ZONING BOARD OF APPEALS

MEETING – APRIL 23, 2015

(Time Noted – 7:02 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 turn it off or put it on silent. And also when speaking, speak directly into the microphone because it is being recorded. Roll call please.

PRESENT ARE:

 GRACE CARDONE

 RICHARD LEVIN

 MICHAEL MAHER

 JAMES MANLEY

 JOHN MASTEN

JOHN MC KELVEY

 DARRIN SCALZO

ALSO PRESENT:

 DAVID A. DONOVAN, ESQ.

 BETTY GENNARELLI, ZBA SECRETARY

Pledge of Allegiance to the Flag led by James Manley

(Time Noted – 7:04 PM)

ZBA MEETING – APRIL 23, 2015 (Time Noted – 7:04 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: If anyone is here regarding the Hudelson application I have a letter here.

Dear Mrs. Cardone and Members of the Zoning Board of Appeals; At your March 26 meeting the Board asked us to confer with Central Hudson to insure that utility lines near our planned accessory building would not pose a safety risk. Not surprisingly Central Hudson was unable to come to our home the next day while I was in Town for the Public Hearing. My next opportunity to meet on site with Central Hudson will be after your April meeting. We ask that the Board hold our hearing open until the May meeting. Thanks again for your time and attention. Sincerely, Carol Pauli Hudelson

Do we have a motion?

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

Mr. Masten: I’ll second it.

Ms. Gennarelli: Roll call.

 Richard Levin: Yes

 Michael Maher: Yes

 James Manley: Yes

 John Masten: Yes

John McKelvey: Yes

 Darrin Scalzo: Yes

 Grace Cardone: Yes

Chairperson Cardone: So that is going to be held over until next month if there is anyone here concerning that application you would not be re-noticed but we would be meeting next month, the fourth Thursday of the month.

Ms. Gennarelli: May 28th.

PRESENT ARE:

 GRACE CARDONE

 RICHARD LEVIN

 MICHAEL MAHER

 JAMES MANLEY

 JOHN MASTEN

JOHN MC KELVEY

 DARRIN SCALZO

ALSO PRESENT:

 DAVID A. DONOVAN, ESQ.

 BETTY GENNARELLI, ZBA SECRETARY

 (Time Noted – 7:06 PM)

ZBA MEETING – APRIL 23, 2015 (Time Noted – 7:06 PM)

C D & SONS CONSTRUCTION CORP. 12 BANNERMAN VIEW DRIVE, NBGH

 (22-4-6) R-3 ZONE

Applicant is seeking area variances for Lot #1 (Building Permit #13-0428) for one side yard setback and the minimum lot width and for Lot #2 for the minimum lot width for a proposed two-lot sub-division.

Chairperson Cardone: Our first applicant CD & Sons Construction Corporation.

Ms. Gennarelli: The Public Hearing Notices for all the new applications being heard this evening were published in the Mid-Hudson Times on Wednesday, April 15th and in The Sentinel on Friday, April 17th. This applicant sent out forty-four letters. All the mailings, publications and postings are in order.

Chairperson Cardone: Please identify yourself for the record.

Mr. Brown: I’m Charles Brown the engineer for the applicant. This proposal is…is a two-lot subdivision a…that went before the planning board and was referred a…to the Zoning Board a…back in late 2013. We came before this Board back then a…seeking some…some minor variances for…for the two lots which I’ll get into in…in a minute. A…a…the Board looked favorably…this Board looked favorably upon that as long as we could provide a…proof of a connection to the Town water service. A…at that time we were proposing to extend the waterline and put a new fire hydrant in a…we spent a year going through a…Health Department…Orange County Health Department approvals for the extension of the waterline only to get to the a…Town Water Department and a…at what point we were told that a…we would provide…they would provide us with two taps for two individual services and not to extend the line or move the hydrant. So a…that’s the only change on the plan since what was a…from what was before this Board before. Lot 1 has an existing or residence that’s under construction a…on that…that lot a…we…a…we’re looking for side yard variances of three point seven feet, we have eleven point three, fifteen is required and a…width variance down to eighty-five point eight feet where a hundred is required. A…Lot 2 a…the variance requested is for five foot on the lot width. A…these…these lots…these proposed lots are totally in character with the rest of the lots on Bannerman View Drive which is a private road a…this would…would comply with zoning if we rotated the a…proposed subdivision line however that’s not feasible due to topography and the location of the water service. In other words if I ran the lot this way it would meet all zoning so. We do have enough lot area a…to do that but again because a…there’s no sewer up there, we had to put septics in a…the topography and the location of the water a…this is the only feasible orientation for the two lots. A…it’s not out of character with the neighborhood again all the other houses in the area are a…on lots the same size a…and a…that’s it.

Chairperson Cardone: I just have to correct one thing you said that…you said the Board looked favorably upon it. The Board did not vote on it so there was no determination there.

Mr. Brown: Okay.

Mr. McKelvey: You are all clear with the County now then?

Mr. Brown: Because we a…are…are just going through two water taps off of the existing main a…that does not require Orange County Health Department approval, just the Town Water Department approval. We did submit a letter with our package that…that documents we have that a…I have another copy with me if need be.

Mr. McKelvey: No, we have it.

Mr. Brown: Okay.

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 step to the microphone and identify yourself for the record.

Mr. Zalanowski: Good evening, I’m Paul Zalanowski I am representing the Bannerman View Drive road maintenance association a…we make sure the road is clear during the winter and we try to maintain the best we can the integrity of the road year round. So my question is a…to Mr. Brown, the water taps that you are referring to which I don’t have a reference to a map a…is it going to be requiring a digging up of the road?

Mr. Brown: The water taps would come off of the main…the main ends right where the hydrant is. Okay? The water taps would come off in that vicinity there. We will not have to disturb the road a…there is one driveway of the adjoining lot a…Comparetto a…and that portion of that driveway where it’s in the private road right-of-way a…we could transfer the two taps at the same time it will be patched the same day.

Mr. Zalanowski: Okay. So as long as the road isn’t a…disturbed that was our number one concern. That concern being satisfied and Mr. Brown said he will not a…break up the integrity of the road a…we welcome another a…house on that block. It would be good for the neighborhood and I’m sure good for CD & Sons. Thank you.

Chairperson Cardone: Thank you. Do we have any other comments?

Mr. Maher: Grace, we received this…

Chairperson Cardone: Yes but nothing was…

Mr. Maher: …from the association…

Chairperson Cardone: …nothing was signed. It said, we the undersigned are residents of Bannerman View Drive and are against approving any variance to Lot one and two as proposed by CD & Sons Construction Company, but it was not signed. No one signed it.

Mr. Maher: Okay I wasn’t sure we just got copies…of, if there was a signed copy.

Chairperson Cardone: Right.

Mr. Brown: I…I was also in receipt of that. My client had been trying to, you know, get with the association to settle up on the…a…outstanding…his outstanding portion towards the maintenance of the road. That has been done a…at this time so a…that’s…I’m assuming why, you didn’t get a signed copy. It was…they forwarded it to me so that I could put my client Carlos together with the association so he could settle up his outstanding account.

Chairperson Cardone: Right it had the list of several names in the association but when we get something that’s not signed and it’s anonymous, you know.

Chairperson Cardone: Is there anything else from the Board?

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

Mr. Levin: Second the motion.

Ms. Gennarelli: Roll call.

 Richard Levin: Yes

 Michael Maher: Yes

 James Manley: Yes

 John Masten: Yes

John McKelvey: Yes

 Darrin Scalzo: Yes

 Grace Cardone: Yes

Chairperson Cardone: Thank you.

Mr. Brown: Thank you.

(Time Noted - 7:13 PM)

ZBA MEETING – APRIL 23, 2015 (Resumption for decision: 9:03 PM)

C D & SONS CONSTRUCTION CORP. 12 BANNERMAN VIEW DRIVE, NBGH

 (22-4-6) R-3 ZONE

Applicant is seeking area variances for Lot #1 (Building Permit #13-0428) for one side yard setback and the minimum lot width and for Lot #2 for the minimum lot width for a proposed two-lot sub-division.

Chairperson Cardone: The Board is resuming its regular meeting. On the first application CD & Sons Construction Corp., this is a Type II Action under SEQR. Do we have discussion on this application?

Mr. Scalzo: I think it certainly helps having the support of the a…homeowner’s association.

Mr. Manley: Motion to approve.

Mr. Masten: I'll second it.

Ms. Gennarelli: Roll call.

 Richard Levin: Yes

 Michael Maher: Yes

 James Manley: Yes

 John Masten: Yes

John McKelvey: Yes

 Darrin Scalzo: Yes

 Grace Cardone: Yes

Chairperson Cardone: The motion is carried.

PRESENT ARE:

 GRACE CARDONE

 RICHARD LEVIN

 MICHAEL MAHER

 JAMES MANLEY

 JOHN MASTEN

JOHN MC KELVEY

 DARRIN SCALZO

ALSO PRESENT:

 DAVID A. DONOVAN, ESQ.

 BETTY GENNARELLI, ZBA SECRETARY

 (Time Noted – 9:04 PM)

ZBA MEETING – APRIL 23, 2015 (Time Noted – 7:13 PM)

JAMES B. ANDERSON 153 FOSTERTOWN ROAD, NBGH

 (43-1-1.2) R-2 ZONE

Applicant is seeking an Interpretation of 185-30 and/or an area variance to allow the parking of a commercial vehicle (greater than 16,500 lbs.) outside of a garage or carport at the residence.

Chairperson Cardone: Our next applicant James B. Anderson.

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

Mr. Anderson: Good evening, James Anderson, 153 Fostertown Road. I am appearing again before the Board a…requesting that I have the ability to park my tractor trailer on my property a…as I’ve been doing for decades and a…there have been heavy trucks parked in my driveway since World War II noting a…Nelson Sanitation. Previously before this Board it was suggested that I withdraw the use a…variance request and apply for an Interpretation a…as I was doing that Joe Mattina suggested that I apply for all three. So since I had just withdrawn the Use variance request a…I apply now for the area variance and an Interpretation of that Section noted.

Chairperson Cardone: I have the report from the Orange County Department of Planning.

The applicant has requested an interpretation of Town of Newburgh Code 185-30 outdoor storage. It is our opinion that the parking of this vehicle is consistent with the intent of 185-30 however, the County makes no recommendation as to the approval or denial of this use and their recommendation is Local Determination. Do we have questions from the Board?

Mr. Manley: I have a question for a…Counsel. In the way that…what I want to actually ask is specifically under 185-30 a…the applicant is asking us, asking the Board to interpret whether or not it applies to a commercial trailer when it is detached from the tractor. If this Board were to interpret that when the tractor is separated from the trailer that you can park it, you know, on the property that would potentially mean that anybody that has a trailer then could park their trailer anywhere in the Town in a residential area. Would that…would that be correct?

Mr. Donovan: Well I think what the issue is…we talked about it last time, is drawing a distinction between parking and storage. So I believe the other provision of the Code was referred here before was 185-13-E…if I recall it correctly, which talks about off street parking of commercial and recreation vehicles. So I…I think, Mr. Anderson, your position now is that this is storage and not parking, correct?

Mr. Anderson: Well that what was suggested to me at the previous appearance here was that it would meet that criteria if I put the tractor inside the barn.

Mr. Donovan: But the…the…okay, so if you…you unhitch the tractor, you put that inside and you leave…and how long will…will it be with…with the trailer be left there. Does it vary?

Mr. Anderson: It does vary. It could be overnight. It could be for a week depending on my work load when I might be using it again but that trailer would be parked behind the barn and a…meet the criteria of a…being obscured.

Mr. Donovan: So Jim, I think the…the answer to your question is yes but if you take a close look at 185-30 A, it says that you can’t store a trailer unless you meet the four criteria. Well Mr. Anderson if he satisfies the four criteria this Board indicates that that’s storage because this says storage of trailers is prohibited unless you meet the four criteria. So if he satisfies that criteria and anyone else in the Town did in the residential zone the answer to your question would be yes.

Mr. Manley: Okay, then this is where this opens Pandora’s box is if someone else meeting that same criteria then if the Board were to interpret it that way that it’s considered storage you may have people parking cars in Meadow Hill, Meadow Winds a…on their property with the tractors detached and at that point the Zoning Board has interpreted that that’s okay which potentially means that I think it really defeats the purpose of why the Town enacted that in the first place, which was to really prevent that.

Mr. Donovan: Well that’s certainly one way to look at it. The other way to look at it is to say no you can’t do that, you can’t store the trailer unless you meet these four criteria. So…so that…those criteria just to summarize the use shall be an accessory use shall be located on the same lot as the use to which it is an accessory, materials or products shall not be stored within the front yard, shall not be closer to ten feet to any side yard or rear lot line or fifty feet from a side or rear lot line adjacent to a residential district, a…all outdoor areas shall be appropriately screened with landscaping so as to provide an opaque sight barrier of at least eight feet in height and in no case shall materials stored as to exceed the height of the sight barrier. I…I don’t know how high the trailer is…I don’t know if…

Mr. Scalzo: Up to thirteen six, correct?

Mr. Anderson: Well it could be but this is a…eleven.

Chairperson Cardone: And it would be parked behind the barn?

Mr. Anderson: Yes.

Chairperson Cardone: Which I believe is a…

Mr. Anderson: Nineteen.

Chairperson Cardone: …nineteen feet.

Mr. Donovan: Okay. And no storage area shall occupy more than thirty percent of the required side or rear yard. I don’t know if we have a calculation on that or not.

Mr. McKelvey: I think Jim there’s…I think there’s a weight limit in the…in the developments, bringing a tractor-trailer in.

Chairperson Cardone: And also they’d have to meet that criteria that they couldn’t be seen. This is a situation where there is a…a large building and it is parked behind the building. It can’t be seen. And the amount of…of feet is provided.

Mr. Maher: And just to reiterate, the…the tractor we’re discussing is putting it in the garage itself and the trailer left out…outside.

Mr. Anderson: Yes.

Chairperson Cardone: I think the issue last time was also and I think that you brought this up whether it was a use or an area variance.

Mr. Donovan: Correct. Code Compliance viewed it as a use variance. I had some question about that but I think I was in the distinct minority as to the designation of that variance.

Chairperson Cardone: I’d like to hear again your reasoning as to it being an area variance.

Mr. Donovan: Well the…the first time this came to us was for a violation of 185-13. 185-13-E…a…says that…let me find it now… 185-13-E-(2) says the vehicle is on a private lot, is operated by an occupant of a principal building and the commercial vehicle is totally contained within a garage or carport. And the issue with this we’ll call it vehicle for purposes of this discussion but you couldn’t…you couldn’t fit in the garage so part of it in effect stuck out.

Mr. Anderson: Yes.

Mr. Donovan: So, Code Compliance viewed it as an area variance. I kind of thought…I’m sorry as a use variance. I kind of thought it was an area variance because if you’re able to fit the vehicle within the garage you’d be fine. You wouldn’t be coming to this Board. So to me that meant that that use was permitted so long as that condition was satisfied. We did adjourn that Hearing. I did have two…at least two conversations with Code Compliance they believed it was a use variance and my…my recollection at least as reported to me is that’s kind of how the Chair felt as well. A…I…I took the view that since you’re allowed to have the vehicles as long as it’s totally within the garage that the use was allowed and that it was a dimensional requirement that the vehicle didn’t fit in the garage and therefore it was an area.

Chairperson Cardone: The other structure that’s on the property is that going to remain? Next to the, at least the day that the last time I went there which was recently, a…as you’re facing the barn to the right of it there was something…

Mr. Anderson: That’s a storage shed and that can be moved. That’s not a problem.

Chairperson Cardone: These photographs with the dimensions you submitted?

Mr. Anderson approached the Board

Mr. Anderson: The dimensions?

Chairperson Cardone: It’s written up here.

Mr. Anderson: Inaudible.

Ms. Gennarelli: Mr. Anderson, could you just get the microphone because none of that is being recorded. Did you submit that? Did that come with your application?

Mr. Anderson: Yes.

Chairperson Cardone: That was my question.

Mr. Anderson: So the…the overall length of the barn is forty-five feet and the overall length of the rig is fifty-eight feet. The a…eave of the barn is at fourteen feet and the peak is nineteen feet.

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

Mr. Anderson: Can I make one more comment?

Chairperson Cardone: Sure.

Mr. Anderson: If I pull the truck into the barn and close the front doors, the doors that are facing Fostertown Road the truck would stick out the back of the barn by twelve feet by my calculations. Fifty-eight minus forty-five is twelve.

Mr. Donovan: Thirteen.

Mr. Anderson: Thirteen. I stand corrected.

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

Mr. Whelan: Good evening ladies and gentlemen, my name is William Whelan I reside at 23 Jacks Pond Road with my wife Linda and Jacks Pond Road is a small private road off Fostertown Road not too far from the applicant’s house. We just want to make two comments, the first one is that I think it sets a bad precedent a…and I don’t want to impose any undue hardships on the applicant. I spent thirty-eight years in the moving and storage business and I started out with myself and a truck and I too was not allowed to park my truck at my house because it was a residential area. So I found a place to park it, no charge and I had to find two or three over the course of my career. And as I grew the company and got larger I bought an office and warehouse facility on Jeanne Drive a…and ended up with about fifty vehicles. Several occasions people, other truckers, came to me and said, can I park my rig in your yard and I said fine and there was no charge and that kept everyone happy. One of the things that came out tonight is how long is the trailer? I think when you said the rig you mean the tractor and the trailer is fifty-eight feet. So how long is the trailer?

Mr. Anderson: Twenty-two feet.

Mr. Whelan: And your barn is how long?

Mr. Anderson: Forty-five.

Mr. Whelan: So it would fit in your barn?

Mr. Anderson: Yes.

Mr. Whelan: Why couldn’t it be left in the barn then?

Ms. Gennarelli: Could you just get the other microphone?

Chairperson Cardone: There’s another microphone.

Ms. Gennarelli: There’s another mic up there.

Mr. Anderson: My understanding is that I can’t park the tractor alone on the property.

Mr. Whelan: Um, I guess it’s up to these guys to decide on that a…you just think it’s a bad precedent and there is a solution that would not pose an undue hardship on the applicant. Jeanne Drive is trucker’s row a…I was just down there the other day there’s huge parking lots a…truckers usually work together. I…I really don’t see what the hardship would be if you dropped your trailer at one of those sites and took your tractor home and put it in the garage. (Inaudible)

Mr. Anderson: I…I have my tools to work inside the garage, on location; in the garage a…I have not obtained permission from Jeanne Drive to park there. Didn’t know that was available.

Mr. Whelan: I’m not guaranteeing that someone is going to say that. I know I did. I know other people did. There’s plenty of space. Years ago I used to park my rig on Route 52 underneath a…87 overpass, I don’t know if that’s legal anymore but if you look around you’ll find a place without setting a precedent of…it is a residential area. And I don’t know you’re going to screen an eleven foot trailer a…those are my comments. Thank you.

Mr. Anderson: Another comment I’d like to make is that the tractor alone weighs about eighteen thousand pounds and if I understand that section of the law, of the regulations, the gross vehicle weight of commercial vehicle cannot exceed sixteen thousand, five hundred. So I’m in the area of fifteen hundred pounds heavier than that a…as a bobtail, in other words, just the tractor.

Mr. Manley: When I read the code of 185-30 it specifically says motor vehicles, trailers and when I think trailers I really believe that potentially the intent of the code was no commercial trailers because they don’t…they specifically say motor vehicles. They don’t say commercial vehicles they say motor vehicles, trailers, building supplies, raw materials, finished products, machinery and equipment unless they meet those criteria so the real question is when it stipulates trailer does it include commercial trailers or commercial registered trailers and were we talking the smaller trailer type that people use for mulch, bringing their lawnmower to be serviced on, you know, or are we talking large commercial trailers.

Mr. Maher: But Jim it…it does say there Jim, a…building supplies which would be more commercial I would imagine, along with finished product, machinery and equipment so you could have you know, you could have a…a lowboy trailer there carrying an excavator and that would be a large trailer. I think it’s consistent with what a…it doesn’t say commercial as you say but I think it is consistent with a commercial application based on the information building materials, raw supplies, machinery, equipment.

Mr. Scalzo: It could be a camping trailer.

Mr. Maher: It could be or a camping trailer but it doesn’t specify one or the other.

Mr. Donovan: I should point out the code, the definition portion of the code is not particularly helpful because only camper, camping trailer is defined. No other…no other definition of trailer is provided.

Mr. Manley: The other issue that we have to look at is can the applicant…can the benefit be achieved by another feasible means? And that would potentially be off site storage.

Chairperson Cardone: (Inaudible)

Mr. Glass: People, my name is Mike Glass, I live at 270 Fostertown Road, I go past this man’s house all the time right down the end of 9W there on the right hand side. Is that correct?

Mr. Anderson: Come out from Route 9W.

Mr. Glass: Right on the right hand side a…left hand side if you come north I…that’s…I go past there probably three, four times a day and I’ve never seen anything really, really bad. How do you make your living? Do you make your living with this truck? Or is it a hobby?

Mr. Anderson: I’ve made my living with this truck, with trucks like this truck since 1975.

Mr. Glass: And you pay your mortgage and you pay your…you feed your family and everything with this truck?

Mr. Anderson: Yes.

Mr. Glass: Is that right?

Mr. Anderson: I’m…I’m somewhat retired now.

Mr. Glass: Right.

Mr. Anderson: But I’m still operating the trucks several times a week.

Mr. Glass: But this gentleman back here he had fifty trucks or fifty or fifty vehicles a…God bless you for being that big. You got a nice jacket, it must be expensive. A…the thing is is that the average working man that’s trying to feed his family and what he’s talking about I think and correct me if I’m wrong and I know you will. If he pulls that tractor trailer in he’s only gonna have how many feet outside that…or the backside of your garage.

Mr. Anderson: Thirteen feet?

Mr. Glass: Thirteen feet and that garage faces directly off the road. I don’t know where your property sits compared to him but the thing is is that we’re not only talking about a little little variance here. We’re talking about a man’s life. We’re talking about the way he pays his taxes, the way he pays his mort…mortgage and the way he supports his family. I think somewhere along the line there has to be a line dividing article number twenty-eight or whatever you may say it is but I think you need to make a…a…a… decision not only by the codes but also by the heart of this community because there isn’t a heck of a lot of big industry coming into this area because of the unemployment rate and we’re pretty stagnant so we’re not going to be waltzing around with Applebee’s or Walmart or any of these other things. What we’re going to be waltzing around with in the next couple years is the taxpayers of this community. Thank you.

Chairperson Cardone: Thank you. The other gentleman.

Mr. Kearny: Hi my name is Kevin Kearny I live at 149 Fostertown, directly next to him, I’ve lived there thirty-one years and a…and the Nelson’s I bought my home from they had the sanitation service and I know you know this has never been a problem. I…I know where Jacks Pond Road is, I know there’s a couple feet swamp, buffer, woodland buffer a…Jimmy’s a good man a…he’s just trying to make a living, just like all of us and I have no problem with it. I look out my win…my second floor window and I see the stuff and it’s not a big deal and a…I understand these…these folks. I understand their…their situation but for Jim to park his truck in Shoprite parking lot we all know, the community has changed a…in twenty, thirty years and there’s a good chance of his truck or his trailer being vandalized so it being on his own private property I think is the best route to go and like I say it’s never been a problem. He’s raised his children and (inaudible) wife there so. Thank you.

Mr. Maruco: My name is David Maruco, I live at 280 Fostertown Road, which is approximately one mile from this gentleman and the last time I was here to get my variance he actually was here as well. I’m surprised to see him right now. And the last time I spoke for him which I…I don’t know him at all by any means a…I had stated that I never his truck or trailer there and driving by two, three times a day a…on my way to work or home or shopping I’ve never seen his trailer. And since then and honestly since then I still have never seen his trailer and tractor so it’s like either he’s always working or he hides it very well. So I don’t see any reason why you shouldn’t let him do what he has to do and it is his livelihood.

Chairperson Cardone: Thank you.

Mr. Maruco: That’s (Inaudible).

Chairperson Cardone: Do we have any other comments from the Board? Do we have a motion to close the hearing?

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

Mr. Scalzo: I’ll second.

Ms. Gennarelli: Roll call.

 Richard Levin: Yes

 Michael Maher: Yes

 James Manley: Yes

 John Masten: Yes

John McKelvey: Yes

 Darrin Scalzo: Yes

 Grace Cardone: Yes

Chairperson Cardone: Thank you. The Public Hearing is closed.

Mr. Anderson: Thank you. Will I receive a written explanation?

Chairperson Cardone: The Board has not…we have not voted yet. We’ve just closed the Public Hearing. We will listen to all of the Public Hearings first and then after that we try to render our decision on each one.

Mr. Anderson: Publicly?

Chairperson Cardone: Yes, certainly.

Ms. Gennarelli: Tonight here. Mr. Anderson, tonight here.

Mr. Anderson: Don’t leave?

Ms. Gennarelli: Tonight. Yeah.

Mr. Scalzo: Stay tuned.

 (Time Noted - 7:41 PM)

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ZBA MEETING – APRIL 23, 2015 (Resumption for decision: 9:04 PM)

JAMES B. ANDERSON 153 FOSTERTOWN ROAD, NBGH

 (43-1-1.2) R-2 ZONE

Applicant is seeking an Interpretation of 185-30 and/or an area variance to allow the parking of a commercial vehicle (greater than 16,500 lbs.) outside of a garage or carport at the residence.

Chairperson Cardone: On the next application James Anderson seeking an Interpretation of 185-30 and/or variance. Do we have discussion on this application? This is a Type II Action under SEQR. Do we have discussion on this application?

No response.

Chairperson Cardone: And to refresh everyone’s memory this was involving 185-30 looking at the criteria for 185-30.

Mr. Donovan: So if the Board is inclined to believe that the one trailer before us falls under the definition of outdoor storage could interpret the provision as allowing that one trailer to continue so long as there is compliance with the Section of 185-30.

Chairperson Cardone: And I would just like to ask a…Mr. Anderson are you familiar with the four sections under 185-30.

Mr. Anderson: I have reviewed those, yes.

Chairperson Cardone: You have reviewed those?

Mr. Anderson: Yes.

Chairperson Cardone: And…and you feel it fits in with all of those. It does not occupy more than thirty percent of the yard and is fifty feet from the rear…rear lot line?

Mr. Anderson: Yes.

Chairperson Cardone: Thank you.

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

Mr. Levin: I’ll second it.

Ms. Gennarelli: Roll call.

 Richard Levin: Yes

 Michael Maher: Yes

 James Manley: Yes

 John Masten: Yes

John McKelvey: Yes

 Darrin Scalzo: Yes

 Grace Cardone: Yes

Chairperson Cardone: The motion is carried.

PRESENT ARE:

 GRACE CARDONE

 RICHARD LEVIN

 MICHAEL MAHER

 JAMES MANLEY

 JOHN MASTEN

JOHN MC KELVEY

 DARRIN SCALZO

ALSO PRESENT:

 DAVID A. DONOVAN, ESQ.

 BETTY GENNARELLI, ZBA SECRETARY

 (Time Noted – 9:07 PM)

ZBA MEETING – APRIL 23, 2015 (Time Noted – 7:41 PM)

DAVID MARUCO 280 FOSTERTOWN ROAD, NBGH

 (20-1-21) R-2 ZONE

Applicant is seeking area variances for the maximum allowed square footage of accessory structures, the maximum height of accessory structures and the maximum allowed storage for not more than (4) four vehicles to build an accessory structure (1168’ x 21’two-story detached garage).

Chairperson Cardone: Our next applicant David Maruco.

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

Mr. Maruco: Okay I have some papers to issue a piece of paper for each person.

Chairperson Cardone: And then if you would just identify yourself for the record.

Mr. Maruco: David Maruco, I live at 280 Fostertown Road, Town of Newburgh.

Mr. Maruco approached the Board and handed out his papers.

Chairperson Cardone: And while you’re doing that I will read the Orange County Department of Planning report which is Local Determination.

Mr. Maruco: Okay, as previously here before I was…I acquired a a…a Town variance which was approved. A…according to the plans I had submitted I didn’t realize, it was probably my mistake that I was looking for a six foot overhang on the back door that I have on the garage that was approved. I have a six foot wide by eight foot high door a…garage door or rollup door and on the plans it’s supposed to have a six foot overhang. And the six foot overhang was to stop any snow load or rain from coming into the garage and as the picture you see there that is my friend’s garage which he has no overhang and I want to try to avoid that happening to my garage. I don’t want any snow or water coming into the garage. A…if it were to rain or snow I could never roll up that door because I would have a snow load or rain coming into the garage. And as an investment that I’m putting into this I don’t want to have any water coming in so what I’m looking for is to build a six foot overhang to stop the snow and rain from coming into the garage. A…that’s one part a…as you see the paperwork I gave you it shows the picture a…of the garage and the overhang which actually the overhang has no bearing on square footage a…of the footprint because there’s actually a concrete slab that’s there, six foot concrete slab and I’m just putting an overhang over it is basically what I’m doing. The other objective I’m looking for is the right now I’ve approved for a five twelve pitch on the roof, I’m looking for a six twelve which actually is only ten inches higher according to the…I…I was looking for twenty feet height which was approved and the actual height is only nineteen feet ten inches. So I’m looking to go ten inches higher because I want to do a six twelve pitch according to the way the weather has been and the snow load I’m concerned with runoff and the snow load. So with a six…six twelve pitch would give me better runoff an a lighter snow load on the roof and I’m looking just to go ten inches higher. So I’m looking for…

Mr. McKelvey: What would that bring your height to?

Mr. Maruco: I’m sorry?

Mr. McKelvey: What would that bring your height to?

Mr. Maruco: It would bring it to twenty feet ten inches. I was approved for twenty feet so I’m looking for ten inches higher and by any of neighbors or anything by the…the naked eye a…a…even a roofer, I’ve done roofing for seventeen years a…a five twelve pitch instead of six twelve pitch you…you…you can’t tell the difference. From the naked eye from a distance there’s…there’s no way you can tell. There’s…there’s roofers now that will look and say that’s either a five or six twelve pitch. They…they can’t tell themselves un…unless you actually get up there and measure it so I…I’m looking for ten inches in height a…due to the weather that we’ve been having and the snow load it’s more of a safety factor rather than getting up on the roof and…and pulling the snow off, hopefully we have better runoff. A…and as far as the back of the garage as you see you’ve already approved the slab a…that…by that garage door the six foot by eight foot rollup door. I’m just looking for a little bit of an overhang to stop the snow from…if we get two feet of snow, I’m gonna have two feet of snow against the door and that means I can’t even…I can’t open the door and I got to wait for the snow either I got to shovel it or…or…or whatever and if it melts it’s gonna come into the garage and if I have items or whatever in the garage and the water comes in and ruins it, you know, it’s…it’s I’m trying to avoid that. As you see the picture that’s my friend’s garage and that’s what happened to him and that’s what I’m trying to avoid. That’s what I’m looking for.

Chairperson Cardone: As far as the height you had originally asked for a twenty-eight foot?

Mr. Maruco: That’s correct and then I dropped it to twenty.

Chairperson Cardone: And it was dropped to twenty?

Mr. Maruco: That’s correct and it was approved. So right now because the…the pitch and the snow since then it’s been approved and the way the weather has been I would like to get ten inches higher. This week, by the way, I’m…I’m in Boston I just drove four hours to get ten inches and the six foot overhang. When this meeting is done I got to drive back.

Chairperson Cardone: Do we have questions from the Board?

Mr. Scalzo: I live in a house that has a five pitch everything seems to be okay. I own a roof rake and a snow blower.

Mr. Maruco: Ten…ten inches, I’m just…ten inches that’s all I’m looking for its…

Mr. Scalzo: I also have gutters on my house. You can direct the water the way you want it to go with gutters.

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

Mr. Scalzo: The sketch that you provided there’s a written diagram, are you looking at pushing the peak back…?

Mr. Maruco: No, that, that’s...

Mr. Scalzo: …to accommodate that six foot overhang?

Mr. Maruco: …no that…that’s…there is a…the…the garage extends on one side four feet out so the…the height is there at the peak…you see the peak…the red line just actually kind of shows ten inches higher and actually the…I’m only talking when I say ten inches higher, I’m talking a fourteen…a fourteen foot span. I’m not talking the whole thirty-eight foot only fourteen feet is going to be ten inches higher. The other…the other side of the roof, twenty-four feet is going to be twenty feet, which was approved already. So I’m just looking for a fourteen foot span just ten inches higher. That’s a…a…quarter of the garage just ten inches higher. You’re talking from me to the wall just ten inches higher. The rest of…the rest of the roof is within code of what was approved. I’m trying to…as far as the…the overhang I’m trying to protect my investment. And anything in the garage could get wet and get ruined.

Mr. Maher: What’s going in the back of the building? In that back section right there?

Mr. Maruco: It’s a a storage area so if I have stuff in there storage and I mean if it’s raining and I open the door rains gonna come in or if it snows I can’t even, the snow piles up against the door I can’t open that door. And come springtime if there is snow against there and it melts gonna all come in to the garage.

Mr. Maher: Well I…I…you know, with your knowledge of construction I’m assuming you’re going to pitch the slab so that doesn’t happen.

Mr. Maruco: Well you would but…you hope they would but I mean water finds its easiest travel path, you know that so I mean for say it comes in now I got a water problem. Everybody has water in the basement it’s nothing but a big problem. I’m trying to avoid that and I could do that now. I mean we’re talking a six foot overhang; slab…the slab is already there I’m just covering it.

Mr. Scalzo: And it’s a continuation of that back bump out.

Mr. Maruco: Yeah that’s it, yup, it’s already there and it’s already been approved. I’m just putting a roof over it, six foot overhang just to protect it. I mean it’s almost the same thing as someone who has a entryway in a house, you go into the house with a front door, if you don’t have a little overhang over you, you’re going to stand there and get soaken wet so people put overhangs so they don’t get wet, they dry, they open up the door and go into the house, it’s very similar.

Chairperson Cardone: It looked like you had done some cleaning up since the last time I visited there…

Mr. Maruco: Yes, I’m…I’m…

Chairperson Cardone: …I’ve seen some things were moved.

Mr. Maruco: …yes I’m in the process of…I…I want to get it all cleaned up but this is the…I need this garage.

Chairperson Cardone: It just seemed that the stones seem to be multiplying.

Mr. Maruco: They like each other. They’ll be gone too trust me.

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

No response.

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

Mr. Bennett: Hello, my name is Ron Bennett; I own the log cabin behind David’s house. I’d like the Board to require him to call the Water Company and mark out my waterline because I’m not sure where that runs and I know he’s dug it up before by the road. I’m afraid you know when he breaks ground he’s going to hit it…

Chairperson Cardone: Where are you located exactly? You’re not on Fostertown are you?

Mr. Bennett: A…no…

Chairperson Cardone: You’re on that road behind?

Mr. Bennett: Reggero…Reggero Drive.

Chairperson Cardone: Right, okay I’ve been on that road too.

Mr. Bennett: I also have a…

Mr. Bennett approached the Board

Ms. Gennarelli: I’m sorry, Ron if you could just grab the mic so you can talk because it’s being recorded. That comes off the stand.

Mr. Bennett: That’s the view from my side of the fence of where he’s going to build. I was going to say some other things but a…it doesn’t seem like he is varying it that much so I’m going to leave it up to the Board to make the decision on that. You have my records from the last…

Chairperson Cardone: You’re on Town…you’re on Town water and you’re saying the waterline goes through his property to yours?

Mr. Bennett: I’m not sure that waterline was run before that house was built and I do know the property…the person that owned my house before me had a road going through that property so I’m not sure exactly what happened back then.

Chairperson Cardone: And your waterline is coming off of Fostertown then not off of the road.

Mr. Bennett: He was trying to connect to the…the City water and he dug there in the road and my line was attached there. And I know originally the two properties had the same address and I don’t know what that was about either so…

Chairperson Cardone: Okay.

Mr. McKelvey: You think it runs through his property?

Mr. Bennett: I’m afraid that’s what’s happening. My…my easement goes through Reggero Drive.

Mr. Maruco: I know the story behind that.

Mr. Bennett: What?

Mr. Maruco: What…what happened when I…when I first…is this on…when I first moved in I had a well so I…my neighbors all had City water and they had curbside boxes on their side of the property so I said if they have one then I must have one. So I called the Town and I said, while I was at work I called the Town I said can you see if you can locate a curbside box in front of my house so I can connect to it? So I come home and there’s blue dot in my driveway, it was blue as water so I says great so they said a hundred dollars, I paid for a permit a…to connect to a curbside box and I ex…excavated to the box…the curb by…side box and all the way to my house. I paid two thousand dollars for excavator come in, dig all this up and come to find out when we got to the curbside box there was a line connected to it and it was his line that was going to his house so the water…Town Water Department made a mistake thinking it was my box and it was actually his box. So they said there’s nothing you could do so I had to bury it all back in. So I buried it all and in the process of doing that they ran, they take a blue line, blue paint and they make markings. Well they made the markings all the way up to the end of my property. So where I’m doing this garage I’m twenty, twenty-five feet from his waterline. So I’ve already looked into this so I’m no…I’m nowhere…I’m nowhere near his waterline and where he’s talking about the road that goes up yes, back in the day, before they built my house there was a…a road that had gone up that way and that’s where the waterline is but I’m no where’s near his waterline when I build this garage. So a…and…and before obviously before I build you got to call 1800Dig for any electrical, cable or waterline so I already know that I’m not even gonna get near his waterline. So it won’t be disturbed at all.

Mr. Bennett: That is free, right?

Mr. Maruco: What’s that?

Mr. Bennett: They do that for free?

Mr. Maruco: Yeah, they do that for free, right. They come and I did that and they actually did…how I know this is they put the blue line all the way up to the end of my property from the…from Fostertown all the way up to the end of my property in the back, four hundred feet to where his property begins so that’s why I know the position where the garage is going to go so it’s not going to hinder his line at all, that waterline.

Mr. McKelvey: Do you know if there is an easement on there?

Mr. Maruco: I’m sorry?

Mr. McKelvey: Do you know if there is an easement for that line?

Mr. Maruco: A…that I don’t know and when I bought the house as far as a title search I never knew there was a line there until after I found out the curbside box and they…but an easement or not I’m…I’m not disturbing that line whatsoever, I’m away from that line.

Chairperson Cardone: So you’re still on well water then?

Mr. Maruco: I’m still on well water, that’s correct.

Mr. Bennett: Well there’s some other lots there I’m surprised they didn’t form other access points.

Chairperson Cardone: Right.

Mr. Bennett: I thank you.

Chairperson Cardone: Okay, thank you.

Mr. Maruco: And I’ve already looked into as far as building that have to be at least two feet from that line and I’m twenty-five feet from it.

Chairperson Cardone: Then the…the line runs close to the stone wall?

Mr. Maruco: No, that’s…its ten feet from the wall.

Chairperson Cardone: Okay.

Mr. Maruco: It’s…it’s off that wall. I did my homework.

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

Mr. Maher: Dave, you…you call for sixty square foot? But your plans show six by twelve.

Mr. Maruco: Yeah, I was told by a…a…

Chairperson Cardone: Joe?

Mr. Maruco: …by Joe, Joe said that the two foot overhang is not considered in the plans. He said the overhang is not…its six by ten, sixty square feet. I says okay so it’s six by ten.

Mr. Maher: So it’s a two foot overhang, I just want to clarify.

Mr. Scalzo: How are you supporting the (Inaudible)?

Mr. Maruco: It’s in the…it’s in the plan it’s a big a…a big round cement ball is the footing then a sonotube and then a six by six a…structural a…beam or pole.

Mr. Maher: So you’re close to the corner?

Mr. Maruco: The post yes it’s a…it’s…it’s in the architectural drawings a…Joe said it’s…it’s okay…just need to be approved for the overhang.

Mr. Scalzo: It’s small, really small.

Mr. Maruco: Yeah it’s very small. I…I…I…just can’t…I can’t believe I’m here for that. It’s so small.

Chairperson Cardone: Anything else from the Board?

No response.

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

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

Mr. McKelvey: Second.

Ms. Gennarelli: Roll call.

 Richard Levin: Yes

 Michael Maher: Yes

 James Manley: Yes

 John Masten: Yes

John McKelvey: Yes

 Darrin Scalzo: Yes

 Grace Cardone: Yes

Chairperson Cardone: Thank you.

 (Time Noted - 8:02 PM)

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ZBA MEETING – APRIL 23, 2015 (Resumption for decision: 9:07 PM)

DAVID MARUCO 280 FOSTERTOWN ROAD, NBGH

 (20-1-21) R-2 ZONE

Applicant is seeking area variances for the maximum allowed square footage of accessory structures, the maximum height of accessory structures and the maximum allowed storage for not more than (4) four vehicles to build an accessory structure (1168’ x 21’two-story detached garage).

Chairperson Cardone: On the application of David Maruco seeking area variances for the maximum allowed square footage of accessory structures, the maximum height of accessory structures and the maximum allowed storage of not more than (4) four vehicles. This is a Type II Action under SEQR. This had previously been approved but with a height of twenty feet and he is now seeking twenty feet ten inches and also a six foot overhang. Do we have discussion on this application?

Mr. Maher: I think the applicant stated that he is only going to utilize that extra ten inches of allowance on part of the building, correct?

Mr. Maruco: Yes.

Mr. Maher: On the fourteen foot section.

Mr. Maruco: Yes, the fourteen, that’s it.

Mr. Maher: All right, I'll make a motion for approval.

Mr. Masten: I'll second it.

Ms. Gennarelli: Roll call.

 Richard Levin: Yes

 Michael Maher: Yes

 James Manley: No

 John Masten: Yes

John McKelvey: Yes

 Darrin Scalzo: No

 Grace Cardone: Yes

Chairperson Cardone: Where are we at, could I have the total on the…?

Ms. Gennarelli: I’m sorry, five, two.

Chairperson Cardone: Thank you. The motion is carried.

PRESENT ARE:

 GRACE CARDONE

 RICHARD LEVIN

 MICHAEL MAHER

 JAMES MANLEY

 JOHN MASTEN

JOHN MC KELVEY

 DARRIN SCALZO

ALSO PRESENT:

 DAVID A. DONOVAN, ESQ.

 BETTY GENNARELLI, ZBA SECRETARY

(Time Noted – 9:09 PM)

ZBA MEETING – APRIL 23, 2015 (Time Noted – 8:02 PM)

BRIDGET ZAPPONE 35 LATTINTOWN ROAD, NBGH

 (9-3-12.2) R-3 ZONE

Applicant is seeking an area variance for accessory buildings shall be located in a side or rear yard to keep a prior built accessory building (22’ x 24’ x 10’ garage) in a front yard.

Chairperson Cardone: Our next applicant Bridget Zappone.

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

Mr. Zappone: My name is Joe Zappone, I live on 35 Lattintown Road and we’re asking for a variance for a shed that we had built without a Permit.

Chairperson Cardone: If I’m remembering correctly you don’t have a driveway going to the structure?

Mr. Zappone: No.

Chairperson Cardone: I didn’t think so. So you’re not really driving cars there.

Mr. Zappone: No just for lawn mowers…

Chairperson Cardone: Right.

Mr. Zappone: …lawn equipment.

Chairperson Cardone: And it is well hidden from the road.

Mr. Zappone: Yes, it is.

Chairperson Cardone: Yes.

Mr. Zappone: Actually it’s been up for a…ten years.

Mr. Maher: Did you build it Joe?

Mr. Zappone: A…we did, yeah.

Mrs. Zappone: (Inaudible)

Mr. Zappone: Well it’s a carport.

Mr. Levin: We discussed that you have two front yards.

Mr. Zappone: It’s on a real sharp turn…

Mr. Levin: Yeah.

Mr. Zappone: …yeah it’s…it’s a…kind of a bad spot but there’s like a twelve foot cliff coming up Lattintown Road that you really can’t see the building.

Mr. Scalzo: (Inaudible)

Mr. Maher: And it really doesn’t go past the front of your house. The front of the house there it’s…

Mr. Zappone: No.

Mr. Maher: …it’s (Inaudible) because the curve of the road.

Mr. Zappone: Right, the corner (Inaudible) because of the turn.

Mr. McKelvey: And it’s hard…hard to see from the road.

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

No response.

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

Mr. Scalzo: Second.

Ms. Gennarelli: Roll call.

 Richard Levin: Yes

 Michael Maher: Yes

 James Manley: Yes

 John Masten: Yes

John McKelvey: Yes

 Darrin Scalzo: Yes

 Grace Cardone: Yes

Chairperson Cardone: Thank you.

Mr. Zappone: Thank you.

 (Time Noted - 8:05 PM)

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ZBA MEETING – APRIL 23, 2015 (Resumption for decision: 9:09 PM)

BRIDGET ZAPPONE 35 LATTINTOWN ROAD, NBGH

 (9-3-12.2) R-3 ZONE

Applicant is seeking an area variance for accessory buildings shall be located in a side or rear yard to keep a prior built accessory building (22’ x 24’ x 10’ garage) in a front yard.

Chairperson Cardone: On the application Bridget Zappone, 35 Lattintown Road, this is a Type II Action under SEQR. Do we have discussion on this application?

Mr. Maher: I think the a…the building is not really visible from the road that much. In addition it’s based on the road curvature that creates this situation for the applicant. I'll make a motion to approve.

Mr. Levin: I'll second.

Mr. Manley: Also he had that a…you know the property is really constrained by the topography as well so it doesn’t make it very easy placing it anywhere else.

Ms. Gennarelli: Okay, roll call.

 Richard Levin: Yes

 Michael Maher: Yes

 James Manley: Yes

 John Masten: Yes

John McKelvey: Yes

 Darrin Scalzo: Yes

 Grace Cardone: Yes

PRESENT ARE:

 GRACE CARDONE

 RICHARD LEVIN

 MICHAEL MAHER

 JAMES MANLEY

 JOHN MASTEN

JOHN MC KELVEY

 DARRIN SCALZO

ALSO PRESENT:

 DAVID A. DONOVAN, ESQ.

 BETTY GENNARELLI, ZBA SECRETARY

 (Time Noted – 9:11 PM)

ZBA MEETING – APRIL 23, 2015 (Time Noted – 8:06 PM)

WILLIAM LODGE 2 PLATTEKILL TURNPIKE, NBGH

 (60-2-37.1) R-3 ZONE

Applicant is seeking area variances for a prior built accessory apartment - 185-38-C-(2) - the lot shall meet the requirements of the zoning district for a single-family dwelling; the prior built addition - minimum lot area, minimum rear yard setback, minimum one side yard setback and the minimum combined side yards setback to keep the prior built accessory apartment and addition on the residence. And prior built accessory building - the 12 x 9 - accessory building shall be set back 10 ft. from the main dwelling and for both the 12 x 9 and the 10 x 12 - accessory buildings shall be setback 5 ft. from the rear property line and shall not occupy more than 10% of the yard area to keep the prior built accessory structures.

Chairperson Cardone: Our next applicant William Lodge.

Mr. Donovan: Charlie, before you get started, I need to point out there was an issue with the notice for this meeting that unfortunately reflected that the meeting was going to be held on Tuesday the 23rd as opposed to Thursday the 23rd. That unfortunately means that the Board, in my view, shouldn’t take action tonight. The matter should be re-noticed because it was noticed for the improper date…or improper day. The date was correct, the day was wrong.

Mr. Brown: Okay, so? (Inaudible) presentation tonight then?

Chairperson Cardone: Well there may be people…

Mr. Donovan: You’ve got a pre shot at this Charlie if you want…

Chairperson Cardone: …there may be people came here to hear you.

Mr. Donovan: …you’re here.

Mr. Brown: Okay, again I’m Charles Brown; the engineer for the applicant a…can of worms this one. A…this is a single family house with an accessory apartment and an attached garage and two shed. It’s on Plattekill Turnpike just to the back here, right next to a…Gardnertown School.

A…a…these are not a…self-created variances because my clients unfortunately inherited this mess. The garage was built in 1970, the accessory apartment sometime after that. The accessory apartment and the garage were then attached with a breezeway a…and…and the two sheds so we’re looking for a whole number of variances. A…as far as there being an impact, well it’s already existing so a…granting the variances while…will not create any kind of impact. A…the a…lot most affected by this is a…a…a relative, brother-in-law in the back and a…well it’s my understanding he has no problem with that but I guess with the appropriate notices we won’t know tonight a...and that’s you know I’m here to answer questions and a…you know, my…my clients have put a lot money into this to rectify other issues including structural issues a…and they’ve been working diligently to get this all straightened out with the a…with the Building Department. A…they do a…intend on…on living there full time a…they were there all summer. They are away right now but a…this is there primary residence.

Chairperson Cardone: I have a letter from Code Compliance a…and I’m going to ask if you would address some of these issues.

Mr. Brown: Okay.

Chairperson Cardone: Okay, it says the engineer’s letter submitted is incomplete it does not address the garage that is not frost protected attached to a structure that is frost protected. The Residential Code does not allow this. He also does not address any Code Compliance issues. Then it says attached is a sheet detailing some basic items that must be addressed. The septic system was originally designed for a two-bedroom, the dwelling unit has four possibly five bedrooms. A letter from a septic company does not meet the requirements of the Orange County Health Department or Section 185-38-C-4 the Town of Newburgh Municipal Code. Submit an engineer’s design and an application for a new septic system that complies with the Health Department’s regulations. Once the above items are addressed and or approved a site inspection will be needed by this office to insure the dwelling unit and addition complies with the applicable Building Codes. Are you aware of this?

Mr. Brown: A…I am not in receipt of that particular letter. We did a…die test the septic a…I…you know, that was some time ago so I don’t know what flow we put through it. It was certainly a…more than a…a two bedroom a…septics worth of…of flow. A…as far as the garage being slab not grade again that was built in 1970 so it a…pretty much pre-dates you know the Code that they’re referring to. A…it hasn’t moved so frost has not caused any problems. I did structurally inspect the entire residence including the garage and a…based upon its service life it’s been in service, it’s weathered all these heavy snow storms everybody is familiar with over the last couple of years a…and I saw no deficiencies other than a…in the back of the accessory apartment and a…I brought that to the attention of the owner and they did correct that. So a…they (Inaudible) up the a…rafters in that back area. It has a very flat roof and a…it did deflect substantially under one of the snow storms. But a…as far as that exact letter I am not in receipt of that a…you know we…we…again we’re working to…to get all of these resolved. They’re not a…looking to a…shirk any responsibility on any of them.

Mr. Levin: Did you say that the property off the driveway in the back is a relative of theirs?

Mr. Brown: It’s the brother-in-law, right. The…the a…Mr. Lodge…Mr. Lodge’s wife is…is a Slaughters. Old man Slaughter was the man that built this house and apparently he was a…a pretty harsh individual to put it nicely and wouldn’t allow the Town on his property. A…she, when he died she inherited the house a…with her husband so…a…that’s her…her a…brother who lives in the back.

Mr. McKelvey: How many bedrooms is there?

Mr. Brown: Well…if you count the accessory apartment there’s four.

Mr. Levin: When I was there, she showed me a stake a…the neighbor’s back relative…I didn’t realize they were relatives and it was showing that the a…sheds were on a…the other property in the back but the way this is drawn the sheds are not on that property.

Mr. Brown: This a…we had the survey how we did the survey a…the…a…I have to go with what the surveyor provides and the map he provided is…this is exactly based upon the survey he provided….a…any more than that I…I can’t say. A…there is a…there is a fence back there at the back of the sheds and…and he’s got that fence you know, along…along the common property line between my clients and…and the brother-in-law.

Mr. Scalzo: Any idea how many laterals or at least the square footage area where the lateral field is?

Mr. Brown: We have a general idea of the area. We do not know the number of laterals a…you know; if that’s something that this Board wants me to determine I could do that. I could also do a…a perc test in the…in the area of the field a…you know typically when a…there’s existing septic and a…they’re not exactly sure of where it is we…we do that with a die test. A…we drop a…die tables into the toilet and then run…for a four bedroom run a…a…five hundred twenty gallons a…through the system in one day which is essentially a day’s worth of flow. If the system has been unused for a while we’ll actually do that for a couple days running because we want to make sure the tank is filled a…and then drop the tablets in on…on the third day.

Mr. Scalzo: Are water efficient structures in there or a…water (Inaudible)?

Mr. Brown: That I don’t know. I mean that…that could be a suggestion because that would drop the daily flow down to a four forty a…

Mr. Scalzo: (Inaudible)

Mr. Brown: …yeah…for a four bedroom. A…that…that’s a really good suggestion.

Chairperson Cardone: The shed number two which is located too close to the house…

Mr. Brown: Right.

Chairperson Cardone: Is there a problem with removing that shed?

Mr. Brown: A…actually you know I did discuss this with them, that shed is the metal one that’s in better condition a…they would…if they…and…and by the way the square footages are…are reversed on those on the plan…that shed two is actually the hundred and eight square foot shed, shed one is the one twenty. A…what they would prefer to do a…would be to take down shed one and move shed two o…

Chairperson Cardone: To that location?

Mr. Brown: …over to…right so that it meets the a…the clearance from the house. They would be willing to do that.

Chairperson Cardone: That would take away one of the variances?

Mr. Brown: A…at least one yeah, maybe even the…the percentage, yeah.

Mr. Maher: Are you going to be able to get it five foot off the line also?

Mr. Brown: A…I’ll have to look into that because of the proximity of the driveway. It is smaller a…I could certainly…if they are going to move it they’re going to move it, we certainly get if further from the property line.

Mr. Maher: That would eliminate…

Mr. Brown: Right.

Mr. Maher: …the other one maybe.

Mr. Brown: I mean if…if it went somewhere in between I’d go right to the ten feet. I may be able to make the five.

Mr. Scalzo: I see there is a twenty foot right-of-way but it doesn’t appear as though the actual ingress and egress…

Ms. Gennarelli: Darrin.

Chairperson Cardone: Microphone.

Mr. Scalzo: I see there is a twenty foot right-of-way but it doesn’t appear as though people travel over that a…towards the inside so…

Mr. Brown: Yeah, again…that they’re…family so that is the driveway a…to the Slaughter residence in the back a…they are both using it. Does it stay within that twenty foot right? No. A…you know they…they actually have a little area over here where they could you know park cars and what not a…yeah, I…I came into this job last year so I don’t know anything historically other than what my clients have told me and what I’ve gotten a…from the Building Department. Now the other…a…as far as alternatives a…we do have Town water out on the street a…it’s a…this…this house is…is on a crawl space so hooking up to Town water would be difficult but not impossible a…by hooking it up to Town water a…in the a…we’re in the R-3 zone that substantially changes the setbacks and a…that would reduce the variances considerably for the…for the a…what they call…what the Building Department’s call A & B for the existing house.

Chairperson Cardone: Right.

Mr. Scalzo: Charlie, the property to the south the Denckers, are they on central water?

Mr. Brown: I am pretty sure that’s a relatively new house and I think it’s actually a duplex.

Mr. Scalzo: Okay, just considering separation between…

Mr. Brown: Understood. (Inaudible) …this existing…their existing well and septic don’t meet separation.

Mr. Scalzo: No, they don’t.

Mr. Brown: Right.

Chairperson Cardone: Since we have to hold this open anyway it might be a good idea to get together with Joe and address some of these issues.

Mr. Brown: Joe Mattina?

Chairperson Cardone: Yes.

Mr. Brown: Yes, okay. What’s the date on that letter?

Chairperson Cardone: There is no date.

Ms. Gennarelli: There is a date, August 18, 2014.

Chairperson Cardone: Yes, August 18.

Mr. Brown: Okay.

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

Mr. Slaughter: My name is Doug Slaughter. I’m their relative that lives behind these people.

Chairperson Cardone: Okay.

Mr. Slaughter: When they did the survey, they put the new stakes up and as you can see from these pictures here the sheds are actually on the property line. And they…I…I want, from my understanding these people are trying to sell this house. They are moving to Florida. They already have a house in Florida and they plan on selling the house. And I don’t want the new people to come and take my property away from me. I want my property back. I want the sheds moved. I mean…I mean they go right down the center of the shed is the property line so I want them off my property. It’s my sister, I don’t want to argue with nobody but like I said they’re moving anyway.

Ms. Slaughter: They already bought a house in Florida.

Mr. Slaughter: They already had a house that’s where they are down in Florida. They’re trying to sell their house. I want my property back that’s it. They had the survey done, the stakes were moved and when the stakes got moved I come to find out the shed…

Mr. Donovan: Sir, do you know…do you have a survey of your property?

Ms. Slaughter: Not on us, no.

Mr. Donovan: No, no you don’t have to have it on you. Do you have…?

Ms. Slaughter: Oh yes, yes we do. Yeah. And the new survey they put the stakes in the…

Mr. Slaughter: You can see them right in the pictures there.

Ms. Slaughter: (Inaudible) ...sheds are in our yard.

Mr. Donovan: Are you able to…I’m sorry maam, are you able to provide the Board with a copy of that survey?

Ms. Slaughter: Our survey?

Mr. Donovan: Yeah, does it show…does it show the sheds on your property or does it not show the sheds at all?

Ms. Slaughter: No, the sheds weren’t there then. They just went up within the last two years.

Mr. Slaughter: They had the survey done, we didn’t.

Ms. Slaughter: Yeah, they had it resurveyed to sell their house.

Mr. Slaughter: And they have the copies.

Chairperson Cardone: Can you get those for us?

Mr. Brown: A…

Chairperson Cardone: The survey.

Mr. Brown: Oh, I can provide the survey that Howard Weeden provided to me, absolutely. Yes.

Mr. Scalzo: If that’s the one that we have here…

Mr. Brown: I referenced the survey but he sends me an…an electronic file so…a…I can certainly provide copies of his survey as…as…

Chairperson Cardone: That shows…and you’re saying the sheds are on your property?

Ms. Slaughter: (Inaudible)

Ms. Gennarelli: One at a time, one at a time, please.

Mr. Scalzo: I don’t…has the…has the Board seen these photos that have been circulated?

Chairperson Cardone: Just now. What we have doesn’t show the sheds on their property is what I’m saying. I…I’d like to see a copy of the survey.

Mr. Scalzo: With Mr. Weeden’s a…

Mr. Brown: Seal.

Mr. Scalzo: …seal on it, yeah.

Mr. Brown: That’s not a problem. As…as you…the pictures are being distributed down that way just looking at the map, that…the site plan that’s in front of us, it appears as though the property corner would be actually behind the utility pole to the right.

Mr. Manley: Charlie, is it the applicant’s intent to want to keep the accessory apartment with the single family residence? Is that the a…?

Mr. Brown: They…yeah, they…they were hoping to do that. I mean a…they’re more willing to sacrifice the sheds you know, if the Board is looking for concessions, even both of them a…and you know if there’s some discrepancy there you know a…I…I use several different surveyors…a…I preferred not to use Howard, they hired him you know, before I got involved with this. A…enough said on that subject.

Mr. Maher: Well irregardless, we’re…we’re here to discuss both the sheds to begin with…

Mr. Brown: Right.

Mr. Maher: So if in fact…

Mr. Brown: But…but if there’s an error in the survey that compounds the problem.

Mr. Maher: Right, right obviously because then there’s no room for the sheds at all. Right?

Mr. Brown: Right. But they would like to keep the accessory apartment a…the rear portion of it which is supposedly supposed to be the bedroom has insufficient headroom a…so I…I told them if they do get to keep that…that would…it does need a closet and it would essentially be a…a…one room. You know a…what do you call it…a studio. A…a…they would like to keep it though for a…you know for the income that it would generate.

Mr. Maher: Right, right but your testimony is that they’re going…they’re going to live there.

Mr. Brown: That’s what they told me.

Mr. Maher: Okay, so if in fact they are not going to live there’s really no kinds of hardship then, correct?

Mr. Brown: That’s correct.

Mr. Maher: Okay.

Mr. Brown: I mean unless, you know, it drives up the price of…of the sale. But I’m going to have a chat with them now, believe me.

Mr. Donovan: Charlie, how did the accessory apartment come to be? Did that go through Code Compliance or don’t you know?

Mr. Brown: It’s my understanding that…that you’re father pulled a Permit but never got a C. O.

Ms. Slaughter: He didn’t get a C. O. for anything.

Mr. Slaughter: My father just…he did what he wanted to do; he never got permission or nothing. That’s the way he was. And a man, twenty years…people came up to his property, gave him a hard time and my father said get the……off my property. That’s the way my father was, I’m sorry for that. May I say that with the new survey that even if the survey isn’t right, whatever, there’s still not five feet from the property line. They are there.

Mr. McKelvey: Right.

Ms. Slaughter: If the sheds are removed the…our property where it is then…(Inaudible)

Mr. Slaughter: Then we can move our fence.

Ms. Slaughter: …there’s going to…they (Inaudible) a lot.

Chairperson Cardone: Right, I would advise if they are going to be selling the property that you do move your fence to incorporate your own property.

Ms. Slaughter: We can’t do it until they move the sheds and they told us they were moving the sheds and we thought it was a single, we didn’t know they were going to start doing apartments up that way. It’s supposed to be single family when we built it.

Mr. Manley: You may be able to achieve some of what you want to achieve but you’re going probably have to…the suggestion of hooking up to the a…Town water. The other thing is if you a…remove the accessory apartment you know, you are going to be able to get with your septic at that point because you are not going to have to make any…you know, more than likely any changes to that.

Mr. Brown: Right, right.

Mr. Manley: You know Orange County Department of Health is probably going to require, you know, greater septic.

Ms. Slaughter: The one Town water pipe down the end of the roadway is actually going to our house so our waterline crosses under the driveway partially to get to our house, the right-of-way.

Mr. McKelvey: If they…if they sell it and they keep the accessory apartment, the people who buy it to rent that accessory apartment have to live in the house.

Mr. Brown: Correct, correct. They used to be they would have to do both and come before this Board to get that Special Use Permit.

Chairperson Cardone: Right.

Mr. Brown: But that’s been changed.

Mr. Levin: Essentially you would be satisfied with just moving the sheds, removing the sheds, is that right?

Mr. Slaughter: Yeah, that’s what we’re here for.

Ms. Slaughter: Yeah, so we can move our fence on the proper property line so that the new people won’t automatically think it’s all theirs.

Mr. Slaughter: Yeah, we want it done before the house is put on the market so when the people come they can see where the property line is.

Ms. Slaughter: Yeah, and the survey was done within the year and when they found out that they told us that they’re going have to move the sheds. They were told that they have to move the sheds at the time.

Mr. Slaughter: But they’re trying to get around it.

Chairperson Cardone: Right. And you said you do or do not have a copy of the survey?

Ms. Slaughter: No, they did…they did a survey…

Chairperson Cardone: They did the survey but they didn’t give you a copy?

Ms. Slaughter: No, they did not give us a copy. They just put new stakes in with the surveyors. A man and a woman I don’t know what the company was.

Chairperson Cardone: Okay.

Mr. Maher: So Counsel, if in fact this is sold what problems are created now with the driveway being not in the right-of-way?

Mr. Donovan: That’s like the one thing that’s not before us, right?

Mr. Scalzo: A license agreement could take care of that, couldn’t it?

Mr. Donovan: Well I don’t know, where is the driveway relative to the…I mean that is a problem Mike but I don’t know how this Board addresses it.

Mr. Maher: I’m just curious as what it’s going to create as far as other issues that seem to be compounding now so…

Ms. Slaughter: The right-of-way is no problem. That’s a straight driveway (Inaudible)…

Mr. Donovan: No, but I think the issue is that the driveway is not in the right-of-way.

Ms. Slaughter: Yes, the main driveways goes to our house, the one behind it…(Inaudible)…

Mr. Donovan: I don’t think that’s what we’re being told tonight, right?

Mr. Brown: Not according to the survey.

Mr. Maher: Based on the survey, your…it’s not in the right-of-way, that’s what I’m saying so that creates an additional issue.

Mr. Donovan: So what Mr. Maher is telling you is that if that in fact is true and the…and the property is sold…I mean there…there…that may result in an issue with access to the rear of your property…or to your property from the road.

Mr. Slaughter: We have legal documents that way before we built our house we had that done.

Ms. Slaughter: They have that too because they had to show to try to sell the house when they had a realtor that it was a legal right of way. Behind the house no, because that’s their drive going to the garage but from the roadway to our house is a straight…a straight road.

Mr. McKelvey: We’d have to have a copy of that too.

Mr. Donovan: Well it’s not…it’s not an issue before the Board because it’s not part of the application…it…it certainly is an issue…(Inaudible)

Mr. Brown: It really doesn’t affect the Lodges either, it…it affects the Slaughters.

Mr. Donovan: Yeah, absolutely, yeah.

Mr. Brown: Because the…the Lodges the driveway is on their property.

Mr. Scalzo: We’re…we’re assuming that. We’re assuming that right now.

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

Mr. McKelvey: I’ll make a motion we leave this open.

Mr. Donovan: So that would be to the May...?

Ms. Gennarelli: May 28th.

Mr. Donovan: May 28th.

Mr. Brown: But we got to re-notice, correct?

Mr. Donovan: Correct.

Mr. Brown: Okay.

Ms. Gennarelli: Yes, I am going to re-notice.

Mr. Maher: And Charlie and we’re going to get an updated survey complete.

Mr. Brown: I’ll bring…I’ll bring the survey from Howard and I’ll talk to him and make sure he…you know, confirms it with his field data and have him stamp copies again. That’s, you know, Darrin knows that’s all I can do.

Mr. Maher: Yeah, I know, no, I understand that but obviously the pictures depict something different so just let’s make sure that it’s true.

Mr. Brown: Well a stake doesn’t necessarily mean that’s a property corner either.

Mr. Scalzo: I’m aware.

Mr. Brown: Yeah.

Ms. Gennarelli: Who was the second?

Chairperson Cardone: Who was the second?

Mr. Donovan: Darrin was.

Mr. Scalzo: I’ll second.

Ms. Gennarelli: Roll call.

 Richard Levin: Yes

 Michael Maher: Yes

 James Manley: Yes

 John Masten: Yes

John McKelvey: Yes

 Darrin Scalzo: Yes

 Grace Cardone: Yes

Ms. Gennarelli: And Charlie, either you can have Ray change the notice (posting) or I can give you new ones to put up with the right date on it.

PRESENT ARE:

 GRACE CARDONE

 RICHARD LEVIN

 MICHAEL MAHER

 JAMES MANLEY

 JOHN MASTEN

JOHN MC KELVEY

 DARRIN SCALZO

ALSO PRESENT:

 DAVID A. DONOVAN, ESQ.

 BETTY GENNARELLI, ZBA SECRETARY

 (Time Noted - 8:30 PM)

ZBA MEETING – APRIL 23, 2015 (Time Noted – 8:30 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: Okay, held open from our March 26 meeting JR & Ray LLC. - Rhinebeck Realty LLC. (Mavis).

Mr. Manley: Madam Chair for the next two I am going to sit those based on the fact that I haven’t been able to get through the minutes for that particular meeting so I wouldn’t feel comfortable voting on that, for the next two.

Chairperson Cardone: Okay. I believe one of the reasons was that we did not have the report from the Orange County Department of Planning and it is Local Determination but there is a note:

We note that the proposed entrance with variance for construction of a one-way single lane egress road was previously approved for a different project proposed for this site. We continue to have no objection to this proposed egress. We also note that the proposed project is a brownfield redevelopment in an identified priority growth area and our office encourages both redevelopment and development within priority growth areas in order to preserve our undeveloped land.

And also there were some issues that really were planning board issues and it was suggested that they be addressed at the planning board Public Hearing. Was there any further discussion on this? We were just really waiting for the referral from the Orange County Department of Planning and everybody has that in their possession. Is there any public comment on it?

No response.

Chairperson Cardone: Any further questions or comments from the Board?

Mr. McKelvey: I think we covered it thoroughly last month.

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

Ms. Gennarelli: Grace, Jim stepped out.

Chairperson Cardone: Yes, he did say that before he left.

Ms. Gennarelli: Okay, Sorry, I didn’t hear him, Charlie was…

Mr. Donovan: For this application and the next application, he’s not legally re…he’s legally able to vote, he indicated…

Ms. Gennarelli: Okay.

Mr. Donovan: …since he wasn’t at the Public Hearing he doesn’t want to participate.

Ms. Gennarelli: Okay.

Mr. McKelvey: I’ll second that.

Mr. Masten: I’ll second it.

Ms. Gennarelli: We have a second, John McKelvey.

Mr. Masten: I didn’t hear.

Ms. Gennarelli: Okay, we are going to vote now.

 Richard Levin: Yes

 Michael Maher: Yes

 James Manley: Recused.

 John Masten: Yes

John McKelvey: Yes

 Darrin Scalzo: Yes

 Grace Cardone: Yes

Mr. Osterhoudt: Thank you.

Chairperson Cardone: The Public Hearing is closed, we haven’t voted yet but the Public Hearing is closed.

Mr. Donovan: Excellent job.

 (Time Noted - 8:33 PM)

ZBA MEETING – APRIL 23, 2015 (Resumption for decision: 9:11 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: Okay, the next application was held open. On the next application JR & Ray LLC. - Rhinebeck Realty LLC. (Mavis). This is a Type II Action under SEQR. Do we have discussion on this application?

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

 James Manley: Recused

 John Masten: Yes

John McKelvey: Yes

 Darrin Scalzo: Yes

 Grace Cardone: Yes

Chairperson Cardone: The motion is carried.

 (Time Noted – 9:12 PM)

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(Time Noted – 9:14 PM)

Mr. Donovan: If I may I was thinking about my 4:45 bus duty tomorrow going back to the JR & Ray LLC. that’s actually an Unlisted Action, I’m sorry Grace. So we need a Negative Declaration on that, my mistake. Sorry.

Chairperson Cardone: Okay.

Mr. Donovan: The record should reflect that I earlier advised the Chair that was a Type II Action. Sorry. I thought it was a Type II Action now I corrected myself. It’s an Unlisted Action we need a Negative Declaration.

Chairperson Cardone: Okay, going…going back to JR & Ray, LLC. This is an Unlisted Action under SEQR. Do I have a motion for a Negative Declaration?

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

Mr. Scalzo: I’ll second.

Ms. Gennarelli: Roll call.

Richard Levin: Yes

 Michael Maher: Yes

 James Manley: Recused

 John Masten: Yes

John McKelvey: Yes

 Darrin Scalzo: Yes

 Grace Cardone: Yes

Mr. Donovan: Sorry about that.

Chairperson Cardone: I’ll forgive you, you were thinking about your bus duty.

Mr. Donovan: I was, yes.

PRESENT ARE:

 GRACE CARDONE

 RICHARD LEVIN

 MICHAEL MAHER

 JAMES MANLEY

 JOHN MASTEN

JOHN MC KELVEY

 DARRIN SCALZO

ALSO PRESENT:

 DAVID A. DONOVAN, ESQ.

 BETTY GENNARELLI, ZBA SECRETARY (Time Noted – 9:16 PM)

ZBA MEETING – APRIL 23, 2015 (Time Noted – 8:33 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: And our next applicant also was held over from the March 26th meeting Nicholas Coppola. And we were also waiting for a report from the Orange County Department of Planning and their recommendation is Local Determination. Okay, did you have further information to give us or…?

Ms. Coppola: No.

Chairperson Cardone: No? Did the Board have any further questions now that we’ve received the report from the Orange County Department of Planning?

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

Mr. Levin: I’ll second.

Mr. Brown: (Charles Brown) I wanted to (Inaudible) before you close the Public Hearing. Is that okay?

Chairperson Cardone: Go ahead.

Mr. Brown: I mean their situation (Inaudible)…their situation is…is relatively unique because their, you know, their lot extends into another County and another Town. A…I know I put into the application that we were asking for Interpretation. I don’t know if…if…you know I wasn’t here last month if they did that. A…and…and…piggybacking off of that, what’s your street there? Barton there’s twenty something houses that the Town…the Town of Newburgh, City of Newburgh line goes right smack through the middle of the houses a…as a professional working in this Town all I’m really asking the Board is…is this going to come up we have a Municipal boundary or is it just because it was a County boundary?

Mr. Donovan: Well it did come up, we did discuss it at the a…at the hearing a…last month. I kind of offered the opinion that it’s one lot and therefore that perhaps they didn’t need a variance. The discussion turned around to that in the deed there was two parcels described and so the feeling of the Board was let’s be on the safe side because two parcels were described in the deed and issue the variance. Right, Darrin, am I summarizing that correctly?

Mr. Scalzo: That’s what I recall.

Mr. Brown: So that would apply…cause the situation on…on the street we just mentioned is exactly the same. They have a tax lot numbers in the City and tax lot numbers in the Town all…all the…everyone along that street. Okay, thank you.

Ms. Gennarelli: Okay, to close the Hearing we are going to vote.

 Richard Levin: Yes

 Michael Maher: Yes

 James Manley: Recused

 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. And I would ask in the interest of time if you could wait out in the hallway and we’ll call you in.

 (Time Noted - 8:36 PM)

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ZBA MEETING – APRIL 23, 2015 (Resumption for decision: 9:13 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: On the application of Nicholas Coppola, this is a Type II Action under SEQR. Do we have discussion on this application?

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

Mr. Levin: Second it.

Ms. Gennarelli: Roll call.

Richard Levin: Yes

 Michael Maher: Yes

 James Manley: Recused

 John Masten: Yes

John McKelvey: Yes

 Darrin Scalzo: Yes

 Grace Cardone: Yes

Chairperson Cardone: The motion is carried.

PRESENT ARE:

 GRACE CARDONE

 RICHARD LEVIN

 MICHAEL MAHER

 JAMES MANLEY

 JOHN MASTEN

JOHN MC KELVEY

 DARRIN SCALZO

ALSO PRESENT:

 DAVID A. DONOVAN, ESQ.

 BETTY GENNARELLI, ZBA SECRETARY

 (Time Noted – 9:14 PM)

ZBA MEETING – APRIL 23, 2015

END OF MEETING (Time Noted – 9:16 PM)

Chairperson Cardone: Everyone has the minutes from the last month? Do we have any corrections, additions?

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

Mr. Maher: Second.

Chairperson Cardone: All those in favor say Aye?

Aye - All

Chairperson Cardone: Opposed?

Mr. Manley: I abstain.

Chairperson Cardone: Any other business before the Board? Everyone has received the e-mails on the solar workshops? I don’t know if anyone is planning to attend or not.

No response.

Chairperson Cardone: Any other business?

No response.

Chairperson Cardone: If not, do I have a motion to adjourn?

Mr. Masten: I’ll make a motion.

Mr. McKelvey: Second.

Chairperson Cardone: All in favor say Aye?

Aye All

Chairperson Cardone: Opposed?

No response.

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

PRESENT ARE:

 GRACE CARDONE

 RICHARD LEVIN

 MICHAEL MAHER

 JAMES MANLEY

 JOHN MASTEN

JOHN MC KELVEY

 DARRIN SCALZO

ALSO PRESENT:

 DAVID A. DONOVAN, ESQ.

 BETTY GENNARELLI, ZBA SECRETARY

 (Time Noted – 9:18 PM)