ZONING BOARD OF APPEALS

MEETING – JUNE 22, 2017

(Time Noted – 7:03 PM)

Mr. Manley: Good evening, 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 relief under the Code. The Board will then ask the applicant any questions it may have and then any questions or comments from the public will be entertained. After all of the Public Hearings have been completed the Board may adjourn to confer with Counsel regarding any legal questions it may have. The Board will then consider the applications in the order heard and will try to render a decision this evening; but may take up to 62 days to reach a determination. I would ask if you have cell phones to please put them on silent or turn them off and when speaking, speak directly into the microphone as it is being recorded. Roll call please.

PRESENT ARE:

 RICHARD LEVIN

 MICHAEL MAHER

 JAMES MANLEY

 JOHN MC KELVEY

 DARRIN SCALZO

ABSENT:

 DARRELL BELL

 JOHN MASTEN

ALSO PRESENT:

 DAVID A. DONOVAN, ESQ.

 BETTY GENNARELLI, ZBA SECRETARY

Pledge of Allegiance to the Flag led by Darrin Scalzo

(Time Noted – 7:05 PM)

ZBA MEETING – JUNE 22, 2017 (Time Noted – 7:05 PM)

KEVIN DE GROAT & MARCO ANTONIO 78 FOREST RD, WALLKILL (3-1-33.22)

 SMITH - REGINA SHANTA SEXTON & 68 FOREST ROAD, WALLKILL

 (3-1-33.11) A/R ZONE

Applicant is seeking an area variance one side yard setback of an existing dwelling (at 78 Forest Road 3-1-33.22) for a lot line change application before the planning board.

Mr. Manley: The first item the Board is going to hear this evening is the application of Kevin De Groat and Marco Antonio Smith and Regina Shanta Sexton Smith. It’s for a variance at 78 Forest Road, Wallkill and 68 Forest Road, Wallkill for one side yard setback of an existing dwelling at 78 Forest Road for a lot line change application before the planning board. Ms. Gennarelli are all the mailings and postings in order?

Ms. Gennarelli: Yes, the Public Hearing Notices for all the new applications being heard this evening were published in the Mid-Hudson Times on Wednesday, June 14th and in The Orange County Post which was formerly called The Sentinel on Friday, June 16th. This applicant sent out eighteen letters. All the mailings, publications and postings were in order.

Mr. Manley: Thank you.

Ms. Gennarelli: You’re welcome.

Mr. Manley: Good evening.

Mr. Martz: Good evening, my name is Timothy Martz, surveyor with Mercurio, Norton, Tarolli, Marshall. We are the surveyor of record for this property. We are requesting a a...variance on the side yard of 78 Forest Road a...this is a lot line change. Currently the lot is shown here, this rectangular piece in the front is simply going to be transferred to these owners back here. As it exists the present dwelling at 78 Forest Road does not meet the requirement for the side yard which is (30) thirty feet, it is at (26.7) twenty-six point seven feet and we’re requesting a (3.3) three point three variance. Other than that it meets all of the bulk requirements of the AR zone.

Mr. Manley: So you have one of the applicants is basically purchasing that piece of property there?

Mr. Martz: Yes it’s a...simply a transfer of this rectangular piece in the front a...from this lot to this one over here.

Mr. Manley: Okay.

Mr. Martz: And that’s it.

Mr. Levin: Does Mr. DeGroat realize that he’s going to lose a driveway?

Mr. Martz: The driveway...

Mr. Maher: That’s the easement.

Mr. Levin: It has an easement on it? Oh, okay.

Mr. Manley: I’d like to read into the record we have a reply from Orange County Department of Planning, due to the fact that this is within five hundred feet of County Route 23, Forest Road, the County is required to weigh in their comments. Their comments are as follows:

The Planning Department has reviewed the submitted materials regarding the appeal for an area variance. While the Zoning Board of Appeals must weigh the local issues in balancing the needs of the appellant with the potential impacts on the surrounding area, it does not appear that intermunicipal or countywide impacts would result if the Board finds that granting relief is warranted in this matter. Recommendation of the County is Local Determination, dated June 15, 2017.

Does the Board Members have any questions for the applicant’s representative?

No response.

Mr. Manley: Hearing none I’ll open the comments, questions to the public. If there’s anybody from the public here this evening that would like to comment on this application?

No response.

Mr. Manley: Hearing none I’ll go back to the Board for one final question if you have any questions? If not, I would look for a motion to close the Public Hearing.

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

Mr. McKelvey: I’ll second.

Mr. Manley: We have a motion and a second.

Ms. Gennarelli: Roll call.

 Richard Levin: Yes

 Michael Maher: Yes

John McKelvey: Yes

 Darrin Scalzo: Yes

 James Manley: Yes

Mr. Manley: The Public Hearing is now closed. (Time Noted - 7:09 PM)

ZBA MEETING – JUNE 22, 2017 (Resumption for decision: 8:03 PM)

KEVIN DE GROAT & MARCO ANTONIO 78 FOREST RD, WALLKILL (3-1-33.22)

 SMITH - REGINA SHANTA SEXTON & 68 FOREST ROAD, WALLKILL

 (3-1-33.11) A/R ZONE

Applicant is seeking an area variance one side yard setback of an existing dwelling (at 78 Forest Road 3-1-33.22) for a lot line change application before the planning board.

(8:00 PM -8:03 PM see Abrams/370 Lakeside Minutes)

Mr. Manley: Okay, so the Board will go and move forward on the following applications, the first one that the Board is going to discuss is the area variance for Kevin DeGroat & Marco Antonio and Regina Shanta Sexton Smith. Does the Board have discussion on the application this evening? The first item that the Board needs to consider is whether the benefit sought can be achieved by other means feasible to the applicant? Does the Board feel that this can be achieved any other way?

Mr. Scalzo: I do not, pre-existing, non-conforming.

Mr. Manley: Okay, does any of the Board Members have discussion on undesirable change in the neighborhood character or detriment to any of the nearby properties?

Mr. Scalzo: Virtually unnoticed.

Mr. Manley: Whether the request that the applicant has before us is substantial?

Mr. McKelvey: No.

Mr. Levin: No.

Mr. Scalzo: No.

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

Mr. McKelvey: No

Mr. Maher: No change at all.

Mr. Levin: No.

Mr. Manley: And the last is whether or not the alleged difficulty is self-created? It is relevant but it’s not completely determinative. That’s about the only one that it is self-created because they’re making a choice to change it but it’s pre-existing. At this point, going over the factors that we weighed is there a motion from the Board?

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

Mr. Levin: I’ll second.

Mr. Manley: We have a motion to approve by Mr. McKelvey, a second by Mr. Levin, roll call vote.

Ms. Gennarelli: Roll call.

 Richard Levin: Yes

 Michael Maher: Yes

John McKelvey: Yes

 Darrin Scalzo: Yes

 James Manley: Yes

Mr. Manley: The motion is carried. The variance is approved. Also make a note this is a Type II Action under SEQR.

PRESENT ARE:

 RICHARD LEVIN

 MICHAEL MAHER

 JAMES MANLEY

 JOHN MC KELVEY

 DARRIN SCALZO

ABSENT:

 DARRELL BELL

 JOHN MASTEN

ALSO PRESENT:

 DAVID A. DONOVAN, ESQ.

 BETTY GENNARELLI, ZBA SECRETARY

 (Time Noted – 8:05 PM)

ZBA MEETING – JUNE 22, 2017 (Time Noted – 7:09 PM)

MICHELLE HIERONYMI & MICHAEL 32 D’ALFONSO ROAD, NBGH

 CERONE, JR. (100-5-50.1) R-2 ZONE

Applicant is seeking area variances for the total square footage of accessory structures by formula and increasing the degree of non-conformity of the side yard setback to keep a prior built addition to the accessory building (garage).

Mr. Manley: The next application this evening before the Zoning Board is application of Michelle Hieronymi and Michael Cerone, Jr., 32 D’Alfonso Road in Newburgh seeking an area variance for the total square footage of accessory structures by formula and increasing the degree of non-conformity of the side yard setback to keep a prior built addition to the accessory building (garage). Ms. Gennarelli are all the postings in order?

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

Mr. Manley: Thank you.

Ms. Gennarelli: You’re welcome.

Mr. Manley: Is the applicant or applicant’s representative here this evening? If you could just introduce yourself for the record to the Board?

Ms. Gennarelli: You could take (mic) off of there, it pops right off, there you go.

Ms. Hieronymi: I’m Michelle Hieronymi, I reside at 82 Winchester Drive in Monroe and I am half owner of the house. My father built this house in 1950 and we are here asking for variances of work that he did on the house that he didn’t get Permits for.

Mr. Cerone: My name is Michael Cerone, I’m the son my father who built the house, the a...basically there’s the shop addition, you may have some of the specs on this I guess, that it was built straight back from the...along the property line but it...I guess the proximity of that is...is an issue and I guess the...you know the square footage so but this is built like back maybe 1980 something like that so we don’t really know exactly you know, too much except you know the specs of what we can see.

Mr. McKelvey: It was built without a Permit?

Mr. Cerone: Yes, it was. I guess with the...he must have figured straight back is good but a...back then, when the house was built there must have been no side line issues because it was only like two and a half feet from the property line but you know so...I don’t really know what to say.

Mr. Donovan: For clarification, the application indicates that the garage was built in 1950, is that accurate?

Mr. Cerone: The main part of the garage was built when the...around when the house was constructed.

Mr. Donovan: And the screened patio is on or about 1980? Is that what you’re saying?

Ms. Hieronymi: (Inaudible)

Mr. Cerone: No that was earlier, that was probably...yeah that was in the 60’s...

Mr. Donovan: You mentioned before 1980.

Mr. Cerone: ...60’s...no that...I think the addition to the back to extend the rear of the garage...

Mr. Donovan: Okay.

Mr. Cerone: ...which doesn’t protrude any further on the sideline but it does...

Mr. Donovan: Okay, thank you.

Mr. Manley: Does the Board Members have any questions for the a...applicant?

Mr. Maher: Parcel one or two? They’re two separate parcels?

Ms. Hieronymi: Yes.

Mr. Maher: Is it being sold...

Ms. Hieronymi: The parcel next to it is not, according to the original deed, it’s not buildable on a...no house or structure should be built on that lot so...

Mr. Maher: Okay so in essence the...in essence it’s one parcel but technically it’s two.

Ms. Hieronymi: Yes, yeah, they’re assessed on the whole.

Mr. Manley: Do any of the Board Members have any questions at this time?

No response.

Mr. Manley: If not, I’m going to open it up to the members of the public that have any comments regarding this application...if there’s anyone here?

No response.

Mr. Manley: Hearing none...

Mr. Scalzo: You know I actually just have one question, when you have to maintain your roof on that garage, do you have to put your ladder on your neighbor’s property?

Mr. Cerone: A...probably not...well it’s possible it depends on how you set it up I mean, it’s two and a half feet off the property line, you could...you don’t...you don’t have to, no, but much of...most the roof is available from the rear deck or the neighbor who is (Inaudible)...

Mr. Scalzo: Okay.

Mr. Cerone: I mean there’s one section to work on the side maybe (Inaudible)...

Mr. Scalzo: Okay, thank you.

Mr. Cerone: (Inaudible)

Mr. Manley: Were there any other questions from the Board Members at all regarding this application?

No response.

Mr. Manley: If not, I would look for a motion to close the Public Hearing?

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

Mr. Scalzo: I’ll second.

Mr. Manley: I have a motion and a second to close the Public Hearing. Roll call.

Ms. Gennarelli: Roll call.

 Richard Levin: Yes

 Michael Maher: Yes

John McKelvey: Yes

 Darrin Scalzo: Yes

 James Manley: Yes

Mr. Manley: The Public Hearing is now closed. Thank you.

 (Time Noted - 7:15 PM)

ZBA MEETING – JUNE 22, 2017 (Resumption for decision: 8:05 PM)

MICHELLE HIERONYMI & MICHAEL 32 D’ALFONSO ROAD, NBGH

 CERONE, JR. (100-5-50.1) R-2 ZONE

Applicant is seeking area variances for the total square footage of accessory structures by formula and increasing the degree of non-conformity of the side yard setback to keep a prior built addition to the accessory building (garage).

Mr. Manley: The next application this evening is Michelle Hieronymi and Michael Cerone, Jr., 32 D’Alfonso Road, also an area variance, Type II Action under SEQR. Again, we’ll go through the area variance criteria the five factors that we are weighing, the first one being whether or not the benefit can be achieved by other means feasible to the applicant?

Mr. Scalzo: No.

Mr. Manley: I would say barring removal...

Mr. Maher: Removing it.

Mr. Manley: ...that would be the only means feasible. Whether or not the granting of the variance would create an undesirable change in the neighborhood character or detriment to any of the nearby properties?

Mr. Maher: No change, pre-existing.

Mr. McKelvey: No change it’s pre-existing.

Mr. Levin: No.

Mr. Manley: And also add that it’s been there for many years, there hasn’t been complaints of the neighbors. Whether or not the request is substantial? I mean we can say that it is a larger request. Any of the Board have any other...?

Mr. Maher: No, again it’s...it’s...

Mr. Donovan: Just recall that it’s not simply a mathematical calculation, it’s the overall effect or impact of the a...of the structures and I think the testimony was that they’ve been in existence for...some since 1915 (1950), some since around 1980 so in terms of their effect on the neighborhood you can consider that factor or that fact rather.

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

Mr. McKelvey: No.

Mr. Levin: No.

Mr. Maher: No once again it’s pre-existing.

Mr. Manley: And finally whether or not the alleged difficulty is self-created? Relevant but not determinative.

Mr. Maher: Well it was but it’s been there upwards of seventy years.

Mr. Manley: Does the Board wish to make a motion?

Mr. Maher: I'll make a motion to approve.

Mr. Levin: I'll second.

Mr. Manley: I have a motion to approve Mr. Maher, second Mr. Levin, roll call please.

Ms. Gennarelli: Roll call.

 Richard Levin: Yes

 Michael Maher: Yes

John McKelvey: Yes

 Darrin Scalzo: Yes

 James Manley: Yes

Mr. Manley: The motion is carried, the variance is approved.

PRESENT ARE:

 RICHARD LEVIN

 MICHAEL MAHER

 JAMES MANLEY

 JOHN MC KELVEY

 DARRIN SCALZO

ABSENT:

 DARRELL BELL

 JOHN MASTEN

ALSO PRESENT:

 DAVID A. DONOVAN, ESQ.

 BETTY GENNARELLI, ZBA SECRETARY

 (Time Noted – 8:07 PM)

ZBA MEETING – JUNE 22, 2017 (Time Noted – 7:15 PM)

JOHN ABRAMS 370 LAKESIDE ROAD, NBGH

 (28-1-19) R-1 ZONE

Applicant is seeking area variances for the maximum allowed square footage of accessory structures, the maximum height, the maximum lot surface coverage and the maximum allowed (4) four vehicle storage to build an accessory building (56 x 60 x 24).

Mr. Manley: The next item on the agenda this evening is the continuation of the request for a variance at 370 Lakeside Road in Newburgh for John Abrams. Requesting the maximum allowed square footage of accessory structures; the maximum height, the maximum lot surface coverage and the maximum allowed (4) four vehicle storage to build an accessory building 56 feet by 60 feet by 24 feet high.

Mr. Brown: Thank you, Charles Brown the engineer for the applicant. Again we were here last month for this...this application a...both adjoining neighbors showed up, neither one had an issue with it. A...this a...proposed garage would not be visible from the street due to the terrain. A...the applicant who happens to be here tonight has (5) five vehicles plus a jet ski, trailers and what not a...he never intends to a...have any kind of residential use in this particular building so he would...has no problem as that...if that’s a condition of the approval and a...we’re...we’re here attain to answer any questions from the Board or the public and a...hopefully move this thing along. Thank you.

Mr. Manley: Thank you. Are there any questions that the Board has at this time for the applicant’s representative?

Mr. Scalzo: Charlie, were there any a...modifications made to the proposed garage height?

Mr. Brown: No there were not and actually this Board granted a variance for an extra foot above what we’re asking for on a piece right next door within the last couple of months so...a...based upon that you know, we feel it’s within character of the neighborhood.

Mr. Manley: I just wanted to point out something from the last meeting that you had made a comment that the zoning was changed from R-2 (R-3) to R-1. I just want to correct the record. It’s always been R-1. I did take a look at it. I did check it and that’s never been changed. It’s R-1; I have a copy of the map there. So I just want to make sure the record reflects the correct information.

Mr. Brown: This is part of the large part of Town of Newburgh that was changed both from R-2 and R-3 to R-1 a...in 2006.

Mr. McKelvey: No, no it wasn’t.

Mr. Manley: Correct.

Mr. McKelvey: You had to go back to the old map and it showed it in R-1.

Mr. Brown: I actually went to the local law and followed the a...it wasn’t the metes and bounds but followed the perimeter of the area that was changed and it includes this...it includes all of Orange Lake.

Mr. Manley: There is...it is close to...to R-3. I mean I have a copy if you want to see it but it’s definitely been R-1.

Mr. Brown: Okay.

Mr. Manley: If you can find something that’s different that would...makes that but the information that I have is that it’s R-1.

Mr. Brown: Okay.

Mr. Manley: The other question that I...I had following the property and pulling the rate (property) card from the Assessor’s Office this...this used to be two separate structures. And can you fill the Board in on how this became one structure? There were actually two separate buildings and then somehow there was a porch that was added on that connected the two and then it was enclosed and became a two family as opposed to two separate one family’s.

Mr. Brown: You’re talking about the...the main house now?

Mr. Manley: Correct.

Mr. Brown: Yes a...John? Do you want to a...?

Mr. Abrams: Hi, I’m John Abrams; I’m the owner of the property. Basically a...I bought the property in 1998, there was a small house in the back, there was a small house in the front. You know, in 2006 I got married; my wife said you have to have a bigger house or we can’t have babies. So I put...so we decided, we designed a...a attachment basically to attach the two houses together and it’s lived as a one-family but it is technically a two-family. There’s two separate meters...meters and a...you know, it it’s just what it is. It’s a rambling house, it’s like thirty-two hundred square feet together.

Mr. Manley: So it’s set up with two kitchens...?

Mr. Abrams: It’s set up as a...it’s...looks like a summer kitchen that was in the back house. It was like a...it was like a grandfather’s a...you know, like accessory apartment basically that’s what they pad it...it was non-conforming. It was very old built in 1928 and it went through massive amounts of different renovations through its life and then when I took it I basically cleaned it up a lot so...

Mr. McKelvey: What year was it joined?

Mr. Abrams: Nineteen a...two thousand six, yeah.

Mr. McKelvey: No Permits?

Mr. Abrams: No, Permits absolutely, it’s C.O.’d.

Mr. Maher: So technically you labeled it as a two-family but you’re using it as a...as a one-family?

Mr. Abrams: Yeah, that’s...you know, I have a family of five and my folks used to come up from Florida and they would stay for the a...summertime and then they’d go back.

Mr. Donovan: So Charlie, just so the record is clear. So last month we talked about maybe some modifications of making the building a little shorter, if you will, and maybe removing some other structures, essentially you are back to the application as submitted...just so the...

Mr. Brown: Well again last...last month my...my client was not here...

Mr. Donovan: Correct, yes.

Mr. Brown: ...so a...based upon that when he got back from vacation I asked him and he said we will proceed with the application as submitted and a...then he can discuss with the Board anything...any concessions he wants to make.

Mr. Abrams: What I’d like to do is I’d like to explain the one car garage that’s there was built and is actually used as the pool house and it has a...a electrical panel that was C.O.’d for the pool so there’s a full blown panel in that garage that one story...that one car garage that’s in the back. And then it’s used, you know, when you want to change after you’ve gone swimming, you go in there, you dry off and you...you leave. A little compound, you know.

Mr. Manley: The only thing that I was able to locate for C.O. was 2003...

Mr. Abrams: That was a few of them.

Mr. Manley: ...for the new screen porch, trellis, walkway between two existing non-conforming houses...

Mr. Abrams: And then there was another application with a C.O. putting windows and...insulation.

Mr. Manley: ...now this walkway between the two existing that’s been since enclosed an actual...

Mr. Abrams: Yeah.

Mr. Manley: ...living area?

Mr. Abrams: And the Town knows about it.

Mr. Manley: Okay.

Mr. Abrams: Conventional door, in fact the person who gave me the C.O. was a...who is on vacation?

Mr. Brown: (Inaudible) Mattina.

Mr. Abrams: That’s who...that’s who gave me the C.O.

Mr. Manley: Does the Board have any other questions for the applicant’s representative or the applicant?

No response.

Mr. Manley: If not, we’ll reopen it up to the public. If there’s anybody from the public that has any questions, comments regarding the application?

No response.

Mr. Manley: Hearing none does anyone wish to make a motion to close the Public Hearing?

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

Mr. Manley: We have a motion from Mr. Levin. Do we have a second?

Mr. Scalzo: I’ll second.

Mr. Manley: We have a second from Mr. Scalzo. Roll call, please.

Ms. Gennarelli: Roll call.

 Richard Levin: Yes

 Michael Maher: Yes

John McKelvey: Yes

 Darrin Scalzo: Yes

 James Manley: Yes

Mr. Manley: The Public Hearing is closed.

(Time Noted – 7:25 PM)

ZBA MEETING – JUNE 22, 2017 (Resumption for Decision 8:00 PM)

JOHN ABRAMS 370 LAKESIDE ROAD, NBGH

 (28-1-19) R-1 ZONE

Applicant is seeking area variances for the maximum allowed square footage of accessory structures, the maximum height, the maximum lot surface coverage and the maximum allowed (4) four vehicle storage to build an accessory building (56 x 60 x 24).

Mr. Manley: While we wait for one of our Board Members I’m going to just instruct the applicants that are here this evening for each of their items. Generally when we have five Board Members I’d like to explain to the public how this generally works because normally we have seven Board Members, unfortunately two are not with us this evening. As a result of that it requires a vote of four out of the five Board Members here this evening to approve a variance. If the Board does not vote...if there’s a three to two that would mean that the a...the action failed and it’s a denial. So we offer the applicants the opportunity to have your application voted on this evening knowing that information that I just explained or if you wish you can...if you feel that the vote could be close you could move the vote to next month, we could carry it over to next month when we have a full Board here and then you have the benefit of having seven Board Members and then of course, it you know, makes the odds a little better. So if there is any here this evening or any applicant this evening that wishes the Board to a...to hold over their vote until next month we can certainly do that. If not, we would just go ahead and move forward with our...our voting this evening on the applications. Does anyone have any request for that? I’ll a...being that Mr. Brown was a little bit late I’ll ask you is there any request that you have with regard to any of your applicant’s this evening.

Mr. Brown: Yes, with respect to Lakeside Road, we would request that that would be carried over to the next meeting for the vote.

Mr. Manley: Okay, so we will...if there is anybody here for...

Mr. Scalzo: That’s Abrams?

Mr. Brown: Theirs also then.

Mr. Manley: Okay so 370 Lakeside Road, Mr. Abrams for next month. And the Robert Webb-Advanced Modulars LLC. ...?

Mr. Brown: Parkview Street.

Mr. Manley: Parkview Street next month.

Mr. Brown: Yes.

Mr. Manley: Okay, so we will hold those over. Ms. Gennarelli, you’ll make a note of that.

Ms. Gennarelli: Okay.

Mr. Brown: Thank you.

Mr. Manley: You’re welcome.

**(Reserved Decision to July 27, 2017)**

PRESENT ARE:

 RICHARD LEVIN

 MICHAEL MAHER

 JAMES MANLEY

 JOHN MC KELVEY

 DARRIN SCALZO

ABSENT:

 DARRELL BELL

 JOHN MASTEN

ALSO PRESENT:

 DAVID A. DONOVAN, ESQ.

 BETTY GENNARELLI, ZBA SECRETARY

 (Time Noted – 8:03 PM)

ZBA MEETING – JUNE 22, 2017 (Time Noted – 7:25 PM)

ROBERT WEBB-ADVANCED PARKVIEW STREET S, NBGH

 MODULARS LLC. (52-15-11.2) R-1 ZONE

Applicant is seeking area variances for the minimum lot area, minimum lot width, minimum lot depth, minimum front yard setback, minimum one side yard setback, minimum combined side yards setback, maximum lot building coverage and the maximum lot surface coverage to construct a new single-family dwelling.

Mr. Manley: The next application that was held over from our May 25 meeting is the application of Robert Webb-Advanced Modulars LLC, Park (Parkview) Street South, Newburgh seeking area variances for the minimum lot area, minimum lot width, minimum lot depth, minimum front yard setback, minimum one side yard setback, minimum combined side yards setback, maximum lot building coverage and the maximum lot surface coverage to construct a new single-family dwelling.

Mr. Maher: I’m going to recuse myself.

Mr. Manley: This was held over from our last meeting we were waiting for the information from the County and then if there were any further questions from the Board or the public after that. I’m going to read into the record the response from the Orange County Department of Planning.

The Planning Department has reviewed the submitted materials regarding the appeal for an area variance while the Zoning Board of Appeals must weigh the local issues in balancing the needs of the appellant and with potential impacts on the surrounding area. It does not appear that intermunicipal or countywide impacts would result if the Board finds that granting relief is warranted in this matter. We note that the lot is preexisting in its current configuration and that it would be extraordinarily to build a home on the lot that meets all setback and coverage standards. The recommendation of the County is Local Determination.

At this point, does the Board have any questions for the applicant’s representative?

Mr. Scalzo: Charlie (Brown), did you get a look out there, we had discussed a well at last month’s meeting?

Mr. Brown: Yes, we did and we located the well, it happens to be right here. We couldn’t get the cap off it so we don’t know if it’s been decommissioned a...I did talk to my client’s contractor, they are willing to decommission that well a...it’s not in use. That was something that the homeowner at that house said but typically when these well are de...when the house is tied into the water system the existing wells are supposed to be decommissioned a...per AWWA specs which means essentially filling it with...with concrete and cutting the cap below grade so you don’t hit it with your lawnmower and what not. So a...yes, it’s shown a...this is the one that was mentioned. There happens to be another one back here behind this house so it would actually be two wells, one on each property adjoining but again both houses are not using the wells and they are on Town water.

Mr. Scalzo: Okay. Next question, I thought actually it was Dave that had asked for a little more detail on the location map...

Mr. Brown: What we did is we put together a copy of the...the tax map, the green lot shows the...subject parcel a...the one adjacent to it on the right is the same size, three in the back are half that size a...the other one that’s right behind it is the same size, the one next to it actually is a little bit bigger and then you got two more of the half size lots a...and another one here and another one the same size. In addition, I brought an elevation of the house a...we also have photos of the houses on each side, ones a two-story and the other one is a raised ranch so they have more of visual impact a...than this proposed house would. We essentially looked at everything in that...in that same block.

Mr. Scalzo: It...so it actually appears your client would be building one of the smaller homes on the...on the street.

Mr. Brown: Yes, yes, I mean some...some of these half sized lots which are...I can’t remember the acreage one ‘em a...point one six or something like that. Some of those houses are smaller but that’s because the lots are so small.

Mr. Scalzo: (Inaudible)

Mr. Manley: At this point, we would open the floor to anybody in the public that has questions, comments regarding the application before us this evening.

Ms. Hasbrouck: Hi I’m Rebecca Hasbrouck; I have the house at 107, right next door so kind of upwards. I had two concerns mainly and this is coming...we have a smaller house, the 107 Parkview is smaller, we’re only like eleven hundred square feet. One concern was the property itself, it looked like the leech field was in a pretty compact space and our house is our investment so I worry about down the road if that home has a problem with its leech field is there an alternate place to relocate that leech field or any other possibility to rectify that or would that just be taking the leech field out and replacing it? I...I thought...

Mr. Scalzo: I...I completely understand your concerns. The County of Orange requires any new septic design to have a fifty percent expansion area in case of failure. Typically you’re not going to see a full failure of a system. So this plan actually shows an additional fifty percent more than what they require for the septic area.

Ms. Hasbrouck: Okay, that was more educational for me so, I appreciate that.

Mr. Scalzo: Oh, that’s great.

Ms. Hasbrouck: The second thing is that recently the homeowner’s on Parkview Street got together to start the plans to make the road into a Town road which during the meeting I had raised a question about the boundaries of the road itself. Right now the road is thinner than or more narrow than what it would to accommodate trucks coming to maintain the road and plowing and whatnot. So my concern off that is that the home going in it...it...it’s a lovely home and I know it’s not going to look like a massive home, the front yard variance though I believe there’s a variance for the front yard that it’s already shorter than what is required? Once the petition goes in and the engineering goes in for Parkview to become a Town road I just have concern that it’s going to be even smaller in the front and I don’t know if that’s going to impact...if you have a...a drainage a...you have the drain going out towards the road itself. Are there plans to maybe shorten that if the road becomes a Town road?

Mr. Brown: All improvements on the lot with...with the exception of the driveway are actually on the physical lot. We have well over ten feet, looks like it will be twelve, thirteen feet between our property and the edge of pavement so there is room there for the widening of that without impacting this plan at all.

Ms. Hasbrouck: Okay.

Mr. Brown: We’re really not permitted to do additional work in the Town right-of-way or in this case, a private road right-of-way that would...or can be affected by something in the future like getting a road dedicated so...

Ms. Hasbrouck: Okay.

Mr. Brown: ...we kept the curtain drain, this is the property line right, that’s the edge of the pavement, we kept the curtain drain about six feet off of the property line so none of this will be affected. The driveway, the same as...as yours or anybody else’s if they widen it out will have to be addressed a little bit you know, at the interface between the private road and the driveways but other than that no impacts.

Ms. Hasbrouck: The drain itself would have enough room that it wouldn’t actually...

Mr. Brown: Yes.

Ms. Hasbrouck: ...be under the road or anything.

Mr. Brown: Yes.

Ms. Hasbrouck: Okay. (Inaudible)

Mr. Scalzo: Charlie, is the private road a fifty foot right-of-way?

Mr. Brown: It is a fifty foot right-of-way, yes a...

Mr. Scalzo: Do you happen to know if the actual improved portion of the pavement is in the middle of it?

Mr. Brown: A...it’s close, it’s close, it’s not, you know, well off to one side or the other a...again when you go from a private road with the minimum pavement with the twenty feet to a Town road with the pave...minimum pavement with the twenty-four feet you’re really only adding four feet so even if they had to add that on our side all on our side, there’s plenty of room there.

Mr. Scalzo: The reason why I asked him what I asked him about a fifty foot right-of-way and if the actual pavement was in the middle of it, in typical situations it’s twenty-five feet off the center of the line of the road to the property line but if they actually misplaced during construction the roadway it could be closer to one property front or another on either side of the road so why I asked if it was centered on that is it would be more apparent that it would get closer to the house if the pavement was actually closer to that side of the right-of-way.

Ms. Hasbrouck: Okay, well that’s probably submitted to you in a few months after all the engineering...

Mr. Scalzo: Not to us.

Ms. Hasbrouck: (Inaudible) ...okay. That’s all that I have though so, thank you.

Mr. Manley: Is there anyone else this evening that has any questions for the applicant or the applicant’s representative?

No response.

Mr. Manley: Hearing none, I’ll come back to the Board is there anything further that the Board has?

No response.

Mr. Manley: At this point, I’d look for a motion to close the Public Hearing.

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

Mr. McKelvey: I’ll second.

Mr. Manley: I have a motion from Mr. Scalzo, a second from Mr. McKelvey, roll call please.

Ms. Gennarelli: Roll call.

 Richard Levin: Yes

 Michael Maher: Yes(Mr. Maher Recused did not vote-corrected 7/27/17)

John McKelvey: Yes

 Darrin Scalzo: Yes

 James Manley: Yes

Mr. Brown: Thank you.

Mr. Manley: Charlie, just so you know there’s only four of us, okay, this evening...

Mr. Brown: So I need a unanimous...

Mr. Manley: ...so you need a unanimous vote of the a...Zoning Board so you have the option as we give all our applicants when there’s a, you know, not a full Board you have the option of waiting or moving forward.

Mr. Brown: I’ll give you that decision right now.

Mr. Manley: Well we’ll...

Mr. Donovan: He wants to come back after...

Mr. Brown: Well I have to talk to Mike...

Mr. Manley: Okay.

Mr. Brown: This is...this is a relative of his we’re talking...

Mr. Manley: Well why don’t we do this, why don’t you let us know at the end when we’re done a...you can maybe confer with him real quick and a...we’ll kind of move things along or actually confer with him shortly after a...we...we recess.

Mr. Brown: Okay, okay. Thank you.

Mr. Manley: Alright. If somebody would let Mike know that we’re done.

Ms. Gennarelli: I will do that.

Mr. Manley: You’re welcome.

 (Time Noted - 7:34 PM)

ZBA MEETING – JUNE 22, 2017 (Resumption for decision: 8:03 PM)

ROBERT WEBB-ADVANCED PARKVIEW STREET S, NBGH

 MODULARS LLC. (52-15-11.2) R-1 ZONE

Applicant is seeking area variances for the minimum lot area, minimum lot width, minimum lot depth, minimum front yard setback, minimum one side yard setback, minimum combined side yards setback, maximum lot building coverage and the maximum lot surface coverage to construct a new single-family dwelling.

**(Reserved Decision to July 27, 2017)**

PRESENT ARE:

 RICHARD LEVIN

 MICHAEL MAHER - Recused

 JAMES MANLEY

 JOHN MC KELVEY

 DARRIN SCALZO

ABSENT:

 DARRELL BELL

 JOHN MASTEN

ALSO PRESENT:

 DAVID A. DONOVAN, ESQ.

 BETTY GENNARELLI, ZBA SECRETARY

 (Time Noted – 8:03 PM)

ZBA MEETING – JUNE 22, 2017 (Time Noted – 7:34 PM)

NICOLE & TROY MESSNER 109 HIGHLAND AVENUE, NBGH

 (67-6-6) R-3 ZONE

Applicant is seeking an area variance for increasing the degree of one side yard setback and the combined side yards setback to keep a prior built screened porch that was converted into habitable space.

Mr. Manley: While that’s happening I’ll just move on to the next, the next is a holdover from our May 25th meeting as well, Nichole and Troy Messner, 109 Highland Avenue, Newburgh, this was a hold over waiting for the County report from the Department of Planning. They’re seeking an area variance for increasing the degree of one side yard setback and the combined side yards setback to keep a prior built screened porch that was converted into habitable space. I’m going to go ahead and just read into the record the report from the Department of Planning

The Planning Department has reviewed the submitted materials regarding the appeal for an area variance while the Zoning Board of Appeals must weigh the local issues in balancing the needs of the appellant with potential impacts on the surrounding area it does not appear that intermunicipal or countywide impacts would result if the Board finds that granting relief is warranted in this matter. The recommendation of the County is Local Determination.

That is the only thing that the Board was waiting for. I’ll just go to the Board Members to see if they have any supplementary questions and then I’ll check with the public.

Mr. Scalzo: Nothing here.

Mr. McKelvey: Nothing here.

Mr. Manley: Does the public have any questions or comments with regard to this application?

No response.

Mr. Manley: Hearing none I would ask at this point for the Board to make a motion to close the Public Hearing.

Mr. McKelvey: I’ll make that motion.

Mr. Scalzo: I’ll second.

Mr. Manley: I have a motion from Mr. McKelvey and a second from Mr. Scalzo, roll call please.

Ms. Gennarelli: Roll call.

 Richard Levin: Yes

 Michael Maher: Yes

John McKelvey: Yes

 Darrin Scalzo: Yes

 James Manley: Yes

Mr. Manley: The Public Hearing is currently closed. At this point in our meeting before we proceed the Board would like to take a short adjournment to confer with Counsel regarding legal questions raised by tonight’s applications. If I could ask in the interest of time if you could wait out in the hallway and then we’ll call you in very shortly for the conclusion of our meeting.

 (Time Noted - 7:36 PM)

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ZBA MEETING – JUNE 22, 2017 (Resumption for decision: 8:07 PM)

NICOLE & TROY MESSNER 109 HIGHLAND AVENUE, NBGH

 (67-6-6) R-3 ZONE

Applicant is seeking an area variance for increasing the degree of one side yard setback and the combined side yards setback to keep a prior built screened porch that was converted into habitable space.

Mr. Manley: Skipping the next two we’ll go down to the next application of Nichole and Troy Messner, 109 Highland Avenue, Newburgh, also a Type II Action under SEQR, seeking area variances for the non-conformity of the side yard setback, the combined side yards setback for a prior built screened porch that was converted into habitable space. At this point, we also go through our balancing test, first is whether or not the benefit can be achieved by other means feasible to the applicant?

Mr. McKelvey: No.

Mr. Manley: Again, barring removal that probably is impossible.

Mr. McKelvey: Yeah.

Mr. Manley: The next is whether or not the granting of the variance would create an undesirable change in the neighborhood character or detriment to nearby properties?

Mr. McKelvey: The next door neighbor was happy with it.

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

Mr. McKelvey: Well it’s pre-existing.

Mr. Maher: I don’t think so.

Mr. Manley: I mean it does fit within the character of the neighborhood.

Mr. McKelvey: Yeah, all the houses are close together there.

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

Mr. Maher: You can’t see it from the road.

Mr. McKelvey: No.

Mr. Levin: No.

Mr. Manley: And finally whether or not the alleged difficulty is self-created, again relevant but not determinative. Weighing the five factors that the Board has looked at this evening do we have a motion from the Board?

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

Mr. Scalzo: I'll second.

Mr. Manley: We have a motion from Mr. McKelvey, a second from Mr. Scalzo, roll call vote please.

Ms. Gennarelli: Roll call.

 Richard Levin: Yes

 Michael Maher: Yes

John McKelvey: Yes

 Darrin Scalzo: Yes

 James Manley: Yes

Mr. Manley: The motion is carried. The variance is approved. This is also a Type II Action under SEQR.

PRESENT ARE:

 RICHARD LEVIN

 MICHAEL MAHER

 JAMES MANLEY

 JOHN MC KELVEY

 DARRIN SCALZO

ABSENT:

 DARRELL BELL

 JOHN MASTEN

ALSO PRESENT:

 DAVID A. DONOVAN, ESQ.

 BETTY GENNARELLI, ZBA SECRETARY

 (Time Noted – 8:09 PM)

ZBA MEETING – JUNE 22, 2017

END OF MEETING (Time Noted – 8:09 PM)

Mr. Manley: At this point I’ll ask if the Board has had an opportunity to review the minutes?

Mr. Scalzo: I have.

Mr. Maher: Yes.

Mr. Manley: Has everyone else had an opportunity to review the minutes?

Yes.

Mr. Manley: The only thing I would ask Ms. Gennarelli...

Ms. Gennarelli: Yes.

Mr. Manley: ...is just to make sure that there is a correction placed or it’s so noted that with respect to the Abrams that it be noted in the minutes that it was an R-1.

Ms. Gennarelli: It was an R-1.

Mr. Manley: Correct.

Ms. Gennarelli: R-1 okay, and I believe Knights Circle was an R-2 and it changed to R-1, it wasn’t R-3.

Mr. Manley: Does the Board wish to approve the minutes as corrected?

Mr. Scalzo: I make a motion we approve the minutes.

Mr. McKelvey: Second

Mr. Manley: Motion to approve from Mr. Scalzo and we have a second from Mr. McKelvey, all in favor.

Aye All

Mr. Manley: Any opposed?

No response.

Mr. Manley: Okay, any other announcements or anything that the Board wishes?

No response.

Mr. Manley: At this point I’d look for a motion to adjourn?

Mr. Maher: So moved.

Mr. McKelvey: Second.

Mr. Manley: All in favor say Aye?

Aye All

Mr. Manley: Opposed?

No response.

Mr. Manley: The motion is carried. The meeting is adjourned until July 27th. Thank you.

PRESENT ARE:

 RICHARD LEVIN

 MICHAEL MAHER

 JAMES MANLEY

 JOHN MC KELVEY

 DARRIN SCALZO

ABSENT:

 DARRELL BELL

 JOHN MASTEN

ALSO PRESENT:

 DAVID A. DONOVAN, ESQ.

 BETTY GENNARELLI, ZBA SECRETARY

 (Time Noted – 7:11 PM)