ZONING BOARD OF APPEALS

MEETING – MARCH 26, 2015

(Time Noted – 7:01 PM)

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

PRESENT ARE:

 GRACE CARDONE

 RICHARD LEVIN

 MICHAEL MAHER

 JOHN MASTEN

JOHN MC KELVEY

 DARRIN SCALZO

ABSENT:

 JAMES MANLEY

ALSO PRESENT:

 DAVID A. DONOVAN, ESQ.

 BETTY GENNARELLI, ZBA SECRETARY

 GERALD CANFIELD, CODE COMPLIANCE

Pledge of Allegiance to the Flag led by John McKelvey

(Time Noted – 7:03 PM)

ZBA MEETING – MARCH 26, 2015 (Time Noted – 7:04 PM)

LOWITT VENTURES, LLC. 444 QUAKER STREET, WALLKILL

 (11-1-12.1) A/R ZONE

Applicant is seeking an area variance for the maximum allowed square footage of accessory structures and the maximum allowed storage for not more than (4) four vehicles to reduce size of the prior built accessory building to (30 x 48) thirty by forty-eight.

Chairperson Cardone: Our first applicant Lowitt Ventures.

Ms. Gennarelli: The Public Hearing Notices for all the new applications being heard this evening were published in the Mid-Hudson Times on Wednesday, March 18th and in The Sentinel on Friday, March 20th. This applicant sent out twenty letters. All the mailings, publications and postings are in order.

Mr. Bloom: Good evening ladies and gentlemen, Madam Chair my name is Dan Bloom…

Ms. Gennarelli: Excuse me Dan, could you turn the microphone around towards you and if you could…? That’s good. Can you get closer? Thanks.

Mr. Bloom: Is that better? Good evening ladies and gentlemen and Madam Chair, my name is Dan Bloom, I am a member of the law firm of Bloom & Bloom P.C., New Windsor, New York and we represent Lowitt Ventures the applicant this evening. And if I may I’d like to a…a…make a slightly different approach this evening because a…through a fate of circumstances I was present, not representing Lowitt Ventures, a…the last time it appeared on this application before you in August of 2014. And…and the application was denied and we’re back and the application as can be determined a…and readily and I’m sure is in the forefront of all your minds as I recall that evening and there was considerable discussion on the issue. And my client as you can tell from the plan on…to my right and in front of you a…wishes to…not wishes to…well yes…wishes to continue to have a building, an accessory building on his property for the purpose of the perpetration to carrying out of his hobby. And what’s his hobby? His hobby is race cars. It’s not just his hobby it’s his family’s hobby. It’s his son’s hobby. It brings them together. And when he appeared here the last time he had built that building on the assumption that the contractor or the…the engineering company he ordered the pre-fab building from had secured necessary Permits. I don’t wish to submit to this Board that that’s any justification to be before this Board seeking relief. A…my client doesn’t either; he readily recognizes the fact he went and constructed this building without a Permit. He has to pay the price for it. He was instructed to tear the entire building down. We’re back this evening to respectfully request that the Board reconsider its position on that issue and allow him to reduce the size of the structure from its present (60 x 30) sixty by thirty to (48 x 30) forty-eight by thirty. Why those odd numbers? Well it’s a pre-fab building and in consultation with the engineers it was determined that he could reduce it to this size without structurally affecting its use, its usability. On the other hand, for him to reduce it any further than that he couldn’t use it for its present purpose. Which is what? He puts race cars in there, they build them, they re-build them and as he says a lot of people can’t identify with that type of hobby and certainly I can’t a…I never had that background. But you know one thing I have learned is hobbies are important when it comes to families. It brings families together and in this case, my client is convinced it has brought his family back together, the sons. And so therefore he wants to see if he can continue to utilize this structure at this size which would permit him to continue to function with the rebuilding of these race cars for the purpose of continuing that relationship with his family but at the same time to do it in a manner which enhances the neighborhood, that doesn’t depreciate the neighborhood. And I respectfully suggest to the Board and I know photographs are before the Board on this issue that this is a rather unique neighborhood. On…on the one side of this particular structure we have an abandoned building in very, very bad condition, condemned building in fact. On the other side we have a rather run down building, we have a farm in the back. A…they’re secluded a…my clients buildings that he has worked on and…and constructed over the last twenty years, again I respectfully suggest to the Board a…have…his work on them has improved the neighborhood not denigrated it, not depreciated it. And yes, the structure…I’m reading the remarks in the record from the last meeting…yes, this structure is certainly larger than other accessory structures in the neighborhood but again, I would suggest to this Board that looking at the entire picture, look at this building and this structure in this neighborhood and say to yourself, isn’t the neighborhood better off for it than it was before it was there? And I realize beauty is in the eye of the beholder but I recognize the fact I…I’m no authority on the issue but my immediate impression was when I visited the site was I found it to be, in my opinion, one of the nicest structures and series of structures on the block. Having said that, I would also suggest that the structure despite its size is set back from the substantially, that there’s no conduct being a…brought to use in the vicinity of the building except within its confines inside. So it’s not an eyesore to the community. It doesn’t have an adverse impact on the community. In fact, I suggest it has a positive influence on the community and for that reason we respectfully request that this Board reconsider its position on the issue. And again as I say a…not everybody can relate to it and its importance to my client but I think if analogize it to some people have golf, some people have fishing, some people have hunting, my client has race cars and his children are in to it. So a…I respectfully request that the Board reconsider its position on the issue and give my client another chance. And on the question of whether or not my client should be rewarded for what he did? The answer is unequivocally no. He’s paying a heavy price for this a…in terms of what it has already cost him and what it’s going to cost him if this Board permits him to cut this building down from its present size of (60) sixty feet to the (48) forty-eight feet. It’s going to be a substantial impact in cost to him. It’s a cost that he should pay and he recognizes he should pay. I suppose I would conclude simply by saying he’s here for redemption.

Chairperson Cardone: Questions from the Board?

Mr. Levin: Mr. Bloom, how did you arrive on the number that you’re cutting it down to?

Mr. Bloom: A…the building is a pre-fab and came in sections and can be cut down the engineers told my client in certain increments so to speak and the forty…the cut down from the sixty to the forty-eight was in their opinion and his opinion the ideal…ideal. The cut down that he could maintain the structural integrity of the building and still have it function for the use for which he…originally constructed.

Mr. Levin: They couldn’t take another rip at it and make it smaller?

Mr. Bloom: They could I’m sure…I’m sure he…he…he…I asked him that question. He said they could take it down almost to nothing but at that point he couldn’t get any cars in there to fix so there would be no purpose in having it at all.

Mr. Levin: Is it true he has (4) four cars in there?

Mr. Bloom: That’s correct. He works on all four at the same time. He races them at the tracks you know locally.

Chairperson Cardone: All four are race cars? Correct?

Mr. Bloom: Yes they are. Yes they are Madam Chair, yes. And it…it and he conducts it as a hobby. He makes no money. A matter of fact, it goes out of pocket obviously.

Chairperson Cardone: The last time that he was here there was a question about whether or not there was electric and plumbing and so forth in the garage.

Mr. Bloom: Yes, I don’t believe there is…I know there is no a…sanitary facilities, no.

Chairperson Cardone: Okay. But there is electric, correct?

Mr. Bloom: I believe there is electric. Yes, there is.

Chairperson Cardone: Okay, thank you.

Mr. McKelvey: It’s strictly for his own use? He’s not going to…not going to…?

Mr. Bloom: Absolutely. Absolutely, Mr. McKelvey.

Mr. McKelvey: …do any outside work?

Mr. Bloom: Strictly for his own use and his family, his children.

Chairperson Cardone: And the business is not being run from that location but rather from across the street?

Mr. Bloom: Absolutely. And…and I’m glad you raised that because my client wants to clarify that. He felt that that was not crystally, clearly presented the last time. Absolutely, the answer is absolutely no business being conducted from this property and the only business from his residence which is across the street is accounts receivable and accounts payable. All of his business, he’s in the tank and pump business, is done out of two warehouse in New Jersey where the product is held on consignment for him, when purchased, and then he picks up his…his drivers, take their trucks home at night and then they go directly to the job sites and pick it up from the warehouses in New Jersey. Nothing, nothing…

Chairperson Cardone: None of those trucks are parked at that location, correct?

Mr. Bloom: No they’re not parked at it. They…they might have their personal vehicles to pick those trucks up but they’re not parked there. They take them home at night now.

Mr. Donovan: Dan, if I could just get a little clarity on the a…

Mr. Bloom: Sure.

Mr. Donovan: …aspect of the variance that talks about the number of vehicles that would be stored.

Mr. Bloom: Yes.

Mr. Donovan: The Code limits it to…to (4) four in total. How many vehicles? So we have four race cars. How many other vehicles would there be on the property, if you know?

Mr. Bloom: If…as far as I know that would be it. Is that correct, Steve?

Mr. Lowitt: (Inaudible)

Ms. Gennarelli: Excuse me; if you are going to speak you have to come up to the microphone, please. It’s being recorded. Thanks. Thank you.

Mr. Bloom: How many…Madam Chair wants to know how many vehicles are going to be at that site besides from the race vehicles you are working on?

Mr. Lowitt: Well a…my two sons have their vehicles, I have a pickup truck and my work vehicle and my wife has her vehicle and we have two big RVs there.

Chairperson Cardone: But they are not garaged, they are just…?

Mr. Lowitt: No, in the garage is…I don’t even garage my own vehicles.

Chairperson Cardone: Only the four, right.

Mr. Lowitt: Just the only thing that will be in it is the race cars that’s all that they’re used for.

Mr. Donovan: And could you describe the race cars for us?

Mr. Lowitt: They’re a…modifieds.

Mr. Donovan: I have no idea what that means.

Mr. Lowitt: Oh, a…they run at Orange County Speedway and Accord Speedway.

Mr. Donovan: Okay.

Mr. Lowitt: We’re a big sponsor at both drags and it’s…

Mr. Donovan: I wasn’t trying to give you a hard time I just didn’t know, okay.

Mr. Lowitt: They’re modifieds.

Mr. Donovan: Okay.

Chairperson Cardone: Do we have any other questions from the Board? Just for the record identify yourself.

Mr. Lowitt: Steven Lowitt.

Chairperson Cardone: Thank you. Do we have any questions or comments from the public? Yes, please step to the microphone.

Mr. Moschitta: Hi, my name is John Moschitta; I live on School House Lane which is adjacent to Quaker Street. I have a comment a…for myself. I also have a letter that my wife wrote she was unable to attend this evening. The facility in question is not an eyesore a…you can…it’s barely noticeable. A…I’ve known the Lowitts a long time and my feeling is that young adults who are still willing to build race cars with their dad is a good thing, where they could be doing things that are a lot more dangerous…you know. And a…my wife wrote…

This is the second time that I have been before you to ask that this…that this variance be given to Lowitt Ventures, LLC. for area variances for the maximum allowed square footage of accessory structures. I have lived on School House Lane for 27 years and I am the original owner of 17 School House Lane. When we first moved in, we noticed that two properties on Quaker Street were in extreme disrepair. 444 Quaker Street was owned by an elderly couple who did their best to maintain a very large piece of property with a modest home. The house on the corner of Route 300 and Quaker Road (Street) was a despicable, dangerous structure with abandoned vehicles filled to capacity with garbage, a yard that was filled with useless power equipment, garbage and debris. The porches were so packed with items that it was hard to find any doors. There was an open hole in the roof of this dwelling where a small child apparently lived. On several occasions I observed this small child waiting for a school bus unattended in this very unsafe environment. Phone calls were made, CPS was called and this pattern continued. I have asked that this property be condemned and torn down for the safety and value of the neighborhood. Nothing has been done. The Lowitts have taken the property at 444 Quaker Road…Quaker Street with…and…and beautified it and have improved this lot tremendously. It is clean and much more pleasing to look at. The accessory structure in question is strategically placed behind the house. The Lowitts have constructed an aesthetically pleasing fence to provide the privacy that all homers…homeowners are entitled to while allowing them the freedom to work on and store the vehicles they own and care for. I think this board would be better served to take care of the plight that is at the corner of Route 300 and Quaker…Quaker Road (Street) that the fire department has designated as being unsafe to enter should a fire occur. At the last meeting before this Board I heard that several members drove by to view the accessory structure but not one member mentioned the atrocity and dangerous structure on the corner which should take precedent over this very safe and appealing structure. Again, let me voice my confusion as to why I am here defending this updated, beautified piece of property not only but twice…not only once but twice, while the property next door is not only an eyesore but a dangerous property for Police, firefighters, EMT service. This seems to be a…to me…not…this seems to me to be a non-issue. Please allow this the structure to stand and please begin to do something about the disgraceful property next door.

Chairperson Cardone: Okay, I have a response to that. This is not a Code Enforcement Board so we really have no jurisdiction over that other house.

Mr. Moschitta: Okay.

Chairperson Cardone: All we can address is what is before us and only that house is before us. Okay?

Mr. Moschitta: A…but you know, that property has…has been an improvement and there’s you know, race cars you know I’ve been in (Inaudible) a long time and I’ve the known the Lowitts a long time and no ones that I know of have been offended by the building.

Chairperson Cardone: Okay, thank you.

Mr. Moschitta: Thank you for your time. I appreciate it.

Chairperson Cardone: Mr. Canfield?

Mr. Canfield: Yes, I’d like to comment to that gentleman. My name is Jerry Canfield. I’m the Supervisor of the Code Compliance Department and as the Chairman had spoke or Chairperson, excuse me, Chairwoman has spoken it is not under the responsibility of the Zoning Board. The responsibility of this building is solely within my Department. Just to clarify, I do sympathize with the eyesore that you are looking however; we do have an extensive file on this building. We have been in court several times with it. It has currently been placed on the Unsafe Buildings Register and as far as the safety of the firemen and Police that respond to this building it has been placarded. If you notice there is a red and white placard on the front of the building which is our uniform sign to advise the jurisdictional fire department that it is an unsafe structure and there’s unsafe conditions within the building so a…just so you know to be assured that it’s not unfounded and it is on the Unsafe Building Register. I cannot give you a timeframe, however, the Town at this point in time has many unsafe structures and it does take an action of the Town Board to rid these structures and remove them so it’s a lengthy process but it is in the system.

Mr. Moschitta: Inaudible.

Ms. Gennarelli: Excuse me, excuse me.

Mr. Canfield: I…I appreciate that but I wanted to convey that to you.

Mr. Moschitta: Inaudible.

Mr. Canfield: Thank you.

Chairperson Cardone: Thank you Mr. Canfield. Do we have any other questions or comments from the public?

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

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

 Grace Cardone: Yes

Chairperson Cardone: Thank you.

Mr. Bloom: Thank you very much.

 (Time Noted - 7:23 PM)

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ZBA MEETING – MARCH 26, 2015 (Resumption for decision: 9:24 PM)

LOWITT VENTURES, LLC. 444 QUAKER STREET, WALLKILL

 (11-1-12.1) A/R ZONE

Applicant is seeking an area variance for the maximum allowed square footage of accessory structures and the maximum allowed storage for not more than (4) four vehicles to reduce size of the prior built accessory building to 30 x 48.

Chairperson Cardone: The Board is resuming its regular meeting. On the first application Lowitt Ventures, LLC. the County report on that was Local Determination. This is a Type II Action under SEQRA. Do we have discussion on this application? And this was reducing the size of the prior built accessory building which will not be used for business.

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

Mr. Levin: I'll second it.

Ms. Gennarelli: Roll call.

 Richard Levin: Yes

 Michael Maher: Yes

 John Masten: Yes

John McKelvey: Yes

 Darrin Scalzo: Yes

 Grace Cardone: Yes

Chairperson Cardone: The motion is carried.

PRESENT ARE:

 GRACE CARDONE

 RICHARD LEVIN

 MICHAEL MAHER

 JOHN MASTEN

JOHN MC KELVEY

 DARRIN SCALZO

ABSENT:

 JAMES MANLEY

ALSO PRESENT:

 DAVID A. DONOVAN, ESQ.

 BETTY GENNARELLI, ZBA SECRETARY

 GERALD CANFIELD, CODE COMPLIANCE

 (Time Noted – 9:26 PM)

ZBA MEETING – MARCH 26, 2015 (Time Noted – 7:23 PM)

EUGENIA FERRARI-FALIN 35 ODELL CIRCLE, NBGH

 (51-2-25) R-1 ZONE

Applicant is seeking area variances for the minimum front yard setback (Odell Circle), the maximum lot building coverage, the maximum lot surface coverage and increasing the degree of non-conformity of the front yard setback (Old South Plank Road) to build an L-shaped covered front porch (34’4” x 11’7”) on the residence.

Chairperson Cardone: Our next applicant Eugenia Ferrari-Falin.

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

Ms. Ferrari-Falin: Good evening, hi, I am just doing an improvement to my front of my house. I’m adding a new porch here and I’m doing the overhang too.

Ms. Gennarelli: Can you just introduce yourself for the record?

Ms. Ferrari-Falin: Oh, I’m Gina Ferrari-Falin…

Ms. Gennarelli: Thank you.

Ms. Ferrari-Falin: …35 Odell Circle so the original porch was crumbling and we had water going down into the basement so we had to take it away and then we decided to just make it a little bit larger because we do face the lake in the front and it’s basically an improvement to the property.

Mr. Levin: In front of your house the pavement is already ripped up, was that a part of this project or has that happened before?

Ms. Ferrari-Falin: The pavement? You mean right in the front?

Mr. Levin: Right…right where you’re going to put this.

Ms. Ferrari-Falin: Well it was…it was crumbling so we were…we were having water in the basement so we took some of it off. The rest of that still has to come away but we wanted to get down there to see where the water was coming in. It was creating mold downstairs so we did that and I decided well we’ll go ahead and get this done now. There’s a…you were there, the blacktop, we’re taking the blacktop away from the front and I’m just going to have a cement walkway going from, you know, the side of the house where the garage goes into the front. So it’s going to be a little bit back further than where the asphalt is so it’s not quite the hill there and the front porch was like seven…it came out seven by eleven but now it’s going to be eleven and it’s going to come out eleven and then the steps will come up. So we have more of a base like if we want to sit out in the front and look at the water you know, so it will be nicer. It will give it a little bit more room up there.

Mr. McKelvey: And you’ll get…you’ll get a good view of the lake because you sit up high.

Ms. Ferrari-Falin: Yeah. It’s nice, especially at night time the sunset is…is gorgeous. It’s beautiful.

Mr. McKelvey: You were before us before; did you ever do the other building?

Ms. Ferrari-Falin: No, we didn’t do it. Do you mean the back of the house?

Mr. McKelvey: The back of the house.

Ms. Ferrari-Falin: Change my mind, too many problems with a contractor, changed my mind...gave up.

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

No response.

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

Mr. Bockemuhl: My name is Alfie Bockemuhl, I live at 35 Old South Plank Road. My only question I guess is I know that there is an application for a variance on a front yard setback but I’m not really clear on what exactly the variance is. I think…I think the proposed improvement looks great a…and I applaud you for doing it but I’m just trying to get a better understanding of what exactly the application is for.

Mr. Maher: Well in essence the house sits close to the road currently and there is a certain setback. In this case it’s regarding a fifty foot setback. Obviously the older lots don’t meet those requirements so in essence the house doesn’t meet the requirement already and this is coming out an additional four foot ten inches or so…yeah, four foot ten inches from the house. It comes out further from the house does existing now so it’s just increasing the degree of non-conformity in that aspect. So the variance is for the extra four foot ten in the front of the building. \

Mr. Bockemuhl: On the Odell Circle side?

Mr. Maher: On the Odell side where the a…where the front of the house sits.

Mr. Bockemuhl: Okay.

Mr. McKelvey: She a…she has two front yards too so she has two streets.

Mr. Bockemuhl: I just wasn’t clear for the Old South Plank Road side or the Odell Circle side.

Mr. McKelvey: Odell Circle.

Mr. Bockemuhl: Okay. That was my only question.

Chairperson Cardone: But the Old South Plank Road is already twenty-five point two feet and it should be fifty and that won’t change.

Mr. McKelvey: That’s…that’s generally in the neighborhood all…all of them are pretty close to the road.

Ms. Ferrari-Falin: And I sit up high too so (Inaudible)

Chairperson Cardone: Speak into the microphone, please.

Ms. Ferrari-Falin: …where that comes it goes straight down; I’m high up so I won’t really have any yards at all to speak of. (Inaudible)

Mr. McKelvey: A lot of the houses across the street are right on the road almost.

Ms. Ferrari-Falin: Right.

Chairperson Cardone: Do we have any other comments?

No response.

Chairperson Cardone: Anything else from the Board?

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

Chairperson Cardone: Do we have a second?

Mr. Maher: Second.

Ms. Gennarelli: Roll call.

 Richard Levin: Yes

 Michael Maher: Yes

 John Masten: Yes

John McKelvey: Yes

 Darrin Scalzo: Yes

 Grace Cardone: Yes

Chairperson Cardone: Thank you.

 (Time Noted - 7:30 PM)

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ZBA MEETING – MARCH 26, 2015 (Resumption for decision: 9:26 PM)

EUGENIA FERRARI-FALIN 35 ODELL CIRCLE, NBGH

 (51-2-25) R-1 ZONE

Applicant is seeking area variances for the minimum front yard setback (Odell Circle), the maximum lot building coverage, the maximum lot surface coverage and increasing the degree of non-conformity of the front yard setback (Old South Plank Road) to build an L-shaped covered front porch (34’4” x 11’7”) on the residence.

Chairperson Cardone: Our next application Eugenia Ferrari-Falin this is a Type II Action under SEQRA. Do we have discussion on this application? This was a case of two front yards.

Mr. McKelvey: I see no harm there since she sits up so high off the road. 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

 Grace Cardone: Yes

Chairperson Cardone: The motion is carried.

PRESENT ARE:

 GRACE CARDONE

 RICHARD LEVIN

 MICHAEL MAHER

 JOHN MASTEN

JOHN MC KELVEY

 DARRIN SCALZO

ABSENT:

 JAMES MANLEY

ALSO PRESENT:

 DAVID A. DONOVAN, ESQ.

 BETTY GENNARELLI, ZBA SECRETARY

 GERALD CANFIELD, CODE COMPLIANCE

 (Time Noted – 9:27 PM)

ZBA MEETING – MARCH 26, 2015 (Time Noted – 7:30 PM)

BARBARA COLANDREA 122 HOLMES ROAD, NBGH

 (6-3-15) A/R ZONE

Applicant is seeking an area variance for 185-38-C-2 for the minimum lot area requirement to keep a prior built accessory apartment in the residence.

Chairperson Cardone: Our next applicant Barbara Colandrea.

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

Ms. Colandrea: I’m Barbara Colandrea, 122 Holmes Road; I have a pre-built accessory apartment for my mother in my home. It was built in 1992 by my husband who is deceased. He did not obtain a Permit. I don’t know if he was aware. I wasn’t aware. I recently became aware I needed a C.O. for the apartment and I applied for a Permit. I am here asking for an area variance. My home which was built in 1962 is on thirty thousand nine hundred and twenty-seven square feet so it is a legal, existing, non-conforming single family. The new Town zoning requires forty thousand square feet. The apartment did not alter the exterior of the house except that we replaced a garage door and it became a door and a window to her now living room. We converted a single car garage and work room into a one bedroom for her. If the area variance is granted I will then proceed to meet all the other requirements for an accessory apartment in the Town.

Mr. Maher: I’m sorry you said the…the lot is thirty thousand, nine hundred and twenty-seven square feet?

Ms. Colandrea: Hm, hm. (Nodding yes)

Mr. Levin: I have a question. This occurred, you said, in 1992?

Ms. Colandrea: Hm, hm. (Nodding yes)

Mr. Levin: Why are you discussing it now? Why wouldn’t have done that earlier? Is there anything that precipitated this to a…?

Ms. Colandrea: I had been discussing the possibility of selling my home in the future and I’ve been trying as I’ve gotten adjusted to the fact that I’m now alone to try to make sure all my ducks are…are in a row, all my pieces are together. And I knew we had a C.O. for…I found the C.O. for the garage that was built about that same time and the deck. I did not realize that when you made changes within your home that it required this and I was made aware of that so I’m trying to rectify. Because we didn’t alter anything, there was no expansion; there was no anything so we were just making a spot for my Mom.

Mr. Levin: Okay, thank you.

Mr. Maher: Hey, hey Jerry can you look at Joe’s calcs, his page there…? Just to clarify.

Mr. Canfield: Inaudible.

Mr. Maher: Just to clarify the actual variance needed is nine thousand, seventy-three square feet and the percentage is twenty-two point six percent. Just to clarify.

Ms. Colandrea: I didn’t do that math, sorry.

Mr. McKelvey: Are you looking to keep this as an accessory apartment?

Ms. Colandrea: Hm, hm.

Ms. Gennarelli: Excuse me, I’m sorry, if you’re saying hm, hm it’s not a yes or a no, could you just…?

Ms. Colandrea: I’m sorry, yes, he has the microphone.

Ms. Gennarelli: Thank you, no, that’s okay.

Ms. Colandrea: Yes.

Mr. Donovan: You got to watch him he does that.

Ms. Gennarelli: He does that and then he holds on to it.

Mr. Canfield: I’m quick, watch out I don’t start singing. I just may want to add one thing for the Board’s benefit. If you recall accessory apartments used to be handled by the Zoning Board…

Chairperson Cardone: Correct.

Mr. Canfield: …by Special Permit a…in 2008 the Town Board reenacted Zoning requirements to streamline that accessory apartment process a...and in that they added 185-38 which is a section that deals with the criteria. It actually explains the criteria required for an accessory apartment and permitted the Building Department to handle that rather than all accessory apartments coming to the Zoning Board. This lot complies, I did visit the site. I did meet with Mrs. Colandrea. We’ve also discussed her getting a Permit which she is in the process of doing. We discussed all pertinent items as far as internal components of the house, fire safety, sewage and all of that. Everything is in compliance. The one thing that is outstanding is this requirement that the (Town) Board put in which was lot area or actually in order to have a accessory apartment the lot must meet the Bulk Use Requirements in an A/R Zone it’s forty thousand square feet so that’s the out….outstanding item.

Chairperson Cardone: Thank you.

Mr. Donovan: And Jerry, for my own clarification when you look at 185-38-A-1-(a) it talks about one of the purposes of an accessory apartments is to provide housing for senior citizens but it’s not… Well let me ask the question, is it limited to senior citizens or could it be anyone?

Mr. Canfield: We’ve historically a…enforced that as any. We did not restrict to just senior citizens.

Mr. Donovan: I would read it the same way I just wanted to make sure I…I was clear in my own reading.

Mr. Canfield: Now, I…I know Mrs. Colandrea’s Mom, she may want to speak to that. And she fits that ticket also.

Mr. Donovan: But…but the point being is that it…it could be leased to someone other than a senior.

Ms. Colandrea: It has to be a family member, correct?

Mr. Canfield: I believe it’s owner occupied but I don’t believe there is any restriction as to it being a family member.

Mr. Donovan: Or…or…I’m not reading as a…and this may not be germane to this application; I just want to make sure I’m reading this correctly. I don’t see this as being limited to a senior citizen either.

Mr. Canfield: No, it is not.

Mr. McKelvey: I think we’ve always stood by that a…the owner had to live in the house.

Mr. Canfield: That’s correct.

Chairperson Cardone: Yes. Any questions from the Board?

No response.

Chairperson Cardone: Any questions or comments from the public?

No response.

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

Mr. Levin: I’ll second it.

Ms. Gennarelli: Roll call.

 Richard Levin: Yes

 Michael Maher: Yes

 John Masten: Yes

John McKelvey: Yes

 Darrin Scalzo: Yes

 Grace Cardone: Yes

Chairperson Cardone: Thank you.

 (Time Noted - 7:37 PM)

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ZBA MEETING – MARCH 26, 2015 (Resumption for decision: 9:27 PM)

BARBARA COLANDREA 122 HOLMES ROAD, NBGH

 (6-3-15) A/R ZONE

Applicant is seeking an area variance for 185-38-C-2 for the minimum lot area requirement to keep a prior built accessory apartment in the residence.

Chairperson Cardone: On the application Barbara Colandrea this was to keep a prior built accessory apartment in the residence. This is a Type II Action under SEQRA. Do we have discussion on this application?

Mr. Maher: Just to clarify on the application the actual variance is nine thousand seventy three square foot and roughly a twenty-two point six percent variance. I’ll make a motion for approval.

Mr. Levin: I'll second.

Ms. Gennarelli: Roll call.

 Richard Levin: Yes

 Michael Maher: Yes

 John Masten: Yes

John McKelvey: Yes

 Darrin Scalzo: Yes

 Grace Cardone: Yes

Chairperson Cardone: The motion is carried.

PRESENT ARE:

 GRACE CARDONE

 RICHARD LEVIN

 MICHAEL MAHER

 JOHN MASTEN

JOHN MC KELVEY

 DARRIN SCALZO

ABSENT:

 JAMES MANLEY

ALSO PRESENT:

 DAVID A. DONOVAN, ESQ.

 BETTY GENNARELLI, ZBA SECRETARY

 GERALD CANFIELD, CODE COMPLIANCE

 (Time Noted – 9:28 PM)

ZBA MEETING – MARCH 26, 2015 (Time Noted – 7:37 PM)

JR & RAY LLC. - 1413 ROUTE 300, NBGH

 RHINEBECK REALTY LLC. (MAVIS) (60-3-40.2) I/B ZONE

Applicant is seeking area variances for the 25 foot entrance requirement and the minimum lot size to construct a tire center facility, retail facility and restaurant on the premises.

Chairperson Cardone: Our next applicant JR & Ray LLC. - Rhinebeck Realty LLC. (Mavis).

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

Mr. Osterhoudt: Good evening, Ron Osterhoudt with Bohler Engineering representing Rhinebeck Realty LLC. with their application before the Board this evening. I also have with me Michael Manes from Rhinebeck Realty, sitting on the other side of the room, if there’s any questions directly for the applicant a…so with that I can walk you through the application before the Board this evening. And what we have is a site at 1413 Union Avenue (Route 300) on the north side of the Newburgh Mall a…the former truck terminal facility. As you see on the aerial…as you see on the aerial exhibit here a...here’s the parking lot, the northerly section of the parking lot for the Mall and the north end of BonTon here a….the access you see across the way is to Dunkin Donuts and the a…a…plaza with a Mavis (Midas) in it by the way on the other side of the road. So we’re looking at a three acre parcel here for redevelopment and Mavis is proposing a shopping center on this site a…there would be three buildings proposed on the site that you see shaded here. One single access drive opposite the existing access drive that a…accesses the plaza across the street so the driveway would be located here and building would be demolished a…with new structures put up. The access to the site today a…there’s actually two curb cuts on Route 300 here and we would be consolidating those into a single access point again opposite the existing driveway here. I know this a…a…part of the application is familiar to the Board because…or to at least some of the Board Members, because there was an application before the Board a couple of years back for this very access to the Mall road back here. As I mentioned this is a three acre parcel, there is also a fifty foot wide easement for access purposes through the Mall road here a… from the project to the Mall road linking those two a…and the a…there was a former application or applicant for this property a…similar development, three buildings, three uses on the site. They had secured a variance from the Board and were working through the planning board that application went to the wayside and we’re working with a new applicant on the site but with the same a…approach. Where we want to secure an easement from the or a…a…access easement or a variance for the access through to the Mall road to allow an eighteen foot access drive a…from the project site, egress only to the Mall road. Very similar to what that last application had and the reason why we’re looking for a variance is because Code requires a twenty-five foot access drive width for this type of use a…we are proposing to limit it to eighteen feet because of the fact that there are Federal wetlands within this easement area. We’re trying to reduce the driveway width to eighteen feet in order to minimize the impacts on the wetlands a…and to comply with the design that had basically been reviewed by this Board in the past and also by the Army Corp of Engineers a…who effectively granted a Permit for that wetland disturbance for the eighteen foot wide driveway. So that’s one part of our application, the other part of the application is that we’re seeking relief relative to the minimum lot size required for a shopping center a…by the Use Table a…(inaudible) for the I/B District a…we’re subject to a five acre minimum lot size as I mentioned we have a three acre lot size here and about another three tenths for the easement area a…but a…with the shopping center use a…we’d like to a…request relief from that provision which is similar to another shopping center which is right across the street from us. So again, you see our project site here, the Mall to the south a…and then over to the other side of the a…the road we’ve got the shopping center here where Sleepy’s is a…Samurai a…and that’s about a three and a half acre parcel a…so we’re similar in size a…you know, the uses in the area are obviously very compliant a…as part of the project we’re looking to locate the Mavis Tire Center up towards the front of the site. So the Mavis facility would be here a…some retail space here and then we have a restaurant proposed towards the rear of the site. So very similar uses to what exists in the area and the access to the Mall road is a…in line with what is also existing in the area with Perkins, a couple of buildings to the north a…they do have access out to the Mall road except they have full access, they don’t have the wetland issue that we have on our site.

Mr. McKelvey: That’s just one way out.

Mr. Osterhoudt: That’s correct; we’re proposing a one-way egress and the reason why we’re proposing…

Mr. McKelvey: That’s what it was before when it went before us just one way.

Mr. Osterhoudt: That’s right. And the reason why we’re proposing the egress versus and ingress there a…is so that from a traffic perspective vehicles can use this egress lane to get out to the Mall road, head out to Meadow Hill Road and then take the right and get to the signal to head northbound rather than trying to come out and cross lanes of traffic on Union Avenue (Route 300). So my…my parents will use a…this access, they live in Meadow Hill and a…will probably like the aspect of being able to escape without having to go out to Union Avenue.

Mr. McKelvey: I just wanted to make sure that it was the same as it was before.

Mr. Osterhoudt: Yes, yes sir.

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

Mr. Scalzo: Delivery of goods to any of the buildings that are proposed, you’re shrinking down the…the size of the entry a…the AASHTO (American Association of State Highway and Transportation Officials) Green Book gives formulas for tractor-trailers around radiuses. I see you have a lot of raised curbs in here, you got them mountable. But will deliveries by tractor-trailer combinations, can they make this swing without impeding other traffic?

Mr. Osterhoudt: Yup, we’ve looked at traffic a…and specifically truck turning through the site a…we will have some curb modifications as we progress through detail design because of that a…but we can get those trucks in and out of the site, they can egress through the back of the site a…through that one-way drive a…and get out to the light to head, you know, northbound or even southbound if they wanted to for that matter.

Mr. Scalzo: Thank you.

Mr. Osterhoudt: Thank you.

Mr. McKelvey: This…this building that’s in the back, is that staying?

Mr. Osterhoudt: No the two existing buildings on the site would be demolished.

Mr. Levin: Do you already propose traffic counts what you expect to go out that driveway?

Mr. Osterhoudt: We haven’t done any traffic a…counts specifically for that driveway a…overall, we’ve looked at some numbers for the overall project but we haven’t assigned, you know, trips out a…in that particular direction.

Mr. Levin: I would be concerned with the going back out on to 300, there’s no red lights there. When I was visiting it on a Sunday and it’s very unscientific because I just did myself, there’s no statistics, I couldn’t make the left turn. I made a right turn into the Mall, made a U-turn and then went by the red light and went down.

Mr. Osterhoudt: Okay.

Mr. Levin: There’s no way of getting a curb cut into the Mall to cut that out? They wouldn’t allow it? Can you ask?

Mr. Osterhoudt: A…we have the easement back here that’s the only easement we have to the adjoining properties a…so, you know…

Mr. Levin: You can go left just as much as you can go right.

Mr. Osterhoudt: That’s right, we’re not restricting which way you can go out of there so, you know, somebody wanted to take a right, you know, if they go over to the Mall and visit, you know, some of those stores or shops there and then head south, they could certainly do that as well.

Mr. McKelvey: The Mall wouldn’t let them put an exit so they (inaudible).

Mr. Osterhoudt: Anywhere else, yeah I…I had seen that in the minutes from the previous application, yes.

Chairperson Cardone: Do we have any questions or comments from the public? Okay, this gentleman and then gentleman in the back.

Mr. Geisler: My name is Chris Geisler, my question is just pertaining to a…the traffic flow to 300 there because that’s a very, very bad turn coming out of the Dunkin Donuts. It…it’s…it’s nearly impossible to make a left turn there as it is. Is there any possibility that there would be light there? A…because it’s almost like a direct across…I just can’t imagine that especially from what my understanding is that it could be like a three hundred and forty seat restaurant which is in…in my assumption probably something like an Olive Garden or something with…with a…with a great deal of traffic. If you couple that traffic into that intersection a…pretty much at any time of day that would just…that would just be my concern.

Mr. Osterhoudt: Would you like me to reply?

Chairperson Cardone: Yes, please.

Mr. Osterhoudt: Okay, a…good questions a…valid point a…as part of the planning board process and the planning board has a consultant engineer that reviews traffic, they’ve already issued some preliminary comments a…based on the submission we made to the planning board and we’ll be addressing those comments as part of the application as we move forward with the planning board. There’s been no indication a…in that initial review that a traffic signal would be warranted here. This very similar to the project that was previously proposed on the site a…and there were no warrants that triggered a signal at the intersection as part of that. I’m not saying that it wouldn’t necessarily be a…something that’s included or needed for this project but that would be evaluated as we moved forward with the planning board.

Chairperson Cardone: This project is before the planning board and they will most likely have a Public Hearing where those issues could be addressed. The other gentleman; just identify yourself for the record.

Mr. Feder: Bill Feder, Rockwood Drive, does the site in and of itself meet the parking requirements or is this easement a part of a contingency basis to use the Mall parking lot as a…as parking?

Mr. Osterhoudt: Another good question, a…we have more than adequate parking on our site for the uses that we’re proposing. There’s no need to accommodate any type of shared parking arrangement or anything like that a…so by parking standards of the Town we have a hundred twenty-one spaces required for the project, we’re actually proposing a hundred and sixty, a couple over a hundred and sixty so…so we do have adequate…

Mr. McKelvey: I would suggest…I would suggest you just go up and look at the plans there; you can see where all the parking is.

Mr. Feder: Okay, that’s fine, that’s fine. We’ve worried about pedestrian traffic on Mall road.

Chairperson Cardone: Any questions or comments from the public?

Mr. Maher: Yeah, I’m sorry, I’m not the public but...speaking of pedestrians, there’s a currently a chain link fence along the border of the Newburgh Mall, correct?

Mr. Osterhoudt: That’s correct.

Mr. Maher: Will that be remaining or will that be coming down? Will there be access for the public to a pedestrian walkway between the two?

Mr. Osterhoudt: Yeah, I think it makes a lot of sense to have a pedestrian connection between the two. We need to work out that detail though as we move forward a…the fence would a…if it’s up to us would come down. That’s something that we’re looking at to determine if that’s within our rights or outside of our rights. I believe it is our fence and that we would, you know, likely have some type of connection there.

Chairperson Cardone: Any questions from the Board?

Mr. McKelvey: You have no idea what restaurant is going to be there?

Mr. Osterhoudt: No, we don’t have any a…any names that we can divulge at this point.

Mr. McKelvey: But it looks like it’s not going to be a fast food.

Mr. Osterhoudt: Definitely not a fast foot. It would be a sit down restaurant.

Mr. Levin: Are you asking tonight for a vote just on the right-of-way or on the entire project?

Mr. Osterhoudt: We would respectfully request a decision from the Board on both variance requests.

Mr. Donovan: So the variances of the application in front of the Board is just the a…the driveway being eighteen feet in width where twenty-five feet is required and then there’s a bulk area variance relative to the…to the lot size, the minimum required is five acres and this is a three point three acre lot and maybe perhaps you could discuss how this lot was created and a…why it doesn’t nor can it meet the five acre requirement.

Mr. Osterhoudt: Yeah, sure thing, so a…if you don’t mind just before I answer that a…a question there was one other variance that we had talked about with the planning board that we actually a…rescinded as we moved forward with the application for the Zoning Board. When we were…when we were before the planning board a…we actually had a…a design where we needed some relief for a front yard setback and the applicant had us change that to minimize our request to the Board for variances and I neglected to mention that in my initial presentation so I just wanted to throw that in. As far as the lot is concerned, years ago this used to be two separate lots that were merged into a three acre parcel here a…it’s…I’m not sure what the arrangement was prior to that, if it was part of the Mall property or part of, you know other individual lots that were along here a…before the Mall was put in a…but the lot is a single lot today, three acres a…we don’t control any other property adjacent to the site. We have a…you know, a limited footprint and there’s no other available properties for us here so three acres is what we have to deal with. What we have done though is, as I mentioned, from a parking perspective we’ve provided adequate parking to meet Town Code. We’ve got adequate green space on the site, we’ve got adequate room for storm water management a…so we’re able to a…still build on the site what we’re proposing without overdoing it, without seeking relief for other, you know, setback a…requirements or design requirements for that matter.

Mr. Donovan: And so you’re not seeking any variances for lot development or lot surface coverage?

Mr. Osterhoudt: That’s correct.

Mr. Maher: Do you anticipate needing sign variances?

Mr. Osterhoudt: We do a…we are not at a point where we are a…locked in with tenants and specific signage that we could present to the Board so we did not include that at this time a…we would have loved to have everything before the Board on one occasion but we’re just not at that point so. We do understand that there was an application for this…for the previous project that was proposed on the site for some signage and a…you know, that’s why we anticipate we’ll be doing the same with the three buildings having three different carriers for a…signage.

Chairperson Cardone: Do we have any questions? And we did not get the answer back from the County?

Ms. Gennarelli: No.

Chairperson Cardone: Since we don’t have the answer back from the Orange County Department of Planning we would have to hold this open until next month.

Mr. Osterhoudt: Okay, I know you don’t have a choice in that matter …

Chairperson Cardone: Right.

Mr. Osterhoudt: …so there’s not much we can do about that so...

Chairperson Cardone: Right.

Mr. Osterhoudt: …it’s certainly understandable.

Ms. Gennarelli: We tried, we tried, they just weren’t ready, sorry.

Mr. Osterhoudt: Okay, thank you for hearing us tonight, with that I would assume there would be no further discussion on the application?

Chairperson Cardone: Not until, not until we receive the report from Orange County.

Mr. Donovan: Or thirty days expires.

Chairperson Cardone: Or thirty days.

Mr. Donovan: Because they have thirty days.

Ms. Gennarelli: Yes.

Chairperson Cardone: And the date of the next meeting?

Ms. Gennarelli: April 23rd.

Chairperson Cardone: So if there is anybody here interested in this application you would not be re-noticed. The notice is tonight that it will be continued on April the 23rd.

Mr. McKelvey: I’ll make a motion we hold it open.

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

 Grace Cardone: Yes

Chairperson Cardone: Thank you.

Mr. Osterhoudt: Great, thank you for your time tonight.

PRESENT ARE:

 GRACE CARDONE

 RICHARD LEVIN

 MICHAEL MAHER

 JOHN MASTEN

JOHN MC KELVEY

 DARRIN SCALZO

ABSENT:

 JAMES MANLEY

ALSO PRESENT:

 DAVID A. DONOVAN, ESQ.

 BETTY GENNARELLI, ZBA SECRETARY

 GERALD CANFIELD, CODE COMPLIANCE

 (Time Noted – 7:57 PM)

ZBA MEETING – MARCH 26, 2015 (Time Noted – 7:57 PM)

DAVID KRYWOSA 762 ORCHARD DRIVE, WALLKILL

 (1-1-133.2) A/R ZONE

Applicant is seeking area variance for the maximum allowed square footage of accessory structures, the maximum allowed height and the maximum allowed storage for not more than (4) four vehicles to build an accessory building (20 x 20 x 21 shed).

Chairperson Cardone: Our next applicant David Krywosa.

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

Mr. Krywosa: Good evening…

Chairperson Cardone: For the record identify yourself.

Ms. Gennarelli: You have to lift that up a little bit higher, you can take it (mic) off if you’d like.

Mr. Krywosa: No, I’m nervous I need to hold on to the thing.

Ms. Gennarelli: Okay, well just tilt it towards you, because it won’t pick up that way.

Mr. Krywosa: Okay, is that good? My name is David Krywosa, I live at 762 Orchard Drive in Wallkill and I’m requesting to build a 20 x 20 x 21 a…garden shed. The variances I’m requesting is area variance for the maximum allowed square footage of accessory structures and the maximum allowed height of (and) the maximum allowed storage for not more than (4) four vehicles to build an accessory building. I’m requesting to build a 20 x 20 garden shed out in the back of my property to a…put my thirty horse tractor, a…my garden tractors, my rototillers, all my garden equipment so I can relieve some space out of my household garage and my shop so like when I’m welding and stuff I don’t damage my property when sparks of stuff fly on it. A…trying to get wheel barrows, a…tomato cages, a…a…picnic tables, stuff like that, lawn furniture so it’s not cluttering up my workspace in shop during the wintertime. Cause anytime I want to do any kind of projects I got to move this stuff out so I don’t damage anything.

Chairperson Cardone: And this work you are doing in the garage is not a business?

Mr. Krywosa: No maam.

Chairperson Cardone: Okay.

Mr. Krywosa: Nope, just hobbies.

Mr. Donovan: So let me go back to the cars. How…how many cars?

Mr. Krywosa: I have four cars.

Mr. Donovan: But how many do you propose…The reason why I’m bringing it up again is, I think the Board has all seen the a…memorandum from Mr. Mattina about private garage or carport storage of four vehicles is not solely detached structures but as the cumulated total for the entire lot. I…I think that’s been an issue that we’ve kind of gone back and forth on in the past so hence the question. How many vehicles do you intend to have in total on the property?

Mr. Krywosa: I have four.

Mr. Donovan: And you don’t intend to have more than four.

Mr. Krywosa: No maam.

Mr. Donovan: I’m sir.

Mr. Krywosa: Sir.

Mr. Donovan: Actually you could say…you could just say no Dave. You can say anything but no maam to me.

Mr. Maher: Will there be…I guess the only question a…will there be another driveway going back to the…the shed in the backyard?

Mr. Krywosa: No. Nope, it’s just grass. The only way I really get back there is I don’t like driving on my grass I have so it’s…it’s right along the edge of the property and it’s just…

Mr. Levin: Didn’t you just say you were going to have four vehicles in that garage in the back?

Mr. Krywosa: No, no, no there’s no vehicles going to be in that garage. It’s just for I got a thirty horse tractor with bucket, snow blower, a three point hitch rototiller, I got two other hand rototillers, I’ve got a grill, a…I’ve got a big picnic table that needs to go in there, my…all my equipment from my gardens and stuff like that go in there. Otherwise it clutters up all my walls in my shop and my garage. I’d like to get it…get it out of there and relieve…relieve the clutter.

Mr. Donovan: May I ask Mr. Canfield a question because this is something that seems to repeat itself. So…so the applicant has testified he is not going to have any more than four vehicles but it seems that when we…when we get an application that has the potential for the storage of more than four vehicles that becomes a variance request even if it isn’t being requested by the applicant? For example on the a…the chart that Mr. Mattina has prepared it indicates that vehicles storage for existing six, so he’s asking for a variance of two hundred percent but I don’t think he is asking for a variance at all.

Mr. Canfield: I concur co-counsel. Yeah, the applicant has a…testified that he only has four vehicles, his intention is only four vehicles. I see on Joe’s spec sheet he has existing six and proposed eight, I’m not certain where that information came from. A…I would have to…it appears that it’s a typo, that it doesn’t belong there. Like I said the applicant has testified to what his intentions are and what’s been there and I know you folks have made site inspections so unless we hear or see something, testimony of something different my advice would be it is what it is. He’s say he has…he’s telling you he has four vehicles then its four vehicles and there should be no additional variance for the additional vehicles.

Mr. Donovan: Okay.

Chairperson Cardone: I think he is counting the garage in the house.

Mr. Maher: That would give six though.

Chairperson Cardone: That would give six.

Mr. Canfield: I see…

Chairperson Cardone: The house has a two car garage?

Mr. Canfield: I see two-car garage in the house and an additional detached two-car garage and that’s it.

Chairperson Cardone: I think he…I think he was probably counting that it could house four cars by its size.

Mr. Maher: Joe’s method of calculating is based on square footage and the area inside the actual garage.

Chairperson Cardone: Right.

Mr. Donovan: Yeah, so I think what he does is…is he said since its…you could have this many.

Mr. Canfield: Potentially.

Chairperson Cardone: Right.

Mr. Donovan: Then you’d need a variance for that many. Where I look at it if there is not a request for a variance it’s not allowed to have more than four.

Mr. Canfield: Again I maintain, the applicant has testified that he has four vehicles and that’s what he intends to…to use. A…in the past when you’ve had grey areas like this you may consider a condition of approval should you choose that it will be maintained at four vehicles.

Mr. Scalzo: Sir is this a…proposed going to be stick built?

Mr. Krywosa: Yes. It’s going to have a slab, one layer of six by six blocks and then it will be stick built from there up.

Chairperson Cardone: But it will have a garage type door on it.

Mr. Krywosa: It’s going to have a seven foot by sixteen.

Mr. Maher: Storage above?

Mr. Krywosa: Yes, I have a staircase going up there about three foot wide.

Mr. McKelvey: You’re not going to build a living space up there?

Mr. Krywosa: No, no, no, no…it might be a little play space for her.

Mr. McKelvey: I was just a…

Chairperson Cardone: And the reason for the twenty-one foot height?

Mr. Krywosa: I put twenty-one foot because when I was over at the…over submitting the Permit (application) Joe said that I’m probably going to need architectural drawings for the height of the roof to make sure that that gambrel type roof is correct. So he said that if I…if it ends up when I get drawings and it ends up going to like eighteen and a half or nineteen foot I’d have to resubmit so I changed it up to twenty-one foot. It’s most likely going to be three foot less than that, just from what my estimations are.

Mr. Maher: What’s the height of the existing garage?

Mr. Krywosa: The existing is twenty-three feet. This one is only going to have eight foot ceilings with roughly around seven to eight foot in the upper…upper portion.

Mr. McKelvey: If we grant twenty-one feet you can go to twenty-one feet.

Mr. Krywosa: I can go to twenty-one foot?

Chairperson Cardone: No.

Mr. McKelvey: But you’re asking for twenty-one feet.

Mr. Krywosa: I’m asking for twenty-one foot just so that when if it does get approved if they do the engineering design on the gambrel roof, once the architect comes back I have…I have area to fit within that. Like I said I’m…I’m…from what I drew up I’m thinking it’s going to be about eighteen and a half foot tall. But if engineers get ahold of it they might increase the pitch a little bit more for the…for the span.

Chairperson Cardone: Have you considered reducing the size?

Mr. Krywosa: No maam, I laid out all my stuff that I need to store and it’s going to take that much space. Right now I got most of my stuff stored out under blue tarps, under the back porch and…and around in…I’d…I’d like to get it all out of there and pro…you know, protect it from the winter.

Chairperson Cardone: Your square footage is sixty percent over. Do we have any comments or questions from the public?

No response.

Mr. McKelvey: Well if we kept saying if we approve twenty-one feet he’s just going to go ahead and build twenty-one feet. That’s high (inaudible) go out.

Mr. Krywosa: I don’t want twenty-one foot. From what I drew up I’m figuring it’s going to be roughly around eighteen feet.

Mr. Maher: So nineteen foot would probably cut it?

Mr. Krywosa: I’m hoping but see if an engineer gets ahold…like…like if I get approved I’m going to have to back to Joe and he’s going to say I need engineering drawings and if engineering says it’s going to be nineteen foot and I proposed eighteen…

Mr. Maher: Well are you going to truss it or frame it?

Mr. Krywosa: …I’m going to have to come back. I’m gonna…it’s going to be rafters.

Mr. Maher: So you’re…you’re going to frame it on site?

Mr. Krywosa: Yes. But he said he needs architectural drawings…

Mr. Maher: Right.

Mr. Krywosa: …for it to make sure that it’s…it’s proper, so that’s the only reason I want the twenty-one. I do not want twenty-one. It’s…it’d look gaudy, it’s going to be really pitchy; what I propose there is basically around eighteen, eighteen (inaudible).

Mr. McKelvey: That’s what you’re asking for and that’s the catchy thing here if we approve it.

Mr. Krywosa: I don’t want twenty-one. I just put that in there so I don’t have to come back through all this again. It’s gonna be something less than twenty-one. I’m propo…I’m thinking it’s gonna be like this…like Michael said…it’s probably around nineteen. If they approve the pitch that I have that’s what I want it’s what I proposed in my drawing.

Mr. Levin: If we approve nineteen can he come back later and the twenty-one if he needs it?

Mr. Maher: Yes.

Mr. Donovan: Well he can come back and ask.

Chairperson Cardone: He can come back and ask, it doesn’t mean that he’ll get it.

Mr. McKelvey: See the way that we’re voting, we’re looking at it on here it says twenty-one feet so…

Mr. Levin: You probably should have had those drawings done.

Mr. Krywosa: If I don’t get permission to build then it’s…its wasting money. I got to pay an engineer to design the trusses and you know it could be…I don’t know how much an engineer to draw up something that we usually build on our own site you know. You know I went through this first and then I’ll go through and I’ll get with Joe we’ll go through, I’ll get engineer is what he’s requesting for the pitch of the roof. I want as low a pitch as I can get to…to basically look in that design. So if I…if I put that together take it to engineer and engineer stamps it off then that is what I’m building, that’s what I want.

Chairperson Cardone: But by reducing the size if they come back with something that’s too high…then if you’re reducing the size then that would also reduce the height that you would need.

Mr. Levin: What if we held the hearing open and he can come back in thirty days and to see if a…what the height has to have, what he needs?

Mr. Krywosa: Then I gotta pay…I gotta pay like I’m gonna go ahead and build it and if you don’t approve it then I gotta…I lose my money. It’s gonna be less than twenty-one, I’m thinking it’s gonna be around eighteen, eighteen and a half.

Mr. Maher: So if you went to nineteen that you know…(Inaudible)

Mr. Krywosa: See if I…if I take to get drawing and they say oh, it’s nineteen too I’m outside my…

Mr. Donovan: Well I went to law school, not a…construction school but it seems to me if we give an eighteen foot variance you can build an eighteen foot building. Right, am I missing something?

Chairperson Cardone: That’s right, that’s what I think too.

Mr. Maher: No, I think the concern is if we give a nineteen and it’s nineteen six he’s back to square one.

Mr. Donovan: Well can’t they just cut it down? Am I…am I too simplistic? I mean it’s…

Mr. Maher: I…no, I mean I…I…I’m pretty confident you’re going to have…

Mr. Donovan: I mean, it can always be done.

Mr. Maher: I pretty confident your engineer is going to…going to design what you want them to design. I don’t…I don’t see an issue there.

Mr. Krywosa: Right.

Mr. Maher: You know, it’s basically eight foot ceiling. With a eight foot ceiling or nine foot ceiling?

Mr. Levin: Eight foot.

Mr. Krywosa: Eight foot.

Mr. Maher: Eight foot ceiling, seven foot door right?

Mr. Krywosa: I was thinking once I do the gambrel there’s going to be a support that goes across and that’s gonna be abound seven foot, that’s what I want around seven foot clearance.

Mr. Maher: In the doorway?

Mr. Krywosa: I don’t want it really pitchy.

Mr. Maher: In the doorway?

Mr. Krywosa: Yes, down through the center.

Mr. Maher: Okay, if you do it that way, okay.

Mr. Krywosa: Yeah, down through the center of the peak I want about seven foot once my support is there.

Mr. Scalzo: Could you live without the upper storage and bring it down to fifteen?

Mr. Krywosa: Really not.

Mr. Maher: Then you won’t really get the gambrel look then. (Inaudible)

Mr. Krywosa: Right, it be really squatted, it almost look like a little frog.

Mr. Maher: I mean, proportionately your drawing is pretty accurate.

Mr. Krywosa: Right.

Mr. Maher: As far as what need to be done there. You know, if you’re saying you’re in the eighteen foot range then you could reduce your request to nineteen foot, there’s an option there.

Mr. Krywosa: I’m sure an engineer can design that roof.

Mr. Maher: I’m pretty confident.

Mr. Krywosa: And so if we would say nineteen, I’m…I’m good with that.

Mr. McKelvey: Well we can put that in there at nineteen then.

Chairperson Cardone: And the percentage would then drop to?

Mr. Maher: Roughly twenty-eight or so?

Chairperson Cardone: Twenty-eight.

Mr. Maher: You’re eliminating the…the vehicle variance…

Mr. Krywosa: Correct.

Mr. Maher: As far as the…the square footage there’s currently a twenty percent overage for the existing building so he increases forty percent for a total of sixty there.

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

No response.

Chairperson Cardone: Well understanding this to nineteen feet.

Mr. Krywosa: Yes, maam.

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

Mr. Levin: I’ll second it.

Ms. Gennarelli: Roll call.

 Richard Levin: Yes

 Michael Maher: Yes

 John Masten: Yes

John McKelvey: Yes

 Darrin Scalzo: Yes

 Grace Cardone: Yes

Chairperson Cardone: Thank you.

Mr. Krywosa: Thank you for your time.

 (Time Noted - 8:19 PM)

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ZBA MEETING – MARCH 26, 2015 (Resumption for decision: 9:28 PM)

DAVID KRYWOSA 762 ORCHARD DRIVE, WALLKILL

 (1-1-133.2) A/R ZONE

Applicant is seeking area variance for the maximum allowed square footage of accessory structures, the maximum allowed height and the maximum allowed storage for not more than (4) four vehicles to build an accessory building (20 x 20 x 21 shed).

Chairperson Cardone: On the next application David Krywosa and this was for the maximum allowed square footage and the maximum allowed height. And I think we took away the variance for the four vehicles… more than (4) four vehicles. This is a Type II Action under SEQRA.

Mr. Donovan: Correct, I believe the application has also been modified to reduce the request for height from twenty-one feet to nineteen feet.

Mr. McKelvey: I’ll make that motion to approve.

Mr. Levin: I'll second.

Ms. Gennarelli: Roll call.

 Richard Levin: Yes

 Michael Maher: Yes

 John Masten: Yes

John McKelvey: Yes

 Darrin Scalzo: Yes

 Grace Cardone: Yes

Chairperson Cardone: The motion is carried.

PRESENT ARE:

 GRACE CARDONE

 RICHARD LEVIN

 MICHAEL MAHER

 JOHN MASTEN

JOHN MC KELVEY

 DARRIN SCALZO

ABSENT:

 JAMES MANLEY

ALSO PRESENT:

 DAVID A. DONOVAN, ESQ.

 BETTY GENNARELLI, ZBA SECRETARY

 GERALD CANFIELD, CODE COMPLIANCE

 (Time Noted – 9:29 PM)

ZBA MEETING – MARCH 26, 2015 (Time Noted – 8:19 PM)

NICHOLAS COPPOLA 2211 ROUTE 300, WALLKILL

 (3-1-1.1) A/R ZONE

Applicant is seeking an Interpretation of Bulk Table - Schedule 2 and/or an area variance for the rear yard setback to build a two-story rear addition (12 x 15) on the residence.

Chairperson Cardone: Our next applicant Nicholas Coppola.

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

Chairperson Cardone: Just identify yourself for the record.

Ms. Coppola: My name is Ashley Coppola.

Mr. Coppola: Nicholas Coppola.

Ms. Coppola: We came here tonight to ask for a variance to extend our bedroom and from what my engineer has told me is that it’s close to the County line. We live in two separate Counties.

Chairperson Cardone: Right.

Ms. Coppola: So the front of our house is Orange and the back is Ulster.

Mr. Donovan: So Jerry have we had this before? And has it been a consistent determination of the Board that you measure off the County line?

Mr. Canfield: Yes.

Mr. Donovan: Okay, I…I would view it as a single lot that happens to have two tax designations. But if that’s been the determination of the Board who am I to argue. So did you go to Shawangunk to get the a…pool? Did they make you get a variance there?

Ms. Coppola: I don’t know we bought the house with the pool. I’m sorry.

Mr. Maher: Are you being taxed on the pool?

Ms. Coppola: We are being…no, we’re being taxed on the back part of our property. We pay taxes in Shawangunk…

Mr. Maher: Yeah, Shawangunk and…and…

Ms. Coppola: …and the Town of Newburgh. But the back part is not a buildable property so we only pay land taxes.

Mr. Scalzo: When you turn on your faucets all your wastewater goes into Ulster County. Do you have any idea the year was built?

Ms. Coppola: 1968.

Mr. Maher: So Dave, are we going for an Interpretation or are we going for a variance?

Mr. Donovan: Well the request is both in the alternative, you know, if…if the Board’s made a determination before that the County line is a…is a line of demarcation I…I…I’m certainly not going to upset that. If it was a case of first impression you know it’s my opinion that a County line is not a lot line. It’s for a tax map designation only because it’s two separate Counties. You know, I look at this as…this is you know, beginning on Route 300 and going to the rear of the property is one lot. I look at it as one lot. I don’t see anything in our definition of a lot that a…it talks about being bisected by a street but not by a…a County line. So I don’t…I don’t view that as a property line myself. But if this Board has done it in the past and Code Compliance has done it you can issue a variance.

Mr. Scalzo: I agree with you completely but the deed is written in two separate parcels, parcel one and two…

Mr. Donovan: So…so you don’t agree with me at all is actually what I’m hearing.

Mr. Scalzo: No, I do.

Mr. Maher: But he’s pointing out the obvious.

Mr. Scalzo: I’m pointing out the obvious, yes.

Chairperson Cardone: Well I think that the Board takes into consideration the fact that you have over…I look at over a hundred feet to the lot line.

Mr. Scalzo: If we’re…just if…if we’re looking at it this way then the house is not in conformance either so they’re just increasing the degree of non-conforming, correct?

Chairperson Cardone: But the addition is moving closer to the…to the County line. Do we have any questions or comments from the public?

No response.

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

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

Mr. Maher: Second.

Ms. Gennarelli: Roll call.

 Richard Levin: Yes

 Michael Maher: Yes

 John Masten: Yes

John McKelvey: Yes

 Darrin Scalzo: Yes

 Grace Cardone: Yes

Chairperson Cardone: Thank you.

 (Time Noted - 8:25 PM)

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ZBA MEETING – MARCH 26, 2015 (Time Noted 8:34 PM)

NICHOLAS COPPOLA 2211 ROUTE 300, WALLKILL

 (3-1-1.1) A/R ZONE

Applicant is seeking an Interpretation of Bulk Table - Schedule 2 and/or an area variance for the rear yard setback to build a two-story rear addition (12 x 15) on the residence.

Chairperson Cardone: I am going to back up to the last applicant which was Nicholas Coppola. We had closed that Public Hearing but we do not have a communication from the Orange County Department of Planning so we have to reopen that. And reopen and then I would appreciate a motion to hold it open until next month.

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

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

 Grace Cardone: Yes

Mr. McKelvey: Now I’ll make a motion we hold it open.

Chairperson Cardone: Do I have a second?

Mr. Scalzo: I’ll second.

Ms. Gennarelli: Who was the second? Okay, I’ve got to look up. Roll call.

 Richard Levin: Yes

 Michael Maher: Yes

 John Masten: Yes

John McKelvey: Yes

 Darrin Scalzo: Yes

 Grace Cardone: Yes

Ms. Gennarelli: That’s April 23rd it had to be Held Open because we didn’t get a response from the County, from Orange County. We had to send a referral in.

Ms. Coppola: Okay.

Ms. Gennarelli: So it will be on next month.

Ms. Coppola: Do we have to come back next month then?

Mr. Donovan: Well unless you’re otherwise busy, yeah, but just let us know.

Ms. Coppola: Thank you.

Mr. McKelvey: Just to let everybody know you won’t be re-noticed.

Chairperson Cardone: Right.

PRESENT ARE:

 GRACE CARDONE

 RICHARD LEVIN

 MICHAEL MAHER

 JOHN MASTEN

JOHN MC KELVEY

 DARRIN SCALZO

ABSENT:

 JAMES MANLEY

ALSO PRESENT:

 DAVID A. DONOVAN, ESQ.

 BETTY GENNARELLI, ZBA SECRETARY

 GERALD CANFIELD, CODE COMPLIANCE

 (Time Noted – 8:36 PM)

ZBA MEETING – MARCH 26, 2015 (Time Noted – 8:25 PM)

MICHAEL & JOANNE WRIGHT 16 ACORN DRIVE, WALLKILL

 (4-1-56.3) R / R ZONE

Applicant is seeking an area variance for an accessory structure closer to the fronting street than the main dwelling to build an accessory building (12 x 20 shed).

Chairperson Cardone: Our next applicant Michael and Joanne Wright.

Mr. Wright: Michael Wright.

Ms. Wright: Joanne Wright.

Mr. Wright: We’re here tonight with a revised location for a 12 x 20 accessory building. We moved it twenty-five feet back further from the road which is a total of…

Ms. Wright: Fifty-seven feet.

Mr. Wright: …fifty-seven feet. A…we worked with the Dovikins and came up with an agreement for a…the possible site. On the survey there’s up-dated footage and the Dovikins helped us triangulate a pin to get exact measurements from the road.

Mr. Donovan: And how far is that because I got a couple of maps in front of me.

Mr. Wright: Seventy foot, six inches.

Mr. Donovan: I have seventy-seven point six.

Mr. Wright: From the road setback and the other one is the pin that ends the radius for his cul-de-sac, seventy-seven feet six inches.

Mr. Maher: Alright, you…you provided us with a map that has handwritten fifty-seven foot.

Mr. Wright: That’s from the edge of the road.

Ms. Wright: We were originally back…

Mr. Maher: To the driveway?

Mr. Wright: From the driveway.

Ms. Wright: …thirty-two now we’re fifty-seven back from the driveway.

Mr. Maher: Okay. So where the seventy is…where’s the seventy?

Mr. Wright: The seventy there is a pin with a stake, an iron pin set in the driveway on very edge…

Mr. Maher: Okay.

Mr. Wright: …that Bob and our self were able to use…

Mr. Maher: I don’t see that dimension at all.

Ms. Wright: Betty, they don’t have the updated one.

Ms. Gennarelli: He should have it…it was on your…you were given it tonight.

Mr. Maher: Oh.

Mr. Donovan: I just wanted to be…

Ms. Gennarelli: It was submitted on the twenty fourth, look for the one that says the twenty fourth. And bring the microphone with you please.

Mr. Wright: I apologize.

Ms. Gennarelli: That’s okay. Everybody has the updated one; it came in on the twenty-fourth.

Mr. Wright: We had the flu…and we got delayed a little bit and then.

Mr. Maher: Oh, okay, thank you. Very good, thank you.

Chairperson Cardone: So the structure has not changed, the location has changed.

Mr. Wright: Correct.

Ms. Wright: Correct.

Mr. Levin: I see your neighbor is here. Is he in agreement with this line?

Mr. Scalzo: Richard, the second letter states that.

Mr. Levin: The second letter, yes. That’s right.

Chairperson Cardone: And I believe that was the only issue that we were looking at from last month. Do we have any questions or comments from the public? Please identify yourself.

Mr. Dovikin: Yes maam. Robert Dovikin residing at 10 Acorn Drive if I may approach the Board? I’m sorry, good evening to all the Board, maam and Board Members. There is a letter that my wife and I have generated. It may assist the Board basically I believe it’s going to be a reflection of what a…what Michael Wright and I generated as far as measurements on Monday, in the afternoon, Monday afternoon. A…we also have a copy here.

Chairperson Cardone: Did you wish me to read this into the record?

Mr. Dovikin: No, it doesn’t have to be read into the record. I just meant it to assist the Board in clarifying the location which I believe he already spoke about.

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

Mr. Maher: So your…the…the…your letter is consistent with the dimensions on the drawing, correct?

Mr. Dovikin: Yes sir, if I could just articulate it real quick? Seventy six, seventy feet six inches from a point…point that is named iron set pin located at the intersection of property line radius and the north edge of what is designated as the paved driveway. That’s seventy-seven feet, six inches from the point designated iron set pin located at the intersection of the property line radius and the property line mark a…I believe it’s north thirty-four degrees, fifty-four…I’m not a…I’m not a…

Mr. Maher: Twenty seconds.

Mr. Dovikin: Fifty north, twenty seconds, he’s right from…from the intersection of that property line, correct. And the…the packet I gave the Chairwoman, I amended their property line a…the drawing of their property plot to show that.

Chairperson Cardone: So that has a document that has been signed by both.

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

Mr. Levin: I’ll second the motion.

Ms. Gennarelli: Roll call.

 Richard Levin: Yes

 Michael Maher: Yes

 John Masten: Yes

John McKelvey: Yes

 Darrin Scalzo: Yes

 Grace Cardone: Yes

Chairperson Cardone: Thank you.

Mr. Dovikin: Thank you very much. I appreciate your time and consideration.

Chairperson Cardone: Thank you for your help.

Mr. / Ms. Wright: Thank you.

 (Time Noted - 8:34 PM)

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ZBA MEETING – MARCH 26, 2015 (Resumption for decision: 9:29 PM)

MICHAEL & JOANNE WRIGHT 16 ACORN DRIVE, WALLKILL

 (4-1-56.3) R / R ZONE

Applicant is seeking an area variance for an accessory structure closer to the fronting street than the main dwelling to build an accessory building (12 x 20 shed).

Chairperson Cardone: On the application of Michael and Joanne Wright.

Mr. McKelvey: I think we have…we got that settled by the two agreeing.

Chairperson Cardone: This was a Type II Action under SEQRA.

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

Mr. Levin: I'll second.

Ms. Gennarelli: Roll call.

 Richard Levin: Yes

 Michael Maher: Yes

 John Masten: Yes

John McKelvey: Yes

 Darrin Scalzo: Yes

 Grace Cardone: Yes

PRESENT ARE:

 GRACE CARDONE

 RICHARD LEVIN

 MICHAEL MAHER

 JOHN MASTEN

JOHN MC KELVEY

 DARRIN SCALZO

ABSENT:

 JAMES MANLEY

ALSO PRESENT:

 DAVID A. DONOVAN, ESQ.

 BETTY GENNARELLI, ZBA SECRETARY

 GERALD CANFIELD, CODE COMPLIANCE

 (Time Noted – 9:30 PM)

ZBA MEETING – MARCH 26, 2015 (Time Noted – 9:34 PM)

JOHN & CAROL HUDELSON 200 OAK STREET, NBGH

 (9-3-50.11) R-3 ZONE

Applicant is seeking an Interpretation of 185-15-A-1 and/or an area variance for the maximum allowed height of accessory structures to build a two-story garage (40 x 30 x 19’6”).

Chairperson Cardone: Our next applicant John and Carol Hudelson.

Ms. Hudelson: So good evening and greetings again to the Board, I’m Carol Pauli Hudelson from 200 Oak Street and I’ll try to recap fairly quickly. My husband and I came here for the first time last July. We were requesting a height variance or an area variance for an accessory building to be put into our backyard. It was going to be twenty-three and a half feet. A…the Board granted a variance to allow us an additional two hundred square feet in the footprint that said that twenty-three and a half feet was very tall. A…we came back, we took four feet off of the height of that building and returned in January, we were asking then for a nineteen and a half foot building which we are still requesting a…that mean a four and a half foot variance. Or we asked the Board to find that the gable side of the building would be the appropriate side to a…to use for the variance…for deciding how…how tall the building was. And I thought at that time that it might be that we would not use a…need a variance at all if we used that side of the building because it was already below grade. A…as you can see…oh, I’m sorry, the Board a…had two different…we had unfortunately submitted two different plot sketches of the land and so the last meeting ended with the Board saying please do a survey so that we can get a good look at a…the position of the proposed building a…and its relationship to neighboring property and to Oak Street and the setbacks. So we have had the survey done. I just got it myself today and…and brought it over this morning. A…as you can see this is not a city lot right…with square a…corners. This is a very irregular rural lot that follows Oak Street around a…the corner. A…if you think that the right space of this building to use for determining how much of a variance is needed, if you feel that that is this space which is almost due south a…because this is north and the…the map is a little bit skewed a…if you think that that is the right face to use it’s closer to the angle of the front of our house which is here. If you do then we would need a two foot variance. I thought that we might not need it at all but really we’re below grade thirty inches I measured this morning so two and a half feet below grade so then we would be… What would that make it? Seventeen feet above grade on that side. And that’s also if you’re using the maximum height as opposed to an average height because that’s a gable side. If you feel that this longer side is the…the appropriate side to use then we need a four and a half foot variance because that’s nineteen feet all the way across. We think that either one of those is a reasonable variance to request. A…one of the things that we learned in the survey a…was that while an accessory building needs to be set back five feet ours is set back at minimum forty-nine and a half feet or sorry, forty-nine…what’s that…forty-nine feet one inch I guess is more than forty-nine feet from the nearest a…corner of the neighboring lot a…we’re also sixty, more than sixty feet from the property line on the other side. The neighbor’s drive which is I think is their best vantage point for looking at this part of the lot…the yard that’s more than a hundred feet distance from the nearest corner. A…we are approximately…see I have all these distances here…a…two hundred feet from Oak Street as well. So as I understand it if we wanted to build a fifteen foot high building out of say cement blocks, six feet from the property we could have a lot of storage and not be here this evening but what we want to build is something more attractive than that. It’s a stone building that complements our house a…the…the roofline matches our house and that’s been our intention to do and that’s what our friend, who is also an architect, has drawn up. So that’s…that’s our request a…I have one other picture to give you a better look at the neighborhood or the surroundings if you’d like it. (Inaudible) But this roof here…

Ms. Gennarelli: I’m sorry, Carol, can you just grab that mic?

Ms. Hudelson: Oh, so sorry. I’m afraid this roof here is not going to work on the transcript is it? A…but…this…this is our house here on this bend in Oak Street…sorry for the wrinkles here. This is the foundation that’s now there that we want to build up and make into the accessory building. A…this is the drive which is that hundred feet away from the accessory building probably the time when the neighbor is most like…likely to see the building is coming around the drive. The nearest structure on their property about a hundred feet away is the garage and their house…there’s a…this is a hundred feet on this…on this map a…I think more than two hundred feet away. So we think that this will enhance the property. We don’t see that it will be a…you know, a…a detriment to anyone in their environs a…also both on the a…survey and on this map you can see that anyone who is coming here on Oak Street if they’re looking for that building in the back they would have to look through our house from this angle. By the time they get here there’s a row of mature hemlocks blocking the view. Here this is a…probably an early spring map so you can see there’s plenty of summer vegetation. And I do have a summer…summer view as well but there’s plenty of room between a…both our…our house or our accessory building here and the property line or the driveway on the property line, plenty of room to put evergreen hemlocks, whatever to grow up there and screen this from that side. Also this side of the building, the one that’s closet to the neighbor is also two and a half feet below grade. So the only side that is not and that cannot be is this side. So…a…that’s why we respectfully request the variance. We’ve come down four feet a…our neighbors acknowledge and always have acknowledged it’s an attractive looking building. Last time they said that the four feet decrease was a…a better proposal. I took some hope from that a…and I guess the only other thing to say is that we have always and we’ve had a long time commitment here to this neighborhood to the rural character of it, to the leafiness to you know the quiet and we don’t want to do anything that would disrupt that.

Chairperson Cardone: So what you are requesting at this point is nineteen point five feet?

Ms. Hudelson: That’s right. And, we’re happy to put in screening materials if that would be helpful and we’re below grade on at least two, we can be below grade on three of those sides to mitigate that height as well.

Chairperson Cardone: Do you have any comments Mr. Canfield?

Mr. Canfield: No.

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

No response.

Chairperson Cardone: Do we have any questions or comments from the public? Please state your name for the record.

Ms. Reed: I’m Clare Reed, I’m the next door neighbor a…I have a couple of things. I guess are we…that were concerned the variance, does the Board have a decision on the…or is there any a…any comments on the positioning of the building? Because, you know, if it’s not something I need to address I won’t waste your time but otherwise I will.

Mr. Scalzo: I must admit it’s much further in to the property than I thought.

Ms. Reed: I’m talking about the orientation of the building.

Mr. Scalzo: No question.

Ms. Reed: With that it’s closer to the first map that was submitted not the second one a...and I guess my concern is a…how you will determine that in terms of the orientation of the building and because to me it appears that the a…end side the a…side with the window is facing toward the river does not face towards street, the…that’s the portion that has some of it in the ground a…that the side that has the entry doors for the garage is the side that faces Oak Street more clearly that that’s not a…in the ground because obviously you are driving cars into it.

Ms. Hudelson: That’s right, that’s why we would need a four and a half foot variance there.

Ms. Reed: Yeah, I just wanted to make sure. A…because I guess a…I do have a question in terms of…so, so you’re not going for that interpretation anymore? Just the variance?

Ms. Hudelson: I think we need a variance in any case.

Ms. Reed: Okay, a…first of all, I’d like to thank the Board for its consideration on what has unfortunately become a very lengthy process a…secondly I would like to state for the record that by objecting to the proposed building I am in no way trying to cause a hardship for my neighbors. I’m simply trying to avoid a hardship for my family. A…I would like to address the issues that Carol addressed at the last meeting and that the…I guess the five criteria that you use to determine whether or not you grant a variance. First, undesirable change, detriment to nearby properties, I contend that the proposed structure will result in an undesirable change to the character of the neighborhood. The proposed building will be clearly visible from my property. As I previously stated because of property lines it will actually be visible from two sides as Carol mentioned. While there is some seasonal cover most of what Carol referred to as vegetation is brush. A…as can be seen from the survey, at least on my side, taller trees cannot be planted to further obscure the building on the driveway side because of overhead electric and power lines. I already have very, very mature a…deciduous trees, maple trees going up my driveway a…nothing grows under them at all except this crummy vegetation which over the years we’ve tried to limit to kind of tidy it up but it is what it is…a…and while the stone base of the building blends in very well with the surrounding area a…it’s still quite visible and I…I do have some additional pictures. Over the past several years I have been able to watch the stonewall increase in height and scope as I wondered what John was building. The red roof however is quite another matter. With a length of forty feet and a rise of eight feet over twelve we’re talking about a substantial surface area, approximately four hundred and eight square feet of red roof facing my property. Any additional height will only serve to make that roof more visible. As far as pictures go, many pictures have been submitted to the Board, as I mentioned last meeting pictures can be misleading. I had submitted two pictures at the last meeting, the first shows a stonewall barely visible above some tall grass, the second picture shows the same stonewall clearly visible because the grass has died back. Additionally by pulling the camera back a bit one can see that the earth had actually been mounded up against the stonewall giving the appearance that the wall was lower into the ground than it actually is. Like I said, I do have some additional pictures to submit tonight. What I would ask the Board to consider when looking at these pictures and I…I have two sets one to submit and one to get back from you to please but I can give you them both to look at right now. And actually what I did was a progression going up my driveway. I started on my front lawn and a…then gradually went up my driveway. The first two pictures are on my front lawn I haven’t even gotten to my driveway yet in terms of the part that curves up and around a…the rest of the pictures I was standing at the…in my driveway at the part closest to the Hudelsons. What I’m asking you when you look at these pictures is to consider what you don’t see in some of these pictures. It’s difficult to convey the impact of a building that’s not there yet. I do believe however that some of the pictures show how easily…how easy it currently is to see through and beyond the Hudelson’s property from my front yard and driveway and I’d ask you to imagine the impact of the building that would be there. A…if you look at the later pictures you can see I made notations on the paper but you can see the stonewall as it currently exists a…you can see the Hudelson’s roof on their house and what…on a couple of pictures I think it’s snow covered and as Carol mentioned, there is quite a distance and if you look at the distance, the distance Carol gave you even further her house is I think is like five of those little one inches, like a hundred and eighty or like…it’s very far and you can see how clearly visible the red roof is. That house sits quite a bit lower than the proposed structure because actually the property…the level of the property goes up probably about six feet from Alta Drive to the height of where this will sit. My property goes up on a slant, it continues to go up until you get the parcel where this a…building will be. So it’s going to sit up quite a bit higher. In the 7-24 decision the Board noted that the applicant provided no evidence of accessory garages or structures in the surrounding neighborhood having a similar height to the one being proposed. At the last meeting, the January 22nd meeting Carol made reference to some much larger buildings in the immediate vicinity; she continued some of them have attached garages in which we see garage and rooms on top of those garage doors. She is quite correct in stating that some of these homes have living space with erected height obviously above their garages. She also referred to a home further down on Oak Street that home does, in fact, have a Nanny apartment above the attached garage. There are however two problems with this argument. First the regulations for attached garages are different than unattached garages and therefore should have no bearing on this case. Secondly, the ability to use this height to accommodate living space is exactly what we are trying to prevent. It is my understanding that the express purpose of the fifteen foot restriction was to prevent future use of the space for living quarters. In the minutes of the July meeting Mr. Manley addressed the fact that large heights they generally morph into other things. The reduction of height in the proposed building from twenty-three, eight and a half inches to nineteen point six in no way precludes having living space on the second floor. As a matter of fact, with a stated first floor ceiling height of seven ten on the plan there’s approximately eleven feet left for the upper floor and associated structure. Number two, need for variance, in the July decision the Board found that the Hudelsons offered no real objective data as to why the height variance was needed. Nothing I heard at the meeting or read in the minutes of January a…addressed that need. Substantial…three, substantial nature of variances requested, in its July decision the Board stated that the applicant proffered no objective reason why the height variance as substantial as is being requested was required. According to the January minutes, the height variance at the new lower height is still thirty percent more than permitted by Code. From what I heard at the January meeting and read in the minutes no additional objective reasons were offered. According to Mr. Wilkinson the architect and I’m quoting because I didn’t want to misquote anybody, ‘one of the main reasons is to maintain the eight over twelve pitch which is a complement to the existing house so it’s an architectural reason’. My understanding is that while aesthetics are important and I do appreciate the look of the building a…I know you don’t want to look at a cinderblock building any more than I do a…my understanding is that aesthetics aren’t covered in the standards used to deny or grant a variance. And looking into Mr. Wilkinson’s body of work it’s clear that he is an extremely talented architect. I’m sure he can modify the design such that it would be in harmony with both the aesthetics of the Hudelson’s primary residence and the Town’s regulations. Number four, adverse physical environmental effects not applicable, self-created difficulty there’s no change in the real estate Summary what the Board is telling me would only grant a variance for an accessory building not for living space and that the Hudelsons would not be permitted to use it for living space. We all know that residents aren’t allowed to build accessory buildings in excess of one thousand square feet and in excess of fifteen feet high yet here we are. The Hudelsons have already granted…been granted a variance for area and are trying to get a variance for height. That building would be perfectly situated for a beautiful river view from the second story. The Board has repeatedly said that the Hudelsons have not provided objective reasons for needing so much space yet we are still considering the need for this added height. It is more than reasonable to wonder why they are willing to go to such great lengths and expense for a storage building. My firm belief is that we will be back here in a few years debating a request for a change of zoning or perhaps a subdivision of the property so this can become a separate residence. With each step allowed the next one becomes that much more likely. I’m asking the Board to simply honor the intent of the regulation and limit the building to fifteen feet. I am also asking the Board for a covenant restriction restricting future use.

Mr. Maher: Could you point out your house on the…

Ms. Reed: Sure.

Mr. Maher: …on the map there?

Ms. Reed: This is my garage, this is my house, this is my swimming pool.

Mr. Maher: So your house…

Ms. Reed: My kitchen…

Mr. Maher: … faces the river?

Ms. Reed: Excuse me?

Mr. Maher: Your house faces the river?

Ms. Reed: Yes.

Mr. Maher: Okay, the rear faces the river so this…this potential garage wouldn’t be in that view? Correct?

Ms. Reed: Oh no, no, no, no it doesn’t affect my view of the river at all.

Mr. Maher: Okay.

Ms. Reed: No, the river is here.

Mr. Maher: And in essence, if you’re looking towards their house you’ll see your…your garage prior to seeing…if you’re able to…based on the…on the pictures you provided, if you’re able to see it?

Ms. Reed: Actually, I don’t. It’s difficult to see. I can see my garage I actually have a bump out here a bay window I can see my garage from there. I cannot see my garage from the windows here on this side of the house. I can see straight back this way so I…I would see back this area in the…and the foundation goes this way…the foundation is starting here and going this way so I can…this is in the line of sight of my kitchen.

Mr. Maher: Right, I understand but based on the…on the pictures you provided the trees seem quite high so I’m…I’m…I’m… (Inaudible)

Ms. Reed: Oh, there’s huge trees…well first of all the pictures I took are from the driveway here.

Mr. Maher: Right.

Ms. Reed: Okay so…

Mr. Maher: So you said there was brush there earlier, there were no (Inaudible)…

Ms. Reed: No, I…I also said there were very mature trees that would prevent anything else from growing other than that brush so I’m saying most of those trees are leafy on the top. Okay but they are big old trees several which are dying and will need to come down, two of which are already dead but a…the brush…you see what the brush is that’s…that’s the brush.

Mr. Maher: No, I understand that.

Mr. Reed: Okay.

Mr. Maher: I’m trying to clarify how it’s…how it’s going to be in your line of sight so I’m trying to figure out from where your house is.

Ms. Reed: Well it’s…it’s…I’m looking at different thing depending if on my driveway or if I’m in my house. If I’m in the kitchen it’s visible this way. Okay, I mean as much as anything else here you know is there. If I’m in my yard because of the height I look at…if I’m on my deck I look right over my garage. My…my garage is thirteen and a half feet high so I see right over my garage. And what I’m trying to say is to take a picture now where you see trees a…which yes, in full summer are fully leafed out a…you know, you can’t see what you’re going to see through a tree unless it’s there and what I’m trying to show you is that a house that’s well over two hundred feet away from me probably I mean look from here to here and you’re seeing a red roof very easily and it sits way down. All I’m saying is I’m just asking for it to be minimized. I’m not asking for it…you know, that it not be there.

Mr. Maher: Is that from the road the pictures or from the driveway itself?

Ms. Reed: My, I’m sorry, my driveway.

Mr. Maher: Okay.

Ms. Reed: Yes, I pointed the wrong one. Because the taller this structure is the more visible it is, that’s all. Additionally I…I feel that the need for the height really hasn’t been met...other than aesthetics. Just the Board granted an area variance for increased storage there’s more than enough ability to store…I guess I have a thirteen and a half foot garage, I have storage on the second level a…so.

Chairperson Cardone: If I remember correctly the reason for the size of the building was because of the existing foundation, correct?

Ms. Hudelson: That’s right, we wanted to incorporate what was there in it and also come out far enough to have a stable wall because part of that really wasn’t stable and we wanted to keep the roofline, you know, complementary and we have a lot to store. I can say something about the red roof a…we actually replaced that roof a few years ago and we considered other colors a…red wasn’t my favorite, you know, roofs generally but as we looked at other colors and I thought like slate blue those kinds of things. The thing is that the stone in this area has a reddish tint to it and everything else looked wrong a…the best thing there with the kind of brick you know undertones to that stone was a red roof and so we replaced it with that same color and we think aesthetically it’s the best thing that we can do with that. It’s not blue stone, it’s kind of an ochre you know, yellowish stone…so.

Ms. Reed: I do have one more question…a question for the Board actually when…before they go to deliberate. I’m a little unsure as to a…I guess I’m getting the height of a building is not an absolute that a…like if I wanted to increase the height of my a…existing detached garage that I could regrade the land around it a…and secondly and probably more importantly if…if the intent of the fifteen foot height resolution as stated by the Board is to prevent living space above an accessory building I’m unclear how that’s changed by the fact that a small portioned building and it is a small portion of the building whether it’s a part of three sides or not a…can be made to be below grade. Is that just a loophole to circumvent the intent of the regulation a…because back at the January meeting I guess Mr. (Mrs.) Cardone expressed concern what would happen if the building exceeded the agreed upon height and Mr. Maher stated that it would be graded they are able to adjust that accordingly to meet the requirement. So you can mitigate the height of a building just by grading it? Doesn’t that defeat the purpose?

Mr. Scalzo: I suppose it would depend on the building face it was measured from.

Ms. Reed: You get my point no matter where you measure it from you’re saying okay as long as you know…if the foundation wasn’t there and they could have turned it the way they did in the second survey, then it’s okay? Now we’re good? Because my…my…the front of my garage doesn’t face anything … what does that sign say?

Mr. Scalzo: It says get closer to the mic.

Ms. Reed: Oh, sorry, thank you.

Mr. Scalzo: It’s just for me.

Ms. Reed: It’s only my garage doesn’t face anybody for…it doesn’t face a road for probably a mile…a mile I guess so…

Mr. Maher: I believe at the time, the discussion was if in fact the gable side was the front of the building at which point it’s measured in the front… Correct Jerry, facing the front? The front yard setback?

Ms. Reed: You measure from the top of the roof though right? Not the bottom of the roof? Right?

Chairperson Cardone: Well the definition…

Mr. Maher: (Inaudible) measure from the base of the grade, whatever the grade is when the building is completed to the…to the peak of the roof.

Ms. Reed: Okay, that’s what I meant.

Mr. Maher: Based on the side that’s facing the front yard.

Ms. Reed: Okay.

Chairperson Cardone: The building height is the vertical distance measured from the average elevation of the finished grade along the side of the structure fronting on the nearest street to the highest point of such structure because that’s the definition in the Code.

Ms. Reed: So that’s the along the side is to…is to Oak Street. Okay.

Mr. Maher: But it would also appear that in that it does say finished grade so if…if they…if they actually specified…if in fact the gable side was facing the front and they specified that they would have no more than seventeen and a half feet there, whether it’s fifteen feet or now…or not…really doesn’t concern it’s a question of what their grade…final grade is going to be measurements going to be at the time.

Ms. Reed: Well with the garage doors being there that…

Mr. Maher: No, I understand but in general, you said…

Ms. Reed: But still…

Mr. Maher: …you basically stated that…you could facilitate the…the elevation or the height of the building based on the grade and in fact you can in some rare instances. And this would be one of them if in fact this was the front of the building.

Ms. Reed: Well that would leave the door open for a lot.

Mr. Maher: Well, I mean, I don’t see being able to bring in ten foot of fill obviously but I mean within reason you can adjust the grade if necessary to accommodate your…what your needs at the time really.

Ms. Reed: Thank you.

Mr. Maher: You…you had…I know your architect well I’m assuming was on site there took the measurements cause you had stated that your…your grade was only in the rear of the building on the…on the east elevation about thirty inches.

Ms. Hudelson: I’m trying…I want to be sure that I know which…

Mr. Maher: I’m going to say the gable facing the closest to the river.

Ms. Hudelson: This one, right, that was thirty inches. I think he was thinking of building up higher there a…

Mr. Maher: I’m…I’m just curious.

Ms. Hudelson: A…it is currently at thirty inches…

Mr. Maher: …because it shows…

Ms. Hudelson: …and I’m more comfortable with that because…

Mr. Maher: …no, no I understand I’m just saying it shows existing…

Ms. Hudelson: …it’s a stone wall. I don’t want to hide it.

Mr. Maher: I’m just curious as to if in fact it’s higher behind you know, in essence higher behind you currently in the future whatever but it does show existing that’s why I was curious.

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

Ms. Hudelson: If I may I just wanted to say one thing but I didn’t want to interrupt it sounded…it seemed very studious up here so a…only that I continue to have some confidence that we can find screening materials that would be evergreen that would grow in this gap that is between the building and you know, the property line or on their side of the property line but certainly I’m…I’m…I’m pretty optimistic that we can find something. We have planted some evergreen trees in here that are doing fine. They’re growing up in there and we can do more. I’m happy…I’m happy to screen this to make sure that while I don’t think I can make it invisible I don’t think that’s also one of the requirements for a variance.

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

Mr. Masten: I’ll make a motion.

Mr. McKelvey: I’ll second.

Ms. Gennarelli: Is that John? Thank you. Roll call.

 Richard Levin: Yes

 Michael Maher: Yes

 John Masten: Yes

John McKelvey: Yes

 Darrin Scalzo: Yes

 Grace Cardone: Yes

Chairperson Cardone: Before proceeding the Board will take a short adjournment to confer with Counsel regarding legal questions raised by tonight’s applications. I would ask in the interest of time if you would step into the hallway and then we’ll call you in shortly.

 (Time Noted - 9:08 PM)

ZBA MEETING – MARCH 26, 2015 (Resumption for decision: 9:30 PM)

JOHN & CAROL HUDELSON 200 OAK STREET, NBGH

 (9-3-50.11) R-3 ZONE

Applicant is seeking an Interpretation of 185-15-A-1 and/or an area variance for the maximum allowed height of accessory structures to build a two-story garage (40 x 30 x 19’6”).

Chairperson Cardone: On the application of John and Carol Hudelson. And this was an application for the height of the accessory structure which in the original application had been twenty-four feet now is nineteen point six. This is a Type II Action under SEQRA. Do we have discussion on this application?

Mr. Donovan: I think as a preliminary matter there was in the original application a request for an interpretation. So I…I think we should clarify, the Board was pretty consistent that a nineteen foot variance is required since…I don’t have the definition in front of me but the a…nearest fronting street is Oak Street to the a…easterly side of the building.

Chairperson Cardone: Correct, what was submitted by Mr. Mattina was correct.

Mr. Donovan: As confirmed by the survey prepared by Steven Drabek submitted a…this evening.

Chairperson Cardone: Do we have discussion on this application?

Mr. Maher: Well the original proposal was for twenty-three foot eight inches. Correct?

Chairperson Cardone: I believe so.

Mr. Maher: Twenty-three foot, eight point five inches on the last application. The new plan submitted off the survey are that of nineteen foot six inches.

Mr. Scalzo: Something that was never asked during the actual Public Hearing, the utility poles with the overhead wires over the foundation…the utility poles appear to go over where the structure is going to be will they need to be relocated for any reason? Are they high enough?

Ms. Gennarelli: Carol…Carol…

Mr. Scalzo: And Jerry, is there a minimum requirement for…I…I know if that carries electric I know there is a separation requirement but I don’t recall what it is.

Mr. Canfield: That requirement is Central Hudson and its ten feet.

Mr. Scalzo: You wouldn’t happen to know the height of those cables would you?

Ms. Hudelson: I don’t and I…

Ms. Gennarelli: I’m sorry, it’s being recorded Carol. Sorry. Is it still on? Is the mic still on?

Ms. Hudelson: A…yeah, I think so a…I don’t have that information a…what…what happens in a case like this? Does it get re-routed? Do you…it just get…you…it just has to clear by ten feet the roof at that point is what you’re saying?

Mr. Canfield: The requirement is a requirement by the utility company and it’s a ten foot separation between energized lines and combustible material. To relocate those lines is very costly but again that’s something that’s at the…its Central Hudson’s responsibility and its Central Hudson only and the phone company. I don’t know what those lines are a…but if they are there and they are over the roof of the building it’s something that has to be clarified and cleared with Central Hudson. It’s their requirement.

Mr. Masten: Jerry, it’s been…a…those…those poles up in that area they’re still the old thirty…thirty footers and a…and they’re usually four inches from the top of the pole the primary goes and if there’s secondary’s on them I don’t know. You have to have…like you say, have Central Hudson look at them. But most of those pole like I say are all thirty footers up there.

Mr. Canfield: One thing though, on the survey I did not see a delineation or noted of a Central Hudson right of way which typically were their power lines they will have a right-of-way and then if that’s the case then there is a restriction of building within their right-of-way but I did not see that on the survey.

Mr. Scalzo: They may be privately owned both utility poles may be privately owned.

Mr. Masten: That’s right.

Mr. Canfield: Do you know if you own those poles?

Ms. Hudelson: I believe people have come out to service those poles so I don’t believe that we own that one that’s back there…no, in that corner a…yep and I…that’s all I know.

Mr. Maher: These…these service your house, correct?

Ms. Hudelson: Yeah.

Mr. Scalzo: Well no actually it appears as though they also head to the south east, south west pardon me.

Ms. Hudelson: That pole may…yeah…may also…go to the Reeds.

Mr. Scalzo: As shown on the survey, yeah.

Mr. Canfield: That could be a game changer.

Mr. Scalzo: I apologize for not asking two meetings ago.

Mr. Canfield: Yeah, I wasn’t aware that they were either.

Mr. Donovan: I’m not sure that they were shown on any information that we had before.

Mr. Scalzo: No they weren’t. This is the first time we’re seeing them on…

Mr. Canfield: Right. But yeah, I know there’s been a lot of time and effort into this however I think you need to see what the height of those wires are and how this anticipated structure fits into that, you know, underneath those wires. And I think also you need to identify who owns those poles and a verification if there is a Central Hudson easement or a telephone company easement.

Mr. Masten: Yeah.

Mr. Scalzo: Well typically there is a tag right on the pole.

Mr. Masten: Yeah there should be a…

Mr. Scalzo: Typically there is a tag right on the pole that says privately owned.

Mr. Canfield: Well yeah or…

Mr. Scalzo: Or owner.

Mr. Canfield: …it may say AT&T; I don’t know how long it’s been there.

Mr. Masten: It’s an old tag, it’s on the pole and it would tell the Newburgh District on it, the pole number and everything. Because a lot a…sometimes they’re jointly owned by Central Hudson and the phone company.

Mr. Donovan: But when you say it’s a thirty footer you’re talking about the height of the pole itself not with the…not with the…

Mr. Masten: It’s the pole.

Mr. Donovan: …not where the a…wire would be?

Mr. Masten: No.

Mr. Donovan: So…

Mr. Canfield: It’s the total length of the pole.

Mr. Masten: Yeah.

Mr. Canfield: It’s in the ground eight, ten feet at least.

Mr. Masten: At least five.

Mr. Donovan: So if you needed ten foot clearance from the…from the roof to the…to the line…

Mr. Scalzo: You’re right there.

Mr. Donovan: …you’re right there or it’s not right there.

Mr. Maher: Well you’ve also got a grade change to, it’s even worse.

Mr. Canfield: If I may, not to prolong this, I think the correct way to handle this is then have the applicant submit to the Board a…perhaps through their surveyor or engineer identifying the poles, who owns them, what utilities are on the pole and most importantly if it’s energized which we anticipate that it is that you can meet the requirement, the ten foot separation and that’s a public safety issue. Like I said, I think this may be a game changer. And again, I also apologize for not seeing that beforehand.

Mr. Maher: I believe that…I believe that the survey was recently submitted though.

Mr. Scalzo: The twenty-fourth (twenty-sixth) of March.

Ms. Hudelson: Yes, it was just today.

Mr. Maher: We didn’t actually have a (inaudible) survey…

Mr. Scalzo: No we had the old Corwin survey.

Mr. Maher: So we didn’t have that information available.

Mr. Donovan: Well that being the case, I mean we closed the Public Hearing, is that something that you may want to consider reopening?

Chairperson Cardone: I think it should be reopened. We need that information.

Mr. Scalzo: I’ll make a motion to reopen the Public Hearing. That’s two times in one night.

Mr. Donovan: Darrin what did you say, I can’t…

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

Mr. Masten: I’ll second it.

Ms. Gennarelli: Okay.

 Richard Levin: Yes

 Michael Maher: Yes

 John Masten: Yes

John McKelvey: Yes

 Darrin Scalzo: Yes

 Grace Cardone: Yes

Chairperson Cardone: And now we need a motion to hold it open until next month.

Mr. Maher: I’ll make the motion.

Mr. McKelvey: I'll second.

Ms. Gennarelli: I’m sorry, I wasn’t looking was that you Mike? Thank you. And the second John McKelvey. Thank you.

Mr. Canfield: Grace, just one question. Procedurally perhaps for Dave, the Board can reopen the hearing minus one Board Member?

Mr. Donovan: Well based upon the information that was just discovered, yeah absolutely, yes we can. It’s not a re-hearing of the application because we haven’t made a determination.

Mr. Canfield: Okay.

Mr. Donovan: It’s different when the Board has made a determination then they would need to vote unanimously and it will be the…if there was a quorum present…

Mr. Canfield: Okay.

Mr. Donovan: …you can…you can still do it without you know a full complement of Board Members.

Chairperson Cardone: Right.

Mr. Donovan: But since not vote has been taken, new information has come to light so it’s within the Board’s purview and it’s appropriate to reopen the Hearing.

Mr. Canfield: Very good. Thank you.

Ms. Gennarelli: Okay, roll call.

 Richard Levin: Yes

 Michael Maher: Yes

 John Masten: Yes

John McKelvey: Yes

 Darrin Scalzo: Yes

 Grace Cardone: Yes

Ms. Gennarelli: Thank you.

Chairperson Cardone: And that will be April the 23rd no one will be re-noticed.

Ms. Hudelson: I guess I was just wondering if it could be approved conditioned on information coming from this.

Chairperson Cardone: I think we really need that information.

PRESENT ARE:

 GRACE CARDONE

 RICHARD LEVIN

 MICHAEL MAHER

 JOHN MASTEN

JOHN MC KELVEY

 DARRIN SCALZO

ABSENT:

 JAMES MANLEY

ALSO PRESENT:

 DAVID A. DONOVAN, ESQ.

 BETTY GENNARELLI, ZBA SECRETARY

 GERALD CANFIELD, CODE COMPLIANCE

 (Time Noted – 9:42 PM)

ZBA MEETING – MARCH 26, 2015

END OF MEETING (Time Noted – 9:42 PM)

Chairperson Cardone: Is there any other business to come before the Board? Everyone has the minutes from last month? Had a chance to read them, do we have any corrections?

Ms. Gennarelli: Yes, we have one correction. On Brian Agnew, on page five it says on one, two, three, four, the fifth paragraph…it says Mr. Agnew actually it was Mr. Canfield that spoke.

Chairperson Cardone: Okay, thank you. And that stands as corrected.

Ms. Gennarelli: Thank you.

Mr. Scalzo: Also, do you have those meeting minutes in front of you, the original sheet?

Ms. Gennarelli: Which one?

Mr. Scalzo: It doesn’t…for last month’s meeting minutes it doesn’t state who led the Pledge.

Ms. Gennarelli: Okay.

Mr. Scalzo: I just picked that up.

Ms. Gennarelli: Thank you. Okay and who did?

Mr. Donovan: Well actually Darrin did but he just wasn’t close enough to the microphone to pick it up.

Ms. Gennarelli: I’ll have to listen to the tape. Was that payback for the sign?

Mr. Scalzo: Just for accuracy here.

Ms. Gennarelli: Thank you, I appreciate it.

Ms. Hudelson: I’ve been looking at Ms. Cardone just to see if I could get her attention and I just wanted to say this is now the third session that I have been at. So far nothing has really gone in a way that made me happy but I do want to express my appreciation to the Board and the work that you do and I’m sincere in saying that. I just think that you take care and…and you think about it. You’re thoughtful; I know you’ve been to our property, any way thank you.

Chairperson Cardone: Do we have a motion to adjourn?

Mr. Scalzo: I’ll make a motion to adjourn.

Mr. Masten: I’ll second it.

Chairperson Cardone: All in favor say Aye?

Aye All

Chairperson Cardone: Opposed?

No response.

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

PRESENT ARE:

 GRACE CARDONE

 RICHARD LEVIN

 MICHAEL MAHER

 JOHN MASTEN

JOHN MC KELVEY

 DARRIN SCALZO

ABSENT:

 JAMES MANLEY

ALSO PRESENT:

 DAVID A. DONOVAN, ESQ.

 BETTY GENNARELLI, ZBA SECRETARY

 GERALD CANFIELD, CODE COMPLIANCE

 (Time Noted – 9:44 PM)