-43, B zone.

As per your instruction when we were granted variances for our site and also for the interpretation of our business I would like to provide an update. We have just received site plan approval and received our signed site plan from the planning board last week. I plan on closing on the purchase of the property on March 30, 2016. I will be submitting for a building permit next week and expect that construction can begin by the end of April, 1026. I am hoping for a very quick 3-4 months of construction with an anticipated opening date of August 1, 2016. Thank you for your continued support for this project. Michael Nafash

This would be the building on the corner of Route 32 and 300 that’s up for sale. I believe that’s going to be the proposed Dunkin Donuts. So the applicant is seeking an extension of their…

Ms. Gennarelli: No, he’s just letting you know…he’s before the planning board. He’s just letting you that the planning board is…

Mr. Manley: Oh, I thought this was for an extension.

Ms. Gennarelli: No, no, no.

Mr. Manley: Okay.

Mr. McKelvey: Informational…

Ms. Gennarelli: Informational, yes.

Mr. Maher: Would you like to grant one?

Mr. McKelvey: They granted the bond the other night…

Ms. Gennarelli: Yes, now it’s going through, right.

Mr. McKelvey: …for landscaping.

Mr. Manley: So there being no further business before the Board this evening do we have a motion to adjourn?

Mr. Levin: I make a motion to adjourn.

Mr. McKelvey: Second.

Mr. Manley: All in favor say Aye?

Aye All

Mr. Manley: Opposed?

No response.

Mr. Manley: Okay. The meeting is adjourned.

PRESENT ARE:

 RICHARD LEVIN

 MICHAEL MAHER

 JAMES MANLEY

 JOHN MASTEN

JOHN MC KELVEY

 DARRIN SCALZO

ALSO PRESENT:

 ROBERT DICKOVER, ESQ.

 BETTY GENNARELLI, ZBA SECRETARY

 JOSEPH MATTINA, CODE COMPLIANCE

 (Time Noted – 9:22 PM)