ZONING BOARD OF APPEALS

MEETING – TUESDAY, NOVEMBER 21, 2017

(Time Noted – 7:03 PM)

Mr. Manley: Good Evening, I’d like to call the meeting of the Zoning Board of Appeals to order. The first order of business is the Public Hearing scheduled for today. The procedure of the Board is that the applicant will be called upon to step forward, state their request and explain why it should be granted relief under the Code. The Board will then ask the applicant any questions it may have and then any questions or comments from the public will be entertained. After all of the Public Hearings have been completed by 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 microphones as it is being recorded. Roll call please.

PRESENT ARE:

 DARRELL BELL

 RICHARD LEVIN

 MICHAEL MAHER

 JAMES MANLEY

 JOHN MASTEN

JOHN MC KELVEY

ABSENT:

 DARRIN SCALZO

ALSO PRESENT:

 DAVID A. DONOVAN, ESQ.

 BETTY GENNARELLI, ZBA SECRETARY

 GERALD CANFIELD, CODE COMPLIANCE

Pledge of Allegiance to the Flag led by Betty Gennarelli

(Time Noted – 7:05 PM)

ZBA MEETING - NOVEMBER 21, 2017 (Time Noted – 7:05 PM)

THE LIVANOS GROUP 86 & 88 NORTH PLANK ROAD (RTE 32), NBGH

 (77-2-2.1) B ZONE

Applicant is seeking area variances for the front yard(s) setbacks (North Plank Road-NYS Route 32, Chestnut Lane, Stanley Lane) and the lot surface coverage to convert an existing 1700 Sq. Ft. building from a bank to a Domino’s Pizza restaurant for a site plan approval application before the planning board.

Mr. Manley: The first application before the Zoning Board this evening that we will hear is The Livanos Group, 86 & 88 North Plank Road, Route 32 in Newburgh in a B Zone seeking area variances for the front yard setbacks NYS Route 32-North Plank Road, Chestnut Lane, Stanley Lane and the lot surface coverage to convert an existing 1700 Sq. Ft. building from a bank to a Domino’s Pizza restaurant for a site plan approval application before the planning board. Ms. Gennarelli are all the mailings and postings in order?

Ms. Gennarelli: Yes and the Public Hearing Notices for all the new applications being heard this evening were published in The Orange County Post on Friday, November 10th and the Mid-Hudson Times on Wednesday, November 15th. This applicant sent out sixty-six letters. All the mailings, publications and postings were in order.

Mr. Manley: Thank you.

Ms. Gennarelli: You’re welcome.

Mr. Manley: Good evening, could you introduce yourself for the Board please?

Mr. Brown: Charles Brown, engineer for the applicant. This is the existing abandoned vacant bank building in the Shoprite Plaza. There is no proposed changes to the site other than refitting the existing building. It’s a five plus acre site, it’s in the B Zone a...according to the B zone zoning for a shopping center we need sixty foot of front yard off of...of all adjoining streets. This property happens to be flanked by North Plank Road-Route 32, Chestnut Lane, Stanley Place and Noel Drive. The existing buildings don’t meet the setbacks a...however, since everything is existing including the lot coverage there will be no effect on the neighborhood, the environment a...that’s it.

Mr. Manley: Okay, we do have a comment that I’m going to read into the record from the Orange County Department of Planning because it is within five hundred feet of NYS Route 32. The Orange County Department of Planning states that the 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. County recommendation Local Determination, dated November 17, 2017. At this point, do any of the Board Members have any initial questions for the applicant’s representative?

Mr. McKelvey: Like Charlie said you can’t change the setback from the highway.

Mr. Brown: You know this whole plaza was built before the present zoning which requires a setback a...the sixty foot off a State Highway that’s...that’s pretty much all of the commercial zones but the sixty foot off the other roads is just for shopping centers in a B Zone.

Mr. Levin: Are you going to convert the building or are you going to take it down and bring something up?

Mr. Brown: No they’re using the existing building. You do have a copy of the building plans a...they are going completely within a...the...the walls of the existing building.

Mr. Manley: What are the plans with the overhang?

Mr. Brown: At this time they said they may take it down, they may not a...if this Board requires it a...the overhang that’s a...towards Route 32 we actually did dimension to the column supporting that because of the way the zoning reads if that overhang was...was removed then that variance goes from a...thirty-three or thirty-two and change to a like fifteen feet a...for the variance so that would reduce the...the overall variance.

Mr. Manley: Well that...that was the reason why I...I posed that question is obviously this Board wants to grant the smallest variance possible and if there’s a way that we can a...reduce the size of the variance by that removal and perhaps it might even create a better aesthetic...especially if it’s going to be a restaurant and not a bank...aesthetically it might even be nicer.

Mr. Brown: Yeah, I did mention that possibility to them and they are okay with that. They have no use for that overhang. This...this other portion here to the south that’s actually part of the building and that they intend to use but the overhang that faces Route 32 they have no use for that.

Mr. Manley: The next question Charlie would be a...is there any plan or do they have any desire to do a drive-thru. Normally Domino’s does not have a drive-thru but I didn’t see anything marked on here as a drive-thru...is that...?

Mr. Brown: No, they don’t. A drive-thru for a fast food is not permitted in the B Zone. I did...I did tell him that a...they’re okay without a drive-thru.

Mr. Manley: The little building that used to be for the ATM there are they going to use that?

Mr. Brown: This actually right here is...is a dumpster enclosure which the planning board has asked us to...

Mr. Manley: Relocate?

Mr. Brown: ...relocate, which we will. It’ll be actually right adjacent to the building a...on the side opposite Route 32.

Mr. McKelvey: I think you were mentioning the ATM didn’t you?

Mr. Manley: Yeah, the bump out.

Mr. McKelvey: The bump out where the ATM...

Mr. Brown: The bump out is...they’re actually going to utilize that space.

Mr. Manley: Okay.

Mr. Brown: Yeah.

Mr. Manley: Where will the main entrance be on the a...I guess it would be the...north side or the south side of the building?

Mr. Brown: There actually three doors on that, one to the north, one facing Green Garden and the other one facing Route 32. Those doors we placed based upon their plans. They did go in and measure up the building. I’m pretty sure they used the doors that were already there.

Mr. Manley: And they’re going to utilize the entire space for the Domino’s?

Mr. Brown: The entire, yes, the entire building.

Mr. Manley: Does the Board have any other questions?

Mr. McKelvey: The parking is no problem that’s for sure. They’re going to require a sign?

Mr. Brown: Yeah, there’s going be building mounted signs because of the frontage we have because we’re fronted by roads on three sides we have no problem with the area for the signs. A...I don’t know what they’re intention is for...you know, mounting another sign on the...on the sign for the existing sign for the shopping center...

Mr. Manley: You might have a problem with signage though cause it’s going to take into account the entire complex.

Mr. Brown: Understood that a...but I did see that the Town now has a...a new sign code or sign provision that’s...

Mr. Manley: Don’t know if that’s been approved yet...

Mr. McKelvey: That’s hasn’t been approved yet.

Mr. Manley: ...I don’t...I haven’t heard that it’s been approved.

Mr. Brown: Well, the Town Board approved it and they’re forwarding to whoever they have to...to the State or whatever for a...for ratification. But we’re...we’re fine with the signs again with the frontage we have...we have plenty of reserve in the sign area.

Mr. Manley: Any other questions from the Board?

No response.

Mr. Manley: At this point, regarding this application is there anybody from the public that has any comments regarding this application? If so, raise your hand... Yes sir? Right up to the microphone, state your name and address for the record for us.

Mr. Papaleo: Michael Papaleo, it’s actually Gidneytown Plaza (Inaudible) the property directly across the street. We own the Pizza Hut and we own the old Blockbuster building. The only main concern that I have is...is the traffic, you know, with that...those entrances being directly across from each other. Is D.O.T. doing anything about...in the future or currently, about traffic there with people going in and out? And now with the Domino’s there’s going to be more traffic and plus with the parking in front if there’s going to be any blind spots or anything going to happen there with...with that?

Mr. Manley: Well speaking with regard to the traffic this Board doesn’t have jurisdiction when it comes to the matter of traffic. That actually is going to be something that the planning board would need to look at. So what I would recommend is if the planning board decides that they’re going to have a hearing you would be notified of a potential hearing but you could also write a letter even if they don’t have a Public Hearing you could write a letter to the planning board a...addressing that particular topic and ask them to specifically look at that and what your specific concerns are with that and they would take that into consideration when they do their review of the...of the project, you know, and I...I guess they would also look at when the bank was there how much traffic the bank generated versus how much the Domino’s and the...

Mr. Papaleo: Inaudible.

Mr. Manley: ...and I’m sure that’s something they would look at.

Mr. Papaleo: As far as parking goes, I mean...in the front there...something was told and I read the...the application quickly but I...something about D.O.T. and the parking spots in the front?

Mr. Brown: Yeah, there’s no proposed changes to the parking at this time because these fourteen spots right...right...are within the D.O.T. right-of-way we have to get a Occupancy and Use Permit from the D.O.T. I just did that for ABC down on Marine Drive, it’s not a big deal the D.O.T. actually likes it because they squeeze a little money out of the applicant. But that allows them to...to maintain that parking. The alternative would be to...to remove that parking which would require a D.O.T. Work Permit a...also at a cost and we would still be way over on the required parking even if we removed those spaces.

Mr. Papaleo: Thank you.

Mr. Manley: You’re very welcome. There was another question. Yes sir?

Mr. Zarutskie: Ladies and gentlemen my name is Andrew Zarutskie; I’m a homeowner and taxpayer. I own the home four doors away on Chestnut Lane. I’m here to speak strongly in favor of granting the variances requested by the applicant. This building has been vacant for at least six years when Bank of America moved out and an empty commercial building...a vacant commercial building is not good for the Town. We have too many of them and we should encourage businesses to move in such as Domino’s Pizza is proposing. It’ll be good for the neighborhood. It’ll be good for the Town as a whole. This complex was first built in 1971 that predates any zoning requirements for setbacks or anything so the setbacks are basically grandfathered for this location. I urge you to approve the application. Thank you.

Mr. Manley: Thank you Mr. Zarutskie. Are there any other individuals here this evening regarding this application that would like to...? Yes maam? Good evening.

Ms. Stevens: Ann Marie Stevens over on Noel Drive. I’m just wondering the impact to like lighting and to like the a...fumes or the exhaust or anything that...that we might get into the neighborhood.

Mr. Brown: Other there’s...there’s...you know, this...this side is actually relatively well lit a...there’s you know light poles all over the place. There’s no plans for additional lighting. As far as fumes, I mean, whatever comes out of Domino’s will be no different than what comes out of a...Pizza Hut across the street or a...Papa...Papa John’s down the street so....

Ms. Stevens: Okay, I know cause some times we get some...some from the Chinese restaurant or like from the laundromat as well so I was just wanted to see if there was any...

Mr. Brown: Chinese restaurants tend to be a little...smelly.

Ms. Stevens: Thank you.

Mr. Manley: Thank you. Is there anyone else that has any more comments?

Mr. Papaleo: So do they still have to go back to the planning board or almost done?

Mr. Brown: Yes, yes we do. Once we get the variances here we return to the planning board for a continuation of the site plan review. They did have a couple of comments, one was the D.O.T. with the parking. Another was they wanted us to add some landscaping. The rest of the comments were relatively minor. The planning board does have the option to waive the Public Hearing at the planning board level a...they tend to do that when there’s no comments at the Zoning Board meeting but since there’s comments I don’t know if they’re going to do that or not. I certainly will request they do that but a...you certainly should put your...your concerns in writing to the planning board. That would be John Ewasutyn is the chairman you can look him up on line.

Mr. Papaleo: Thank you.

Mr. Manley: Okay if the Board has any further comments regarding the application, any question, concerns. I think the only thing that was really discussed at this point was a...the overhang. At this point, if the Board has not further questions I’ll ask that someone make a motion to close the Public Hearing.

Mr. McKelvey: I’ll make that motion.

Mr. Masten: I’ll second it.

Mr. Manley: Okay, we have a motion from Mr. McKelvey, a second from Mr. Masten, roll call please.

Ms. Gennarelli:

 Darrell Bell: Yes

 Richard Levin: Yes

 Michael Maher: Yes

 John Masten: Yes

John McKelvey: Yes

 James Manley: Yes

Mr. Manley: The Public Hearing is currently closed.

Mr. Brown: Thank you.

 (Time Noted - 7:19 PM)

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ZBA MEETING - NOVEMBER 21, 2017 (Resumption for decision: 9:08 PM)

THE LIVANOS GROUP 86 & 88 NORTH PLANK ROAD (RTE 32), NBGH

 (77-2-2.1) B ZONE

Applicant is seeking area variances for the front yard(s) setbacks (North Plank Road-NYS Route 32, Chestnut Lane, Stanley Lane) and the lot surface coverage to convert an existing 1700 Sq. Ft. building from a bank to a Domino’s Pizza restaurant for a site plan approval application before the planning board.

Mr. Manley: The Board is going to reconvene its session for this evening. The first application before the Board this evening is The Livanos Group, 86 and 88 North Plank Road, Newburgh. It’s a B Zone. And it’s a Type II Action under SEQR. The Board will start with its balancing test that we use and the first item that we’re going to look at is whether or not the benefit that the applicant achieve can be done by any other means?

Mr. McKelvey: No because it’s an existing property.

Mr. Manley: I mean without tearing it down there really is very little that you could do.

Mr. McKelvey: Right.

Mr. Manley: Whether or not the granting of the area variance would result in an undesirable change in the neighborhood character or detriment to any of the nearby properties?

Mr. Bell: No.

Mr. McKelvey: No.

Mr. Levin: No change at all.

Mr. Bell: It would help.

Mr. Manley: Whether or not the requested change is substantial.

Mr. Maher: It’s pre-existing.

Mr. Manley: Well...

Mr. Maher: There’s no change really other than the reduction.

Mr. Manley: And the change from a bank to a pizzeria is within the...within the Code. So it’s just you’re changing the type of business. Whether the request will have adverse physical or environmental effects?

Mr. Bell: No, not at all.

Mr. Levin: Don’t believe so, no.

Mr. Manley: Whether or not the alleged difficulty is self-created? It’s relevant but not determinative.

Mr. Levin: It’s already existing.

Mr. Manley: Correct.

Mr. Donovan: So technically speaking it is self-created but you know in the context of an area variance it’s not a prohibition of granting the area variance.

Mr. Maher: It’s only created by buying the building.

Mr. Donovan: Correct, but you with knowledge of what the Zoning requirements are. What did you say about common sense before Mike?

Mr. Manley: With that being said does the Board at this point wish to make a motion with regard to this application?

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

Mr. Manley: We have a motion to approve from Mr. McKelvey.

Mr. Levin: I’ll second.

Mr. Manley: We have a second from Mr. Levin. Could we have the roll call please?

Ms. Gennarelli: Sure. Roll call.

 Darrell Bell: Yes

 Richard Levin: Yes

 Michael Maher: Yes

 John Masten: Yes

John McKelvey: Yes

 James Manley: Yes

Mr. Manley: The motion is carried and the variance is granted.

PRESENT ARE:

 DARRELL BELL

 RICHARD LEVIN

 MICHAEL MAHER

 JAMES MANLEY

 JOHN MASTEN

JOHN MC KELVEY

ABSENT:

 DARRIN SCALZO

ALSO PRESENT:

 DAVID A. DONOVAN, ESQ.

 BETTY GENNARELLI, ZBA SECRETARY

 GERALD CANFIELD, CODE COMPLIANCE

 (Time Noted – 9:12 PM)

ZBA MEETING – NOVEMBER 21, 2017 (Time Noted – 7:19 PM)

JETT & HEIDI PHILLIPS 27 LINDEN DRIVE, NBGH

 (91-4-15) R-1 ZONE

Applicant is seeking area variances for the total allowed square footage of accessory structures, the maximum lot building coverage, maximum lot surface coverage and the maximum required yard to build a 24 x 24 accessory building (detached garage); total allowed square footage of accessory structures, maximum lot building coverage, maximum lot surface coverage and building shall be set back 5 feet from the side lot line to keep 8 x 10 shed built without a Permit; the minimum rear yard setback and maximum lot surface coverage to build a 24 ft. above ground pool and add 8’ x 14’ to the existing 12’ x 12’ deck and also the minimum side yard setback and the combined side yards setback for the deck.

Mr. Manley: The next application this evening that the Board will hear is the application of Jett and Heidi Phillips, 27 Linden Drive, Newburgh in an R-1 zone seeking area variances for the total allowed square footage of accessory structures, the maximum lot building coverage, maximum lot surface coverage, the maximum required yard to build a 24 x 24 accessory building (detached garage); total allowed square footage of accessory structures, maximum lot building coverage, maximum lot surface coverage and building shall be set back 5 feet from the side lot line to keep 8 x 10 shed built without a Permit; the minimum rear yard setback and maximum lot surface coverage to build a 24 ft. above ground pool and an 8’ x 14’ addition to existing 12’ x 12’ deck and also the minimum side yard setback and the combined side yards setback for the deck. Good evening.

Mr. Phillips: Good evening.

Mr. Manley: Ms. Gennarelli are the postings and mailings in order?

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

Mr. Manley: Thank you.

Ms. Gennarelli: You’re welcome.

Mr. Manley: Could you please state your name for the record?

Mr. Phillips: Jett Phillips.

Mr. Manley: Okay Mr. Phillips if you could a...let the Board know exactly what it is you’re requesting and the necessity of the request.

Mr. Phillips: I’m looking to request variances for an above ground pool, a detached garage and also to make repairs or upgrades to an existing deck as well as adding on to that deck for...it’s a matter of like a pool height deck. As far as the storage shed that’s already existing a...due to keep that shed and it is...it has been since I purchased the house, apparently according to the survey been six inches over one property line. I’m looking to move that shed the six inches back so it is completely on my property line and request a variance for the setback for that. The reason being it’s set on a concrete pad. It’s not something that’s real easy to move so I’m looking to add to that concrete pad and like as I stated pull the shed over. The reasons for the request are just family enjoyment for the pool, I’ve got two young children and a...the detached garage is for my enjoyment to work on cars or you know and as well, extra space, storage space. I’m sure you’re probably aware the houses in Colden Park most of them are not that large so that was another consideration I took in wanting to add the detached garage.

Mr. McKelvey: You have to move that six inch...more than six inches though, you have to move it five feet off the property line.

Mr. Phillips: Okay I was not under that impression at the time a...that’s in...

Mr. McKelvey: That’s the Code.

Mr. Phillips: ...speaking with Joan at the...

Mr. Donovan: Well if you get the variance requested then you just have to move it 6 feet (inches)...

Mr. McKelvey: Yeah.

Mr. Donovan: ...obviously the Board can’t...can’t approve it encroaching but if you don’t get the variance then...

Mr. Phillips: If I don’t get the variance it’s going to go away that’s all.

Mr. Levin: Is it presently on concrete?

Mr. Phillips: Yes, sir.

Mr. Levin: And is the concrete on your neighbor’s property too?

Mr. Phillips: Actually yeah...yes, it’s actually to be honest it’s further over the...the pad is larger than the shed itself by about six to eight inches and it’s on the same side as the shed currently sits six inches over the...the neighboring property line so even if I move the shed there’s still going to be you know, probably ten inches worth of concrete pad there. I’m willing to cut that pad, you know, get it off the line, that’s fine.

Mr. McKelvey: And as you said, this shed was that way when you bought the house.

Mr. Phillips: That’s correct.

Mr. Manley: What year did you purchase the home?

Mr. Phillips: 2009.

Mr. Manley: Okay, just...I just want to give you some background on the zoning just so you’re aware of where this Board is at and what type of position we’re in as far as approving the magnitude of the...of the variance potentially. Early in the early two thousands the a...Town of Newburgh underwent a Master Plan review. That’s where you look at the entire zoning of the entire Town. The Town of Newburgh at that time identified certain areas of the Town that needed to have certain zoning addressed because of what concerns of the public had was sprawl. A lot more buildings and density on small parcels of property and as a result of that input from the public the Town adopted a new Master Plan. A lot of the residents in that section of Town which would be the...the Colden Park area, I’m going to actually call that the south western corner of the Town of Newburgh became very vocal that the Town didn’t go far enough to protect their particular quadrant of the Town of Newburgh through lots of public input and public meetings. So the Town subsequently went ahead and further restricted and put through zoning change to change that from an R-3 zoning which is much more dense zoning to an R-1 zoning. As a result of going to R-1 it basically created a situation where most everybody’s property that had existing structures on it became non-conforming because of that. It also meant that new...new individuals that didn’t have sheds would more than likely have to come to the Zoning Board if they wanted to...to have that done. Now that all was the result of the public’s demand to the Town to address these issues and the Town also had the situation of a developer that didn’t like going from R-3 to R-1 and subsequently sued the Town. The Town supporting the residents that live in that area a...fought the fight and the individual that brought the lawsuit which it’s a landmark case, it’s Exeter vs. the Town of Newburgh because it did...it did create certain precedents in State Law now as a result of that lawsuit. As a result of that it went all the way to the highest Court in the State of New York, the New York State of Appeals. The Court of Appeals ended up siding with the Town of Newburgh through costly litigation that the Town, the Town you know came out the victor in that particular suit and as a result of that in 2008, July 3 of 2008 the Town reverted to the R-3 zoning. So anything before that date is grandfathered. Anything after that date now has to meet the stricter zoning standards. So one of the things that, you know, this Board is charged with in granting the smallest variance possible so when we look at a situation where we’ve got so many variances and so many things that are going on with a piece of property it certainly it puts us in very, very tough position because you want to give people what they want but at the same time, you know, if somebody is asking for ninety, you know we can’t always give ninety. Maybe we can give forty but this is where it becomes a balancing act that the Board has to look at so you know there may be certain things when the Board looks at your particular case that they may approve certain things but other things may not get approved. And we just want to, you know, I...I don’t want to give you unrealistic expectations cause a lot of times people come with their hopes and dreams and sometimes the Board can’t deliver on a hundred percent of that. So I...I just want to be, you know, realistic and...and not get your hopes up that everything here is going to potentially work out. It may but then again it...it may not and we have to a...we have to balance that. So with that said do any of the Board Members have questions for the applicant?

Mr. Maher: Well like Mr. Manley said try to limit this as much as possible so...

Ms. Gennarelli: Mike, can you pull that microphone in please?

Mr. Maher: Sorry.

Ms. Gennarelli: Thanks.

Mr. Maher: One of the easy ones that comes into play is obviously the small shed there a...you’re thoughts on that?

Mr. Phillips: I’d be perfectly willing to remove it in exchange...

Mr. Maher: And that makes it a little bit easier for Board...

Mr. Phillips: ...for the garage.

Mr. Maher: ...the overall. So that would really eliminate the five yard...the foot...the initial shed on the property that would...that would eliminate that variance completely.

Mr. McKelvey: It would cut the coverage down too.

Mr. Maher: Yeah, right, that shed is how big?

Mr. Phillips: 8 x 10.

Mr. Maher: So that’s eight square feet there so you reduced the building coverage from six o three...I’m sorry from seventeen twenty eight down to sixteen forty-eight. And then...Jerry it’s part of the surface coverage too, right? So that would be thirty-one thirteen down to three zero, three-three.

Mr. Manley: Was there any thought to potentially putting the garage...attaching it to the house at all?

Mr. Phillips: No. I suppose if it had to go on one side of the house it would go right on the end where the driveway is and that’s right where our bedrooms and stuff are in the house so it would make by means of an entrance itself kind of difficult in...in regard to attachment to the house, I never even really considered it.

Mr. McKelvey: It would solve a problem.

Mr. Maher: When it’s attached to the house there’s different requirements you have to meet there that’s why it becomes a little...little different for the accessory end of it.

Mr. Manley: And it would create a situation where you wouldn’t have to...because the other thing that’s going to come into play too is a paved driveway...if you decide to pave the driveway all the way back to the new proposed garage that creates another lot surface issue. So by moving the garage up closer potentially to the house and even attaching it to the house it takes away some potential variances. You could...could you a...you could attach the house or the garage to the house without have a...a entrance from the house into the garage but utilize a door from the rear so if the applicant came out his back door and went to the back of the garage and entered that way, would that be allowable Jerry?

Mr. Canfield: Building Code wise he could do it either way. He could put the door from the garage into the house; the door would have to be a rated door. There’s a fire separation required between the garage and the house a...or if he chose not to there’s no requirement that the door be there so it could be done either way.

Mr. Maher: You could even attach a breezeway and not have a door to the house at all, just walk through straight. Literally you could attach the corner of the building with a small breezeway coming across ultimately, you know, keep it further back if you like it but it just...it eliminates some of the variances that may make it easier in the long run.

Mr. McKelvey: You are asking for a lot of lot coverage.

Mr. Phillips: Would there be any advantage to a...because the garages that I’m looking to put there is basically a kit from 84 Lumber...it’s obviously not purchased, not there so if I were to go with like a smaller size garage like a 20 x 20?

Mr. Manley: Unfortunately without seeing the...a big part of it is seeing it on the paper and seeing how that impacts the numbers which ultimately get calculated by the Building Department to make sure that we’re approving the correct amount of lot surface area because if we were to do that here and I mean a lot of times we’ll do that but it’s really kind of an unofficial number because we can’t determine the number. The number gets determined by the Building Department based on plans that are submitted so...I...would obviously bringing something smaller be beneficial? Absolutely, you know, you know the other thing too is you know like the pool also impacts your lot coverage area. All...you know...new decks, all that impacts everything so everything has an impact on the numbers so anything that you reconfigure or like we stated, you know, part of what we look at when we approve a variance that we’re required to look at is if it can be...if you can configure this a different way and can utilize less of a variance that’s the way that we want to go. And I’ll give you, you know, a perfect example of how this Board made a decision years ago. The Cumberland Farms on 17K and a...Rock Cut Road, you probably go by it all the time, it’s very small, you see how everything is all congested in there. They came years ago for a variance to expand that store on the lot that it was on. This Board denied it and said there’s just no way, you’re putting too much in there, too much lot surface, can’t do it. And one of the things that we cited is have you approached your neighbor about purchasing the property and this way you’ll have more than enough room to expand? Well they hadn’t. They hadn’t even explored it; they said no, you know, this is what we want. So the Board turned around and denied it based on the fact that they didn’t even see if that property was available or even try to negotiate for it. Well low and behold, about five, six years later they came back before this Board and they had purchased the property next door, they still needed a couple of variances but at that point they had reduced the amount of variances significantly that at that...at this juncture the Board felt yes let’s go ahead and based on what you had shown us we’ll grant the variances. So there’s an example of how the Board, you know, in...when you can reconfigure something or do something differently to reduce the number of variances that’s the route that we’re...we’re going to look at and taking. So we can’t tell you what to do. We can’t tell you to move something. We can ask a question like ‘hey, have you thought about attaching it to the house?’

Mr. Phillips: That never crossed my mind as something...I...I never knew anything about this process until I started...

Mr. Manley: And part of it is...

Mr. Phillips: ...talking to neighbors and stuff and I...just as a side note my...my neighbor is Mike Delia, he has everything on his property that I’m looking to get...

Mr. Manley: Right.

Mr. Phillips: ...as well as the neighbor two doors down from has the same size pool, 24 ft. round. Now they don’t have a garage but you know, that’s where I was...okay, you know, I can go this way too. Unfortunately I can’t purchase any property around me...

Mr. Manley: Right.

Mr. Phillips: ...and again with eliminating the accessory shed that’s there, no problem. If I can go with a smaller garage, no problem. I...just looking to do you know, what’s there, it’s taking me two years’ worth of back and forth with the woman over at the Town...or the zoning...not the Zoning Board...

Mr. Donovan: Careful now.

Ms. Gennarelli: Not me, the Building Department.

Mr. Phillips: Joan, she just retired...

Mr. Donovan: Okay.

Mr. Manley: Okay.

Mr. Phillips: ...very nice woman, very helpful and every time I would come with something else she would say ‘did you think about this’...‘did you think about that’ so this has been an on-going thing where I finally got to the point where I felt okay...I can put the garage here, I reconfigured things, I went through changing the deck, I went it’s...really I guess what I’m getting at is I’d really like to stick with what I have. I’m more than willing to compromise with eliminating the shed and...and going smaller on the garage if necessary.

Mr. McKelvey: As...as Jim said, a lot of this...these other properties was under the R-3.

Mr. Manley: And that’s one of the things, that’s why I asked you when you purchased your home you know, because you know, your home was after they, you know made those...those changes. So, you know, that, you know, obviously, you know, if you had purchased your home in 1990 maybe that would make a little bit more of a difference that okay we could you know, work a little bit more with...with it but you know, purchasing the home when you did was you know, well after they...they changed the zoning.

Mr. Levin: That is the south side of your house that we’re looking at right for...for using the garage...over here? Are there any windows on this side...of the house?

Mr. Phillips: The south side of the house?

Mr. Levin: Yeah.

Mr. Phillips: A...yes, that’s a...my son’s bedroom is that south a...east corner of the house and then our bedroom is...

Mr. Levin: Back in here?

Mr. Phillips: That’s the sunroom area so the original spot that you were pointing at would be my son’s bedroom, there’s two windows there.

Mr. McKelvey: You must have windows on the other side so the front and the back.

Mr. Phillips: Of?

Mr. McKelvey: Of the bedroom.

Mr. Phillips: Yes there’s a...there’s a window on each corner of the (Inaudible) room.

Mr. Manley: So does the Board have any other questions for the a...for the applicant before I open it up to the public?

Mr. McKelvey: If he makes these changes he’s going to have to come back with drawings then, right?

Mr. Manley: We would need to have updated cause it has to go to...

Mr. McKelvey: Go through Code.

Mr. Manley: ...go to Code and then they’ll provide us with the...cause again it’s going to be up to the applicant what changes he would like to make. Okay at this point, I’m going to ask if there’s anyone from the public that has any questions regarding this application? Yes sir? If you want to just step forward and introduce yourself to the Board.

Mr. Morrisey: My name is Clay Morrisey, I am an adjacent property owner at 34 Windwood Drive. I’m not objecting to what Jett wants to build I just want to make sure that the storm water is properly managed. I’m down gradient and this is adding a lot of impervious surface so I would just like to make sure that that’s a consideration and that it’s properly done so I need a large increase of water running on to my property.

Mr. Manley: Is there any issues now with water runoff?

Mr. Morrisey: A...I have a bit of a wetness problem yes.

Mr. Manley: And it’s coming from that property or the property...cause your property is to the...

Mr. McKelvey: It’s on Windwood right?

Mr. Morrisey: I border, my back property line is his back property line and the adjacent lot is also the back property line.

Mr. Manley: Okay, so it...the water tends to run from Linden towards your property?

Mr. Morrisey: Yes.

Mr. Manley: And not just from this property but the other two to each side of the applicant’s property?

Mr. Morrisey: Well not the other two just the one.

Mr. Manley: Okay. How big of a difference is it height wise or...?

Mr. Morrisey: A...it’s elevation from...where to where?

Mr. Manley: From the rear of his property to the...the start of your property in the back. Does it slope slightly or is it...?

Mr. Morrisey: It’s a slight slope...it’s a slope right into my backyard yes.

Mr. Manley: Okay. Alright does the Board have any questions for Mr. Morrisey?

No response.

Mr. Manley: Okay, the Board will certainly take into consideration your comments. Thank you.

Mr. Morrisey: Thank you.

Mr. Manley: Thank you. Does the Board have any other questions for the applicant?

No response.

Mr. Manley: The one question I have is is it your desire to make any changes to your application that you have before us and if you do a...the Board would probably want to leave the Public Hearing open. We would not want to finalize a decision tonight so that we would have the opportunity to question you about the changes they would need to be submitted before our next meeting a...ten days before our next meeting which is going to be in December a...the last Thursday in December. Is that the...?

Ms. Gennarelli: The 28th.

Mr. Manley: The 28th. So you would have to submit everything before the 18th so that the Building Department would have plenty of time to review it and then work up another sheet for us as to what exactly would be needed.

Mr. Phillips: As far as submitting everything again what does that entail? Because if I just have to alternate...if I just have to alter the drawing to eliminate the shed...?

Mr. Manley: You would have to a...whatever your changes are, if you decide that you’re going to eliminate that one shed then you would just need to show that on your plan that you’ve eliminated that...that shed. If you are going to make changes to the building whether it was larger or smaller you would need to make those changes and then submit a cover letter that just says please find enclosed my changes...

Mr. Phillips: Okay.

Mr. Manley: ...submit to actually...

Ms. Gennarelli: Betty.

Mr. Manley: ...Betty here at the Zoning Board Office and she would make sure then she would make sure it went to the Building Department for their work up.

Ms. Gennarelli: Jim, I think we’d need it by the 14th which would be Thursday the 14th...

Mr. Manley: The 14th?

Ms. Gennarelli: ...the 14th rather than the 18th there’s the holiday and Christmas and it needs to be reviewed by Code Compliance before it goes to you.

Mr. Manley: Okay, so the deadline would be December 14th to get that to the Building Department and then they would forward that to us, the Board Members would get a copy of it so that we could review it before our next meeting and then, you know, we could then ask any other questions. But I think that the biggest takeaway that if you’re getting anything from the Board is that a...size is definitely a concern with the amount of surface coverage which is the amount of impervious surface. A concern that Mr. Morrisey brought up, if there’s less impervious surface there’s more water runoff and that’s another reason why the Town has addressed a lot of the...the issues with sprawl, you know, just density, high density. So was there anything else that the Board has a...for Mr. Phillips so that he can be prepared for the next meeting? Is that your desire to make those changes and submit them and have us review it for next month?

Mr. Phillips: Yes.

Mr. Donovan: Just so it’s crystal clear, that doesn’t infer that the Board will act favorably.

Mr. Phillips: Understood.

Mr. Donovan: Okay, just...okay.

Mr. Manley: So our...you know, our recommendation is bring it down as much as you can so that it’s significant enough for this Board to look at it and say, okay, he’s only asking for the least amount that he needs versus you know, only shaving off hypothetically you know, ten feet, you know, that...that’s just what we’re looking for. So at this point do we have a motion?

Mr. McKelvey: By holding it over too all you have to do is submit these plans that he’s talking about.

Mr. Donovan: There’s no...there’s no legal notice requirement.

Mr. McKelvey: No new postings.

Mr. Phillips: That’s helpful.

Mr. Manley: No more payment.

Mr. Donovan: But you’ve got to leave your Notice up.

Mr. Phillips: I can leave that up, yeah it’s no problem.

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

Mr. Manley: So we have a motion from Mr. McKelvey to hold this over. Do we have a second?

Mr. Levin: Second.

Mr. Manley: Second from Mr. Levin. Roll call.

Ms. Gennarelli: Roll call.

 Darrell Bell: Yes

 Richard Levin: Yes

 Michael Maher: Yes

 John Masten: Yes

John McKelvey: Yes

 James Manley: Yes

Mr. Manley: The motion passed we’ll bring this up again at our next meeting next month.

Mr. Phillips: If I may? One quick question...

Mr. Manley: Yes sir.

Mr. Phillips: ...regarding the garage now when I submitted the application for the garage I had to include the plans and those things so if I look to decrease the garage I would have to therefore re-submit the same amount of you know, plans and pictures and stuff that I did even though it’s smaller. I’m not looking to reconfigure it.

Mr. Manley: We won’t need photos, the only thing we need is on that plot plan that you did a...

Mr. Phillips: Adjustments?

Mr. Manley: ...where you put 24 x 24...

Mr. Phillips: Yeah.

Mr. Manley: ...you need to you know, if you’re going to, let’s say, move it further from the property line you would just need to show how far from the property line it’s going to be. You know if you’re going to 18 by...by 16, a change of 18 x 16, if you’re going to move it any closer to the house, if you attached to the house, whatever you’re doing show it with the distances because that’s what they use to calculate and distances also equal different variances so if you move it far enough you might not need a variance for something so... Now if you have any questions you can always...you know, your Building Department is your resource so...

Mr. Phillips: I did keep it off those setbacks for the existing garage that I proposed are more than five feet. So what I...in all honesty I would be looking to just shrink it. I would still maintain the setbacks.

Mr. Maher: Right, the rear yard setback is not the...actually the garage issue it’s actually the pool because it’s attached to house and the deck that’s where that problem come in there. The garage that five foot off is fine, you know, unless you want to move it somewhere but that’s really not the issue with the rear yard setback.

Mr. McKelvey: Do you...do you expect to run the driveway down there too?

Mr. Phillips: Eventually and in regard to the a...drainage concern I’m not looking to create any more of an issue of what’s there a...that...where the garage is going now wouldn’t be elevated in any way or and that even for that matter, the slope of the driveway it’s all going to stay the way it is a...as far as the drainage issue from the garage itself I had intended on putting on gutters and then possibly rain barrels. My wife likes flowers, we have a lot of flowers, we water, you know, so I’m not looking to add...for or divert in any way any of the rainwater runoff.

Mr. Manley: Okay. Alright, we’ll see you back here next month.

Mr. Phillips: Thank you.

Mr. Manley: Thank you.

PRESENT ARE:

 DARRELL BELL

 RICHARD LEVIN

 MICHAEL MAHER

 JAMES MANLEY

 JOHN MASTEN

JOHN MC KELVEY

ABSENT:

 DARRIN SCALZO

ALSO PRESENT:

 DAVID A. DONOVAN, ESQ.

 BETTY GENNARELLI, ZBA SECRETARY

 GERALD CANFIELD, CODE COMPLIANCE

 (Time Noted – 7:49 PM)

ZBA MEETING – NOVEMBER 21, 2017 (Time Noted – 7:49 PM)

NEWBURGH PARK ASSOCIATES, INC. 747 BOULEVARD (& I-84)

 (89-1-80.1 & 80.2) I/B ZONE

Applicant is seeking area variances for the front yard setback and one side yard setback for a site plan approval application before the planning board to construct a gas station and convenience store.

Mr. Manley: The next application before the Zoning Board that was held over from our last meeting is the application of Newburgh Park Associates, Inc., 747 Boulevard at I-84, I/B Zone requesting area variances for the front yard setback and one side yard setback for a site plan approval application before the planning board to construct a gas station and convenience store. Is the applicant’s representative here this evening or the applicant here this evening? Good evening.

Mr. Mulholland: (Inaudible) Newburgh Park Associates...Ken Lytle is supposed to have been here. I don’t know what happened. I apologize for that.

Mr. Manley: Okay.

Mr. Mulholland: I can answer what I can but I don’t know...

Mr. Donovan: Well if I can Mr. Chairman one of the issues from last month was whether or not a variance from the requirements of the Section 280 A of the Town Law was required.

Mr. Manley: Right.

Mr. Donovan: So I did investigate that with the planning board, the planning board attorney. I went all the way upstairs to speak to him and a...it’s not required.

Mr. Manley: Okay.

Mr. Donovan: That was a concern that I had raised last month. It is no longer a concern.

Mr. Manley: Okay. So at this point the only thing that we were a...looking for was to get certain things delineated on the application.

Mr. Donovan: We were looking for the other sheet.

Mr. Manley: Correct. And he was supposed to get a a...a new plot plan...

Mr. Donovan: The other issue last time when Ken was here is that he had delivered the plan set had apparently consists of two sheets. He delivered sheet two of two which doesn’t have any courses and distances which made it a little difficult to confirm the proposed location of the gas station, its distance from the lot line. Ken had indicated that he had that, for whatever reason only submitted sheet two of two, it was on sheet one of two and he was going to submit that.

Mr. Mulholland: Okay, I put a call into him and he didn’t answer. I don’t know what happened.

Mr. Manley: Well the a...

Mr. Donovan: I mean we can...it’s up to the Board, if you want to go forward based upon what’s shown here, you’re...you’re a...able to do that. It was a question that I had, it was a question that Darrin had...because there was a question whether or not the location was a...it’s an as-built, whether...whether your surveyor went back out so it...it’s kind of unclear but if you want to go with the dimensions that are on this plan even though we’re not in a position to verify them the Board can do that.

Mr. Manley: The only thing is if the Board doesn’t verify that and they’re incorrect they’ll be back before this Board again. Right? Possibly.

Ms. Gennarelli: Did you say your name was Mr. Mulholland?

Mr. Mulholland: Yes, Patrick Mulholland.

Ms. Gennarelli: Thank you.

Mr. Donovan: The...the other issue that came up is there is definitely a recorded easement. Darrin raised the issue it’s not described by metes and bounds description. It’s my understanding and you would know because you own the property that the driveway is constructed.

Mr. Mulholland: The driveway is in, the State put it in when they put...I lost two homes there. They took two homes from me and when...then the State put in the commercial driveway to commercial spec over the creek there. They piped it and they put it over there so they made it a commercial entrance because otherwise that corner would have been landlocked if they didn’t do that.

Mr. Manley: Well at this point, what is the...the Board’s pleasure?

Mr. Donovan: My concern was whether it needed 280 A, it does not so...

Mr. Manley: Does the Board....

Mr. Donovan: ...now you guys are on your own.

Mr. Manley: Does the Board feel they have enough information to render a decision?

Mr. Maher: Would you be basing it on the...the planning board’s submission?

Mr. Manley: Correct, because we don’t have page two.

Mr. Donovan: We have page two not page one.

Mr. Manley: Page one now.

Mr. Masten: I say hold it open because we need both...we need both, Jim. Can’t do...can’t go halfcocked.

Mr. Mulholland: Contact Ken and have him send it in so you have it before the next meeting?

Mr. Manley: Well that...that was the plan for this month. The...the only thing I would tell you is next month if the...if we do hold it over, Mr. Lytle doesn’t submit the information that the Board needs to make a full decision there is a possibility that if the Members don’t feel comfortable making the decision with the information that they have they could deny it based on the fact that they don’t have all the information. So in order to get your best...make your best crack at getting your variance I would probably make sure that your representative shows up here and provides us with you know, the required information cause you can’t cause you know, this isn’t your...you know...

Mr. Mulholland: I...I could have saved a lot of money if I could have did it.

Mr. Manley: Exactly. So...a...would you like the Board to wait until next month and you can contact Mr. Lytle and...

Mr. Mulholland: I think that would probably be the best thing to do, you agree?

Mr. Manley: You know I would let him know that the Board is a little bit a...concerned that we didn’t receive notice that he wasn’t going to show up.

Mr. Mulholland: Yeah, I flew up from Florida too so, I...

Mr. Manley: So you probably are not going to be very happy about that.

Mr. Mulholland: No.

Mr. Donovan: Do you think he is going to come later? I mean we’ll be here for a little while; it’s up to the Board but...

Mr. Mulholland: I’ve been sending him texts and calling him and no response.

Mr. Manley: Well why don’t we do this then, why don’t we a...I mean, we don’t mind putting this on at the end if you can...?

Mr. Mulholland: Okay, I’ll wait, sure.

Mr. Manley: If you can run out and try to track him down and...

Mr. Mulholland: Well I appreciate it.

Mr. Manley: ...we’ll...we’ll hold this off until our very last...the very last minute.

Mr. Mulholland: Okay. I appreciate it. Thank you.

Mr. Manley: You’re welcome.

 (Time Noted - 7:56 PM)

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 (Time Noted - 8:54 PM)

Mr. Manley: Yes, sir?

Mr. Mulholland: I don’t think Ken is going to show up now. I’d like to have him call; maybe he’ll have all his information. I don’t...have no idea so he can set up the next meeting.

Mr. Manley: Well...

Mr. Mulholland: I’d hate to...I’d hate to say next month and if he’s not ready...

Mr. Manley: Well...

Mr. Mulholland: ...then you said you might not approve it.

Mr. Manley: Right, well we...we would have to schedule it for...we would have to make a motion to keep the Public Hearing open...

Mr. Mulholland: Okay, can he call and change it if he’s not ready?

Mr. Manley: Well probably not. He’s going to have to submit what he needs by next month or withdraw the application.

Mr. Donovan: Which he said he already had.

Ms. Gennarelli: By the 14th.

Mr. Manley: Right.

Mr. Mulholland: Yeah.

Mr. Manley: Yeah, by the 14th, he should probably call the Zoning Board office to...

Mr. Mulholland: To find out what he needs?

Mr. Manley: Well he’s got to submit documents and then we’ll hear it on the 28th.

Mr. Mulholland: Okay.

Mr. Manley: Sorry about flying up.

Mr. Mulholland: I am so sorry. I don’t understand what happened.

Mr. Manley: It’s unfortunate.

Mr. McKelvey: Sorry, you had to...you had to fly.

Mr. Manley: Do we have a motion from one of the Board Members to a...

Mr. McKelvey: What about Richard? To have him come back.

Mr. Manley: ...hold over...? Oh, we’ve got to call Richard back in.

Ms. Gennarelli: Oh. Thank you.

Mr. Manley: Motion to hold over the Newburgh Park Associates. We need Richard back. Richard...Richard we’re back to Newburgh Park Associates and Mr. Lytle is not anywhere to be found so his a...the gentleman that owns the property has asked that we hold it over until next month so that we can try to find out where Mr. Lytle is.

Mr. Levin: I’m in agreement to that.

Mr. Manley: Okay so at this point do we have a motion from the Board to hold the Public Hearing for Newburgh Park Associates, Inc. over till our December 28th.

Mr. McKelvey: I’ll make the motion.

Mr. Manley: We have a motion from Mr. McKelvey. We need a second.

Mr. Bell: I’ll second.

Mr. Manley: Second Mr. Bell, roll call vote.

Ms. Gennarelli:

 Darrell Bell: Yes

 Richard Levin: Yes

 Michael Maher: Yes

 John Masten: Yes

John McKelvey: Yes

 James Manley: Yes

Mr. Manley: The Public Hearing will be continued for Newburgh Park Associates, Inc. on December 28th.

Mr. Mulholland: Thank you.

Mr. Manley: Safe travels. At this point, 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 if you could wait out in the hallway and as soon as we’re complete we’ll call you back in.

PRESENT ARE:

 DARRELL BELL

 RICHARD LEVIN

 MICHAEL MAHER

 JAMES MANLEY

 JOHN MASTEN

JOHN MC KELVEY

ABSENT:

 DARRIN SCALZO

ALSO PRESENT:

 DAVID A. DONOVAN, ESQ.

 BETTY GENNARELLI, ZBA SECRETARY

 GERALD CANFIELD, CODE COMPLIANCE

 (Time Noted – 8:59 PM)

ZBA MEETING – NOVEMBER 21, 2017 (Time Noted – 7:56 PM)

YASSER ALY 300 LAKESIDE ROAD, NBGH

 (50-1-48) R-1 ZONE

Applicant is seeking a Use variance for the maximum of one dwelling unit per lot to convert an existing non-conforming accessory building into a second single-family dwelling unit on the premises.

**SAME MINUTES USED FOR BOTH THE USE AND AREA VARIANCE APPLICATIONS.**

Mr. Manley: Okay, the next application that was held open from October 26, 2017 meeting is the application of Yasser Aly, 300 Lakeside Road, Newburgh seeking a two variances, one is a...before you put that up you might want to wait a minute, this might be a quick one, a Use variance for the maximum of one dwelling unit per lot to convert an existing non-conforming accessory building into a second single-family dwelling unit on the premises. And also Area variances for the minimum lot area, the minimum lot width, the minimum one side yard setback, the minimum combined side yards setbacks, the 1500 sq. ft. minimum floor area and the maximum lot surface coverage to convert an existing non-conforming accessory building into a second single-family dwelling unit on the premises. The Board received the information on Monday for the up-dated plans. Unfortunately, because they were received so late the Building Department did not have an opportunity to fully vet the information and provide the Board with what variances would or would not be needed based on your resubmittal. So at this point, we’re going to...we have no choice but to postpone it again until December 28th for that meeting. If there is anything else that you need to submit or you think needs to be submitted I would do it by December 14th cause if not it will just postpone things further. So at this point, was there anybody here from the public for this application? If you are, just raise your hand, okay. I apologize that we have to put this off a...but we can’t again make any decisions without having the proper information. The only thing I can tell you that we did receive was that they were moving the structure, you know, further from the line. Is that correct?

Yes.

Mr. Manley: So, based on them moving it away from the property line because I understand that the foundation wasn’t potentially going to support what they were doing. We now have to look at what variances will or will not be needed as a result of that movement. It could be that they may not need any variances and if they don’t then they don’t have to come back before the Board then it’s up to the Town to...you know, the Code Compliance to approve it based on what they submitted so...a...that’s where we’re at right now. We know nothing more except...

Audience Member Inaudible

Mr. Manley: Well not if it...if it meets all the zoning it would just be like anything else that would be applying for a Permit. If you wanted to put an addition on your house and it met all the guidelines you know, you wouldn’t need to a...you wouldn’t have to be noticed to the public it would just...

Audience Member: Inaudible...second dwelling on one lot.

Mr. Manley: It is but if it meets the requirements of the Code there would not be any requirement for them to come back before the Zoning Board if it meets the Code. People only come to the Zoning Board when things don’t meet Code.

Audience Member (Inaudible)

Mr. Manley: Okay, so we only hear things that don’t fit or that people are going to build something that is beyond what the Code will allow them to do on their property. If it fits they never have to come to us.

Audience Member (Inaudible)

Mr. Donovan: If I could just interrupt for a second sir, we’ve got a couple of things going here. One this will not get into the minutes because you’re not at the microphone and the meeting is being recorded. Two is if we’re...if we’re going to...you’re either got to allow the hearing to go forward or adjourn the hearing based upon new information is my suggestion to the Board.

Mr. Bell: Yes.

Mr. Manley: So at this point, we have to wait until the Hearing if you want to talk to the Building Department tomorrow and get whatever documents you need on this to FOIL.

Mr. Bell: Is it also different in the height in there because it was...

Mr. Manley: There may be, I haven’t had honestly an opportunity to review the plans or anything that’s why I...I really didn’t want to comment on anything.

Mr. Bell: Okay.

Mr. Manley: Because I haven’t fully been informed on what the proposal is. So that may be possible but that would be something that we would have to discuss in a...if we continue with the Hearing. If that’s what the Board wants to do we can certainly start the Hearing without having that information?

Mr. McKelvey: We just got this tonight.

Mr. Manley: Correct.

Mr. Bell: I just saw it tonight too.

Mr. Manley: Does the Board want to open up the Hearing tonight or do they want to wait and hear everything next month?

Mr. Bell: I think we should wait until next month Jim.

Mr. Masten: I’d wait, Jim

Mr. Bell: Then we can do it right.

Mr. Donovan: So then someone should make a motion to continue the Public Hearing till December 28th.

Mr. Bell: Yes.

Mr. Manley: Correct.

Mr. Levin: I’ll make the motion.

Mr. Manley: Okay, Mr. Levin has stated he’s made a motion that the Public Hearing be continued to December 28th so that the Board has an opportunity to vet the information that was submitted with Code Compliance.

Mr. Masten: I’ll second.

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

Ms. Gennarelli: Roll call.

 Darrell Bell: Yes

 Richard Levin: Yes

 Michael Maher: Yes

 John Masten: Yes

John McKelvey: Yes

 James Manley: Yes

Mr. Manley: The Hearing is going to be continued next month.

PRESENT ARE:

 DARRELL BELL

 RICHARD LEVIN

 MICHAEL MAHER

 JAMES MANLEY

 JOHN MASTEN

JOHN MC KELVEY

ABSENT:

 DARRIN SCALZO

ALSO PRESENT:

 DAVID A. DONOVAN, ESQ.

 BETTY GENNARELLI, ZBA SECRETARY

 GERALD CANFIELD, CODE COMPLIANCE

 (Time Noted – 8:03 PM)

ZBA MEETING – NOVEMBER 21, 2017 (Time Noted – 7:56 PM)

YASSER ALY 300 LAKESIDE ROAD, NBGH

 (50-1-48) R-1 ZONE

Applicant is seeking Area variances for the minimum lot area, the minimum lot width, the minimum one side yard setback, the minimum combined side yards setbacks, the 1500 sq. ft. minimum floor area and the maximum lot surface coverage to convert an existing non-conforming accessory building into a second single-family dwelling unit on the premises.

Mr. Manley: Held open from October 26th meeting is the next application before the Board this evening is Yasser Aly, 300 Lakeside Road, Newburgh seeking Area variances for the minimum lot area, the minimum lot width, the minimum one side yard setback, the minimum combined side yards setbacks, the 1500 sq. ft. minimum floor area and the maximum lot surface coverage to convert an existing non-conforming accessory building into a second single-family dwelling unit on the premises.

**SAME MINUTES USED FOR BOTH THE USE AND AREA VARIANCE APPLICATIONS.**

Mr. Manley: Okay, the next application that was held open from October 26, 2017 meeting is the application of Yasser Aly, 300 Lakeside Road, Newburgh seeking a two variances, one is a...before you put that up you might want to wait a minute, this might be a quick one, a Use variance for the maximum of one dwelling unit per lot to convert an existing non-conforming accessory building into a second single-family dwelling unit on the premises. And also Area variances for the minimum lot area, the minimum lot width, the minimum one side yard setback, the minimum combined side yards setbacks, the 1500 sq. ft. minimum floor area and the maximum lot surface coverage to convert an existing non-conforming accessory building into a second single-family dwelling unit on the premises. The Board received the information on Monday for the up-dated plans. Unfortunately, because they were received so late the Building Department did not have an opportunity to fully vet the information and provide the Board with what variances would or would not be needed based on your resubmittal. So at this point, we’re going to...we have no choice but to postpone it again until December 28th for that meeting. If there is anything else that you need to submit or you think needs to be submitted I would do it by December 14th cause if not it will just postpone things further. So at this point, was there anybody here from the public for this application? If you are, just raise your hand, okay. I apologize that we have to put this off a...but we can’t again make any decisions without having the proper information. The only thing I can tell you that we did receive was that they were moving the structure, you know, further from the line. Is that correct?

Audience Member Yes.

Mr. Manley: So, based on them moving it away from the property line because I understand that the foundation wasn’t potentially going to support what they were doing. We now have to look at what variances will or will not be needed as a result of that movement. It could be that they may not need any variances and if they don’t then they don’t have to come back before the Board then it’s up to the Town to...you know, the Code Compliance to approve it based on what they submitted so...a...that’s where we’re at right now. We know nothing more except...

Audience Member Inaudible

Mr. Manley: Well not if it...if it meets all the zoning it would just be like anything else that would be applying for a Permit. If you wanted to put an addition on your house and it met all the guidelines you know, you wouldn’t need to a...you wouldn’t have to be noticed to the public it would just...

Audience Member: Inaudible...second dwelling on one lot.

Mr. Manley: It is but if it meets the requirements of the Code there would not be any requirement for them to come back before the Zoning Board if it meets the Code. People only come to the Zoning Board when things don’t meet Code.

Audience Member (Inaudible)

Mr. Manley: Okay, so we only hear things that don’t fit or that people are going to build something that is beyond what the Code will allow them to do on their property. If it fits they never have to come to us.

Audience Member (Inaudible)

Mr. Donovan: If I could just interrupt for a second sir, we’ve got a couple of things going here. One this will not get into the minutes because you’re not at the microphone and the meeting is being recorded. Two is if we’re...if we’re going to...you’re either got to allow the hearing to go forward or adjourn the hearing based upon new information is my suggestion to the Board.

Mr. Bell: Yes.

Mr. Manley: So at this point, we have to wait until the Hearing if you want to talk to the Building Department tomorrow and get whatever documents you need on this to FOIL.

Mr. Bell: Is it also different in the height in there because it was...

Mr. Manley: There may be, I haven’t had honestly an opportunity to review the plans or anything that’s why I...I really didn’t want to comment on anything.

Mr. Bell: Okay.

Mr. Manley: Because I haven’t fully been informed on what the proposal is. So that may be possible but that would be something that we would have to discuss in a...if we continue with the Hearing. If that’s what the Board wants to do we can certainly start the Hearing without having that information?

Mr. McKelvey: We just got this tonight.

Mr. Manley: Correct.

Mr. Bell: I just saw it tonight too.

Mr. Manley: Does the Board want to open up the Hearing tonight or do they want to wait and hear everything next month?

Mr. Bell: I think we should wait until next month Jim.

Mr. Masten: I’d wait, Jim

Mr. Bell: Then we can do it right.

Mr. Donovan: So then someone should make a motion to continue the Public Hearing till December 28th.

Mr. Bell: Yes.

Mr. Manley: Correct.

Mr. Levin: I’ll make the motion.

Mr. Manley: Okay, Mr. Levin has stated he’s made a motion that the Public Hearing be continued to December 28th so that the Board has an opportunity to vet the information that was submitted with Code Compliance.

Mr. Masten: I’ll second.

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

Ms. Gennarelli: Roll call.

 Darrell Bell: Yes

 Richard Levin: Yes

 Michael Maher: Yes

 John Masten: Yes

John McKelvey: Yes

 James Manley: Yes

Mr. Manley: The Hearing is going to be continued next month.

PRESENT ARE:

 DARRELL BELL

 RICHARD LEVIN

 MICHAEL MAHER

 JAMES MANLEY

 JOHN MASTEN

JOHN MC KELVEY

ABSENT:

 DARRIN SCALZO

ALSO PRESENT:

 DAVID A. DONOVAN, ESQ.

 BETTY GENNARELLI, ZBA SECRETARY

 GERALD CANFIELD, CODE COMPLIANCE

 (Time Noted – 8:03 PM)

ZBA MEETING – NOVEMBER 21, 2017 (Time Noted – 8:03 PM)

RICHARD RINALDO 22 WINDWOOD DRIVE, NBGH

 (90-5-11) R-1 ZONE

Applicant is seeking area variances for an accessory building may be located in any required side or rear yard, the maximum lot building coverage and the maximum lot surface coverage to keep a 12’ x 28’ accessory building (shed) built without a Permit in a front yard (corner lot Windwood Drive and Flamingo Drive).

Mr. Manley: The next item this evening is the application continued from October 26, 2017 meeting the application of Richard Rinaldo, 22 Windwood Drive, Newburgh in an R-1 Zone seeking area variances for an accessory building may be located in any required side or rear yard, the maximum lot building coverage and the maximum lot surface coverage to keep a 12’ x 28’ accessory building (shed) built without a Permit in a front yard (corner lot Windwood Drive and Flamingo Drive). Good evening.

Mr. Furst: John Furst of Catania...

Mr. Levin: Just give me one second, I ask to be recused from this.

Mr. Manley: Okay, the Secretary will note Mr. Levin is going to recuse himself from this proceeding.

Ms. Gennarelli: Okay.

Mr. Manley: Sorry about that.

Mr. Furst: No problem, it’s John Furst F-U-R-S-T of Catania, Mahon representing the applicant, Rich Rinaldo. Just to give the Board a brief update from last month’s meeting I think there were two issues a...or two concerns. One was the size of the shed; the other was whether it was being used for business purposes so I had the applicant go around the neighborhood. They took a lot of photos; they took many photos of a lot of accessory structures that are similar sized to what they’re proposing. We put down the address for each one of the photos, we also prepared a map showing approximate locations of these existing structures and I...I think a picture says a thousand words and the...I know there were some discussions and people probably didn’t realize because nobody went around looking for these size structures but they do exist in the Colden Park neighborhood so what we’re proposing is not out of character. I think there’s seven or eight photos that we produced. There’s probably even more structures but these were the ones my client was able to track down. You may have tracked down other structures that are similar size. So we have a situation here where I know you guys were concerned about the size and being out of character with the neighborhood but I think if you see from our submission and our photos and our map you’ll see that there are many accessory structures of similar size to what’s being proposed right now. And again I do want to remind the Board that we’re not here seeking a variance for the size of the structure. The variances here are in connection with the setbacks so actually the structure is well below the size limitations. It’s only three hundred and thirty-six square feet. Under the Code it’s a much larger structure could be permitted but we’re not proposing that and again, this is not out of character. There are many other accessory structures of similar size right within the Colden Park neighborhood. The other issue was the business, we submitted a copy of the a...filing papers to the County Clerk’s Office for a dissolution of a...Mr. Rinaldo’s landscaping business to show that he’s no longer operating any landscaping business. So as far as the concern of running a business it’s not...it’s a non-issue. So I think we’ve addressed both the Board’s and there’s a couple of neighbors that were concerned, I think we’ve addressed your concerns and we feel like the balancing of all the factors weighs in favor of granting this variance.

Mr. McKelvey: You have to consider the rest of the...the pool and stuff in the coverage on the property.

Mr. Furst: Right that is considered in the analysis and it’s I think a two or three percent increase.

Mr. Donovan: So if I could just explore a little bit, on the issue of...of size, there’s a building coverage and a surface which shows that you’re over in building and surface so you’re...you’re argument it’s not the size of the shed is...is just based upon what? Just so I understand.

Mr. Furst: Well there were concerns by many of the Board Members and members of the public, I think there’s actually some statements that said there’s...there’s no way there’s any existing within that neighborhood that are that size...

Mr. Donovan: I’m sorry, I didn’t articulate that correctly. If I heard you correctly you said you don’t need a variance because of the size of the shed that the size of the shed...

Mr. Furst: Correct, there’s calculations as far as to figure out the size of the shed you have to take the lot size and the house size and you divide it by a number and that gets you...

Mr. Donovan: That’s the 185-15 formula for accessory buildings.

Mr. Furst: Correct.

Mr. Donovan: And so...

Mr. Furst: That was never raised as an...an issue for the Building Department so I’m assuming they went through that analysis and they found it was well below what was permitted.

Mr. McKelvey: Is there a garage door on this building?

Mr. Furst: Yes, there is..

Mr. McKelvey: Does it now need a concrete floor, Jerry?

Mr. Canfield: Yes, that’s correct, it does. Non-combustible, not necessarily concrete.

Mr. Furst: Well I...we can talk about it during the Building Department stage but a...it’s for motor vehicles and automobiles storage so...whether the lawnmowers are considered motor vehicles could be up to debate but that’s something we could certainly discuss as part of the Building Permit process. You know, whatever the Code is the Code is but a...you know, I don’t know, the State Code talks about for automobiles and motor vehicles.

Mr. Donovan: So, I’m sorry, I can’t get past my issue here. If you built a smaller structure would you still need a building coverage variance and a surface coverage variance?

Mr. Furst: Yes, cause it’s a pre-existing, legal non-conformity. A...as the Chairman had mentioned during one of the prior applications there was a re-zoning after the houses were built so basically most of the lots within that neighborhood are probably pre-existing non-conformities.

Mr. McKelvey: Most of these other sheds that are on these properties were done under R-3.

Mr. Manley: I’d like to take a minute to go through for the benefit of counsel the zoning change that occurred in 2008, July 3rd, the results of the...the results of the zoning change were put into effect as a result of the a...Exeter vs. The Town of Newburgh court case. Subsequently you provided us with a list of all of the photos of the houses that had other structures on them so I just want to go through them for the record so that you know that we did take the time to research this to see exactly when many of these were constructed. Because the construction date and the C.O. is, to me, what is going to show whether or not those particular structures were put in prior to 2008 or after 2008 because this Board obviously grants variances based on the new R-3 or...or the new R-1 versus the old R-3. So the first one which is that we looked at was 29 Linden Drive, 1-car garage built in 2002, 14 x 22, that has a C.O.; 22 Linden Drive, that is a shed 1984 is the date that was shown to be done, it’s a 10 x 10 shed; 8 Flamingo Drive, that one shows that it was put in 2008, it’s 10 x 12, no Permits and that one is more than likely going to be probably be looked at by the Building Department for no Permits; 43 Windwood Drive, 1 shed in 1998, 12 x 16, one shed in 2006 18 x 10, both have C.O.’s; 2 Linden Drive, 26 x 24 a...that was done May of 2011, the application expired, the Permit was never issued. That will be another one that will probably be looked at. 3 Linden Drive, shed built 1998, 16 x 16, has a C.O.; 7 Linden Drive, accessory building 14 x 24 x 8, that was built in 2000, that has a C.O.; 1 Sandalwood Drive, don’t have a year it was built, it’s unknown, that’s showing 24 x 24 couldn’t locate anything in the file; 3 Sandalwood Drive, accessory building 18 x 30 steel, done in 2008 has a C.O.; 26 Westwood Drive, homeowner purchased it in 2016 a...planning board accessory building 8 x 15 and 12 x 16, C.O. granted 3/26 of ’07; 5 Arbor Drive, prior built accessory building 14 x 24 and that was unknown year built, purchased in 2014, built in 1956. So we went through all the photos that were submitted and two without Permits it appears were done, it appears, after ’08 and the rest of them were all done prior to, you know, ’08 before the zoning change. So, I would say that most of them were done prior to the zoning change so their significance as far as size and surface coverage area would be greater because of the difference in the zoning at the time.

Mr. Furst: The...the question last month was...the statements were last month that there’s nothing in this neighborhood that’s even close to what we’re proposing. It’s not true so when you go through the analysis it’s five factors as far as it’s community character you just went through a list of structures that are...are very similar in size. Some are even larger that what we’re proposing. So the question is is this structure out of the community character? It doesn’t matter when it was built it’s what is the existing community character and that’s why we presented those photos.

Mr. McKelvey: But we have to go under zoning of R-1.

Mr. Manley: And that is...that is one...one factor is you know of relevance is that factor. There’s five factors so the Board will look at all the factors and the Board will take into account the fact that there are some structures in there but there are differing sizes, I mean, a lot of them are smaller than what your applicant is proposing and some of the larger ones that have been proposed were built without Permits so the Board isn’t going to take into account something that was built without a Permit.

Mr. Furst: I...I think the...really the issue that stands out to me is nobody noticed any of these, even the larger ones without Permits so to me that’s saying they all blend in with the community character just like this proposed or this shed is going to blend in with the community character. People stood here at the last meeting and swore that there was nothing of similar size because nobody was looking because nothing stood out because everything blended in with the community character so that was the point of adding the photos.

Mr. McKelvey: We still have to look at lot coverage with these other buildings too if there’s anything else on the property.

Mr. Furst: Right, the lot...the lot coverage is increasing cause of the three hundred thirty-six square foot shed and just also...

McKelvey: You’ve got to count the coverage of the swimming pool...

Mr. Furst: It’s all covered...

Mr. McKelvey: (Inaudible)

Mr. Furst: ...that’s all included in the Building Department’s calculations and I...I believe it’s a two or three percent increase. It’s a lot...it’s a corner lot so it’s a...probably a little bit larger than most of the lots in the neighborhood.

Mr. Manley: And your two largest...okay you have one here a...26 x 24, you know that one was built without a Permit. So as far as I’m concerned that is not a case for character of the neighborhood because that one was built without a Permit. Had it been built with a Permit and had a C.O. I would say okay that and we could lend that some credence but when it...it clearly was built without a Permit...

Mr. Furst: But nobody...

Mr. Manley: ...you can’t...you can’t compare something that was built without a Permit when it shouldn’t be there.

Mr. Furst: Nobody noticed it until the research done.

Mr. Manley: Just because they didn’t notice it just doesn’t mean that this Board is going to accept it because it’s...it’s illegal.

Mr. Furst: How could it be a detriment to the community character if nobody notices it?

Mr. Manley: Well how do we know it was built properly? How do we know that it was built to the...?

Mr. Furst: That’s...that’s for that property owner that’s not this application.

Mr. Manley: But if it’s not built properly to Code it is a detriment to the nearby homeowners because let’s say it’s wired with electric and it has an electrical fire...?

Mr. Furst: That’s...that’s that application, you’re...you’re...it’s apples and oranges. This application, the analysis is whether it’s a...it’s going to create a detriment to the surrounding neighborhood or undesirable to the community character. All of these buildings that you cited nobody noticed them. There are some that were built illegally nobody noticed them so how could those be undesirable to the community character with respect to my clients’ application? Yes, there’s health, safety Building Code issues...

Mr. Manley: Is...is this Board part of our charge concerned with health, safety and welfare of the public?

Mr. Furst: Yes it is, and for that particular property, absolutely.

Mr. Manley: So it...but if you’re...if you’re bringing an example before this Board and this Board is saying to you that in your example that you’re giving us this building was built without a Permit. If it’s not built up to Code and there’s an issue that happens with that building, it collapses, it has a fire and as a result of that fire it causes somebody else’s property that is neighboring to that to catch fire isn’t that something that this Board should be concerned with? Because that affects the health, safety and welfare...

Mr. Furst: Absolutely but with respect to that application but it has nothing to do with our application. The health, fire of another building has nothing to do with this application.

Mr. Manley: And what I’m saying is that that building shouldn’t be there because it was built without a Permit.

Mr. Furst: Yeah, that’s fine but what I’m saying is nobody noticed it so it goes to my point that this proposed shed will also be unnoticed and it’s not undesirable to the community character.

Mr. Manley: And...and I appreciate your...your stance on that. I don’t know necessarily if I agree with it a hundred percent. There’s some other things I think that we’ll get into but I’m going to see if there’s anybody else on the Board that has any other questions, has any comments with respect to their second visit to the site and you know, going around the neighborhood and looking at some of these other buildings that...that were brought up. The other thing that I wanted to mention too is what we’re going to continue with the hearing tonight but now you have only five no...we have five Members left out of the six...

Mr. Donovan: Five Members left.

Mr. Manley: ...it is your decision whether or not you wish the Board to rule with only a five Member Board or if you want to...

Mr. Donovan: Just, I’m sorry Mr. Chairman; it’s a seven Member Board. Mr. Scalzo is absent, Mr. Levin is recused you would need four out of five votes. It’s the standard procedure of this Board to offer any applicant the opportunity to ask the Board not to vote until a full complement. You would have six; it would be your full complement which you’d need four out of six since Mr. Levin has recused himself.

Mr. Furst: Yes, understood.

Mr. Donovan: You don’t have to decide as you’re looking at us though but you will need to decide sometime before the Board votes tonight. If that’s your point, I’m sorry Mr. Chairman...

Mr. Manley: That’s perfect. So now does anybody else have any questions?

Mr. Bell: No.

Mr. McKelvey: I don’t have any.

Mr. Furst: If...if I may in order to maybe alleviate some of the community character impacts I spoke to my client over the past few weeks and you know, they’d be happy to plant some trees a...to kind of block or obscure some of the view of the shed because I know again people were concerned. There were two neighbors I think out of the community of...I don’t know, there’s probably approximately two hundred homes in Colden Park, there were two neighbors that objected a...you know, they had some concerns and our...my client listened to those concerns and we talked about it and I thought, maybe if they planted three or four trees to kind of break up the shed that might help as far as impacts with respect to community character. So they’d be happy to do that.

Mr. Manley: Alright I’m going to open this up to the members of the public now to see if there’s any members of the public that has any comments regarding this application. Yes Maam? If you could step forward and state your name and address for the record please.

Ms. Hines: My name is Denise Hines I live at 21 Windwood Drive which is right across from Rich and Lisa. I wrote some stuff down because I...I don’t do this sort of thing normally so I’m rather nervous but in regard to the gentleman’s statement about we said there was a...it was said that there was absolutely no structures like this. I don’t believe that statement was ever made. My answer to one of the questions asked was I don’t know. I did not know whether there were any structures around. I did drive around the neighborhood myself to see and I see these structures that he’s talking about. I am aware of the R-3 and the R-1 changes. If I could just read what I’ve written so I could do this...

Mr. Manley: Certainly.

Ms. Hines: ...easily. I came to the first meeting out of curiosity. I wondered why there was a hearing about a shed that had already been up for several months. I was concerned that there was going to be yet another additional shed. I hadn’t necessarily planned on speaking but was moved to speak by the untruths that were being presented to the Board. When asked by the committee why the shed was in place when clearly no variance had been granted the attorney said that Rich and Lisa didn’t know the shed was being delivered and the delivery was just made...a...an utterly ridiculous statement. The size of that shed could not have been just dropped without the owner’s permission. Rich took the fence down so the shed could go in. He directed the sheds delivery and he put the fence back up. The next thing that didn’t set well with me was when asked why they needed a variance for the size of the shed. Why did they need that shed when they already had one? There version was...I heard two versions that night, one was the house was too small that they needed it for storage they had five children. The original owner’s had four children and managed quite well. When the committee asked if a business was being run out of the house again the committee asked if a business was being run out of the house. Rich responded no, he said his business was defunct and that’s why he needed the shed, he was going to move his stuff from a storage unit he was paying a lot of money for and the committee asked him about the storage unit. He said he wanted to move his things out of the storage shed so he wasn’t paying so much for the storage shed. If that was the case and his business is defunct and he wanted to move his stuff from a storage shed why isn’t he selling that equipment? Why does he have to store it as his home? Then he said that he needed it for...to maintain his property. This is all professional grade landscaping equipment that he’s proposing to store in there. His property is a third of acre on which sits a house, a deck, a pool and two sheds. I’m not, I’m not an expert but I don’t know why we need that much landscaping equipment for it. My reason for speaking here is not...is not to give my neighbor a hard time despite what they may think. I have reason to distrust what he is saying here. I am not convinced his business is dead but perhaps just done for the season. Whether he submitted a dissolution or delusion whatever it is of his business does not mean he can’t start it again next year if he has all the equipment still in his possession. I don’t want to interfere with his ability to earn a living. I merely want to protect my quality of life and my home value. Last summer I woke one morning to find a dump trailer parked on his front lawn. It stayed there for weeks. It was what I saw when I looked out my front window every day. It wasn’t until Code Enforcement came to his house that it was moved. That is now in his backyard as well. Many times I would come home from work and his work truck and trailer were parked directly outside my house. It would stay there for days at a time. Many times my own landscaper couldn’t get to my property because it was in the way. Neither of these sights is what I want to look at it’s not why I moved to Colden Park. As mentioned at the last meeting the equipment, tools, etc. in his driveway they remain there. He said he would use the shed to clean up his property. To date that has not been moved and yet...and again, two days after the meeting more things were added to the pile out front. If...if this committee grants the variance I...I do not...I personally do not have a problem with how the shed looks. I honestly don’t. It is...it is somewhat a...similar to the house. It is behind a six foot fence. They don’t need to plant flowers. I would appreciate if they cleaned up the rest of the yard. They don’t need to plant flowers or trees to hide the shed from me that’s not my problem. My concern is if this variance is granted and he is allowed to store his landscaping equipment in there, if this business gets resurrected again it...that trailer and all of his equipment is going to be out in...in the a...residential area and it’s going to be unsightly and it’s going to be a nuisance. If he parks that truck I can’t get out of my driveway cause you can’t see around it. It is not the structure that I oppose. I...I want to be clear about why...why it needs to be that size to accommodate what he’s asking for.

Mr. Manley: And that is exactly what this Board does not have any authority over is our scope is to look at the size the...the 12 x 28 accessory building and it’s here because it doesn’t fit the surface coverage and the building coverage. As counsel to the applicant stated the size fits as far as the 12 x 28. The reason they’re here for the variance is because of the amount of stuff that’s on the property as far as lot coverage area goes. So that’s specifically what we’re looking at. If, you know, this were to be approved by this Board the fact that he wants to bring business equipment and run a business out of his house this Board has no control over that. That becomes an enforcement issue which the Town would, you know, have to, you know, enforce which, you know, they have throughout the Town, you know, where there’s been issues where people have run businesses out of their homes they’ve...they’ve had to a...they’ve had to address that. So I understand your...your specific concern is it’s...to you it’s not unsightly a...that really isn’t the...you know the concern that you have. Your concern is more from what I can gather the business operation and the past practice that the applicant has had with running a business out of his home.

Ms. Hines: And...and the honesty with which things are being done. I question that...he knew he needed a Permit, he knew he needed a variance yet he went ahead and got...let the shed be delivered that...that is what starts me not trusting.

Mr. Manley: And welcome to the world of zoning because we see many, many applicants that are before us that don’t have Permits because they don’t follow the rules and that’s the unfortunate part and then that’s when they come here because the Building Department now has issued them a...you know a...Stop Work Order or they’ve issued them a...a...a Notice to Remedy because they haven’t complied and then their...their next step is to you know, to come here, you know a...so that’s a...you know that’s where we’re at. Is there anything else you’d like to...to add?

Ms. Hines: No, I don’t want to...I don’t...I’m not looking to cause him a problem but I don’t want problems in...in...in the back end of this either and I...I’m sure you pretty much already figured out if he starts that business up again I will call Code Compliance and I will, you know...

Mr. Manley: Well and that’s...that’s your best, you know, that’s your certainly your...your best remedy is if there’s and issue to, you know, to call and have that...have that addressed.

Ms. Hines: Thank you for your time.

Mr. Manley: Alright, thank you.

Mr. Donovan: Mr. Chairman, if I could? Just there was an issue raised on what was said last meeting and the young lady indicated well...the Chairman asked a...Ms. Hines, could you share with the Board do you know of any detached garages that are built in the development roughly how big they are? Do you recall any in Windwood, Westwood, Flamingo that particular area? And the response was if they are, they aren’t anything...I walk the neighborhood all the time; if they are I’ve never seen anything that has caught my eye like this does. And then Member Scalzo who is not present tonight said, I would like to visit the site again looking at other aspects basing this applicant on the character of the neighborhood I wasn’t looking for any accessory structures so Mr. Scalzo asked...asked to go back and the young lady indicated she walks the neighborhood, she’s never seen anything like it. That’s not correct? I’m reading verbatim from the minutes, I’ve not seen anything that has caught my eye like this does.

Mr. Furst: Right also if you go to page forty-seven towards the top Mr. Hanley asks to Ms. Hines, can you name off how many sheds are in the development that are of this size? Her answer, zero, that’s pretty definitive.

Mr. Donovan: I don’t...I’m not on...

Mr. Furst: Forty-seven.

Mr. Donovan: I can’t tell by...

Mr. Furst: Page forty-seven.

Mr. Donovan: My pages are numbered differently.

Ms. Gennarelli: He’s looking at probably the web pages.

Mr. Donovan: Yeah, yeah, yeah.

Mr. Manley: And again that’s from that individual’s perspective.

Mr. Furst: Correct, just to clarify the record though. I think there was a statement made otherwise. But, you know, she has some valid points as far as you know, keeping the place clean, not running a business a...we did submit the dissolution a...certificate. So the applicant isn’t planning on running his business, he does have some equipment left over from his business that he uses for personal uses a...the idea is to put it inside instead of keeping it outside having this shed will help him to do that

Mr. Manley: Based on the surface coverage that the applicant is going to be over one of the questions that I have is...goes to need. Obviously this Board and part of the charge of this Board is to grant a variance based on the minimum amount of variance needed...again needed in order to a...take care of the applicant and my next question would be a...okay, we have the...we have business equipment that needs to be stored from a place where it’s currently being stored brought to a residence. What are we talking about as far as amounts? Square...you know size of the...size of the equipment a...I think all of that is...is important in this Board making a decision to determine need because if based on his equipment he only needs half that accessory building, let’s say, that’s going to reduce the surface coverage area which would then mean that he may need less of a variance or no variance. So we haven’t really...I mean I haven’t been satisfied with specifically you know, the need as well...a...the need to have such a large structure to accommodate what he...because again, at some point he’s probably going to get rid of this equipment and then he’s not going to potentially need as big of a...you know, structure. So I think, you know part of the decision process also has to be, you know, the need.

Mr. Furst: Right, well unfortunately since he has a pre-existing legal non-conformity with respect to lot coverage and lot surface and building coverage anything he puts down is going to require a variance a...and I think this is only a two to three percent variance so...

Mr. Manley: And it’s actually more than that but...

Mr. Furst: Three hundred and thirty-six square feet...I don’t remember the acreage of the lot off the top of my head...

Mr. Manley: The variance right now is a...lot surface coverage is twenty percent allowed which is thirty-three forty-five, he needs a twenty-five percent variance so the variance percentage is five percent, for building coverage it’s nine percent.

Mr. Furst: Right and that’s...that’s not accounting what’s already pre-existing, legal, non-conformity so what I...what I’m saying is he’s only increasing it...the pre-existing non-conformity by so...such size. So the overall percentages may be five and nine percent but he’s already over those because it’s pre-existing, legal non-conformity. It’s de-minimus the size.

Mr. McKelvey: All the lot coverage would count, right? That you’re showing there.

Mr. Furst: Yeah.

Mr. McKelvey: Not just the shed.

Mr. Furst: And also remember, I mean, he could position the shed in such a way where if he pushes it back a...puts it behind the house, maybe removes part of the deck, I mean the shed could still sit there. Remember the shed is not the issue, the size of the shed is not the issue, it’s just the location and the increase in lot and...lot surface and building coverage. So he can reduce his building or lot surface coverage elsewhere and still move the shed back and still have that shed.

Mr. Manley: So if that’s a possibility why don’t we...

Mr. Furst: Because it would eliminate his backyard. He’d have to put the shed all the way in his backyard and he’d have no private backyard space. He’s got some very observant neighbors I guess so...he’d like to kind of have some private backyard space.

Mr. Manley: Well I, you know, I’m just think though too that if there’s another way to skin the cat so to speak...you know, even though it might not be the preferred if it works that’s...

Mr. Furst: It doesn’t work because again it would eliminate their entire backyard because the shed would be there in their backyard and I think that’s out of community character more than anything else, more than what they’re proposing. And even the neighbor had said she doesn’t really have a problem with the way it looks, her concern, a valid concern is that she doesn’t want him running a business out of there and she wants him to clean up the site. I don’t even think she is really concerned with the size and she’s just one of approximately two hundred households in Colden Park or Colden neighborhood.

Mr. McKelvey: Should we have a copy of the...dissolving the business?

Mr. Manley: There was...there was something that was submitted.

Mr. McKelvey: It was submitted? Okay.

Mr. Donovan: Yes.

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

Mr. Bell: No.

Mr. Masten: No.

Mr. Manley: Does the Board have any concerns? Comments?

No response.

Mr. Manley: Okay, hearing none, what is the Board’s pleasure? Is the Board’s pleasure to close the Public Hearing at this time? If so, we need a motion.

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

Mr. Manley: We have a motion to close the Public Hearing from Mr. Maher. Do we have a second?

Mr. Bell: Second.

Mr. Manley: Was that Mr. Bell? Second from Mr. Bell.

Ms. Gennarelli: Roll call.

 Darrell Bell: Yes

 Michael Maher: Yes

 John Masten: Yes

John McKelvey: No

 James Manley: No

Mr. Donovan: So we’re not going to close the Public Hearing?

Ms. Gennarelli: Three, two.

Mr. Manley: Correct.

Mr. Bell: Three, two.

Mr. Masten: Two for and two against.

Mr. Furst: What’s the additional information that’s needed?

Mr. Manley: Well I have a concern with need for the applicant’s...need for the amount of space for storage and I have concerns with does the applicant need as much as room as he’s requested and there’s been nothing that’s been submitted that would allow me to feel comfortable enough to say, absolutely that that amount of space is needed.

Mr. McKelvey: I’d agree with you.

Mr. Furst: But the size is not an issue. It’s not the size of the shed...that’s not an issue here. If I was asking for a larger shed than what’s permitted.

Mr. Manley: But one is contingent on the other, the lot surface and the building coverage area are both needed in order to...in order to...you have to get over that hurdle in order to say that that size could...could fit. And if the shed is smaller, if let’s say for example the applicant could use a 12 x 20 shed or a 12 x 24 and that’s the amount he would work with then at that point and I had something to show me that that is the space that is needed....

Mr. Furst: Sorry, I’m listening; I just want to ask him a quick question. So I...I think in order to alleviate your concern is the existing shed they’re willing to remove that so that would reduce the lot surface coverage a...encroachment so to speak.

Mr. Manley: Okay, so the existing shed that’s there do we know how big that shed is?

Mr. Furst: A...yes...(Inaudible)

Mr. Maher: It’s 12 x 12, a hundred and forty-four square feet.

Mr. Furst: So it’s a...I don’t know three sixty, three thirty-six minus one forty-four so I mean it’s essentially reducing the size of the shed without actually reducing the size of the proposed shed if you all understand what I’m saying.

Mr. Manley: No, I...I get you; it would be like if he lopped off part of his deck.

Mr. Furst: Right.

Mr. Manley: That would reduce...

Mr. Furst: Right.

Mr. Manley: ...both the lot a...surface coverage area and the building coverage.

Mr. Furst: Alright, he...I just spoke to the client again, he said he needs to keep that shed for storage but he would be willing to eliminate a portion of his deck to reduce the lot surface and building coverage.

Mr. Manley: Okay.

Mr. Rinaldo: I’m...I’m willing to work with the Board but we have four children that live with us, we also have one that doesn’t live with us, my oldest child who lives with us is getting ready to go to college so all of his stuff we’re going to need to store as well. I have a storage unit which is...which I use as my shop and have been for quite a while, that’s two of my sheds so...I’m trying to put two of my sheds what’s...what’s coverage would cover two of my sheds into the one shed. Like my downstairs, we have a closet downstairs that we built for a little storage and it’s...it’s filled; you can’t even walk in there. We’re just trying to...we’re just trying to get as much storage as we can to make it comfortable to store stuff so we can find it, so we can get to it. Some of the stuff that I have as far as business equipment I am still am trying to alleviate some of it and get rid of it but the stuff that I do have it’s still going to fill up the shed. Like even when I close out, when I...when I stop paying for the storage unit I’m going to have to store some stuff outside because it’s not going to fit. I’m willing to take part...I’m willing to take the whole deck down if we have to. I’m willing to work with the Board with whatever we can but if we alleviate our other shed we’re...it’s full...it’s full to the gills right now and if we alleviate that we’re going to have another problem with storage. So that’s kind of where...that’s kind of where I’m at and that’s kind of why we bought such a big storage...shed rather. I’m trying to reduce my size by half and it’s...it’s just...I have thirty-seven blow ups in my front yard. I don’t know if any of you have been to my house recently but I have thirty-seven blow ups that’s a lot of Christmas stuff that I need to store like my attic is full and we can’t get around in my attic either. It’s...I just want to spread it out just a little bit more to where it’s more comfortable as comfortable for us to live, that’s all. If I can alleviate the deck or (Inaudible) somewhere else I will. If I have to alleviate the shed I have to do what I have to do but it’s just going to put me back in that same boat of being...storing the stuff in a...you know, an uncomfortable way. That’s...that’s where I stand.

Mr. Manley: Yeah and from my standpoint I understand where you’re coming from and I can appreciate that. I think again what the Board has to do is...we’re a Board of last resort, people come to us because they don’t meet the Code and I don’t know if you were here when the last gentleman was here and was looking for quite a few variances because he wanted to put a pool and keep a shed and you know, again the same thing with him this Board, you know, went through the whole motions of this is where we’re at, you know, what you’re looking for is, you know, ninety percent and you know, the chances you’re going to get ninety percent are slim to none. You might get forty percent but you’re not going to get ninety. And that’s kind of where...and it...it’s because of the fact that, you know, that the and Counsel you may disagree with me but the people in a Public Hearing back when the zoning was redone back in 2000 and 2005 when they had the Public Hearings and they had the public input many, many from...many, many people from Colden Park spoke out about how they were concerned with sprawl. They were upset about the Pilot Truck Stops, they were upset that the Town was allowing adult oriented businesses and how it detracted from the Town and that they had to pass it every day on 17K. So the Town has gone through significant work in order to change the zoning to benefit the residents. So for this Board to turn around and just grant variances and variances upon variances, you know, we have to be very careful because a lot of what we do creates more issues because now somebody is going to say well you did for one, why did you do for the other and you know, as a result of the zoning changes you no longer have you know, the place that’s located on 17K that people used to pass and you know, didn’t appreciate seeing all the time because zoning said that they could no longer stay there so, you know...

Mr. Rinaldo: I...I after the last meeting I went to the neighbors around me directly affected by the shed so to speak and every person that I went to said that they didn’t have a problem with the shed. The shed looked good, it was...it wasn’t...it didn’t bother them a...I even spoke to...to the young lady’s husband. Her and her husband and I had a...a significant conversation out in front of my house and you know, I told them, him and I said that you know I’d be more than willing to sit down with them cause...I just don’t want the grief there and I don’t want problems or issues with any of the neighbors but I had went to other neighbors and I think five or six of them that are in direct view of the shed and none of them said that they had a problem with it or the size of it and they were fine with it being there. They didn’t want to write, sign anything or like that because they didn’t feel that they wanted to get involved.

Mr. Manley: Well I think that a...based on the way that the vote went this evening as far as closing the Public Hearing you probably can sense from this Board, counselor, where this may be going so I mean you have a couple of options a...one option is I’ll vote to close the Public Hearing if you want to roll the dice on how this Board may or may not vote or potentially you could work with your client we’ll leave the Public Hearing open and you could come back next month with a change of plan that might be more palatable to the Board and the Board could vote on. But that has to be your decision a...well and your applicant’s decision and I...I would be willing to give you, you know all the options that are out there for the benefit of...of your client.

Mr. Furst: Is there another application after this with that other...did your consultant come? Cause I’d kind of like to talk to them now for five minutes rather than spend more time and energy coming back next month.

Mr. McKelvey: My...my concern, I mean, I live in Colden Park, he knows I do, the lot coverage. We...we did the other hearing and we explained to him lot coverage. You know we can’t set precedence.

Mr. Furst: I guess as far as lot coverage if they just removed the deck because it is a rather large deck that would put them well under the lot coverage as well as the surface coverage requirements and it may not even trigger their need at all for a variance but it would certainly lower them from what they’re proposing.

Mr. Manley: We would probably need to probably get an idea of what the amount of the removal of the deck would be and then we would need to then have that new calculation figured out so that we could determine what it is that we’re approving.

Mr. Donovan: We’re not. I mean if the calculation turns out that you don’t need the...

Mr. Furst: We’d have to come back.

Mr. Donovan: Wouldn’t have to come back.

Mr. Manley: Then you might not have to come back.

Mr. Furst: Right.

Mr. Manley: If you take off enough off the deck.

Mr. Donovan: As much as you like coming as much as we enjoy seeing you.

Mr. Maher: You still need the variance for the front yard.

Mr. Furst: Yes, yes you’d still need the variance for the shed in a front yard but the idea would be to remove the deck to eliminate the lot surface and building coverage.

Mr. Maher: Well equal to that...the minimum equal amount to the size of the shed obviously so...

Mr. Furst: Yeah, I mean, yes.

Mr. McKelvey: Unfortunately he’s got two front yards.

Mr. Furst: Yes and that’s one of the difficulties with this property and the lot is slightly larger because it is a corner lot but it also has two front yards.

Mr. Maher: Well if the application is based that they’re going to reduce the deck square footage that the two variances then you could actually vote on the front yard only if that was their choice.

Mr. Furst: And you can make it contingent...make it contingent upon reducing the size of the existing deck.

Mr. Manley: Well the only problem would be if removing the deck wasn’t enough to get it below that amount...

Mr. Furst: It’s a big deck and if you look at...

Mr. Rinaldo: It would be (Inaudible)

Mr. Manley: Okay, as long as you’re and long as you are...

Mr. Rinaldo: John knows he lives two houses from me; he can probably see the deck from his house.

Mr. McKelvey: Inaudible. ...when it was built.

Mr. Manley: As long as you’re absolutely sure that removing that...a portion of that deck to below a hundred and forty-four square feet. Is...is that what you’re stating you’d like to do?

Mr. Rinaldo: Whatever I have to do to... (Inaudible)

Mr. Furst: Yes.

Mr. Donovan: Was that the right number...is it?

Mr. Maher: No, no you’ve got to equal to...equal to the size of the...

Mr. Donovan: Equal to the size of the accessory structure.

Mr. Furst: Right.

Mr. Maher: So to the three thirty-six...

Mr. Donovan: Yeah, three thirty-six.

Mr. Maher: Plus from that point or greater than that I should say.

Mr. Manley: So...so three thirty-six or more.

Mr. Furst: Three thirty-six, yes.

Mr. Maher: Right.

Mr. Manley: Does anybody want to make a...a... at this point we’re going to close the Public Hearing if that’s what you’re willing to do?

Mr. Rinaldo: Yes.

Mr. Manley: So you’re amending your application to take out the variance for the building coverage and surface coverage...lot surface because you’re going to...?

Mr. Furst: Decrease the deck by at least three hundred and thirty-six feet...square feet.

Mr. McKelvey: That deck is big there.

Mr. Manley: Which means that the...which means that the only variance that you’re requesting at this point would be for...?

Mr. Furst: Placing a structure in the front yard and again the structure is still a...I mean it’s seventeen feet from the property line but still twenty-five, twenty-six feet from the a...from Flamingo Drive so it’s not like it’s right on the property line and there’s a fence blocking it as well and it’s nowhere near the corner so it’s not a...it’s not a question of blocking the intersection.

Mr. McKelvey: There’s no...to me there’s no problem there.

Mr. Manley: And we will add that no business will be conducted...

Mr. Furst: Yeah, that’s understood.

Mr. Manley: Okay. Does someone at this point like to try to make another motion to close the Public Hearing?

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

Mr. Manley: We have a motion from Mr. Maher to close the Hearing. Do we have a second?

Mr. McKelvey: I’ll second it.

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

Ms. Gennarelli:

 Darrell Bell: Yes

 Michael Maher: Yes

 John Masten: Yes

John McKelvey: Yes

 James Manley: Yes

Mr. Manley: The Public Hearing is closed. We are going to check on that gentleman first and then we’re going to probably adjourn so that we can confer with Counsel regarding some legal questions.

 (Time Noted - 8:54 PM)

ZBA MEETING – NOVEMBER 21, 2017 (Resumption for decision: 9:12 PM)

RICHARD RINALDO 22 WINDWOOD DRIVE, NBGH

 (90-5-11) R-1 ZONE

Applicant is seeking area variances for an accessory building may be located in any required side or rear yard, the maximum lot building coverage and the maximum lot surface coverage to keep a 12’ x 28’ accessory building (shed) built without a Permit in a front yard (corner lot Windwood Drive and Flamingo Drive).

Mr. Manley: The next application that the Board heard that we’ll be voting on this evening is the application of Richard Rinaldo, 22 Windwood Drive, Newburgh, R-1 Zone. Mr. Levin will be stepping down and recusing himself from this application for the record. The applicant has amended his application this evening for the Board so that he will not need the lot coverage and the building coverage area, those will be eliminated because the applicant indicated that they will take away part of their deck. The only variance this Board will be looking at this evening is the variance of accessory structure in...because of the two front yards. This is a Type II Action under SEQR. We’ll start with the discussion relative to the area variance criteria. Whether the benefit can be achieved by other means feasible to the applicant?

Mr. Maher: No, it’s a corner lot there’s (Inaudible).

Mr. Bell: I agree, he’s got two front yards.

Mr. McKelvey: That’s true.

Mr. Manley: Whether or not the granting of the variance will create an undesirable change in the neighborhood character or detriment to nearby properties? My only comment on that one is that through the testimony of a number of the residents they feel that the granting of the variance would create a detriment to their nearby properties and they feel that with the new zoning it would further create more sprawl in the neighborhood. Anybody else have any other comments?

Mr. Maher: Well the fact that they’re removing the deck area that they’re not requesting any other variances other than the front yard set...front yard for a shed so...

Mr. McKelvey: The neighbor did say that the sight of the building wasn’t an issue.

Mr. Bell: Right, because he did have a six foot fence that was blocking it.

Mr. Manley: The next criteria is whether the request is substantial?

Mr. Bell: It’s self-created.

Mr. Maher: Well it’s no... (Inaudible)

Mr. McKelvey: They are going to remove the deck...

Mr. Maher: Well the variance being requested is for a front yard shed basically...

Mr. McKelvey: Yeah.

Mr. Maher: So it’s not substantial because obviously it’s a corner lot again.

Mr. Donovan: So this analysis requires you to look at the overall impact obviously from a mathematical computation it’s not a lot at all so you could view it as very substantial variance but your analysis should be what is the overall effect of having this shed in a front yard which has Member Bell has pointed out is really a side yard. So in your analysis what is the overall effect or impact a...that this would have in terms of its substantiality.

Mr. Manley: Any concern?

Mr. Bell: No, none.

Mr. Maher: No concern it meets the setback requirements.

Mr. Bell: Yeah.

Mr. Maher: There’s a fence blocking his yard.

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

Mr. Bell: No.

Mr. Masten: I don’t think so.

Mr. McKelvey: No, I don’t think so.

Mr. Bell: Not as long as, you know, the equipment is not stored there that could cause an environmental effect, you know, but that’s not supposed to happen so...

Mr. Manley: But the Board should...if the Board does decide to grant and make a motion for approval one of the conditions you could put is just to further add that there’ll be...

Mr. Bell: No...

Mr. Manley: ...no business and that granting the variance is not at all to allow a business to be operated there.

Mr. Bell: Right.

Mr. Donovan: Which just for clarification wouldn’t prohibit him from storing equipment there subject to whatever Code Compliance would have...whatever requirements would be relative to the structure or the composition of the floor.

Mr. Bell: Right, okay.

Mr. Donovan: But he could have...he could have equipment there, he just couldn’t run a business there.

Mr. Bell: Not a business, got you, okay.

Mr. Manley: No backing a trailer up and loading equipment back and forth, back and forth.

Mr. McKelvey: If he wanted to do that he’d have to take the fence down each time.

Mr. Bell: He had a big enough gate.

Mr. Manley: The next is whether the alleged difficulty is self-created. Again this is relevant but not determinative. It is...

Mr. Bell: It is self-created.

Mr. Manley: ...self-created.

Mr. Bell: Yeah.

Mr. Manley: It was put there without a Permit.

Mr. Masten: Yeah.

Mr. Bell: Yeah, it was put there without approval.

Mr. Manley: Based on the information and going through our balancing test and the five factors what is the a...Board’s pleasure? Does the Board wish to make a motion?

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

Mr. Masten: I’ll second it.

Mr. Manley: We have a motion to approve from Mr. Bell and we have a second from Mr. Masten.

Ms. Gennarelli: Okay, roll call.

 Darrell Bell: Yes

 Richard Levin: Recused

 Michael Maher: Yes

 John Masten: Yes

John McKelvey: Yes

 James Manley: Yes

Mr. Manley: The motion is carried, five-o, the variance granted as approved.

Mr. Furst: Thank you very much. I hope you guys have a great holiday.

Mr. Manley: Thank you.

Mr. McKelvey: Thank you.

Mr. Bell: Thank you very much and don’t store too many turkeys in there.

Ms. Gennarelli: Thank you.

Mr. Rinaldo: Thank you very much guys.

PRESENT ARE:

 DARRELL BELL

 RICHARD LEVIN

 MICHAEL MAHER

 JAMES MANLEY

 JOHN MASTEN

JOHN MC KELVEY

ABSENT:

 DARRIN SCALZO

ALSO PRESENT:

 DAVID A. DONOVAN, ESQ.

 BETTY GENNARELLI, ZBA SECRETARY

 GERALD CANFIELD, CODE COMPLIANCE

 (Time Noted – 9:20 PM)

ZBA MEETING – NOVEMBER 21, 2017

END OF MEETING (Time Noted – 9:20 PM)

Mr. Manley: Jerry, Darrell has a question for you.

Mr. Bell: Oh.

Mr. Donovan: But it’s...Jerry didn’t write the definition.

Mr. Manley: But we’ll see if Jerry thinks it makes sense.

Mr. Bell: Jerry, okay, everywhere I’ve been except for Newburgh and I’ve traveled the globe. I’ve been over the globe really and I even drew a diagram just so I could make sure that my picture...that my picture was somewhere. Right, I just want to show you...

Mr. Bell left the dais with his picture and went to the side table to talk to Mr. Canfield.

Inaudible discussion on definition of two front yards.

Ms. Gennarelli: Can we bring Richard back in...so we can close the meeting?

Continued inaudible discussion.

Mr. Levin: Well are we ready to move forward?

Mr. Manley: Well I think so.

Mr. Levin: Mr. Bell we are ready to move forward.

Mr. Bell: Oh, I’m sorry. I thought...

Mr. Donovan: We sent you over but we didn’t adjourn yet.

Mr. Canfield: Private tutoring here.

Mr. Bell: I’ll come back.

Mr. Manley: You can stay there just use that microphone.

Mr. Bell: I’m sorry.

Mr. Canfield: We were talking about the definition of a corner lot.

Mr. Manley: It’s very complicated.

Mr. Canfield: Yes it is. And...and basically the answer to the question is is that as we were all educated when we want the definition of a word we go to the dictionary.

Mr. Masten: Yeah.

Mr. Canfield: And the dictionary may define a corner lot of a piece of property different than our dictionary. Okay? In zoning terms the dictionary is 185-3 The Definitions Section - section of the Zoning Code. Often what happens is that languages do not mesh and the example that I had given Darrell that the Building Codes, the terminology and language used in Building Codes is not necessarily the same as in the Zoning Codes. Change of use in the Zoning Code means one thing, in the Building Code could mean something totally different and then if you pull planning into the mix change of use to the planning board means something totally different as well. It’s a complicated world but...

Mr. Donovan: Thank God for that Jerry.

Mr. Canfield: As part of that parallel, I didn’t get to answer the last part of your question...

Mr. Bell: Yeah.

Mr. Canfield: ...how do you change it? This Board and Dave can advise you...the Board always has the ability if they find discrepancy or something they feel that the Town Board which is the only group that can change this...change this Municipal Code. They’re the ones that are empowered to do that. But the Zoning Board and or the planning board and or my department can refer or request the Town Board to take a look at a certain area that may the definition or change it.

Mr. Bell: Yeah, I’m just curious about it because it just sounded...like I said everywhere I’ve been it’s been like here’s your side yard, here’s your side yard, here’s your front yard and here is like you’ve got two front yards and here is the side of a house. It’s not the front of the house. I mean the front is the front and the back is the back. It’s just common sense. But I understand what you’re saying though.

Mr. McKelvey: I think it should be where the front door is.

Mr. Bell: Exactly the front door...

Mr. Donovan: Let me just...the idea is that most of your front yards are set back further than your side yard...

Mr. Bell: Yeah, yeah.

Mr. Donovan: ...so the idea is to get the house further away from the street.

Mr. Bell: Yeah.

Mr. Donovan: That’s the idea behind it.

Mr. Bell: Okay.

Mr. Manley: So with that lesson, do we have a motion to approve last month’s minutes?

Mr. Masten: I’ll make the motion.

Mr. Manley: We have a motion from Mr. Masten.

Mr. Bell: I’ll second.

Mr. Manley: We have a second from Mr. Bell. All in favor?

Aye - All except Mr. Maher who abstained.

Mr. Manley: Do we have a motion to adjourn?

Mr. McKelvey: I’ll make that motion.

Mr. Masten: Second.

Mr. Manley: Motion from Mr. McKelvey, second from Mr. Masten. All in favor?

Aye - All

Mr. Manley: The meeting is adjourned until December 28th. Happy Thanksgiving.

Ms. Gennarelli: Happy Thanksgiving.

Mr. Donovan: Happy Thanksgiving everyone.

PRESENT ARE:

 DARRELL BELL

 RICHARD LEVIN

 MICHAEL MAHER

 JAMES MANLEY

 JOHN MASTEN

JOHN MC KELVEY

ABSENT:

 DARRIN SCALZO

ALSO PRESENT:

 DAVID A. DONOVAN, ESQ.

 BETTY GENNARELLI, ZBA SECRETARY

 GERALD CANFIELD, CODE COMPLIANCE

 (Time Noted – 9:30 PM)