ZONING BOARD OF APPEALS

MEETING – JULY 28, 2016

(Time Noted – 7:05 PM)

Mr. McKelvey: I’d like to call the meeting of the ZBA to order. The first order of business is the Public Hearing scheduled for today.

Ms. Gennarelli: The first order of business tonight 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. The Board 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 a cell phone 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

PRESENT ARE:

DARRELL BELL

RICHARD LEVIN

JOHN MC KELVEY

JOHN MASTEN

DARRIN SCALZO

ABSENT:

MICHAEL MAHER

JAMES MANLEY

ALSO PRESENT:

DAVID A. DONOVAN, ESQ.

BETTY GENNARELLI, ZBA SECRETARY

GERALD CANFIELD, CODE COMPLIANCE

Pledge of Allegiance to the Flag led by John Masten

(Time Noted – 7:07 PM)

ZBA MEETING – JULY 28, 2016 (Time Noted – 7:07 PM)

ESTATE OF JAMES A. FISCHER 2 FLETCHER DRIVE, NBGH

(JENNIFER FISCHER) (94-1-13.2) B ZONE

Applicant is seeking area variances for the minimum lot width, the minimum lot area and one side yard setback for a site plan application before the planning board to allow a pet boarding facility to operate on a separate non-conforming lot.

Mr. McKelvey: If there is anyone here for the Fischer variance they won’t be here tonight. Betty you want to read the letter?

Ms. Gennarelli: I have a letter here from Vincent J. Doce Associates.

Dear Mr. Manley: I am writing this letter on behalf of Mrs. Fischer and her attorney Marcia Jacobowitz. Mrs. Fischer is requesting an adjournment of her application to the August 25, 2016 meeting. There have been developments which may minimize the variances needed, but Mrs. Fischer won’t know the results of these developments prior to the July meeting date. Thank you for your consideration in this matter. Sincerely, Darren C. Doce

Mr. Donovan: If I could just suggest a motion to adjourn that to the August meeting.

Mr. McKelvey: When is…when is the August meeting?

Ms. Gennarelli: August 25th.

Mr. McKelvey: Do we have a motion to that effect?

Mr. Masten: I’ll make a motion.

Mr. Scalzo: I’ll second.

Ms. Gennarelli: Roll call.

Darrell Bell: Yes

Richard Levin: Yes

John Masten: Yes

Darrin Scalzo: Yes

John McKelvey: Yes

PRESENT ARE:

DARRELL BELL

RICHARD LEVIN

JOHN MC KELVEY

JOHN MASTEN

DARRIN SCALZO

ABSENT:

MICHAEL MAHER

JAMES MANLEY

ALSO PRESENT:

DAVID A. DONOVAN, ESQ.

BETTY GENNARELLI, ZBA SECRETARY

GERALD CANFIELD, CODE COMPLIANCE

(Time Noted – 7:08 PM)

ZBA MEETING – JULY 28, 2016 (Time Noted – 7:08 PM)

PAUL & RACHEL SCHUYLER 19 CATALPA ROAD, NBGH

(79-5-2) R-3 ZONE

Applicant is seeking an area variance for the rear yard setback to construct a 2-story rear addition (14 x 31) on the residence.

Mr. McKelvey: Okay the first applicant.

Mr. Levin: Our first application tonight is Paul and Rachel Schuyler. They’re asking for area variance for the rear yard setback to construct a 2-story rear addition (14 x 31) on the residence.

Ms. Gennarelli: One moment please. The Public Hearing Notices for all the new applications being heard this evening were published in the Mid-Hudson Times on Wednesday, July 20th and The Sentinel on Friday, July 22nd. This applicant sent out fifty-five letters. All the mailings, publications and postings are in order.

Mr. McKelvey: Please say your name for the record please.

Mr. Schuyler: Paul Schuyler.

Ms. Schuyler: Rachel Schuyler.

Mr. McKelvey: Good evening, go ahead and state your…what you’re looking for.

Ms. Schuyler: We’re looking to put a 2-story addition in the back of our house that’s 14 x 31 feet.

Mr. McKelvey: Do we have any questions from the Board?

Mr. Donovan: So right now if I understand your survey correctly you’re…you’re at the closest distance you’re about thirty point six feet and you want to go down to eighteen feet three inches? Is that correct?

Mr. Schuyler: Yes.

Mr. Donovan: And you have kindly an oddly configured lot?

Ms. Schuyler: Yes.

Mr. Schuyler: Very much so.

Mr. McKelvey: There’s a lot of trees in the back too.

Ms. Schuyler: Yes.

Mr. Schuyler: Yes.

Mr. Donovan: Because probably the other side of the house would comply to the rear yard setback because...

Mrs. Schuyler: Correct, that’s our bedroom.

Mr. Donovan: …the rear property line is at an angle, correct?

Ms. Schuyler: Correct.

Mr. Schuyler: Yes, it is.

Mr. Scalzo: And from what I’m looking at it’s a two-story but from the road it only appears as a single, correct?

Ms. Schuyler: Yes, it’s a ranch…it’s a brick ranch.

Mr. Scalzo: We’ve all seen it actually. But so from the road it will not appear…

Ms. Schuyler: Correct, yes.

Mr. Scalzo: …as a two-story…

Ms. Schuyler: It’s deceiving.

Mr. Scalzo: …your roofline won’t change much.

Ms. Schuyler: Correct.

Mr. McKelvey: Any other questions from the Board?

No response.

Mr. McKelvey: If not, we’ll open it up to the public. Is there anybody from the public that would like to speak?

No response.

Mr. McKelvey: Hearing none I’ll look for a motion.

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

Mr. Masten: I’ll second it.

Mr. McKelvey: Roll Call.

Ms. Gennarelli: Roll call.

Darrell Bell: Yes

Richard Levin: Yes

John Masten: Yes

Darrin Scalzo: Yes

John McKelvey: Yes

Mr. Scalzo: Pardon me, John, did you explain to the audience this evening that we will render determinations when we can?

Mr. McKelvey: She…she read…

Mr. Scalzo: Oh you’re…oh…

Mr. McKelvey: She read it.

Mr. Scalzo: I was organizing my stuff.

Mr. Donovan: I’m sure he was intent on something else because he would never ignore you intentionally Betty, I’m sure that would never happen.

Ms. Gennarelli: I know, I…it’s okay. I thought I read it very clearly but…it’s okay. It’s all right, thank you though.

Mr. Scalzo: I apologize.

Ms. Gennarelli: Oh, thank you.

Mr. McKelvey: Thank you for now; we’ll render decisions after we hear all of…the other variances.

Mr./Ms. Schuyler: Thank you.

(Time Noted - 7:12 PM)

ZBA MEETING – JULY 28, 2016 (Resumption for decision: 7:52 PM)

PAUL & RACHEL SCHUYLER 19 CATALPA ROAD, NBGH

(79-5-2) R-3 ZONE

Applicant is seeking an area variance for the rear yard setback to construct a 2-story rear addition (14 x 31) on the residence.

Mr. McKelvey: Okay, we’re ready to resume the meeting.

Ms. Gennarelli: Okay our regular meeting is rejoined.

Mr. Levin: Yes. Mr. & Mrs. Schuyler, our application on 19 Catalpa Road for an area variance for the rear yard setback to construct a 2-story rear addition (14 x 31) on the residence.

Mr. McKelvey: Any further questions from the Board?

Mr. Scalzo: No I think it won’t…I think it will be right in character with the neighborhood. I don’t think you’re actually going to see it from the front so a…

Ms. Gennarelli: Okay, I was going to go through the questions.

Mr. McKelvey: We’re going to go through the questions.

Mr. Scalzo: Okay.

Ms. Gennarelli: Okay, whether the benefit can be achieved by other means feasible to the applicant?

Mr. Levin: No.

Mr. Scalzo: No.

Mr. McKelvey: No.

Ms. Gennarelli: Will it cause an undesirable change in the neighborhood character or detriment to nearby properties?

Mr. Levin: No.

Mr. Scalzo: No.

Ms. Gennarelli: Whether the request is substantial in nature?

Mr. McKelvey: No.

Mr. Levin: No.

Mr. Scalzo: I don’t believe so.

Ms. Gennarelli: Whether the request will have adverse physical or environmental effects?

Mr. Levin: No.

Mr. Scalzo: No.

Ms. Gennarelli: And lastly whether or not the alleged difficulty is self-created? This is relevant but not determinative. I can’t give Jim’s whole speech, come on.

Mr. McKelvey: No.

Mr. Donovan: So in the context of an area variance obviously that’s not a…major factor. Most area variances you’re going find are self-created. This one is.

Mr. McKelvey: This is a Type II under SEQR.

Mr. Donovan: Correct.

Mr. McKelvey: Do we have a motion for approval?

Mr. Masten: I'll make a motion.

Mr. Levin: I'll second.

Mr. McKelvey: Roll call.

Ms. Gennarelli: Roll call.

Darrell Bell: Yes

Richard Levin: Yes

John Masten: Yes

Darrin Scalzo: Yes

John McKelvey: Yes

Mr. McKelvey: Motion passed.

Mr. Levin: I apologize for mispronouncing your name at the beginning.

(Inaudible)

Mr. McKelvey: The motion was carried.

PRESENT ARE:

DARRELL BELL

RICHARD LEVIN

JOHN MC KELVEY

JOHN MASTEN

DARRIN SCALZO

ABSENT:

MICHAEL MAHER

JAMES MANLEY

ALSO PRESENT:

DAVID A. DONOVAN, ESQ.

BETTY GENNARELLI, ZBA SECRETARY

GERALD CANFIELD, CODE COMPLIANCE

(Time Noted – 7:54 PM)

ZBA MEETING – JULY 28, 2016 (Time Noted – 7:12 PM)

PAMELA WEBER & GAIL 6 SANDALWOOD DRIVE, NBGH

DUNCAN-AMERSON (91-3-9) R-1 ZONE

Applicant is seeking an area variance the rear yard setback to keep the prior built rear addition (11 x 24) on the residence.

Mr. Levin: Our next variance request is from Pamela Weber and Gail Duncan-Amerson, 6 Sandalwood Drive, Newburgh asking for an area variance the rear yard setback to keep the prior built rear addition (11 x 24) on the residence.

Mr. Russell: Good evening gentlemen…

Ms. Gennarelli: Excuse me, one second please. This applicant sent out seventy-one letters. All the mailings, publications and postings are in order. Okay, you can go ahead just introduce yourself.

Mr. Russell: Good evening gentlemen and gentlelady, David Russell for the applicants Pam Weber and Gail Duncan. Pam and Gail took title from their dad a few years back as part of a elder law plan. Unfortunately Mr. Weber, the late Mr. Weber left them with some issues one of which was a deck on the back of the house that we’ve since removed Another one was a shed that for all purposes appeared to be a garage we’ve addressed that as well by removing the garage door and installing a door in the front. This is an issue that originally was a deck and Mr. Weber enclosed it. And now because it’s enclosed by the current a…rear setbacks we’re about fifteen feet shy. The house that has been there for years, the room…the deck had been there for many, many years and I don’t believe it has an adverse impact on the neighborhood if the…if the variance is granted.

Mr. McKelvey: I was going to say that’s been there for a long time. Any questions from the Board?

Mr. Scalzo: Unless you’re hearing the act a…the…the what’s going…it appears as though it fits right in, you know, it was very difficult to discern that it hadn’t been part of the original construction.

Mr. Russell: And...and based on the…the deck that was there the…I think the Town office said, can’t rectify it, take it off, they did. We also took out a a wood burning stove that was put in so my clients have done everything that they’ve been asked to do and…and this would be, in essence part of the house that’s not no longer the rear deck.

Mr. McKelvey: Anybody from the public here want a question?

No response.

Mr. McKelvey: I’ll look for a motion.

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

Mr. Masten: I’ll second it.

Mr. McKelvey: Roll call.

Ms. Gennarelli: Roll call.

Darrell Bell: Yes

Richard Levin: Yes

John Masten: Yes

Darrin Scalzo: Yes

John McKelvey: Yes

Mr. Russell: Thank you, sir. Just want to add it was a pleasure seeing my former colleague, your esteemed attorney Mr. Donovan. Thank you.

Mr. Donovan: It’s always a pleasure, it’s been too long.

Mr. Russell: Yes.

Ms. Gennarelli: David, the Public Hearing is closed but they didn’t vote yet.

Mr. Donovan: So wait, (inaudible) afterwards right?

Ms. Gennarelli: Yeah, after.

(Time Noted - 7:15 PM)

ZBA MEETING – JULY 28, 2016 (Resumption for decision: PM)

PAMELA WEBER & GAIL 6 SANDALWOOD DRIVE, NBGH

DUNCAN-AMERSON (91-3-9) R-1 ZONE

Applicant is seeking an area variance the rear yard setback to keep the prior built rear addition (11 x 24) on the residence.

Mr. Levin: Pamela Weber and Gail Duncan-Amerson, 6 Sandalwood Drive, they’re asking an area variance the rear yard setback to keep the prior built rear addition (11 x 24) on the residence.

Mr. McKelvey: Okay Betty.

Ms. Gennarelli: Okay, we’re going to have discussion on the application. First question, whether the benefit can be achieved by other means feasible to the applicant?

Mr. McKelvey: No.

Mr. Scalzo: Pre-existing, no.

Mr. McKelvey: Pre-existing.

Ms. Gennarelli: Will it cause an undesirable change in the neighborhood character or detriment to nearby properties?

Mr. Levin: No.

Mr. McKelvey: No.

Ms. Gennarelli: Is the request substantial?

Mr. McKelvey: No.

Mr. Levin: No.

Ms. Gennarelli: Whether the request will have adverse physical or environmental effects?

Mr. McKelvey: No.

Mr. Levin: No.

Ms. Gennarelli: And whether or not the alleged difficulty is self-created?

Mr. Donovan: And again as I said before that’s not a determinative factor in the contexts of an area variance.

Mr. McKelvey: And this is a Type II Action under SEQR.

Mr. McKelvey: Do we have a motion?

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

Mr. Masten: I'll second.

Ms. Gennarelli: Roll call.

Darrell Bell: Yes

Richard Levin: Yes

John Masten: Yes

Darrin Scalzo: Yes

John McKelvey: Yes

Mr. McKelvey: The motion is carried.

PRESENT ARE:

DARRELL BELL

RICHARD LEVIN

JOHN MC KELVEY

JOHN MASTEN

DARRIN SCALZO

ABSENT:

MICHAEL MAHER

JAMES MANLEY

ALSO PRESENT:

DAVID A. DONOVAN, ESQ.

BETTY GENNARELLI, ZBA SECRETARY

GERALD CANFIELD, CODE COMPLIANCE

(Time Noted – 7:56 PM)

ZBA MEETING – JULY 28, 2016 (Time Noted – 7:15 PM)

NORTH OHIOVILLE LLC. 510 CENTER STREET, NBGH

(37-7-16) R-3

Applicant is seeking area variances to keep the prior built enclosed porch, the prior built covered deck and the prior built accessory structures for (A) the minimum front yard setback for the enclosed front porch; (B) the minimum rear (side) yard setback for the rear covered deck; also the maximum square footage allowed by formula for all of the prior built accessory buildings (C) 10 x 7.7 accessory building; (D) 8 x 10 accessory building and also the minimum 5 ft. setback from the rear lot line and (E) 20 x 20 accessory building and also the minimum 5 ft. setback from the side lot line and the rear lot line at the residence.

Mr. Levin: Our next application is from North Ohioville LLC., 510 Center Street, Newburgh. They’re asking for area variances to keep a prior built enclosed porch, a prior built covered deck and a prior built accessory structure(s) (three) for (A) the minimum front yard setback for the enclosed front porch; (B) the minimum rear (side) yard setback for the rear covered deck; also the maximum square footage allowed by formula for all of the prior built accessory buildings (C) 10 x 7.7 accessory building; (D) 8 x 10 accessory building and also the minimum 5 ft. setback from the rear lot line and (E) 20 x 20 accessory building and also the minimum 5 ft. setback from the side lot line and the rear lot line on the residence.

Mr. McKelvey: Charlie, we’ll cover them all at once.

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

Mr. Brown: When they a…the one…

Ms. Gennarelli: If you could introduce yourself for the record. Thank you.

Mr. Brown: Charles Brown, the engineer for the applicant, the requested variance for the covered rear deck is for a side yard not a rear yard. This a…this a…all of these things were…were in place when my client bought the building a…they bought it at a short sale. They’ve been putting money into it to a…to return it in a…saleable condition. The a…front porch is pretty much in character with all the other porches and decks in the front of the houses in the neighborhood. I don’t know whether the zoning front yard setbacks were reduced at…at one time. It’s unheated, we’re twenty-eight feet from the property line in the front and again that’s in character with the neighborhood (inaudible) all these things are existing so they’re…they’re not going to be a…they’re not going to change the character of the neighborhood. They’re not going to create adverse impacts either to the neighborhood or the environment. A…with respect to the rear sheds a…we’re a…three point six feet off the side yard and we’re required to have five and we’re four point three off the back property line and we’re required to have five feet. So a…that’s…that’s a summary of everything. If you have any questions I’m here to answer them.

Mr. McKelvey: What’s the purpose for all the sheds?

Mr. Brown: Well again they…they were all existing a… shed #C their ten by seven and a half one a…that actually is a prefabricated steel shed, it’s in very, very good condition. The other shed…D, I think the previous owner was using it to…I don’t know repair equipment or whatnot a…there is a…a sign from can’t remember what small machine anyway on the front of that shed a…portions of it are…shed 1 most of it’s in pretty good condition a…the wing off to the side there is…is a little dilapidated a…and shed D is actually in pretty poor condition. If a…part of getting these approved would be a…structural certification on them then I’d have to say that maybe shed D could be taken out of this and a…that would actually reduce some of those variances.

Mr. McKelvey: What about those small open ones on the end? Couldn’t they be removed?

Mr. Brown: You could take this piece off of the side of shed #1 or E a…based upon your sequence. That would then give us more than the five yard setback we’d have seven point six feet. It’s…it was actually added on to that shed after the shed was built. The wing on the other side that’s part of the original construction and that can’t…that can’t be moved.

Mr. Levin: Charlie, I’m not a…a electrician but the wiring is primitive in that.

Ms. Gennarelli: Richard, can you just pull your microphone in more?

Mr. Levin: I’m not an electrician…

Ms. Gennarelli: Thank you.

Mr. Levin: …but I think the wiring for the sheds is primitive, in fact, it’s open.

Mr. Brown: Yeah, as far…as far as I can tell it’s not…not even hot it’s a…they’re not hooked up right now. A…they would have to, you know, obviously comply with…with the a…Building Codes and the Building Department if they were to a…bring electricity to those sheds or repair the electricity to those sheds so that would have to, you know, be signed off by the Building Department or the a…

Mr. McKelvey: It’s laying on top of the ground.

Mr. Brown: Yeah, between…between the a…post and…and the shed, I saw that, yeah.

Mr. Levin: Don’t you think…

Mr. Brown: But they’re not live right?

Ms. Gennarelli: Excuse me, you have to go to the microphone and just introduce yourself.

Ms. Elkin: Hello, I’m Liz Elkin, we’re actually planning on removing all the electric out there but we were waiting to hear back on this but we’ve already planned on taking care that because we saw that was an issue as well but we didn’t want to move forward with anything until we knew what was happening.

Mr. McKelvey: Would you…would you agree to remove that one shed that I…that’s on the end that I talked about?

Ms. Elkin: The wing…the wing that is getting too close to property line?

Mr. McKelvey: On…on…looking at it on the right hand side, that open one.

Ms. Elkin: Is that the a…metal one, Charlie?

Ms. Gennarelli: C, D or E, which one? D?

Mr. Donovan: I think D was the one that Charlie indicated could come down.

Mr. Brown: Yeah, D could come down and this piece of E can come off, the piece near the side yard which is actually four by seven feet so that would reduce the overage on accessory’s by twenty-one feet and then taken shed D out of there would reduce it by another eighty feet and we’d be down to three...three something.

Mr. McKelvey: Would you agree to that?

Ms. Elkin: Yes, I would.

Mr. Levin: You’re actually selling the property, aren’t you?

Ms. Elkin: Yes.

Mr. Levin: A…it’s my opinion that if you remove all the sheds it would look better, for sale.

Ms. Elkin: Yes, it’s probably true, agreed.

Mr. Levin: You also have a…on you face the…the buildings…the right side, it’s very, very wet. You have something leaking there.

Ms. Elkin: We have a soaker hose actually on a timer a…and I believe that the timer broke. We just stopped by and saw the very same thing and we’re correcting it. We planted some plants…

Mr. McKelvey: I stepped in it.

Ms. Elkin: Yes, I am sorry. We planted some plants and we wanted to keep them well hydrated in this heat so we had it running on a timer.

Mr. Scalzo: I have a couple of things I noticed when I was out there and I’m actually going to ask Jerry for his opinion as I’m talking. Jerry, have you been to the site as well?

Mr. Canfield: No but I just looked at these pictures.

Ms. Gennarelli: Darrin, Darrin…thank you.

Mr. Scalzo: Okay, sorry, I was looking that way.

Ms. Gennarelli: Pull them in more.

Mr. Scalzo: I’m pulling in. The enclosed addition on the front a…Charlie, you’ve been there you’ve seen the property, did you look at where the concrete meets the ground? And did you look at how it’s…it’s not fully supported? I don’t know that you’ll see it in photos but I was walking around and looking at it…the green painted, you know, portion of the CMU’s where it meets the concrete at the bottom and it’s…it’s actually concave into the line of the wall and that’s…that’s an indication on both the front left and right corners…

Mr. Brown: Yes, I did…

Mr. Scalzo: (Inaudible)

Mr. Brown: …look at it has a shed roof so all the a…all the load is going to be on the outside a…footing. From what I can tell this was just a concrete patio at one time and then somebody came in and put a…a block wall on it for what…two or three feet and then framed up on top of that.

Mr. Scalzo: Correct. I spoke with the fellow across the…when I was doing my inspection I spoke with the fellow across the street and he indicated exactly what you just said. Originally it was just a concrete pad and then, you know, it grew from up there and…

Mr. Brown: Yeah.

Mr. Scalzo: …and as far as how it corresponds to everything else in the neighborhood the property to the immediate left if you’re facing the house it does have a porch however, it’s not enclosed. So they may…

Mr. Brown: Right.

Mr. Scalzo: …they may require variances for that but they’re not enclosed. You know, I’m wondering about the load how the…you were just saying how the load is transferred…up, that may be a problem if you’re…you know you can’t verify the footings there.

Mr. Brown: I went through…I mean it’s been there for an extended period of time so it’s pretty much weathered any weather condition that’s going to be particularly as far as snow loads. I mean we did have some very heavy snow loads which…

Mr. Scalzo: Two years ago.

Mr. Brown: A…yeah, which Dave will remember because he lost part of a roof on one of his buildings. Anyway I looked at it, I went inside and I inspected the inside of that and I saw no cracks or deflections anywhere in that…that a…that wall that’s supporting that roof so…

Mr. Scalzo: Okay, and there are windows in the front of that. Are they…are they…can you raise and lower these windows?

Mr. Brown: Yes.

Mr. Scalzo: Are there any racking going on where…

Mr. Brown: No, no…

Mr. Scalzo: …it would indicate…

Mr. Brown: No, no.

Mr. Scalzo: …any a settlement?

Mr. Brown: No.

Mr. Scalzo: No? Okay, that’s one boy that’s got the…

(Inaudible)

Mr. Canfield: If you may just keep in mind this is a process what brings this applicant here is that they filed for Building Permits. They were built without Permits so it’s a prior built so to speak. So the next step in the process should this Board choose to approve these variances is that the applicant and their engineer must deal with the Building Department in securing Permits and at that point all the structural bearing issues will be discussed and settled. I had some reservations as well as looking at some of these sheds and I think Charlie had addressed particularly the D shed there’s some areas of repair that it may be a business decision whether you want to put the money into them. Is it worth rehabbing them or removing them? And perhaps replacing them so but just for your…your concern it’s a process.

Mr. Scalzo: Thank you. Charlie, the next thing I noticed in the backyard, there is a oil storage tank which rests right on the ground. I have a photo if you’d like to see it.

Mr. Brown: Okay, I totally missed that.

Mr. Brown approached Mr. Scalzo

Mr. Brown: Okay, yeah, that’s the lot.

Mr. Scalzo: I don’t…I don’t believe that’s Code so again Jerry, it is a process as I understand but a…that…that would need to be addressed?

Mr. Canfield: We’ll address that. I just made a note about it.

Mr. Scalzo: Okay, something else that I noticed and again, just because we’re looking at the side yard variance for the covered deck that’s the strangest cantilever on a house I’ve ever seen on that side however, the deck appears to be two by eight joists?

Mr. Brown: Yes, the deck is two by eight framing a…

Mr. Scalzo: The cantilever on that…

Mr. Brown: …is…is excessive…

Mr. Scalzo: Yes it is.

Mr. Brown: …I already…I already looked at that and a…have advised my client that where the cantilever juts out two feet, that part there, can easily be cut off same thing with the roof over that part and it’s some additional sonotubes replaced on the outside and that the box should be doubled up a…yeah, it’s an excessive cantilever particularly since it has roof loads sitting on the outside edge of it.

Mr. Scalzo: I think the deck is probably at about a three quarter inch per foot slope too no water will sit on it at all it will go right out of the backyard.

Mr. McKelvey: Also Charlie, looking…looking at these sheds I think A, C and D could be removed.

Mr. Brown: Well A…A is not…A is not shed, A is the front a…it’s the (Inaudible) three-season room, it’s an unheated addition on the front of the house.

Mr. Scalzo: That’s F…

Mr. McKelvey: Oh, F, I’m sorry or E...E, I’m sorry.

Ms. Gennarelli: E…there is no F.

Mr. McKelvey: D, C and E.

Ms. Gennarelli: There is no F.

Mr. McKelvey: If they were removed plus the sign of the business that was run there should come off.

Mr. Donovan: Just to…just to make sure we’re focused here. We should be looking at the things that require a variance so I don’t know that all those...like Charlie if you took the wing off E do you meet…do you meet all other requirements?

Mr. Brown: A…no, if we take the wing off of E and we get rid of D we’re down to three hundred and sixty two square foot where your famous formula on this lot allows three hundred so you know, we…we’ve reduced the overage. The side yard setback variance for shed one (E) would go away because now we would have seven point six feet which exceeds the five required. We would still be point seven feet off of the rear because we’ve got four point three where five is required on...on the E shed. The C shed actually meets all criteria and like I said that’s the one that’s pre-fabricated steel and in the best condition. I don’t know that we even need variances for that if a…you know you decide that shed D has to come down a, you know …that…that…then C would comply…C would comply with the minimum area and the minimum setbacks.

(Inaudible)

Mr. Brown: I’m sorry; no C is six point eight. Just for that one, that’s six point eight.

(Inaudible)

Mr. Brown: Right.

Mr. Scalzo: So you just need seven tenths on F?

Mr. Brown: Seven tenths on E, correct, there is no F.

Ms. Gennarelli: There is no F.

Mr. Scalzo: So you removed…there is no F, yeah, yeah.

Mr. Donovan: I tried add F in, I thought you found it Darrin.

Mr. Scalzo: Yeah.

Ms. Gennarelli: Thanks.

Mr. McKelvey: So you removed A and D.

Ms. Gennarelli: Z…

Mr. Scalzo: Organizing my stuff.

Mr. Brown: That’s sixty two square foot on the minimum area.

Mr. McKelvey: So you removed E and D and that would give you that. Is there anybody from the audience that would like to speak on this?

No response.

Mr. McKelvey: Any more questions from the Board?

Mr. Scalzo: Just one more question Charlie, is…is…was there an offer for shed #1 if you’re facing the shed, the left side the bump out was there an offer to take that bump out off?

Mr. Brown: The bump out on the left?

Mr. Scalzo: Correct.

Mr. Brown: Yes. Okay.

Mr. Donovan: And just so the record is clear we’re talking about on what we refer to letter E.

Mr. McKelvey: E.

Mr. Brown: Correct. Yeah, shed E, north side…

Mr. Scalzo: On the northerly property line…

Mr. Brown: Yeah, that was…that was added on to the shed, it is not a structural part of the shed.

Mr. Scalzo: Okay.

Mr. Brown: The…the exterior wall runs continuous so it just kind of (Inaudible) on the side, again, if we take that off we meet the side yard setback and that was twenty-one square foot and then again D is eighty square foot so that would bring us again down to three hundred and sixty-two square foot.

Mr. McKelvey: Darrin, if you look it’s picture in section D.

Mr. Scalzo: No, no I was at the site I’m…I had took my own photos as well.

Mr. McKelvey: Okay.

Mr. Scalzo: But no, I…D I understand if the…their position is that D can be removed plus the bump out on E…I don’t have any more questions.

Mr. McKelvey: Any more questions?

No response.

Mr. McKelvey: I’ll take a motion.

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

Mr. McKelvey: Do we have a second?

Mr. Bell: Second.

Ms. Gennarelli: Roll call.

Darrell Bell: Yes

Richard Levin: Yes

John Masten: Yes

Darrin Scalzo: Yes

John McKelvey: Yes

(Time Noted - 7:32 PM)

ZBA MEETING – JULY 28, 2016 (Resumption for decision: 7:56 PM)

NORTH OHIOVILLE LLC. 510 CENTER STREET, NBGH

(37-7-16) R-3

Applicant is seeking area variances to keep the prior built enclosed porch, the prior built covered deck and the prior built accessory structures for (A) the minimum front yard setback for the enclosed front porch; (B) the minimum rear yard (side) setback for the rear covered deck; also the maximum square footage allowed by formula for all of the prior built accessory buildings (C) 10 x 7.7 accessory building; (D) 8 x 10 accessory building and also the minimum 5 ft. setback from the rear lot line and (E) 20 x 20 accessory building and also the minimum 5 ft. setback from the side lot line and the rear lot line at the residence.

Mr. Levin: Our next application is North Ohioville LLC., 510 Center Street, Newburgh variances are requested to keep the prior built enclosed porch, the prior built covered deck and the prior built accessory structures for (A) the minimum front yard setback for the enclosed front porch; (B) the minimum rear (side) yard setback for the rear covered deck; also the maximum square footage allowed by formula for all of the prior built accessory buildings (C) 10 x 7.7 accessory building; (D) 8 x 10 accessory building and also the minimum 5 ft. setback from the rear lot line and (E) 20 x 20 accessory building and also the minimum 5 ft. setback from the side lot line and the rear lot line at the residence.

Ms. Gennarelli: Okay, do we have discussion on this application whether the benefit can be achieved by other means feasible to the applicant…

Mr. Donovan: I’m sorry, may I just…?

Ms. Gennarelli: I’m sorry, did I jump ahead? Sorry.

Mr. Donovan: Sorry, well I just want to…if my recollection is of what was offered and what the Board asked for is a removal of the addition on the northerly side of shed designated as E and the removal entirely of shed designated as D. Is that correct?

Mr. Brown: Correct.

Mr. Donovan: And we’ll deem the application modified accordingly? That’s acceptable to the Board? Sorry Betty.

Ms. Gennarelli: That’s okay; I didn’t mean to jump ahead there.

Mr. Donovan: I’m done now.

Ms. Gennarelli: Okay we can continue, okay. All right whether the benefit can be achieved by other means feasible to the applicant?

Mr. Scalzo: It’s pre-existing, I don’t think so.

Ms. Gennarelli: Will it cause an undesirable change in the neighborhood character or detriment to nearby properties?

Mr. McKelvey: No, it’s existing.

Ms. Gennarelli: Whether the request is substantial?

Mr. Scalzo: I don’t believe so with the modifications that the applicant has agreed to.

Ms. Gennarelli: Whether the request will have adverse physical or environmental effects?

Mr. McKelvey: No.

Mr. Levin: No.

Ms. Gennarelli: And is the alleged difficulty self-created?

Mr. Scalzo: They purchased it that way so…

Mr. McKelvey: Yeah. Can we include removing the electric?

Mr. Donovan: Sure that…that’s removing the electric.

Mr. McKelvey: Removing the electric wire on the ground.

(Inaudible)

Ms. Gennarelli: The applicant indicated they will remove the electric.

Mr. Scalzo: All the Code issues would obviously be cleaned as Jerry reminded me it’s a process.

Mr. McKelvey: I just wanted to remind you though that it’s there and…

Mr. Donovan: Although that’s implicit in every resolution that the Board issues they’re…for every approval that they give I can certainly call it out specifically that it’s subject to all Code Compliance requirements and State Uniform Fire Protection.

Mr. McKelvey: Good.

Ms. Gennarelli: Do you have a motion?

Mr. McKelvey: Do I have a motion?

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

Mr. Masten: I’ll second it.

Mr. McKelvey: This is a Type II Action under SEQR.

Ms. Gennarelli: Roll call.

Darrell Bell: Yes

Richard Levin: Yes

John Masten: Yes

Darrin Scalzo: Yes

John McKelvey: Yes

Mr. McKelvey: It’s a Type II Action under SEQR. Motion is approved.

PRESENT ARE:

DARRELL BELL

RICHARD LEVIN

JOHN MC KELVEY

JOHN MASTEN

DARRIN SCALZO

ABSENT:

MICHAEL MAHER

JAMES MANLEY

ALSO PRESENT:

DAVID A. DONOVAN, ESQ.

BETTY GENNARELLI, ZBA SECRETARY

GERALD CANFIELD, CODE COMPLIANCE

(Time Noted – 7:59 PM)

ZBA MEETING – JULY 28, 2016 (Time Noted – 7:32 PM)

RONALD COLANDREA 5344 ROUTE 9W, NBGH

(9-3-31) B ZONE

Applicant is seeking area variances for the maximum height of accessory buildings, the maximum allowed square footage of accessory structures and the maximum allowed (4) vehicle storage to construct an accessory building (60 x 42 x 24’4”).

Mr. Levin: The next applicant is Ronald Colandrea, 5344 Route 9W, Newburgh is asking for variances…area variances for the maximum height of an accessory building, the maximum allowed square footage of accessory built structure and the maximum allowed (4) four vehicle storage to construct an accessory building (60 x 42 x 24’4”).

Ms. Gennarelli: And this applicant sent out thirty letters. All the mailings, publications and postings are in order. We’ve also received back the response from the Orange County Department of Planning and their recommendation was Local Determination.

Mr. Brown: Thank you. Charles Brown again, engineer for the applicant. This proposal is for the owner of the lot. This is a lot in the B Zone on 9W. It’s right next to U-Haul. He recently sold the a…a…diesel a…diesel a fuel facility a…further…further south on 9W where Pat’s Towing is now. He has a large RV its forty-four foot long and he needs a place to store that. The a…Town has been giving the new owner of the lot…the pre…the old lot the…a hard time about the parking of the RV’s on the other lot. A…there no intention of parking more than four vehicles in there, like I said the a…the RV is forty-four foot long. That will take up, you know, half of the building a…the rest of it is…is mostly intended to be an area if he needs to work on that RV he can. Because of the size of the building required and…and the height a…that’s needed to get the RV in there and again work on it a…we’re exceeding the height. We got a… twenty-four feet, four inches where on an accessory building a…the maximum is fifteen. We are not in the rear or side yard setbacks. I’m sure most of this Board remembers how I feel about that provision of your Code a…I don’t think that it really doesn’t apply to anything that is not in the setbacks but I’ve come here for a determination and you determined that any accessory structure has to meet that particular condition of the Code with that maximum height of fifteen feet and the maximum area of a thousand. A…it’s a two and a half acre lot and minimum requires only seventeen thousand, five hundred square feet a…again we’re at…right next to U-Haul. I don’t feel that it’s out of character with the neighborhood. A…it’s…it’s not going to present an environmental problem a…that’s about it. The building does meet all the setbacks for a primary structure a…on the lot and the primary structure is not limited in size and the height limit on a primary structure is thirty-five feet.

Mr. Scalzo: Charlie, the existing septic tank and field what do they service right now?

Mr. Brown: They are not servicing anything. There was… What was there Ron?

Inaudible

Ms. Gennarelli: Excuse me.

Inaudible

Ms. Gennarelli: You have to come up to the microphone and just introduce yourself.

Mr. Colandrea: Hi, I’m Ron Colandrea…

Ms. Gennarelli: You can pop that off if you’d like it’s a little low.

Mr. Colandrea: Thank you I need to. That used to be the Lobster Shack restaurant back in the 70’s for those of you who remember. We got a Demo Permit, we took it down I think around 1991 as a derelict building and a…the septic system has been there ever since. It’s commercial grade, it was restaurant grade at the time. Charlie’s been there and inspected it and a…between the two of us we think it will be just fine. Charlie how did you (Inaudible)…?

Mr. Brown: I might add that we dye tested it. We ran three hundred gallons through it after we filled the tank and charged the field so a…that’s way more a…than this building would…would use.

Mr. McKelvey: Do you live in the house that’s there.

Mr. Colandrea: No.

Mr. Levin: Is it rented?

Mr. Colandrea: I used to. Yes, it is.

Mr. Levin: It is rented.

Mr. Colandrea: Yes.

Mr. Levin: Were you aware that there’s chains over the two entrances to…?

Mr. Colandrea: There won’t be.

Mr. Levin: What?

Mr. Colandrea: There will not be. Those chains are coming down.

Mr. Levin: Well that was a dangerous situation for us trying to go on the property. I had to back out onto 9W.

Mr. Colandrea: I’m sure. I’m sorry about that but they will come down.

Mr. Masten: Excuse me, isn’t there a repair…a repair shop there right now? Mowers and stuff.

Mr. Colandrea: He will take in a friend’s mower…

Mr. Masten: Yeah.

Mr. Colandrea: …and work on it in that little temporary Quonset hut he put up there which is obviously going to be moved. I don’t think he does very much there. He gets…most of what he has there he finds in the junkyard and you know, as you can tell if any of you went there…   
  
Mr. Masten: Yeah, yeah.

Mr. Colandrea: …none of that stuff is any good but he makes a few bucks on the side.

Mr. Masten: Yeah, thank you.

Mr. Colandrea: We have every intention of moving him over towards the house and making sure that there’s a fence up over there too.

Mr. McKelvey: Jerry, is that considered a business?

Mr. Canfield: Yes.

Mr. Colandrea: Is it Jerry?

Mr. Canfield: Yes it is.

Mr. Colandrea: Even a little part time endeavor like that?

Ms. Gennarelli: Excuse me, Charlie can you give him the mic? Oh, I’m sorry.

Mr. Colandrea: I’m sorry.

Ms. Gennarelli: Thank you.

Mr. Canfield: Yeah, if he has the machines outside for sale and he’s open for business to receive money for his services it is considered a business.

Mr. Colandrea: Okay.

Mr. Canfield: I also have a question though Ron you had said that Quonset hut or tent…

Mr. Colandrea: It’s a canvass covered frame.

Mr. Canfield: That’s coming down?

Mr. Colandrea: A…I didn’t know whether it had to or not. I thought we would just move it over towards the house.

Mr. Canfield: Well I’m not saying it has to I’m just asking. I thought I heard you say it was going to…

Mr. Colandrea: No, I said it would be moved.

Mr. Scalzo: The plans…

Mr. Canfield: Where abouts?

Mr. Scalzo: The plans…the plan in front of us says to be disassembled and removed.

Mr. Colandrea: Well if we have to do that we will but at this point I had no intention of doing that I…I guess you put it in the plan. It doesn’t matter to me. I can do that if you so recommend.

Mr. Brown: If you want to…if you want to be able to move it you should say so now.

Mr. Colandrea: Yeah, I’d like to be able to move it. I want to see the guy make enough money to pay the rent.

Mr. Scalzo: What I noticed when I was out there there’s the U-Haul to the right of the property to the south of the property a…it appears it’s on an elevated piece of land and then it’s also 2-story. I have to imagine when this garage is built it’s probably still not going to be as high as the adjoining building.

Mr. Brown: Not even close.

Mr. Scalzo: And the warehouse to the left as well.

Mr. Colandrea: Yeah well we’re only what ten feet below road grade there probably. Thank you.

Mr. Donovan: Just to circle back to…to the business use I mean, so Jerry if he’s in the B Zone any kind of business use, we’d have a mixed use on the premises…residential business, was that…is that okay subject to site plan approval?

Mr. Canfield: The key word is subject to site plan approval.

Ms. Gennarelli: Charlie, I’m sorry, can you give him back the microphone again?

Mr. Canfield: I think even though the discussion that took place which is part of official minutes, I think the applicant has pretty much confessed that there is a business there.

Mr. Brown: I don’t think it is a confession. It…it is a business there.

Mr. Canfield: Okay, so now that it’s out there in the open it has to be addressed. Perhaps you want to discuss with your design professional, with Charlie, what you intend to do with it. If you want to keep it or if you want to address it as a legal use a…if you choose to do that then there will be required a site plan that must go before the planning board for a mixed use to permit a business and a residence on the same structure (lot). Okay? So, and that’s a good point and I think that’s something that should be addressed a…either way…prior to. If the business is going to go then so be it and we can make that part of the record and proceed, you know, with the variance request but I don’t know that it would be appropriate to move on the variance with the question of the business being there. Perhaps Counsel can counter that…I don’t know.

Mr. Donovan: Well that’s…that’s an issue that that’s come up tonight. I don’t know if…if Charlie you’re prepared to address it in one fashion or another or if you want to…fall back and consider with your client and submit the matter to the Board to adjoin the Hearing but you know it’s an issue that’s kind of come out in the open this evening.

Mr. Brown: Actually thinking that if we do go to the planning board for a site plan approval for a mixed use then this can be no longer…no longer has to be an accessory building and all the variances go away.

Mr. Donovan: I haven’t…I haven’t thought that through so I…I can’t say that’s right or wrong but it’s a potential.

Mr. Brown: Okay, I guess I’ll have to talk it over with my client.

(Inaudible)

Ms. Gennarelli: Can you please get to the microphone when you’re speaking? Otherwise it won’t get in the record so…

Mr. Colandrea: I’d like to request a short adjournment. Maybe you can take another case while my engineer and myself chat about it if that’s possible?

Mr. Donovan: That…that’s up to the consideration of…

Mr. Colandrea: It’s a very…it’s a complicated question and I want to think it through with him.

Mr. Donovan: Well what I was suggesting was that you...you don’t decide tonight is that you requested that the matter be continued until the next meeting which gives you a month to decide.

Mr. Colandrea: Well okay, well let’s…in context of where I’m at with this and I realize we have to do things properly here so if time is a problem it’s a problem but I would love to see this thing up and operational and heated before the winter so I can get my RV inside before the winter. I’ve got a minimum three month wait period from the time I get the Permit and order the construction crew before they can arrive on site. So I’m…I’m the clock is ticking for me, I understand, not for you guys.

Mr. Donovan: Well if the Board was inclined to move forward now as…now we haven’t, we’ve identified an issue, obviously you can’t…you can’t adjudicate you guilty of anything in this forum. We can’t do that…

Mr. Colandrea: Right.

Mr. Donovan: But what the Zoning Board could do if they were inclined to act favorably is to say that any Code violations have to be remedied as a condition of any approval on it so I’m not sure if you…you may not be buying yourself any extra time by going that fashion either and the Board may decide that…that they’re not going to vote because they don’t have to. They have sixty two days to decide if they want to close the Public Hearing.

Mr. Colandrea: Of course.

Mr. Donovan: And I…I don’t know what the Board wants to do Charlie because this just came up right.

Mr. McKelvey: It has to…it has to be cleared up.

Mr. Brown: Alright a…we can…so we can hold this open until next month?

Mr. McKelvey: If that’s what you want, yes.

Mr. Levin: You’re well within your time limit…

Mr. Colandrea: Okay.

Mr. Levin: …to get it done.

Mr. Colandrea: Okay, we’ll do that then. Thank you.

Mr. Brown: Thank you.

Mr. Donovan: Now we just need a motion to hold the Hearing until August 25th.

Mr. McKelvey: Do we want to make a motion to hold it over?

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

Mr. Levin: I’ll second it.

Mr. McKelvey: Roll call.

Ms. Gennarelli: Roll call.

Darrell Bell: Yes

Richard Levin: Yes

John Masten: Yes

Darrin Scalzo: Yes

John McKelvey: Yes

Mr. Brown: Thank you.

Ms. Gennarelli: August 25th.

PRESENT ARE:

DARRELL BELL

RICHARD LEVIN

JOHN MC KELVEY

JOHN MASTEN

DARRIN SCALZO

ABSENT:

MICHAEL MAHER

JAMES MANLEY

ALSO PRESENT:

DAVID A. DONOVAN, ESQ.

BETTY GENNARELLI, ZBA SECRETARY

GERALD CANFIELD, CODE COMPLIANCE

(Time Noted - 7:44 PM)

ZBA MEETING – JULY 28, 2016 (Time Noted – 7:44 PM)

ANTHONY TALLARICO 59 SUSAN DRIVE, NBGH

(45-2-15) R-1 ZONE

Applicant is seeking area variance increasing the degree of non-conformity of one side yard setback and the combined side yards setback to enlarge the rear deck to 16 x 24 which will also include a 4 x 9 extension.

Mr. Levin: Our next applicant is Anthony Tallarico, 59 Susan Drive, he’s asking for an area variance increasing the degree of non-conformity of one side yard setback and the combined side yards setback to enlarge the rear deck to 16 x 24 which will also include a 4 x 9 extension.

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

Mr. Levin: Mr. Tallarico.

Ms. Gennarelli: If you could just come to the microphone and introduce yourself. You can take it (mic) off.

Mr. Tallarico: Good evening everyone, I’m Anthony Tallarico, I would like to just make the deck bigger, in Code a…increasing the degree and that’s out of Code now I guess by going…you know, I guess the house initially had a ten by twenty-four deck. It’s not going to change anything from the neighborhood. It’s going to go six feet bigger. From the front you’ll never notice it and everything else will…all the other lawn equipment will be under the deck so it will be a regular house again.

Mr. McKelvey: You don’t want step out that sliding door?

Mr. Tallarico: You’re not the first person to say that.

Mr. McKelvey: Questions from the Board?

Mr. Levin: I think it fits the neighborhood.

Mr. McKelvey: Yeah.

Mr. Masten: Yes.

Mr. McKelvey: Like a...it’s…your surrounded by trees and nobody is going to see it during the summer. Your neighbors are quite a ways away there anyhow. Is there anybody from the public who would like to speak?

No response.

Mr. McKelvey: Do we have a motion?

Mr. Masten: I make a motion.

Ms. Gennarelli: To?

Mr. Masten: Close the Public Hearing.

Mr. Levin: I’ll second it.

Mr. Tallarico: Thank you.

Ms. Gennarelli: Roll call.

Darrell Bell: Yes

Richard Levin: Yes

John Masten: Yes

Darrin Scalzo: Yes

John McKelvey: Yes

(Time Noted - 7:46 PM)

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ZBA MEETING – JULY 28, 2016 (Resumption for decision: 8:00 PM)

ANTHONY TALLARICO 59 SUSAN DRIVE, NBGH

(45-2-15) R-1 ZONE

Applicant is seeking area variance increasing the degree of non-conformity of one side yard setback and the combined side yards setback to enlarge the rear deck to 16 x 24 which will also include a 4 x 9 extension.

Mr. Levin: Next Ronald Colandrea, 5344 Route 9W, Newburgh…

Ms. Gennarelli: That was held over.

Mr. McKelvey: That was held over.

Mr. Levin: I’m sorry and Anthony Tallarico, 59 Susan Drive, for area variance increasing the degree of non-conformity of one side yard setback and the combined side yards setback to enlarge the rear deck to 16 x 24 which will also include a 4 x 9 extension.

Ms. Gennarelli: Okay, I’m sorry…

Mr. McKelvey: Okay Betty.

Ms. Gennarelli: Do we have discussion on this application? Alright, whether the benefit can be achieved by other means feasible to the applicant?

Mr. McKelvey: No.

Mr. Levin: I don’t believe so.

Ms. Gennarelli: And then will it cause an undesirable change in the neighborhood character or detriment to nearby properties?

Mr. Levin: No.

Mr. Scalzo: No.

Ms. Gennarelli: Is the request is substantial?

Mr. Scalzo: No.

Mr. McKelvey: No.

Mr. Levin: No.

Ms. Gennarelli: Whether the request will have adverse physical or environmental effects?

Mr. McKelvey: No.

Mr. Levin: No.

Ms. Gennarelli: And whether the alleged difficulty is self-created?

Mr. Levin: It is.

Mr. Bell: Yes.

Mr. McKelvey: Yes.

Ms. Gennarelli: Which is relative but not determinative.

Mr. Donovan: Very good Betty.

Ms. Gennarelli: Thank you.

Mr. McKelvey: Do we have a motion for approval?

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

Mr. Bell: Second.

Mr. McKelvey: Roll call.

Ms. Gennarelli: Okay, roll call.

Darrell Bell: Yes

Richard Levin: Yes

John Masten: Yes

Darrin Scalzo: Yes

John McKelvey: Yes

Mr. McKelvey: This is a Type II Action under SEQR. The motion is carried.

PRESENT ARE:

DARRELL BELL

RICHARD LEVIN

JOHN MC KELVEY

JOHN MASTEN

DARRIN SCALZO

ABSENT:

MICHAEL MAHER

JAMES MANLEY

ALSO PRESENT:

DAVID A. DONOVAN, ESQ.

BETTY GENNARELLI, ZBA SECRETARY

GERALD CANFIELD, CODE COMPLIANCE

(Time Noted – 8:07 PM)

ZBA MEETING – JULY 28, 2016 (Time Noted – 7:46 PM)

MELISSA COSTA & JOHN TAYLOR 1 DISANO DRIVE, NBGH

(34-1-1.2) R-1 ZONE

Applicant is seeking area variances for the maximum height of accessory buildings, the maximum allowed square footage of accessory structures and the maximum allowed (4) four vehicle storage to construct an accessory building (24 x 50 x 23).

Mr. Levin: From last meeting we have a held over Melissa Costa and John Taylor, 1 Disano Drive, Newburgh, they’re asking for area variances for the maximum height of accessory buildings, the maximum allowed square footage of accessory structures and the maximum allowed (4) four vehicle storage to construct an accessory building (24 x 50 x 23).

Ms. Gennarelli: Are the Costa’s and Taylor’s here tonight?

Mr. Levin: Is anybody here for them?

Ms. Gennarelli: I don’t believe they’re here.

Mr. McKelvey: I don’t believe they’re here either.

Mr. Donovan: So at the last meeting the Board was given a copy of an easement from Central Hudson Gas & Electric, that easement indicates that certain activities are prohibited in the easement area specifically construction of a house, shed, garage, out building, etc. The proposal as submitted was to construct the accessory structure within the easement area. I believe the matter was adjourned so the applicants could either clarify that, because they seemed to be unaware of it notwithstanding the fact that they signed the easement and to provide additional information to the Board this evening. My suggestion since they’re not here what we’ve done in the past is we have adjourned it to the next meeting and I have written them a letter indicating that if they’re a…not present the matter will either be considered withdrawn or the Board will vote, one or the other. If that’s acceptable to the Board?

Ms. Gennarelli: Before we close (adjourn) the hearing I just wanted to say that we did receive the response from the Orange County Department of Planning and their recommendation was Local Determination.

Mr. Donovan: Just so…I would not recommend to close the Hearing just in case they show up with new information …

Ms. Gennarelli: Oh, okay.

Mr. Donovan: …just that you hold it over until August.

Mr. Scalzo: I make a motion to hold the meeting…the Public Hearing open…

Mr. Masten: Second.

Mr. Scalzo: …for an additional month.

Ms. Gennarelli: Okay to August 25th, one second…roll call.

Darrell Bell: Yes

Richard Levin: Yes

John Masten: Yes

Darrin Scalzo: Yes

John McKelvey: Yes

Mr. Levin: The next one would be…Christine Dalton.

Ms. Gennarelli: At this point, are you going to take a break to speak with the attorney, John?

Mr. McKelvey: That’s right. We are going to a break to speak to the attorney about any legal matters and to save time we’d ask you to go out in the hall. We’ll call you back in.

PRESENT ARE:

DARRELL BELL

RICHARD LEVIN

JOHN MC KELVEY

JOHN MASTEN

DARRIN SCALZO

ABSENT:

MICHAEL MAHER

JAMES MANLEY

ALSO PRESENT:

DAVID A. DONOVAN, ESQ.

BETTY GENNARELLI, ZBA SECRETARY

GERALD CANFIELD, CODE COMPLIANCE

(Time Noted – 7:49 PM)

ZBA MEETING – JULY 28, 2016 (Resumption for decision: 8:04 PM)

CHRISTINE DALTON 16 SUNNY LANE, WALLKILL

(107-1-20.1) A/R ZONE

Applicant is seeking an area variance for no pool shall be located in a front yard to install an above ground pool (21’). (Corner lot-two front yards)

Ms. Gennarelli: Then we had a couple of them held over because we didn’t have the reports back from Orange County.

Mr. Donovan: So Richard, do you want to skip up to Dalton? That’s the next one.

Mr. Levin: Dalton.

Ms. Gennarelli: The Hearings were closed.

Mr. Levin: The Hearings were closed. Christine Dalton, 16 Sunny Lane, Wallkill asking for an area variance for no pool shall be located in a front yard to install an above ground pool twenty-one feet, corner lot-two front yards.

Ms. Gennarelli: Okay, and I have the report back from Orange County Department of Planning and they did write a little bit on this one.

The Planning Department has reviewed the submitted materials regarding the appeal for an area variance. While the Zoning Board of Appeals must weigh the local issues in balancing the needs of the appellant with the potential impacts on the surrounding area, it does not appear that intermunicipal or countywide impacts would result if the board finds that granting relief is warranted in this matter. We note that the requirement for pools to be located elsewhere than front yards seems to be a safety concern; pools are an attractive nuisance for young children. In this instance, we note that the pool is located at least 50 ft. from Route 300, that the parcel is designed in such a way there is no side or rear yard, and that pool…and the pool location is well screened from Route 300 by existing vegetation. While this is not a site plan review, the ZBA could potentially recommend that the applicant maintain safety precautions surrounding the pool by adding vegetative screening to the fencing and other safety measures required by the Building Department. Local Determination and this was dated June 22, 2016.

Mr. McKelvey: Any comments from the Board?

No response.

Mr. Bell: The pool is already up.

Mr. McKelvey: Go ahead Betty.

Ms. Gennarelli: Would you like to go through the questions?

Mr. McKelvey: Yes.

Ms. Gennarelli: Okay, the first whether the benefit can be achieved by other means feasible to the applicant?

Mr. McKelvey: No.

Mr. Scalzo: I don’t believe so there backyard is quite small and…

Mr. Levin: Yeah.

Ms. Gennarelli: Will it cause an undesirable change in the neighborhood character or detriment to nearby properties?

Mr. Levin: No.

Mr. Scalzo: No, I think you can only see that pool from one other house on the street.

Mr. Bell: Yeah.

Ms. Gennarelli: Whether the request is substantial?

Mr. McKelvey: No.

Mr. Levin: No.

Ms. Gennarelli: Whether the request will have adverse physical or environmental effects?

Mr. Scalzo: No

Mr. McKelvey: I don’t believe so.

Ms. Gennarelli: Lastly whether the alleged difficulty is self-created again which is relevant but not determinative?

Mr. McKelvey: Do we have a motion…for approval?

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

Mr. Masten: I’ll second it.

Mr. McKelvey: Roll call.

Ms. Gennarelli:

Darrell Bell: Yes

Richard Levin: Yes

John Masten: Yes

Darrin Scalzo: Yes

John McKelvey: Yes

Mr. McKelvey: This is also a Type II Action under SEQR.

PRESENT ARE:

DARRELL BELL

RICHARD LEVIN

JOHN MC KELVEY

JOHN MASTEN

DARRIN SCALZO

ABSENT:

MICHAEL MAHER

JAMES MANLEY

ALSO PRESENT:

DAVID A. DONOVAN, ESQ.

BETTY GENNARELLI, ZBA SECRETARY

GERALD CANFIELD, CODE COMPLIANCE

(Time Noted – 8:05 PM)

ZBA MEETING – JULY 28, 2016 (Resumption for decision: 8:05 PM)

AILIN BARRON, STEPHANIE BARRON, GIANNA 416 ROCK CUT ROAD, WALDEN

& JOHN FRANCO & NICHOLAS MONACO (28-1-25) R-1 ZONE

Applicants are seeking area variances for the minimum lot area, the minimum lot width and one side yard setback for 416 Rock Cut Road, Walden (28-1-25) with a pre-existing single family dwelling for an application before the planning board for a lot-line change with 26 Copper Rock Road, Walden (125-1-13).

Mr. Levin: Ailin Barron, Stephanie Barron, Gianna & John Franco and Nicholas Monaco, variances requested area variances for the minimum lot area, the minimum lot width and one side yard setback for 416 Rock Cut Road, Walden (28-1-25) with a pre-existing single family dwelling for an application before the planning board for a lot-line change with 26 Copper Rock Road, Walden (125-1-13).

Mr. Donovan: And I received late this afternoon from the applicant’s engineer a slightly modified plan which increased the size of the lot, not by much, but from thirty-one thousand six hundred and sixty-five square feet to thirty-one thousand six hundred, eighty-three square feet. So the variance being sought is actually been decreased very moderately. I just call it to your attention. I got it this afternoon so I forwarded it to Betty.

Ms. Gennarelli: Okay and we got back…this Hearing was closed, we got back the Orange County Department of Planning report and it was Local Determination. And now we’ll go through the questions. Whether the benefit can be achieved by other means feasible to the applicant?

Mr. McKelvey: I don’t think so.

Mr. Masten: No.

Ms. Gennarelli: Will it cause an undesirable change in the neighborhood character or detriment to nearby properties?

Mr. Levin: No.

Mrs. Masten: No.

Mr. Levin: I don’t believe so.

Ms. Gennarelli: Whether the request is substantial?

Mr. Levin: Again I don’t believe so.

Ms. Gennarelli: Whether the request will have adverse physical or environmental effects?

Mr. Levin: I don’t believe so.

Mr. Bell: No.

Ms. Gennarelli: And lastly whether the alleged difficulty is self-created?

Mr. Donovan: Which is…?

Ms. Gennarelli: Yes, okay, which is relative but not determinative.

Mr. McKelvey: This is also a Type II Action under SEQR. Do we have a motion for approval?

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

Mr. Masten: Second it.

Ms. Gennarelli: Roll call.

Darrell Bell: Yes

Richard Levin: Yes

John Masten: Yes

Darrin Scalzo: Yes

John McKelvey: Yes

PRESENT ARE:

DARRELL BELL

RICHARD LEVIN

JOHN MC KELVEY

JOHN MASTEN

DARRIN SCALZO

ABSENT:

MICHAEL MAHER

JAMES MANLEY

ALSO PRESENT:

DAVID A. DONOVAN, ESQ.

BETTY GENNARELLI, ZBA SECRETARY

GERALD CANFIELD, CODE COMPLIANCE

(Time Noted – 8:07 PM)

ZBA MEETING – JULY 28, 2016 (Resumption for decision: 8:07 PM)

ANGEL RIOS & KATHLEEN 446 STRAWRIDGE ROAD, WALLKILL

SILENO-RIOS (3-1-89.2) A/R ZONE

Applicant is seeking an area variance for increasing the degree of non-conformity of the combined side yards setback to construct a rear deck (10 x 10) on the residence.

Mr. Levin: Our last application is Angel Rios and Kathleen Sileno-Rios, 446 Strawridge Road, Wallkill, a variance for increasing the degree of non-conformity of the combined side yards setback to construct a rear deck (10 x 10) on the residence.

Ms. Gennarelli: Okay, this one also the Hearing was closed and the Orange County report says…they do have something else to say. Okay.

The Planning Department has reviewed the submitted materials regarding the appeal for an area variance. While the Zoning Board of Appeals must weigh the local issues in balancing the needs of the appellant with the potential impacts on the surrounding area, it does not appear that intermunicipal or countywide impacts would result if the Board finds that granting relief is warranted in this matter. We note in this instance that the combined side yard setback for residential property in this zone is more than double the single yard setback (single yard setback in this zone is 30 feet, combined side yard setback is 80 feet). We encourage the Town to examine this issue and determine whether that is a standard that continues to meet the needs of the Town. And their recommendation is Local Determination and that was dated June 23, 2016

Mr. McKelvey: Any comments?

Ms. Gennarelli: Now we’ll go over the questions, whether the benefit can be achieved by other means feasible to the applicant?

Mr. Bell: I don’t think so.

Mr. Levin: I don’t believe so.

Ms. Gennarelli: Oh, thank you.

Mr. Scalzo: He’s just extending the building lines. It’s not a…

Mr. Levin: Yeah.

Ms. Gennarelli: Will it cause an undesirable change in the neighborhood character or detriment to nearby properties?

Mr. Bell: No.

Mr. Levin: No.

Mr. McKelvey: No.

Ms. Gennarelli: Whether or not the request is substantial?

Mr. Scalzo: I don’t believe so.

Ms. Gennarelli: Whether the request will have adverse physical or environmental requests…effects? Effects, I’m sorry.

Mr. Levin: I don’t believe so.

Ms. Gennarelli: Whether alleged difficulty is self-created? This is relative but it’s not determinative.

Mr. Scalzo: Again he is just extending the house line for the deck. I…I just…you know, very common. He’s not going to be any closer to the property line than the house already is. I would make a motion for approval.

Mr. Levin: I'll second it.

Ms. Gennarelli: Roll call.

Darrell Bell: Yes

Richard Levin: Yes

John Masten: Yes

Darrin Scalzo: Yes

John McKelvey: Yes

Mr. McKelvey: That was a Type II under SEQR.

PRESENT ARE:

DARRELL BELL

RICHARD LEVIN

JOHN MC KELVEY

JOHN MASTEN

DARRIN SCALZO

ABSENT:

MICHAEL MAHER

JAMES MANLEY

ALSO PRESENT:

DAVID A. DONOVAN, ESQ.

BETTY GENNARELLI, ZBA SECRETARY

GERALD CANFIELD, CODE COMPLIANCE

(Time Noted – 8:07 PM)

ZBA MEETING – JULY 28, 2016

END OF MEETING (Time Noted – 8:07 PM)

Mr. McKelvey: Everyone got copies of the minutes?

Mr. Levin: Yes.

Mr. Scalzo: Yes.

Mr. Bell: Yes.

Mr. McKelvey: Do we have approval?

Mr. Scalzo: I'll make a motion for approval of the meeting minutes for the June meeting.

Mr. McKelvey: Do we have a second?

Mr. Levin: I’ll second.

Mr. McKelvey: All those in favor say Aye?

Aye - All

Mr. McKelvey: Opposed?

No response.

Mr. McKelvey: I guess we need a motion to adjourn?

Ms. Gennarelli: To adjourn? Is there any other business?

Mr. Scalzo: (Inaudible) zoning amendment for…

Mr. McKelvey: Oh, wait, okay. What’s that?

Mr. Scalzo: The zoning amendment for a multi-family in a I/B Zone? Or is that just for our…?

Ms. Gennarelli: That was for your input. If you read the…

Mr. Scalzo: I read the one you sent me.

Mr. Scalzo: …the Record today, I believe the Loop has been cancelled.

Mr. McKelvey: The Loop has been cancelled.

Mr. Levin: Yeah, it’s done.

Mr. Scalzo: Really, so wow...

Mr. Canfield: I don’t know (Inaudible) true.

Ms. Gennarelli: Okay, John told me that today when I got here. I don’t know.

Mr. McKelvey: It said it’s for sale.

Ms. Gennarelli: Are we still on the record or did you want to close the meeting first then…?

Mr. McKelvey: We need a motion to close the…adjourn the meeting?

Mr. Masten: I’ll make a motion.

Mr. Levin: I’ll second it.

Mr. Manley: All in favor say Aye?

Aye All

Mr. McKelvey: Opposed?

No response.

Mr. McKelvey: The motion is carried. The meeting is adjourned.

PRESENT ARE:

DARRELL BELL

RICHARD LEVIN

JOHN MC KELVEY

JOHN MASTEN

DARRIN SCALZO

ABSENT:

MICHAEL MAHER

JAMES MANLEY

ALSO PRESENT:

DAVID A. DONOVAN, ESQ.

BETTY GENNARELLI, ZBA SECRETARY

GERALD CANFIELD, CODE COMPLIANCE

(Time Noted – 8:14 PM)