ZONING BOARD OF APPEALS

MEETING – OCTOBER 23, 2014

(Time Noted – 7:02 PM)

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

PRESENT ARE:

 GRACE CARDONE

 RICHARD LEVIN

 MICHAEL MAHER

 JAMES MANLEY

 JOHN MASTEN

JOHN MC KELVEY

 DARRIN SCALZO

ALSO PRESENT:

 DAVID A. DONOVAN, ESQ.

 BETTY GENNARELLI, ZBA SECRETARY

 GERALD CANFIELD, CODE COMPLIANCE

 JOSEPH MATTINA, CODE COMPLIANCE

 (Time Noted – 7:04 PM)

ZBA MEETING – OCTOBER 23, 2014 (Time Noted – 7:04 PM)

CESAR LUJON 761 RIVER ROAD, NBGH

 (9-3-53.1) R-1 ZONE

Applicant is seeking area variances for increasing the degree of non-conformity of the front yard setback and the rear yard setback to raise the roof and extend 2nd floor rear for addition on the residence above carport.

Chairperson Cardone: Our first applicant Cesar Lujon.

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

Chairperson Cardone: And if you would please step up to the microphone and identify yourself for the record.

Mr. Lujon: Yes, my name is Cesar Lujon and I bought a house at 761 River Road, Newburgh and what I would like to do like it says I want to raise the…the roof of the house and make an addition on top of the carport.

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

No response.

Chairperson Cardone: Right now in the rear yard you are thirteen feet from the property line and you will not be going any closer, is that correct?

Mr. Lujon: No, it will stay the same now.

Chairperson Cardone: And the same for the front?

Mr. Lujon: Exactly the same, everything the same. We just got it…on top the carport, the carport, I’m sorry.

Chairperson Cardone: Okay. Any questions or comments from the Board?

No response.

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

No response.

Chairperson Cardone: You have a septic tank rather than Town sewer, is that correct?

Mr. Lujon: Yes.

Chairperson Cardone: Okay, and are you increasing…no, Jerry?

Mr. Canfield: There is no Town sewer out there.

Chairperson Cardone: Right.

Mr. McKelvey: How about water?

Mr. Canfield: No Town water either.

Chairperson Cardone: You said well water?

Mr. Lujon: Yes.

Chairperson Cardone: And are you increasing the number of bedrooms?

Mr. Lujon: No, it’s going to be the same.

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

No response.

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

Mr. Manley: Second.

Ms. Gennarelli: Roll call.

 Richard Levin: Yes

 Michael Maher: Yes

 James Manley: Yes

 John Masten: Yes

John McKelvey: Yes

 Darrin Scalzo: Yes

 Grace Cardone: Yes

Chairperson Cardone: Thank you. (Time Noted - 7:09 PM)

ZBA MEETING – OCTOBER 23, 2014 (Resumption for decision: 10:00 PM)

CESAR LUJON 761 RIVER ROAD, NBGH

 (9-3-53.1) R-1 ZONE

Applicant is seeking area variances for increasing the degree of non-conformity of the front yard setback and the rear yard setback to raise the roof and extend 2nd floor rear for addition on the residence above carport.

Chairperson Cardone: The Board is resuming its regular meeting. On the first application of Cesar Lujon, 761 River Road, seeking area variances for increasing the degree of non-conformity of the front yard setback and the rear yard setback to raise the roof and extend 2nd floor rear for an addition on the residence above carport. This is a Type II Action under SEQRA. Do we have discussion on this application?

Mr. Manley: No concerns noted by any of the neighbors and the applicant testified to the Board that he is not increasing the number of rooms effecting the septic at the location.

Chairperson Cardone: Right. And he’s not moving any closer to the line than he was.

Mr. McKelvey: He can’t do anything about the front yard.

Chairperson Cardone: No.

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

Mr. Manley: Second.

Ms. Gennarelli: Roll call.

 Richard Levin: Yes

 Michael Maher: Yes

 James Manley: Yes

 John Masten: Yes

John McKelvey: Yes

 Darrin Scalzo: Yes

 Grace Cardone: Yes

Chairperson Cardone: The motion is carried.

PRESENT ARE:

 GRACE CARDONE

 RICHARD LEVIN

 MICHAEL MAHER

 JAMES MANLEY

 JOHN MASTEN

JOHN MC KELVEY

 DARRIN SCALZO

ALSO PRESENT:

 DAVID A. DONOVAN, ESQ.

 BETTY GENNARELLI, ZBA SECRETARY

 GERALD CANFIELD, CODE COMPLIANCE

 (Time Noted – 10:02 PM)

ZBA MEETING – OCTOBER 23, 2014 (Time Noted – 7:09 PM)

MARTIN MILANO 1 CROSSROADS COURT, NBGH

 (95-1-45.12) I / B ZONE

Applicant is seeking area variances for Section 185-27 - the maximum allowed height of buildings, the maximum lot surface coverage and Section 185-18-C-4-(c) - the minimum front yard setback requirements of all properties fronting Route 17K; and for the maximum amount of signage to erect signs on the building and a free-standing pylon sign for construction of a new hotel and restaurant facility.

Chairperson Cardone: Our next applicant Martin Milano.

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

Mr. Scalzo: Madam Chairwoman I a…I need to recuse myself from this. I was speaking with Counsel outside, I’m either all in or all out so I going to err on the side of caution here and step aside.

Chairperson Cardone: Okay, thank you.

Mr. Bazydlo: Good evening, my name is Charlie Bazydlo I’m counsel for Mr. Milano. Our application tonight is for the construction of a Hampton Inn and Suites off of Crossroads Courts, Route 17K in Newburgh a…the application before the Board consists of four different variances which I’ll just to you briefly. The first one is for overall height of the building, the second is for allowable signage for this type of structure, the third has to do with the a…front yard setback along Route 17K and the particular special setbacks that are required along Route 17K and then the thir…the fourth is for lot coverage impervious area. A…I have two people with me here tonight a…a…Christine Raymond who is with Kaczmar Architects, who is the architect for the project and Justin Dates who is with a…Maser Consultants and if the Board would like me to give a brief presentation about the a…a…design of the building and the site plan and how it affects these four variances, so…?

Chairperson Cardone: Yes, if you would.

Mr. Bazydlo: Okay. Christine do you want to go first?

Ms. Raymond: Certainly. Good evening I’m going to explain the request for the height variance for the building. The allowable building height is fifty feet and our roof structure is designed to be at fifty feet. We’re requesting a variance for the parapet walls and the sign panel that extend higher than fifty feet. The a…finished grade of the new building is going to be at an elevation of three fifty seven which is approximately seventeen feet lower than 17K at this location. At 17K our highest point of our building is going to be forty-six feet above the actual road surface of 17K. The majority of the parapet walls around the roof will be at fifty-four feet that is over fifty percent of the building perimeter we’re requesting a variance for fifty-four feet. There are decorative parapets and cornices that are a requirement of the national Hampton Inn and Suites brand standard and those are at fifty-eight foot five. A…the reason...one reason they’re at fifty-eight foot five is they will screen all of the rooftop mechanical unit that is sitting on the roof a…we have three rooftop units which will be at approximately eight feet tall, each one of them. So it’s critical to have the fifty-eight foot parapets to screen those units. And then the last piece which is a very small percentage of the building perimeter is the sign panel which again is a signature brand element of the Hampton Inn and Suites a…and it is proposed to be at sixty-two foot nine above the finished elevation again at the building itself.

Chairperson Cardone: Okay. Have a…have you been in touch with the F.A.A.?

Ms. Raymond: Yes.

Chairperson Cardone: I have letter here they (The Port Authority of NY & NJ - Stewart Airport) would like me to read into the record.

Dear Chairperson Cardone: In reference to the below applicant The Port Authority of NY/NJ would like to have the following comments added to the record during your review of the requested variances: Because of the proximity to Stewart Airport, the applicant should file a Notice of Proposed Construction or Alteration For 7460-1 with the Federal Aviation Administration. This form notifies the FAA of construction or alteration that might affect navigable airspace under 49 CFR Part 77. Applicant should be sure to file for both the final building and for temporary construction activities including but not limited to cranes. Port Authority staff are available to consult with the applicant regarding proposed elevations of structures and any potential impact to Stewart Airport aeronautical surfaces.

And that’s signed by Michael Torelli, Manager, Properties & Business Development, Stewart Airport. And also while I’m reading, I don’t know if you’ve received the report from the Orange County Department of Planning.

Mr. Dates: We did not.

Chairperson Cardone: We’ll get you a copy of that but I’d like to read it into the record.

We note that although the project site is not fully within the flight path for Stewart International Airport, it is directly adjacent to it. Please ensure that the FAA and Stewart officials are aware of the proposed height of the hotel building and that it does not pose an aviation safety risk…issue. We further note that the project exceeds the maximum allowed lot coverage, and is located in the Washington Lake watershed, which provides drinking water for the City of Newburgh. Please ensure that the City of Newburgh is aware of this project, and take into account any concerns they may have in granting this variance. The County is extremely concerned that no measures to protect the water supply are noted, either in this appeal as reasons to grant the variance or in the associated site plan application. Such measures could include but are not limited to: permeable pavement, parking reductions, building footprint amendments, bio retention facilities, or other similar measures. County Recommendation: Local Determination for variances 1 and 3: Disapproval of variance 2 lot coverage unless site plan modified to include measures for water supply protection.

Mr. Dates: A… Justin Dates from Maser Consulting, just to touch on the FAA…

Ms. Gennarelli: Justin can you please tilt it up a little bit because it's not picking up. Okay, and get a little closer. Thank you.

Mr. Dates: Our office has been in touch with the …the Port Authority this week and actually have started FAA process. It's the registration process Online. So that is…is underway a...is we're going through a…the proper steps to a…to…to get FAA a…review.

Chairperson Cardone: Okay.

Mr. Dates: If you'd like a… I'll go over to the plan a… I've just got to point out a…read the proposed project and then where these are the variances come into play.

Chairperson Cardone: All right. You can take the microphone off the stand.

Mr. Donovan: And could you do us a favor if you going to make reference to the a…the drawings if you could lift those up? Because we can't see them over here.

Mr. Dates: Okay, I'll a…I’m going to start with the one up on the board. This is the…the site plan that was submitted to the…to the Board. A…so the…the project site…a…is located along 17K a…the Thruway will be on your…your eastern side here, Crossroads Court which is actually on our project site a…it’s a private road and that services Orange County Choppers a…is right in this area and then the Hilton Garden Inn is down at the bottom of the page to just kind of orient a…everyone where the a…the site is. A…the site itself is about five point nine acres in size and it’s in the I/B zoning district which a…in that a a hotel facility is a permitted use subject to site plan review by the planning board. A…so as described the hotel is on the a…the western side a…of the site here a…five stories, a hundred and thirty-nine rooms a…we have associated parking around the a…the hotel and then we do have a pad site for a potential a…sixty-five hundred square foot restaurant up on the eastern side of the site. A…and as I mentioned a…a…this lot is five point nine acres and a little less than a half-acre of it is Crossroads Court or that lot coverage pervious surface that paved area is on our lot a…and that makes up a…just about under ten percent of our…of our lot. So we’re already starting out with coverage that a…typically a…a…a road of this nature would have a right-of-way a…and it would not be on the actual project site. So in this instance a…our road is on the project site so essentially we have a…a maximum sixty percent impervious coverage permitted but with the road that exists we’re…we’re essentially starting with about fifty percent a…so it including the building, sidewalks, parking areas that’s…that gets us up to a…a total of sixty per…sixty-three percent coverage or three percent over the maximum a…allowed. One thing a…mentioned from the County we do have some land bank parking spots a…a…and they’re talking about helping to reduce impervious and we are land banking about eighteen spaces there a…and a…we have included quite a few parking islands. We actually have almost double the requirement of a…interior parking islands on the project site so… A…before a…Christine mentioned about the a…height a…in the…as she described 17K in this area, you know, directly adjacent to the proposed hotel is about seventeen feet higher so if anybody has been at this site you know how it kind of drops down a…as you come up to the a…the overpass of the Thruway. So we do…at road level we are sitting substantially lower than a…a the actual pavement elevation itself. The…the a…third variance we want to speak about is the…the landscape buffer along the State Highway there a…the Code it looks for a thirty-five foot landscape buffer. Right now a…along our property line we have about ten feet that’s on our site but if you look the a…the right away for 17K is…is quite substantial it’s a…approximately a hundred and eighty feet wide in this area. It takes into account a…much the embankment as you approach the a…the overpass for the Thruway but that also puts us from…from edge of pavement to our proposed curb line a…it ranges from about eighty-seven feet to just over a hundred feet. So we…we have a...between you know seventy-five and…and a…ninety feet of a buffer essentially from our property line to the edge of the pavement of 17K. A…the applicant a…does maintain a quite bit of that. If everyone’s been by the site you’ll see it’s mowed, it’s nicely manicured a…you know, he wants to do that because a…the applicant does also own the Hilton Gardens so there’s you know, wants to be presentable a…and would maintain that in the future for this particular site as well. A…lastly a…Christine touched a little bit on the a…the signs a…there are three signs that are being proposed. We have a building mounted sign on the a…on the east and western elevation of the building. Each of those is two hundred eighteen point one nine square feet each a…and that’s at the top of the building. And we also are proposing a a pylon sign along the Thruway. A…similar to what the Hilton Garden Inn has out there a…that sign a…the pylon sign is three hundred and fifty-nine point two square feet…

Chairperson Cardone: Are you aware of the Advertising Device Guidelines for the Thruway?

Mr. Dates: A…no. Where…from a…?

Chairperson Cardone: Well I have here a copy of the a…sent to us from the D.O.T. of the Advertising Device Guidelines. It’s a three page document I think it’s something that…

Mr. Dates: Okay.

Chairperson Cardone: …I would advise you to take a look at.

Ms. Gennarelli: Grace, that was from the NYS Thruway Authority.

Chairperson Cardone: NYS Thruway Authority.

Mr. Dates: As…as I mentioned it’s…the pylon sign itself is similar to what’s been built out there for the Hilton Garden Inn but we can…we can take a look at that.

Chairperson Cardone: Right.

Mr. Dates: A…so the…the total sign square footage that we’re proposing is seven hundred and ninety five and five eight square feet a…permitted for this site is a…four hundred and forty nine point five square feet so the variance proposed before you is a total of two hundred and forty six point o eight square feet.

Mr. Manley: Does that include the signage that you’re going to have for the restaurant?

Mr. Dates: It does not.

Mr. Manley: Okay. Do you have any idea what your estimated because obviously it…are you looking to approve this as a project or…is it…the restaurant going to be owned by the applicant or is that going to be an entirely separate…?

Mr. Dates: Right, right now we a…we do not have a proposed user for that so we don’t have an idea of what the signage square footage for that restaurant will be…so the applicant…the application before you is for the signage just for a…the hotel.

Mr. Manley: So keep in mind that if this Board were to grant that variance of seven hundred and something feet that leave zero for the restaurant.

Mr. Dates: That’s correct.

Mr. Manley: Which means automatically that’s going to set the other individual up for automatic variance…the applicant doesn’t wish to leave any signage square feet for the…the other…

Mr. Bazydlo: I think as Justin pointed out we’re not aware of a tenant that would use that building so we really wouldn’t have a good idea of what to reserve for that so at this point we’re looking for the signage for the hotel a…and then the a…the restaurant when it comes along would have to rise and fall on its own merit so…the typically the type of restaurant that what we’re talking about there is going to be a very small signage area anyway but we don’t know who the tenant would be so we really couldn’t…

Mr. Manley: Even a small…

Mr. Bazydlo: Yes.

Mr. Manley: …even a small restaurant like Chili’s there…there signage is quite…

Mr. Bazydlo: Understood.

Mr. Manley: …quite…

Mr. Bazydlo: Understood.

Mr. Manley: …large so what I’m saying too is when we go to approve signage we need to look at the entire, you know, the whole and not in the parts so from my estimation that you guys are going to say looking for…let’s just say make up the number, greater fifteen hundred square feet of signage. Okay? That might be tremendously large considering that you have a second place that needs signage and for them to come in and they need six hundred or seven hundred now we’re…we’re talking a tremendous amount of a…signage and then the variance becomes much larger and then the question is, who do you punish? Do you punish the poor guy that’s the last guy that gets in line and the first guy got to take all of it or you know, so, you have to kind of bal…I think, from my perspective I need to balance out what potentially the other applicant might need in order to balance out the signage for the property.

Mr. Bazydlo: Valid point, understood, you know, as I said we’re here with the hotel. This is the sure thing we have right now the…the restaurant is…is conjecture at this…but not conjecture but we don’t know who the tenant would be but we’re showing it allowing…showing an allowance for it on the site plan but without knowing who the tenant is we really couldn’t a…you know take a guess at that so…

Mr. McKelvey: On the footage to…to the measurement of the Highways to judge the signage did you use Crossroads too?

Mr. Dates: A…yes, 17K and…and Crossroads.

Mr. McKelvey: Jerry, are they allowed to use Crossroads?

Mr. Canfield: For the allowable square footage?

Mr. McKelvey: Yes.

Mr. Canfield: Yes, they are.

Mr. McKelvey: Okay.

Mr. Dates: Would you like to…? The…the architect has a…Christine has a board here as well if you’d like to…

Chairperson Cardone: What if you put that up?

Mr. Dates: Yes.

Ms. Gennarelli: Can you…can you put that up the…?

Chairperson Cardone: On the stand.

Ms. Gennarelli: …on the easel?

Ms. Raymond: Sure.

Ms. Gennarelli: That way everybody can see it. Thank you.

Ms. Raymond: We generated some additional images of the proposed building from various vantage points showing the height of the building in relationship to the existing buildings and the 17K and as well as the freeway. In this image up at the top you can see this is the existing Hilton Garden Inn that Justin was speaking about and this block here is the proposed hotel. The Orange County Chopper’s building is to the right. This is 17K along…along the bottom of the drawing and then this perspective is taken from 17K again and this one is from over the Thruway on 17K. And what we’re showing here is that the massing of this building is compatible with the existing masses in the area. A…and you can also tell that the building does sit considerably lower because the grade is considerably lower than 17K in these views. The middle diagram here is showing you the maximum allowable building height of fifty feet which will note the Hilton Garden Inn is slightly above that as well a…and then the…our highest sign panel is at sixty-two foot nine which is this red line acrossed here. At 17K as Justin mentioned we are about forty six feet above that road so just to reiterate the top of our roof structure is at fifty feet and the highest occupyable floor of the building is just under forty feet which we feel is very reasonable for this…this type of structure.

Mr. Manley: Could you a…share with the Board how many buildings in the Town of Newburgh are at sixty-two feet nine inches?

Ms. Raymond: A…I do not have that exact number no.

Mr. Manley: Do you know of any buildings in the Town of Newburgh that are higher than sixty-two point nine or at sixty-two point nine?

Mr. Fetherston: Andrew Fetherston, Maser Consulting, I believe the a…the blue glass building at the intersection of 300 and 17K is quite a bit taller. I don’t have an exact height but a…we can certainly get that. A…if I could, could I add some additional information a…?

Chairperson Cardone: Certainly.

Mr. Fetherston: A…I had…I had spoken to Mike Torelli a…from the Port Authority who wrote that letter for you a…earlier in the week. He wrote the letter after we had spoken and I had…I told him I would generate some information for him. I did a…I was the who got on the a…the internet and started the digital process of the registration for the FAA, which I’ve done and I have some a…a…I…I sent this all to Mike so he could see what I had input. A…I just like…if I could I’d just like to show the Board just a couple of more vantage points. This is…this is a cut of a…the Town of Newburgh Zoning Map and it has the a…airport approach a…a…areas as I’m sure you’re all aware. The highest elevation a…that we’re proposing for the a…for the building is four hundred and nineteen point seven five feet. That’s the top of that ornamental parapet that was a…for the sign. That’s the very highest point. So I sent, what I sent to Mike was a…I wanted to show him some comparative elevations a…a…nearby. For instance, the runway eleva…this is Orange County G.I.S. a…topography, its two foot topographic mapping covers the entire area. What…what I did was I took a…I wanted to get the elevation of the runway right at the end, its elevation four hundred and sixty five feet. The top of our Hampton Inn, the very top of that parapet was four hundred and nineteen feet. We’re such…we’re so in a valley there a…the valley that runs up and down 87. We’re actually forty-five feet lower than the surface of the runway a…when you look at the mapping. A…on the other side however a… I believe a…the…the high peak at the end of a…Corporate Boulevard that highest point is five hundred and twelve feet elevation considerably higher than the a…than the runway. I just…I just wanted to bring that to the Board’s attention that we’re off to the side of that approach and we’re also considerably lower than a…the runway surface. Thank you.

Chairperson Cardone: Thank you.

Ms. Gennarelli: Mr. Fetherston are you submitting any of that for the record?

Mr. Fetherston: Oh, I certainly can. Would you like me to hand it to you?

Ms. Gennarelli: If you want you can give it to me.

Mr. Bazydlo: And…and just to clarify that further the…the information that the circular that the FAA is asking that we turn in, that’s a very typical thing for almost any structure that is somewhere near an airport like this and what they...what they’re really looking to do is to…it’s more for the construction point of view that when you’re using cranes on this property let them know what time of year and for how long will the cranes be there so it’s registered on their flight plans you know.

Mr. McKelvey: Can we have your name for the record?

Mr. Fetherston: I’m sorry?

Mr. McKelvey: His name for the record.

Mr. Fetherston: My name?

Mr. McKelvey: No, his.

Mr. Bazydlo: Oh, I started out...the counsel I’m the attorney for the project Charlie Bazydlo.

Mr. Fetherston: A…on the FAA form I did not put the top highest point of the a…of the…of the structure…of the building. I put fifty foot above that. The building could be constructed by a crane so that is the elevation. I gave the minimum elevation that’s in the forms that I’m going to submit to the Board is actually fifty feet above the building to be realistic for a temporary a…maximum height. Thanks very much.

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

No response.

Chairperson Cardone: And do we have any comments from the public? For the record…

Mr. Golden: Richard B. Golden of Burke, Miele & Golden I just want to note for the record that a…there ought to be SEQRA done in connection with this. I know that there’s I believe a letter from the planning board attorney indicating that it could be done in a separate fashion from the planning board a…SEQRA review. I believe that would be an error. I think that it should not be an Uncoordinated Review. There are lots of interplay between the planning board and the variances that are requested here specifically as to site…and I mean, the height rather and the visual impact that needs to be done and…and a what modifications, if any, need to be made and so I believe that this Board a…since this application before you does not fit as a Type II Action under SEQRA when in fact substantive SEQRA has to be done in connection with your actions a…that your action must await the conclusion of the SEQRA Review by the planning board. Thank you.

Chairperson Cardone: Thank you.

Mr. Donovan: May…may I ask if I…may ask a question? Is it your position that Uncoordinated Review should not be done or it cannot be done?

Mr. Golden: It certainly should not be done and I need to think about it some more to see whether or not it’s even possible for you do it without it being segmentation. I will note that the applicant tonight has invited segmentation by saying well that part of their plan that they anticipate is a restaurant pad but despite the fact that that’s part of their approval and they want the pad, I’m sure, approved a…they’re going to just ignore the aspect of the signage that Mr. Manley had brought up a…and the potential visual impact of that signage, I think it…it needs to all be done in one application as far as SEQRA analysis.

Mr. Donovan: Thank you.

Mr. Wade passed out a letter to the Board Members

Mr. Wade: My name is Chad Wade I’m the Assistant City Engineer for the City of Newburgh a…we thank, I assume it came from the Board, we thank you for forwarding the materials to us and I have a letter addressed to Ms. Cardone from our office with regard to our review and I’d just like to read it into the record.

Chairperson Cardone: Yes.

Mr. Wade: The City of Newburgh is in receipt of the Town of Newburgh Zoning Board of Appeals application related to the above referenced project proposed for 1 Crossroads Court in the Town of Newburgh. Although our review of this application has raised a number of concerns with the proposed site plan many of the issues are related to the planning board approval and the City may elect to pursue those concerns as appropriate in the near future. The focus of this letter will be limited to the concerns related to the area variances requested from the ZBA. The proposed site contains two unnamed Class A tributaries to Patton Brook. The Class A tributaries contribute captured runoff to Washington Lake, the City’s primary drinking water reservoir. The subject property currently contributes surface runoff to these tributaries in its current undeveloped condition. The applicant is seeking relief from Section 185-9 of the Zoning Code, specifically 185 Attachment 13 Table of Use and Bulk Requirements for the I/B District. The maximum permitted lot coverage is sixty percent of the total site acreage. The applicant is requesting an area variance for sixty-three percent lot coverage. The three percent of the site equates to seven thousand, seven hundred and thirty-one point six six square feet. Allowing the additional pervious surface increases the amount of area which no longer allows rainfall to permeate into the ground, increases the quantity of rainfall which is converted to storm water runoff and degrades water quality due to contact with oils, heavy metals and other pollutants. The City requests that the ZBA deny this variance, or that approval of this variance be contingent upon the applicant working with the Town’s planning board to include into the site plan, innovative storm water practices that implement Chapter 5 of the New York State Stormwater Design Manual, 2010. The applicant is also seeking relief from Section 185-19-C-4-c of the Zoning Code, which requires the first thirty-five feet of the front yard of all properties fronting on Route 17K from the City of Newburgh west to the Town of Montgomery shall be landscaped. Private service or marginal roads, except for access driveways, and parking of vehicles shall not be permitted in these landscaped areas. The applicant complains…claims that the required landscape buffer is not applicable due to the site’s boundary already being seventy-five to ninety-five feet from the edge of pavement associated with NYS Route 17K. Under existing conditions, a portion of the surface runoff and snow pack from the NYS Route 17K and Crossroads Court utilizes the sites expansive turf area to filter out sediment, salt and other suspended solids prior to being conveyed to one of the two previously identified Class A tributaries. The City requests that the ZBA deny this variance, or that approval of this variance be contingent upon the applicant working with the planning board to developing appropriate mitigation to increase innovative storm water manage…a…practices that implement Chapter 5 of the New York State Stormwater Design Manual. Thank you in advance for your time and consideration of the concerns identified above. Thank you.

Chairperson Cardone: Thank you.

Mr. Manley: Can I a…ask a question? The City recently had an opportunity to review another project in the Town a…which was across from the Walmart which also bordered Washington Lake. Are you familiar with that?

Mr. Wade: Yes.

Mr. Manley: The concerns that you had with that project relative to the lot coverage there were equivalent to the concerns that you share with this particular project?

Mr. Wade: Yes, for the most part?

Mr. Manley: Were you able to, with the last project, rectify with the developer of that project the necessary changes in order to affect a amicable resolution so that they could proceed?

Mr. Wade: I…a…it was actually before my time with the City. I was actually with the County Planning Department at the time of that a…approval so I don’t want to speak for the City on what exactly was agreed upon because I…I am not fully…I mean they’re building so…

Mr. Manley: Correct.

Mr. Wade: …something was come to agreement. Was it what the City wanted? I can’t speak to that.

Mr. Manley: Okay, but the concerns with respect to lot coverage at that location is equivalent to the concerns that the City has with respect to the location that’s before us today?

Mr. Wade: The only difference is that drained directly to Washington Lake. This uses…

Mr. Manley: (Inaudible)

Mr. Wade: …a few other tributaries to get to that…

Mr. Manley: Correct.

Mr. Wade: …to that point, so a yes.

Mr. Manley: Okay, thank you.

Mr. Wade: You’re welcome.

Chairperson Cardone: Yes, Mr. Hughes, oh, go ahead.

Mr. Gebhards: John Gebhards, 48 Wintergreen Avenue, Town of Newburgh. I’m the coordinator for the Quassaick Watershed Alliance, our group is concerned with the water quality and quantity in the stream contributories in the Quassaick Creek Basin a… the Patton Brook Stream which is on this property in question is one of the tributaries and you just heard from the City the concern of…of that water being maintained as pure as possible because it is a…fed into Washington Lake as part of the drinking water source. The…again the lot a…size here is of concern it creates a…heavy metal and other types of pollution and storm water runoff. We suggest that if this variance is granted that again the a…green infrastructure be utilized to treat the storm water runoff from those parking areas. Also a…the fill in that area has shown to me highly erodible and if you look upstream from the parcel in front of the Chopper’s location the Patton Brook banks are severely eroded there. Down on the property, at this point, they are not eroded but if additional runoff from parking areas were created and all it could cause an erosion problem and so if this larger lot a…extension is allowed there should be appropriate landscaping with native plants and stabilization of that stream bank so it could not erode in the future. Thank you.

Chairperson Cardone: Thank you.

Mr. Hughes: Good evening, my name is Hughes, I live in Middlehope. It would be irresponsible for the Township to move this project forward without it being a coordinated effort regardless of what type of action it was declared to be. I agree with Mr. Golden to a certain degree. I don’t know if it’s necessary or compelled by law but in the common good for the welfare and the health of people in the City of Newburgh, the Town of Newburgh and New Windsor when they are anticipating a simultaneous connection where each municipality can back feed each other and due to the fact that the Town of Newburgh and the City of Newburgh co-own the sewage treatment plan I have many questions. And to do a little housekeeping Mr. Milano doesn’t own the hotel next to it any longer that’s been sold, so to do a little housekeeping we’ll clean up the story as it goes along as it’s been printed in modern time. Mr. Milano has had the hotel for a long time. He just got rid of a hotel and a diner right around the corner and he got rid of the one that’s on the property here now and I don’t know that this project was ever anticipated to have another restaurant and another hotel there. Number one with a hundred and thirty-nine rooms I’d like to know what the gallons are that’s been projected for consumption and if the Town has been notified or the City has been notified about its severe effect on drinking water and sewage capacity which I’m under the impression and understanding that both municipalities have to agree on big projects and this is a big project. So it would be irresponsible for this Board to proceed further ahead without more information to see where we’re really going with the big pictures. If I may direct a question to the Board and maybe they can seek the answers from the professionals in the audience, what is the total gallons on this project? And if so, when the five o’clock flush comes where is it going to go? I agree with Mr. Gebhards and the group that watches the streams in this area, this is quality drinking water that we’re talking about. This isn’t runoff from the Thruway. This isn’t runoff from 17. This is an internal thing from this project alone which contributes right into Patton Brook being that Patton Brook runs right through the project. So I think that we need to gather a hell of a lot more information before we move and this is another one of those segmented things that Mr. Golden mentioned that goes on traditionally where one by one they fly under the radar in a reverse hurdle and get to the end of seven little things going on and little by little they get what they want and then at the end of it there is a great big bag of dung. We don’t want any more dung. We’ve got enough dung around here already. Now to me it’s nuts to proceed any further forward with this, to exhibit sincerity and responsibility to hold the Public Hearing open and to get some answers if there is anybody in the audience that’s aligned with this group that can answer my questions maybe we can figure out if it isn’t so bad after all. The other thing Mr. Building Inspectors is the maximum height of a building forty-five feet or fifty feet?

Mr. Canfield: The Zoning Code permits fifty feet, Ron.

Mr. Hughes: Okay, so then with the parapets and all the fancy bells and whistles we’re at sixty-two and they keep referring to being in the pocket and only twelve feet above 17K or whatever claiming is going on. This is another one of these things where there’s a distraction here and a distraction here and we’re not really looking at the big picture in the raw. I would like to know how many gallons. Is there anybody that’s willing to provide that information? Mr. Fetherston or one of the group? Certainly on the magic television someone ought to be able to compute a hundred and thirty-nine rooms at two people a room so many gallons a day. I’d like to know what that number is.

Mr. Dates: A…correct a hundred and thirty-nine rooms a…it’s about a hundred and ten gallons per room so we’re…we’re just over fifteen thousand or a…for round numbers it’s about sixteen thousand gallons per day.

Mr. Hughes: So then anything over three thousand gallons was supposed to be referred to all the municipalities involved and I don’t know if it was and I would like to know that and many other things before we go any further. I believe it’s a fire issue. Do you have the equipment to handle a building of this size in that district if you don’t have the right ladder trucks for extensions to? What if everybody has to go to the roof to escape? And you’ve only forty-five foot ladder or a fifty foot ladder and the guy is sixty-two feet up? What are we doing here? So I have…I have many more questions than this but I know I’m going to be told it’s a planning issue but I would like to instill in your minds now that you don’t have to do this tonight. You need to have a coordinated effort with the two municipalities because we’re talking about our drinking water. Thank you for listening to what I have to say.

Chairperson Cardone: Thank you.

Mr. Fetherston: Madam Chair.

Chairperson Cardone: Yes, yes, would you please?

Mr. Fetherston: Okay, I’m sure I didn’t remember every single thing that was said but as far as storm water a…we’ve done a number of projects inside the watershed of Lake Washington a…the Grove at New Windsor was a very much larger project than this where we work with the City as required by the planning board going through the process to implement the proper storm water a...requirements. That was done back a…around 2005 we got the approvals for that. Since then the storm water a…Code has become much more stringent. The green infrastructure that the other gentleman was speaking of that’s not a…that’s not something that we can possibly implement, that’s a requirement now. There is no a…if, ands or buts that’s an absolute requirement and we would certainly be im…trying to implement that a…knowing where we are. We know that a…the water is tributary to Lake Washington. My office is right up the road. We’re very well versed in a…in the area a…if there’s any other questions that I could possibly answer for the Board that would help you I would be more than happy to.

Mr. Manley: Just to I guess correct just some of the…if there is misinformation is it a fact or not a fact that the applicant no longer owns the Hilton Garden Inn?

Mr. Fetherston: I have no idea of that. I’m representing the Hampton Inn I…I don’t have any idea about that.

Mr. Manley: Okay, because the way it’s presented to us is that both are going to be kind of hand in hand if you have that bridge that’s going between the two…

Mr. Fetherston: Right.

Mr. Manley: …obviously if the applicant doesn’t own that some of these things that you’re proposing because they’re kind of a joint properties that are owned next to each other may or may not be a possibility if the new owner doesn’t permit it.

Mr. Fetherston: Certainly true. I mean we…we are proposing the bridge just because it makes sense a…if somebody wanted to come from the Hilton to go across to the…to use the restaurant or vice versa that would be facilitated by that bridge a…I…I have no knowledge of that. I can’t speak to that. During the planning board process a…we will not be able to propose something that is on someone else’s property without their approval so…a…I…I have no knowledge that he does not own it.

Chairperson Cardone: Does anyone have any other questions? Mr. Canfield, could you answer the question about the fire equipment?

Mr. Canfield: The height of the building a…well let me back up. Before any approvals are given part of the process is that the jurisdictional fire department has the opportunity to review the project and its impact on their capabilities. This particular project is located in the Orange Lake Fire District, Winona Lake portion of that Fire District. Just being familiar with that the department there are one of seven volunteer departments that provide fire protection to the Town of Newburgh currently they do have a hundred and five foot tower ladder apparatus a…but it’s not for me to determine if they could adequately protect this facility. That is up for them to make that response at that point in time when it becomes necessary in the project.

Chairperson Cardone: Okay, thank you.

Mr. Donovan: So just a couple of things that…that I want to review a...I’m sorry, sir.

Mr. McLaughlin: Pardon me, I hope I didn’t get too far out of the a…procedure.

Chairperson Cardone: No, if you could just…

Mr. McLaughlin: My name is John McLaughlin I live at 1011 Maggie Road here in the Town of Newburgh. I’m sure you’re all familiar with the project up there on Lawrence Farms and a…the many a… peccadillos the Town got into for not really doing adequate planning a…requiring the things that it should have of the developer which if many of the taxpayers of the Town knew how much it has cost they’d not be too happy about. A…I believe you have in your possession a letter from the a…Orange County Planning Department with rather unequivocal language in it indicating the inadequacy of this proposal you’re looking at tonight particularly with regard to water management. A…I’m sure you would have similar concerns if Plattekill or somebody up the line from Chadwick were going to be doing things so I would urge you to a…take what Mr. Hughes said a…what Mr. Gebhards said and what I’m saying into account and a not act precipitously this evening. Thank you.

Chairperson Cardone: Did we have anyone else in the public who wish to make a comment? Mr. Hughes…

Mr. Hughes: I’d like to add one more thing if I could? And I know it’s not the responsibility of this Board under its purview to address this but keep it in the back of your mind. We’re serving now two great big hotels and Price (Orange County) Chopper’s and a possible restaurant on a right of way roadway that comes in and that’s the only place in and out of there. What if you had a problem in that place what the hell would you ever do? Let’s look at the safety, health and welfare of the people for a change instead of the investment money of the big money guys. Let’s look at the backs of the taxpayers that have been here to support this Town and consider their needs especially when it comes to water.

Mr. Fetherston: If I may?

Chairperson Cardone: Yes.

Mr. Fetherston: A…that is an absolutely incorrect statement. Anyone who looks at any aerial mapping of the site…anyone who looks at Google Earth or anything on any of our computers or our smart phones nowadays will realize that when Crossroads Court is the main access should that ever be blocked or obstructed in any way there is an access around the rear of a…Orange County Choppers which connects to Crossroads Court directly through the a…through the a rear and through the recycling facility. You can see it right here, maam, that road in and around Choppers directly into the entire facility. Would you like me to submit this one as well?

Ms. Gennarelli: If you’d like whatever you would like to submit.

Mr. Donovan: There’s a few things that I would like to review a…starting with the report of the Orange County Department of Planning a…shared with you at the beginning of the Hearing. It’s Local Determination with respect to two of the variances but we need to bear in mind that the variance relative to lot coverage was Disapproved from the Orange County Department of Planning and what that means is we need a supermajority of the Board. You need five Members voting in favor in order to issue that variance. I just want to point out that there is one Member Recused a…so that means that five of the six sitting Members would need to vote in favor of that variance. In terms of the a…FAA, Port Authority Stewart Airport a…I don’t know, I can’t…I’m seeing this for the first time, whether this is an approval and the reason I bring it out is in your…the Short Environmental Assessment Form that you’ve submitted you indicate that other a…does the proposed action your answer to Number Two does the proposed action require approval or finding or governmental agency, you don’t list the FAA and I don’t know whether they belong in there or do not belong in there.

Mr. Fetherston: That is…what I presented tonight is certainly not an approval. We…we prepared that this week and a…did a submittal a…for a registration only a…so we have not heard back from, I mean the F…the FAA has sent me a…an email back that they’ve received our application but we don’t have any a…approval from FAA...not yet. That will go…

Mr. Donovan: But I…I think my question is do you…do you require…I just want the…I want all the agencies to be listed that belong on the form.

Mr. Fetherston: It’s not an approval a…they…they want to be aware of our…yeah, it’s our registration.

Mr. Donovan: Alright. Now, I don’t know I think you’ve indicated that you haven’t seen the information from the NYS Thruway Authority which this I received today as well. It’s called Advertising Device Guidelines but it does seem to indicate that any sign on a building within a certain distance to the Thruway may need approval from the Thruway Authority…

Mr. Fetherston: We…we…

Mr. Donovan: …you need to take a look at it and…

Mr. Fetherston: …we’ll certainly take a look at it and I find it strange that we’ve never seen that before because we just got the approval probably two years ago for the Hilton Inn sign which is…which is in place so…we’ll certainly…

Mr. Donovan: I can’t…I can’t speak to that I know I got this today.

Mr. Fetherston: …look at that.

Chairperson Cardone: We received this today.

Mr. Fetherston: We’ll certainly look at it.

Mr. Donovan: And perhaps the most important issue that we need to talk about is the Coordinated versus Uncoordinated Review. You know, as the ZBA we don’t run into this too…too frequently a…some Members may…have never run into this before a…basically what a Coordinated Review is there’s a listing and if you look at number three it talks about the planning board and a…NYS DEC as involved or permitting agencies and when you do a Coordinated Review a no a…any of the permitting agencies can issue an approval until the Lead Agency has issued a Negative Declaration. The Lead Agency in this case being the planning board. In an Uncoordinated Review which has been more typical for us we con…we conduct our own SEQRA review a…and we issue whatever we think is appropriate. We’ve done it in the past we’ve issued a Negative Declaration. The planning board in their referral to us has indicated that we may wish to consider proceeding under an Uncoordinated Review basis which means we can make our own SEQRA determination. What’s being urged on us by other members of the public is that we should proceed under a Coordinated Review basis and I think you need to consider a…you…you in my belief unless I’m going to be given any other law which says we’re required to proceed under a Coordinated Review basis I believe that you have the discretion to proceed under an Uncoordinated or a Coordinated whichever you think is appropriate.

Mr. Bazydlo: (Inaudible) I think Mr. Donovan you know hit…hit the nail on the head with that but again, you know, very typical situation for a Zoning Board with area variances that’s what we’re talking about here area variances to proceed with an Uncoordinated Review a…otherwise you end up in a…in a logjam in the process that we can’t move forward with design in front of the planning board unless we know what the Zoning Board’s decision is going to be. And here again you know they’ll refer to comments in the public and we’re still looking at some fairly simple area variances here that I’m sure the Board has handled you know before, height issues, sign issues and I…I think this Board has a long history of proceeding with an Uncoordinated Review arriving at your own SEQRA determinations. Granted the planning board is free to do what they want to do in that case and a…a…they…they could go with the Board or go…go against the Board’s decision on SEQRA but typically you know, Zoning Boards will do an Uncoordinated Review arrive at your own determination and then we can proceed over to the planning board.

Mr. Donovan: I guess I should just add one other thing with regard to that if it’s your determination to proceed on an Coordinated Review basis you do have the ability to ask for additional information if there’s something else a…relative to the environmental impacts of the project that you wish to have information on you have the ability to…to request that.

Mr. Bazydlo: Certainly before you make a determination.

Chairperson Cardone: Yes, go ahead.

Mr. Donovan: I don’t know every time I stop talking first Charlie gets up and now two people get up I don’t know if I…I’m not going to say anything else.

Mr. Fetherston: Just…just so that everything is on the table, just so that we’re trying to present everything about this…this project. Every project is a…is a…has its own particular merits a…this one in particular has the roadway that’s serving this project is on the lot that…that’s odd. But this roadway doesn’t just serve this project. This roadway serves this project, the Hilton, the Orange County Choppers and another lot in front of Orange County Choppers. It serves four lots. So when you’re thinking about the coverage that road is there serving four lots. We’re being penalized just because it’s on that lot. That’s just…that’s just what happens to…that’s just the way it is on this particular lot. I just wanted the Board to take that into account.

Mr. Manley: What would be a…my statement to that would be then the applicant knew that when they purchased the property or as they owned the property and they developed the property they knew that that piece was going to be part of that parcel.

Mr. Fetherston: Right.

Mr. Manley: So to kind of say you know disregard that now or don’t you know…

Mr. Fetherston: Right.

Mr. Manley: …use as much weight towards that now because…

Mr. Fetherston: Right.

Mr. Manley: …that’s the situation…

Mr. Fetherston: Right.

Mr. Manley: …you know…

Mr. Fetherston: I…I’m not saying…I…I’m certainly not saying discard it. I’m certainly not saying that we…we’re…that’s why we presented to…to the Board as this is something we need a variance from. We’re seeking relief from that absolutely but it still serves four places and we just wanted to make that clear a…so a lot of the discussion talking also about the storm water, the road is there to serve four places. That’s the only…we are the lot that is going to do the storm water for that road none of the others.

Mr. Manley: Who pays to have that road plowed?

Mr. Fetherston: My client.

Mr. Manley: Solely?

Mr. Fetherston: Is that right? Yes.

Mr. Manley: There is no road maintenance agreement?

Mr. Fetherston: Do you want to address this…?

Mr. Manley: Is there a road maintenance agreement for that parcel?

Mr. Milano: Good evening and thank you for a hearing our application I appreciate it and I want to give you some facts on that. I as a…

Chairperson Cardone: Just for the record you have to identify yourself.

Mr. Milano: Martin Milano.

Chairperson Cardone: Thank you.

Mr. Milano: That particular road that I built, at my expense, which I would love the Town to take over but for whatever reason, economics, they don’t. I built the road. I maintain it since I built the project and I haven’t gotten any contributions from anyone from that road, done it myself. The point that I think Andrew is trying to make about this is I wasn’t aware of the lot cov…the impervious coverage area back then and the right way to do it is the fact that technically the other users are responsible to chip in and pay a portion of the road when they are, you know, developed and the fact that I owned the two lots there I always took care of it and I did…I didn’t really charge Orange County Choppers to do it. But my point is that road that I constructed and is not a burden on the Town I maintain it personally is used by four users and I believe that that impervious lot coverage should be split by the four users. It’s being used by four people that’s the fair thing to do. Now if I knew we had this issue back then when I did this project years and years ago I would have allocated it that way but it’s unfair to penalize me for the whole road which I maintain and I constructed when there’s four other users that benefit from that. So I just wanted the Board to know that this three percent figure and of course, I live in the Town of Newburgh and have and continue to I’m worried about the water supply as much as anybody I believe that the figures in that three percent if we allocated the road to the other users which should have it allocated to them and for whatever reason it wasn’t done back then we wouldn’t have that problem and we’d be under the a…the percentage just so you…you know and if the rules don’t substantiate that they should have and maybe we missed something years ago but the fact is it’s used by four users I’m being penalized the whole amount. Now I don’t find that the way that I think you want it to be. And then I’d like to make a comment about the a…height of the building. Newburgh, New York and even the road that I a…you know I constructed is named Crossroads Court, we’re the Crossroads of the Northeast, we have an international airport, we’re a hub of commerce a building like this is…even this building would be small for…in…in other areas I think a building like that would be an amenity to the area because we are the Crossroads of the Northeast, we do have an international airport. Buildings like this are…are a draw to the area and it shows, you know, economic development and…and appeal. These decorative cornices and everything that we’re putting on here they’re very expensive to put in so that we have an attractive building with a lot of detail and when you’re driving down the Thruway or up the Thruway you see a building and it draws you into this county of ours and a…the fact that I live in this area I’m taking you know, a…extra effort in making this a appealing building because I would consider this my signature building and an entryway to the county. So I think this is what in the old days, when we a smaller area in the Town and we weren’t associated with the airport and the Crossroads of the Northeast I know the intentions of these height limitations was to save the character of the local neighborhoods but this is on a a…a major highway where the traffic is going down this highway at sixty-five miles an hour, at the foot of the international airport, this building fits perfectly there and I think it’s even, you know, a shorter building I think higher buildings may even be, you know, permitted at some day but that law was made to maintain the character of the villages and…and the local town not this corridor that supplies a, you know, 84, I-87, the a…international airport so I just wanted to say I wouldn’t put something unattractive there. I think this is an amenity to the a…the Town by doing it. And these decorative cornices give you architectural character. A square building, a low riser is…is an unappealing building. I think maybe the rules have to just be thought of that way a little bit differently because of the way that the area changed and a…I…a…currently right now I am still the owner of the a…Hilton Garden and I am still paying all the taxes on the Hilton Garden Inn and if that changes I will let you know as soon as it does but at this point I am the owner of that project and a…have been for years and when I a…bought that property there was no road and one of the things was that, you know, I had to construct this tremendous road that meets all the, you know, city…Town requirements and even at the entranceway it meets State requirements, that’s earned the development there. Hilton Garden Inn, Orange County Choppers and this new project without that road that would be just a vacant field just like it was when I bought it so, you know, taking that all into consideration I think what we’re trying to do here would be an amenity and a…I know this impervious a…you know, coverage is an issue because we should be concerned about the water. I mean, I’m all for that but I think the three percent if you take it into the context of that is…is…it’s not…we…we meet the requirement, if we allocate the rest of that a…surface coverage area to the other users which should have been done before. Any questions that I could answer?

Mr. Maher: This for the ownership so obviously you are still the owner of the Hilton Garden Inn.

Mr. Milano: Yes, I am.

Mr. Maher: Are you currently in contract to sell the property?

Mr. Milano: I am in a contract to do that and a…I don’t think that has any bearing on this project. That bridge was something I wanted to put in to service my hotel before I knew I had an offer on that and a…that was just a way to connect it to make it more user friendly for the guests. Of course, if the sale goes through I could take that out but that is really a non-issue.

Chairperson Cardone: Any other questions?

Mr. Maher: Yes, on the signage variance, the three hundred and sixty or three hundred and fifty-nine square foot pylon sign that’s still in the design that you’re requesting?

Mr. Milano: Yeah, that…that is on our…our plans.

Mr. Dates: Yes, that is a…down in the…the southwestern corner of the property along the Thruway; we are indicating where we wanted to put that…that pylon sign.

Mr. Maher: So that changed since the planning board meeting, that was taken out at the planning board meeting and put back in recently?

Mr. Dates: No, what happened the a…our original application to the planning board a…did not have a pylon sign on it. In developing the project a…we off…we were looking to get a pylon sign so we a…we provided a revised plan to show that…

Mr. Fetherston: To the planning…

Mr. Dates: To the planning board.

Mr. Fetherston: Yeah, that went to the planning board and then we came to your Board.

Mr. Maher: I was ask…because in the minutes of the meeting the question was asked will there be a sign along the Thruway and response was that I don’t believe we’re going to need the sign because of the way the hotel sits it’s not para…it’s parallel to the highway so I’m just curious if that was…

Mr. Fetherston: I think what the confusion may be is that you may have the minutes from the original meeting and maybe the second meeting it maybe they’re not prepared or you don’t have them but we went to a meeting a…a second time a…we showed that the sign was on the plan and then they directed us to…the…the planning board wanted us back to see the plan with the sign and then we were directed to your Board.

Mr. Maher: Thank you.

Mr. Milano: And one point I’d like to make is a…I know that we have a formula that we need to follow where we follow the road frontage on Crossroads Court and the road frontage on 17K, we’re also on another, we have road frontage even though it doesn’t count towards the formula but I’m surrounded by roads. The NYS Thruway is a road no from a technical standpoint it’s not included but in my…in my theory that’s a…that’s a road I mean, and if we need a little bit of relief to get the correct signage to market this property on the size of it I think the signage for a building of that magnitude fits. I wouldn’t want to blemish my project by having over signage but then again I want to market it appropriately at least so people see it, get off and utilize it. So a…as before when I got the variance on the Hilton Garden Inn sign a…we originally wanted at the a…the price of the a…sign company to do a sixty foot sign and when…when we presented it and the height requirement was forty I said you know what that makes…that makes sense, that’s fine you know. Forty fits the area good and a…the size of the hotel so that’s the reason why we you know readjusted everything and…and we would like to have the sign on the Thruway because it’s going to be a draw for people to come and use the facility. Now it may not be when they’re going north and they see it to go up, they’re going to identify that location with that particular brand of a hotel and a…you know marketing is a very important part of our business. So that…that’s where we came up with the signage a…you know a… request.

Chairperson Cardone: Okay, thank you.

Mr. Milano: Oh, one more thing I did…I have had experience for twenty-five years with the NYS Thruway Authority, I’m very familiar and I probably know more than most of the…the professionals about getting those permits and if these permits are on premise signs and you own the property the Thruway has to a…you know, give you the permit to do that. Where you run into difficulty is if you try to put a sign on property that you don’t own then that’s a different advertising device but I have been doing that, you know I’m getting permits for sign for the Thruway for over twenty-five years so I’m well versed in that and I can you know assist these people in that.

Chairperson Cardone: Okay, thank you.

Mr. Milano: Okay thank you.

Mr. Bazydlo: Just as a housekeeping measure the a…I just want to note for the Board that the analysis of the five part test required by the NY Town Law is included in our application as Attachment Two and so just to be clear that that’s part of the record for the Board.

Chairperson Cardone: Right, certainly.

Mr. Bazydlo: Thank you.

Chairperson Cardone: I think Mr. Golden did you have something else?

Mr. Golden: I just wanted to respond to the comment that a…there’s a real problem for this Board practically that there some roadblock or difficulty if in fact it's done in a Coordinated Review, that's not the case at all. What would happen normally in these things is that the planning (zoning) board would simply look at the variances as requested which is the most that they're asking for right now, analyze that impact and then if the Board allowed something less it would be included within that so it would not hold up or otherwise complicate the SEQRA Review. Thank you.

Chairperson Cardone: Thank you. And Mr. Hughes.

Mr. Hughes: Maybe I didn't catch it or maybe it was a little bit of chicanery on the words that were picked by those that describe what has taken place up till now. I will quote Mr. Milano at the planning board which really confuses me about the descriptions that were given about whether there is a sign or not know what kind of sign it's going to be. I’ll quote "I don't believe we're going to need that sign because the way the other hotel sits it's not parallel to the highway. I believe the signage on the bill building will be sufficient you know a freestanding sign although I like it and its good advertising device there's a lot of maintenance involved. I think we can get away with just the signage on the building so when they drive by on the Thruway people will see that and hopefully there won’t be a need for an additional freestanding sign”, very hard to follow all of this.

Mr. Manley: Mr. Canfield I have a…just a follow-up question. Mr. Milano had given some testimony before the Board that a…in his mind splitting up that road that serves those four lots four ways would be a better way to kind of take care of the…the lot coverage issue and it would be a fair way to kind of split that…split that up. My question to you is, if you did take out three quarters of that roadway would that not less the size of the building coverage that the applicant could put if that were to be the case or no?

Mr. Canfield: It wouldn’t change the…the building coverage, I mean the size of the footprint that’s proposed is the building coverage. I think the issue that you’re talking about is the lot surface coverage…

Mr. Manley: Okay.

Mr. Canfield: …so impacting or altering the property lines a…yes it would impact the lot coverage but not the building or the building area. The footprint isn’t changing.

Mr. Manley: So then the lot coverage by having less lot coverage you would then increase the…it would actually make the variance larger, yes?

Mr. Canfield: It would depend how you realign the lines.

Mr. Manley: Okay.

Mr. Canfield: It’s an unknown until you show and you actually calculate what the size of the lot will be.

Mr. Manley: So the fact that the lot is larger is probably helping the situation versus hurting the situation.

Mr. Canfield: I would think. I would think.

Mr. Fetherston: It’s an interesting question. We’d certainly have to look at it because you’d be if you were removing the roadway you would be removing what is almost a hundred percent impervious or ninety-five percent impervious a...so that…that bones into the a…coverage. It’s an interesting question we’d have to look at it.

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

Mr. Canfield: Just one comment if I may make?

Chairperson Cardone: Yes.

Mr. Canfield: Joe Mattina pointed out also, the lot size; the lot area is five acres. The lot that we’re talking about is five point nine two I believe so if you alter that you’d have to be aware of that threshold of five acres.

Mr. Fetherston: Yes.

Mr. Canfield: It could be greatly impacted.

Mr. Fetherston: He is right.

Mr. Manley: Well that’s kind of what I was getting at is you make the lot smaller you could impact the project. So like to…

Mr. Fetherston: You know what I…if you cut it into…you what, we’d have to look at it I…I…I…got to…I got to say we have to look at it a…because the Town doesn’t take the…the road in total, the Town could be the only owner of the whole road because it doesn’t have a use of course as the Board is aware a…if we somehow cut it into four pieces a…we have to look at it, you know, it’s simply a hypothetical and I guess…

Mr. Manley: What I’m kind at is that you can’t have the best of both worlds of each side, okay, so if you’re going to say that well you know, I’ve been doing this all these years for this particular road and now you don’t want to consider that because really the other people use it too and you don’t want to discount then you shouldn’t get the benefit of the increased, you know, the positives that you get from it and not take away the negatives. With everything there’s always pluses and minuses.

Mr. Fetherston: Yes. I certainly understand now and I guess I’m looking to see is there a better way to go about this than…than the variances that we’re seeking and I…I don’t know that there is a way to cut up the road that would be less of a variance is what I’m saying, you know.

Mr. Manley: Has the applicant, because again, part of the job of the Board is to give the least amount…

Mr. Fetherston: Absolutely.

Mr. Manley: …that is required to you know; give the applicant the best benefit. A…taking out a floor, you know, reducing the variance…reducing the…

Audience Member Inaudible

Mr. Fetherston: Yeah, well…there’s another way to look at this too. And the other way is that we’re talking about a sixty-three percent request on a code requirement of sixty percent. It’s not that large of a variance the…the…the Board can consider it that way too. It’s actually a rather…rather minor amount. Decreasing a floor of the building is not going to change that the impervious surface is still going to be the impervious surface. The footprint would…wouldn’t…wouldn’t change.

Mr. Manley: It does away with the height variance, one of the variances.

Mr. Fetherston: One of the variances but we’re not talking specifically now about the impervious area so you know I…I think you know one way for the Board to look at it that you have a very unique site here that it’s it’s a very unusual situation where you have this large private road that’s maybe classified as a driveway but it’s…it’s a road. It’s there, it’s built, it’s operational, it’s serving multiple clients, it’s a benefit to the Town and the Town doesn’t have to own it and maintain it and so when you compare that against the…the you know requested variance I think the balance…the balance works out that…that it’s a reasonable variance to grant.

Mr. Manley: And that’s the purpose of asking the questions because without asking the question, you know, we have to ask the necessary questions. How do you explore other avenues so that you don’t need the variance? One of the other questions as far as the…the permeable surface goes has there been any discussion at all to perhaps even eliminate the restaurant or that other pad site in order to create more of an impervious surface.

Mr. Fetherston: Right, a…the green infrastructure as I said before is an absolute requirement of New York State and the storm water and the planning board’s engineer a…probably as Jerry well knows will hold us to that a…to meeting those requirements a…we have not the storm water yet Jim. A…we…we you know we have to look at the soils a…we’ve got to do geotechnical work for the building that will give us information on the soils. Will they infiltrate? If the will then we have a lot of options to putting some of this water back into the ground as has been indicated when it is a grass field but even the folks that are saying that it’s going to infiltrate do not know what the soil is and if it does infiltrate today. We have to find that out a...but we are certainly going pursue all those avenues as required. You’re required to look at all of these in a planning a…planning portion of the storm water requirements for the State of New York. It’s required and it’s not new. It’s been around for many years. I’m a licensed engineer. I’m a certified professional in storm water quality a…this is what I do and this what I know, I’ve been doing this for a long time. I know New York State.

Ms. Raymond: I’d just like to respond to the…

Ms. Gennarelli: If you could just tilt it (mic) down?

Ms. Raymond: Okay.

Ms. Gennarelli: It will, it will move.

Ms. Raymond: Alright, good. To the question about have we explored removing a floor from the building, yes we have designed a four-story building for this site a…it contradicts the goals that have been set here with regards to sustainability practices. It will increase the footprint of the building and therefore create more impervious surface. The most sustainable way to meet the goals of this project is with a five-story building. If we simply remove a floor of the building it makes the room count unworkable for this project and I will say that we’ve taken dramatic…somewhat dramatic steps with this isn’t while I mention these requirements of the…the brand standards of the Hampton Inn and Suites we’ve deviated as much as we could from that. A Hampton Inn and Suites would be even taller than this. We’ve taken a…about one and a half feet out of the height of a typical Hampton Inn and Suites building by reducing the floor to floor heights. We’ve reduced the parapets by another foot and a half so this building is…already the actions we’ve taken to make this as close to possible to a reasonable project for this site as we’ve removed three feet from it already in height.

Mr. Manley: So one other hypothetical if you were able to go up one more story, hypothetically let’s say six stories, could you not pull the sides of the building in closer so that now you have a taller building and now you’ve reduced the actual building coverage area therefore giving you more impervious surface?

Ms. Raymond: We could increase…if we increased the height of the building we would take the…the guest rooms that are the first floor and move them up. A…by adding an entire floor to the building we…the guest room count would go up even higher than the one thirty nine that it is now.

Mr. Fetherston: Inaudible.

Ms. Raymond: If we held the guest count…

Mr. Fetherston: I think…I think…I think the Board is asking if you held the guest count, you went vertical one more story you’d certainly compress the length of the building a...reducing the coverage, yeah, sure. Of course, one of the green practices is going vertical…a…vertical construction is…is seen as a green practice because it doesn’t cover the ground. That’s what it’s all about…the green a…that (inaudible)…the infrastructure prac…a…green infrastructure practices.

Mr. Manley: Well I guess the question would be how…what percentage and I don’t know the answer, what percentage do you reduce that variance by doing that and you know, does it make sense to…?

Chairperson Cardone: But then you increase the variance for the height.

Mr. Manley: Correct.

Chairperson Cardone: Yeah, so.

Ms. Raymond: Just to think…think that thru if we did add a floor of guest rooms the most efficient way to do it would be…it would be an entire floor of the building because the means of ingress are at the ends of the building so to keep the room count at one thirty nine we most likely be moving amenities that are typically located on the ground floor of the hotel up one floor a…basically we’d have too much area, building area in a way if we stayed at that room count. The most efficient means would be to actually add probably eight rooms or something like that. We’re not talking about adding thirty room cause we do have guest rooms on the first floor, they would all move up and then we would either have additional a…amenities or additional rooms.

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

Mr. Hughes: I would like to be able to think that after all of this discussion with everybody on both sides of the table we could understand the concerns that are here. We’re talking about a very short distance from this project into the reservoir which we may all be drinking out of in the very near future when they shut the aqueducts down from New York City and say stand on your own measures, we have Washington Lake, we have Chadwick’s Lake and whatever New Windsor might be able to cross feed on the manifold that’s being constructed for that purpose. If Mr. Milano is the guy that he intends you to believe that he is I’m sure that he won’t have any problem waiting a little bit and getting this project nailed down right. For after all this project started in ’99 and there’s too many things that are wrong here for a project that new to be having to ask for this many variances to do the next stepped phases. These are all things that Mr. Milano has created on his own. The fill that was brought in there if there is a problem with that; he brought it there, if he didn’t take the measuring stick out to prevent himself from being painted into a corner that’s really not our concern. So I’ll trust that he’s the guy that he claims to be and that he’ll be willing to work with all of these boards and slow this thing down and take a good look at our drinking water. It would be foolish to jump on this and rule on it without talking to your Town Board, and with the City further and getting everybody in a unified way where we can live to tell about this without ending up in the hospital over bad drinking water. Mr. Milano please.

Chairperson Cardone: Nothing further from the Board? We need a motion to either close the Public Hearing or hold it open.

Mr. Levin: I’ll make a motion to hold it open.

Mr. Masten: I’ll second it.

Ms. Gennarelli: Roll call. Richard Levin…yes…

Mr. Donovan: I’m sorry…I’m sorry to interrupt. So the motion is to hold the Public Hearing open you need to a date certain? Is that the November meeting?

Chairperson Cardone: That is correct.

Mr. Donovan: And just to be clear the November meeting is…?

Ms. Gennarelli: November 25th on a Tuesday.

Mr. Donovan: And just to be further clear no one will get a Notice. There is no re-mailing a…the action tonight holds the Hearing open until the 21st and just to be clear that’s a Tuesday…

Ms. Gennarelli: 25th.

Mr. Donovan: 25th?

Ms. Gennarelli: 25th yes.

Mr. Donovan: And that’s a Tuesday though too?

Ms. Gennarelli: It’s a Tuesday.

Mr. Donovan: It’s not a Thursday?

Chairperson Cardone: It’s Tuesday.

Mr. Donovan: Because we are not coming for Thanksgiving?

Chairperson Cardone: Right.

Audience Member: Also at 7:00?

Chairperson Cardone: Also at 7:00 but it will be on Tuesday because that Thursday is Thanksgiving Day.

Audience Member: Thank you.

Ms. Gennarelli:

 Richard Levin: Yes

 Michael Maher: Yes

 James Manley: Yes

 John Masten: Yes

John McKelvey: Yes

 Darrin Scalzo: Recused

 Grace Cardone: Yes

Chairperson Cardone: So the meeting will be held open until next month which will be a Tuesday the 25th of November.

Mr. Bazydlo: If I could ask the Board is there any specific information the Board is looking for or is that up to the applicant to supply what they think is appropriate or…?

Chairperson Cardone: I’ll ask each Board Member.

Mr. McKelvey: I think the notice of the FAA, maybe the Thruway on the sign.

Mr. Bazydlo: Alright, so they’re looking for comment that are here and supply the Board with additional information addresses those comments.

Mr. Maher: I think I’d like to see the hypothetical that Mr. Manley put forward with reference to the road as far as the…the delineation between the four properties there and also the information from the Hampton Inn. You’ve said you’ve taken drastic…somewhat drastic measures to reduce the height so if you provide their normal requirements.

Mr. Donovan: Charlie, if I…I also think that it would be of critical importance to address the issue of a…storm water a…any impact that that may have and address the issues raised by the Orange County Department of Planning…

Mr. Bazydlo: Yes.

Mr. Donovan: …because I do think you want to key in on that since just to reemphasize that you are going to need five out of six votes to achieve that variance.

Mr. Bazydlo: I’ll keep that in mind, yes, yes, exactly, okay.

Chairperson Cardone: And if…if you do not have a copy of some of the items that I read Ms. Gennarelli will get them to you.

Mr. Bazydlo: Thank you.

Ms. Gennarelli: Most are on line and I have a…this is the NYS Thruway Authority, the Orange County is online. Anything else? If you go to [www.townofnewburgh.org](http://www.townofnewburgh.org) under Documents you can print that all out. If you don’t have it, call me. Alright?

Mr. Bazydlo: Yes.

PRESENT ARE:

 GRACE CARDONE

 RICHARD LEVIN

 MICHAEL MAHER

 JAMES MANLEY

 JOHN MASTEN

JOHN MC KELVEY

 DARRIN SCALZO - RECUSED

ALSO PRESENT:

 DAVID A. DONOVAN, ESQ.

 BETTY GENNARELLI, ZBA SECRETARY

 GERALD CANFIELD, CODE COMPLIANCE

 JOSEPH MATTINA, CODE COMPLIANCE

 (Time Noted – 8:32 PM)

ZBA MEETING – OCTOBER 23, 2014 (Time Noted – 8:32 PM)

DAVID MARUCO 280 FOSTERTOWN ROAD, NBGH

 (20-1-21) R-2 ZONE

Applicant is seeking area variances for the maximum allowed square footage of accessory structures, the maximum height of accessory structures and the maximum allowed storage for not more than (4) four vehicles to build an accessory structure (50’ x 33’ x 28’6” two-story detached garage).

Chairperson Cardone: Our next applicant David Maruco.

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

Mr. Maruco: Hi, my name is David Maruco; I reside at 280 Fostertown Road, Town of Newburgh. I’m proposing to build a three-car garage a…on my property a…the main reason is for storage. A…I’m building it with the…a variance for the height because what I’m doing is I want to utilize a…every square foot of the garage I’m building a…this way here I can have a storage space. I’m trying to have everything a…combined into the one building instead of having like different sheds all over the property or whatnot and…and a…you know portable garages or whatnot. I’m trying to get everything contained into one building. As you see I…I gave you all pictures a…in your packet. The first picture is actually the…the face of my house that I reside in a…which as you see the garage over there, the three car garage, the front of the house is what the garage is going to look like a…with the stone and stucco on the front so…accessory for aesthetics a…as you see the second…the second picture shows the actual area where it’s going to be. A…and due to the height that I’m trying to get the variance for you see all the trees and the woods behind it a…to where it’s actually hidden, that’s straight back and it’s actually two hundred and fifty feet back from the house. The third picture is actually looking at the right side of the property a…which you should see all the trees in the area there blocking the right side and as see the fourth…fourth picture is the actual left side. So the building is basically surrounded all by all trees and a…a fence that I have there. A…the fifth picture is actually, if you see the stakes in the ground, is actually where the garage is going to be from the distance of the house. So it’s…its way up in the back, it’s two hundred and fifty feet like say from the house, it’s actually three hundred and fifty feet from the roadway, from Fostertown Road. If you see picture number six that is one of the reasons why I need the garage a…all those items there that you see on…on tarps is expensive a…equipment a…material that I have and I have no room for storage and due to the weather and the rain and snow it…it all gets ruined and either rusts and I have to replace it so its…its actually costing me money. As well as I’ve had things stolen from my property a…so I…I could eliminate that by putting it in storage and locked up that would save me some money as well. A…and as you see the garage is actually, it’s a three car garage off to the left there’s actually…it’s just an overhang, it’s all open, all three sides are open, there’s not an actual garage. There’s going to be no walls on it, no door or nothing. Basically its…it’s you put the items that you see on picture number six that are…are all tarped which would be like the lawn tractor, my log splitter things like that and protect them from the…from the rain and snow in the…during the winter. I would put that underneath that overhang and it would actually protect it so that is all…that is actually is going to be opening so it’s really not part of the garage per say as far as space, storage. A… and the rest of the pictures actually as you can see is all tools and equipment a…I have a lot of new…new equipment, new tools a…I’m a hobbyist. I have two classic cars. One car is in Massachusetts it’s been there for twenty years I’d like to get it down here a…and put it in the garage so I could actually use it and I have another one that’s in my yard. It’s in my a…a…driveway right now. It’s under a car cover and the car cover is soft and I got this…an eight foot cat that like to scratch all the covers so it’s ripping the cover off which his nails are going through and it’s going to start scratching the car which means the car is going to be need be repainted so I’d like to get that in storage and get that protected. So basically a…a…the reason that I need the height requirement is for storage to get all the stuff out of my garage and in my house and into storage a…upstairs so I could actually use it. A…it’s not an…an ugly building, it’s going to be nice looking. I’m not using it as living space. It’s just mainly for storage. As you see here as far as the variance I believe the garage actually in nine hundred and sixty eight square feet and I believe which a…is less than a thousand which is…which is the requirement so the overhang I…I don’t consider it as…as a garage because it’s not an enclosure, it’s open on three sides it’s just a roof. And like I say that roof is just mainly to protect a…from the snow and rain items that I put under it. A…pret…pretty much that’s all I have to add. That’s my…

Mr. McKelvey: These overhangs count.

Mr. Maruco: I’m sorry?

Mr. McKelvey: Right, Jerry? The overhangs count?

Mr. Canfield: Yes, they do.

Mr. Maruco: Okay.

Mr. McKelvey: So you’re way over.

Mr. Maruco: I think I’m over a…three hundred and fifty-six square feet.

Chairperson Cardone: Do we have questions from the Board?

Mr. Manley: Just so you’re aware you over…you’re more than three hundred, it’s five hundred and twenty…

Mr. McKelvey: Seven.

Mr. Manley: …seven point four…

Mr. McKelvey: Yeah.

Mr. Manley: …square feet over.

Mr. Maruco: I don’t see that…under my floor plan. I got thirteen fifty-six.

Ms. Gennarelli: Was that the calculations that you got from Mr. Mattina?

Mr. Maruco: I’m sorry?

Ms. Gennarelli: Was that the calculations that you got from Mr. Mattina?

Mr. Maruco: From where?

Ms. Gennarelli: Mr. Mattina.

Chairperson Cardone: Mr. Mattina.

Mr. Maruco: I don’t know who…

Ms. Gennarelli: From the Building Department.

Chairperson Cardone: The Building Department.

Mr. Donovan: Don’t say anything bad about him because he is sitting at that table over there.

Mr. Maruco approached Mr. Mattina and Mr. Canfield at the side table.

Chairperson Cardone: I think you were subtracting from the one thousand but you are actually allotted eight twenty-eight point six.

Mr. Maruco: Yes, that’s what it is, yeah, that’s what it is. That’s my…that’s my proposal.

Chairperson Cardone: And the height is considerably over. That’s on a percentage basis that’s ninety percent over.

Mr. McKelvey: This building is bigger than the house.

Mr. Manley: What is the square footage of the house, roughly?

Mr. Maruco: Its fifteen hundred square feet.

Mr. Manley: And if this two-story looking almost twenty-six hundred square feet for the garage.

Mr. Maruco: It’s…it’s I wouldn’t consider it two stories. It’s the space you’re getting upstairs is the A frame of the…of the structure, the roof. There’s no…there’s no a…walls on the second floor it’s just what you’re utilizing under the roof.

Mr. Manley: Let’s say it’s seven hundred or so that’s like two thousand roughly.

Chairperson Cardone: Is there any way you can bring down the height of the building.

Mr. Maruco: I could do…I could do a ten twelve pitch which would drop it three feet cause the…the…it would actually be twenty-four feet which is only fourteen feet of the roof would nine feet above and the rest of the…the twenty-four feet would be seven feet above the required height which would still allow me a…substantial amount of storage.

Mr. Manley: Is there going to be electric in the…?

Mr. Maruco: There’s going to be electric that’s it, yeah.

Mr. Manley: Any heat at all?

Mr. Maruco: No, no heat, no water.

Mr. Maher: Dave, what’s the reason for twelve foot on the first floor?

Mr. Maruco: Well a…because I have the cars a…I have a upper Jeep with tops and I can store the Jeeps in the overhead the tops with…with a pull up thing. As well as a…I wanted to get a four post car lift I could put…I could lift one car and put another car under it for my classic cars that I don’t drive to put them away in storage.

Mr. Manley: How many cars are you looking to store?

Mr. Maruco: A…basically just two a…I have a…a truck also a, you know if I need to work on them or clean something during the winter I can have room to do that.

Chairperson Cardone: Just for the record, the report from the Orange County Department of Planning is Local Determination. Can this garage be seen from any of the a…I have been to the site, it did not appear to me that it could be seen by the neighbors but I’m wondering if it can be seen by the neighbors. Are there any neighbors that are here at this time that…?

Ms. Davis: Diane Davis, 270 Fostertown, I’m right next door. He’s right over the wall from me and I would have no problem with it.

Chairperson Cardone: Okay.

Ms. Davis: Actually having the building there the lot would be a lot neater because then he would have a place to put all his stuff.

Chairperson Cardone: Thank you. The gentleman in the back.

Mr. Bennett: My name is Ron Bennett, I own the property on the northern border of Dave and a…I think this is just too huge this building.

Chairperson Cardone: You’re at the property in back, in back of the back wall.

Mr. Bennett: The picture of those trees that’s my property.

Chairperson Cardone: Okay.

Mr. Bennett: So in the winter you would see my house when the leaves fall off. A…I’m sure I’d be able to see this building a…I request that you oppose any variances to the Ordinances and a…like I said I think it is just way too big.

Chairperson Cardone: Okay. Thank you. Erv.

Mr. Hamilton: I’m Erv Hamilton, 268 Fostertown Road; like he says you’ve heard there are quite a few trees all the way around. I wouldn’t have a problem with it. I can understand wanting to store a…tools and things that are not able to be kept secured in a building a…so I would have no problem with that.

Chairperson Cardone: And you’re to the east of him, correct?

Mr. Hamilton: I’m to the east of him, yes. Thank you.

Chairperson Cardone: Thank you.

Mr. Maher: Dave, what’s the…I’m sorry.

Mr. Rehman: Good evening, my name is Amhed Rehman I live right next to a…Dave at 286 Fostertown Road a…and certainly as the lady a…here suggested it would be nice for him to have a place where he can store his all his equipment and cars and whatnot neatly. I guess no matter where anything is built it would be visible but I don’t have a problem with a building being built towards the back of his a…house and it would certainly be nice to have everything organized because we do have a neighbor which was right behind me like he said they…they have a bunch of different small storage space which kind of looks odd. So one building with organized a…tools and cars and everything out of the way and a nice clean yard would be…would be nice and it would certainly make Dave’s life much easier. So a…I support that. Thank you.

Chairperson Cardone: Thank you.

Mr. Bennett: Sorry a…I also wanted to say my square footage is eighteen hundred on my house and to my calculations a…fifty foot by a…thirty-three foot that’s thirty-three hundred square foot. It’s like…like putting another house on the property. I feel it’s going to degrade the value of my property.

Mr. Maruco: I do have one thing to add to the credibility of…of a…my neighbor there. Since 2003 him and I have been going through a…a spat basically him. I have police reports right here that shows his harassing me in 2007 as well and it’s an ongoing thing. So being a former police officer I feel that this is more or less a form of harassment again so he’s opposing as a form of harassment basically is what I feel and I have police reports right here to prove it’s an ongoing thing and it’s just I don’t...it’s got to stop one day.

Chairperson Cardone: Well, we’re not addressing that right now. We’re discussing just the height of the building and the size of the building.

Mr. Maruco: Right.

(Inaudible)

Mr. McKelvey: You can take that mic off, just pull it right off.

Ms. Owen: I just wanted to…I don’t need that…I just wanted to say that one issue should have nothing to do with the other.

Chairperson Cardone: That’s correct.

Ms. Bennett: Okay, enough said. One issue has nothing to do for the record.

Ms. Gennarelli: Could we have your name for the record?

Ms. Owen: Judy Owen.

Ms. Gennarelli: Thank you.

Chairperson Cardone: Any comments from the Board Members?

Mr. Maher: Dave, what’s the back…the back five by twenty overhang used for?

Mr. Maruco: It’s just an overhang for a…like extra…extra wood, I cut wood, I burn wood so I could put it under, keep it from the rain, snow, out of sight where nobody can see, it’s just something that aesthetically where it’s not just you know piled all over the yard or things like that. Trying to keep things uniform and protect it.

Mr. Scalzo: I see in 2003 you actually had a permit to put a garage on the front of the house but it was never…never built.

Mr. Maruco: Yeah, I was going to do that a…but I stopped because of the aesthetics of the house I didn’t want it to be a two car garage in front of the house and for resale value and for looks so I…I didn’t want to do that and that’s why I was leaning towards going to the back of the house.

Mr. Levin: You said you could easily bring the roof down two feet, three feet?

Mr. Maruco: Three feet. Three, I could do a ten twelve pitch which would a…bring it down (Inaudible) one section was showing fourteen feet, we’d bring it up nine feet higher and the other would be seven feet higher, on the other side. As far as the square footage if I had to the overhang I could just eliminate that if I have to...if that becomes a problem. I’m more concerned with the inside and the storage and the garage so…just I’m trying not to resort to one of those portable ugly garages, you know, ready-made garages.

Chairperson Cardone: Well you would have to have a Permit for that also and that would also count as coverage. I think the…the main issue here is the height and I…I don’t know that three feet would solve the problem.

Mr. Maher: Dave if you went down to an eight twelve (inaudible) you’ve still got eight foot of height above you on the one section and…and a….and eight foot a…actually nine foot four on the other section on the twenty foot wide section.

Mr. Maruco: How wide would it…would it be what?

Mr. Maher: Well you still got eight foot height in the twenty four foot wide section of the garage, the right hand side you still have eight foot of height and then on the…on the deeper section you have nine…nine foot four height. Then at eight twelve…I mean, at eight twelve then you’re looking at a…an eight foot…twenty foot on the one section twenty foot high on the…on the a…twenty-four foot wide section it would be twenty foot high then obviously it would be twenty-one four on the a twenty eight foot section.

Mr. Maruco: What…what would the a…the width of the space be? That…that’s doable but would the width a…got (Inaudible) high?

Mr. Maher: Well you’re looking at going a… (Inaudible) a… (Inaudible) You’re still going to have roughly, I mean you still have a … if you want five foot knee walls or whatever you’re still going have roughly a…a ten…what…ten foot wide…ten by twenty-four in one section, and then probably like a…a…fourteen by…fourteen section (Inaudible). I’m just throwing that out to you as another option to get you know some of the…some of the height reduced there if at all possible. I mean, the house…your house, I mean your house like…if it’s consistent with the house I can understand that but the house only is on a four twelve on it to begin with so…

Mr. Maruco: Right, yeah.

Mr. Maher: …it’s not really consistent you know where as an issue there as far as aesthetics go.

Mr. Maruco: So the eight…eight twelve is, I mean it’s doable.

Mr. Maher: I mean just…it’s an option. Again it’s up to you.

Mr. Maruco: Yeah a…well I’m not looking to live up there. I just want storage to be able to stand up and you know, put shelving up there and whatnot. So that’s acceptable I can…I can do that.

Chairperson Cardone: And for the record you are not running a business from your house?

Mr. Maruco: No, not at all. No. So all personal use is what it is.

Inaudible.

Ms. Gennarelli: Okay, you have to go to the microphone.

Chairperson Cardone: Okay, the Board Members have made site visits. I did see equipment there. My understanding was that some of that equipment you’d be getting rid of?

Mr. Maruco: Yeah, when after the garage I have the equipment and a…it helps to build the garage and once I’m done with…with that I have no reason to keep it.

Chairperson Cardone: And in the picture a…in the one picture number three I think it was…three…no, there were a lot of…picture six, that stone is going to be used in the building or…?

Mr. Maruco: No, once that…once that’s built and the grading is done then that stone…that stone is going to be used to build a wall and then I’m getting rid of the rest of the stone.

Chairperson Cardone: Okay.

Mr. Maruco: But you need a bunch in order to you know…

Chairperson Cardone: Right.

Mr. Maruco: …piece like a puzzle, piece it together then just get rid of the rest.

Chairperson Cardone: Mike, what would that bring the height down to?

Mr. Maher: (Inaudible)

Chairperson Cardone: Okay.

Mr. Maher: Well I think you forgot to take into account the floor, the depth of the floor for the…the garage there. I’m looking at the count now.

Mr. Maruco: Right, yeah from thirteen feet would be the top of…of the floor and then…from there up so eight twelve whatever you got. (Inaudible)

Mr. Maher: Yeah, you’re basically is one twenty which is ten foot eight so you’re at twenty-three, twenty-three eight will be the highest section of the twenty-eight foot wide section and then it would be roughly twenty…two four for the lower section give or take (Inaudible). So the math, wait I’m sorry, twenty-three eight would be the highest point based on the numbers here and the discussion as far as twelve foot first floor allowing twelve inches for the a…for the floor area and an eight twelve pitch thereabouts gives you twenty-three foot eight overall height.

Mr. Scalzo: It’s still over fifty percent.

Chairperson Cardone: Right.

Mr. Maruco: The other option I…I was thinking is a…if I did come down to a…to acceptable level then I couldn’t utilize storage. I’d just have to attach to the back a ten foot…ten foot wide and the length of the garage and that would just give me a storage right in the back like a shed and that would be hidden, you would even see that...that would be behind the garage and that would be below my fence level, you wouldn’t see it.

Mr. McKelvey: That would make the building much bigger though.

Mr. Maruco: Sorry?

Mr. McKelvey: That would make the building bigger.

Mr. Maruco: Yes, but I could a…get rid of that overhang to the left and just attach the shed to the back.

Mr. Maher: So you’re saying get rid of the carport?

Mr. Maruco: Sorry?

Mr. Maher: Get rid of the carport?

Mr. Maruco: Yeah, get rid of yeah…yeah the overhang on the left and a…just put a…a…shed like the length of the garage ten feet out, just do that.

Mr. McKelvey: How big is the overhang?

Mr. Maher: Well it’s…it’s a wash because in essence you’re eliminating three hundred and eighty square feet and adding (Inaudible)…

Mr. McKelvey: Yeah.

Mr. Maher: …so it’s…it’s really a wash it the same stuff nothing really changed as far as size goes.

Chairperson Cardone: Couldn’t the storage be accomplished by shelving throughout the a…the structure? Even allowing for it when you bring the cars in you can still have shelving on the walls.

Mr. Maruco: It’d be really tight. It’d be really tight and that’s…trying to limit anything around the cars because you damage a classic car it costs a lot of money, the car.

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

No response.

Chairperson Cardone: Any other comments from the public?

No response.

Mr. Maher: Dave, any chance going down to ten foot on the first floor?

Mr. Maruco: I’m sorry?

Mr. Maher: Any chance going down to ten foot on the first floor?

Mr. Maruco: On only one side but that would be…

Mr. Maher: I’m just…a…throwing it out there…

Mr. Maruco: Yeah.

Mr. Scalzo: A…help me out here I’m looking…maximum of four vehicle storage, you’re claiming that you only going to store two in there? Possibly three?

Mr. Maruco: Yeah. Well I have…I have the two classic cars and also have a truck…

Mr. Scalzo: Okay.

Mr. Maruco: (Inaudible)

Mr. Donovan: Well I…I guess I should ask, are you requesting a variance to store more than four cars (vehicles)?

Mr. Maruco: No, no because I…I…there’s three there and I have a garage under my house but its tiny so it’s just…I don’t even use it for a car.

Mr. Donovan: So what typically happens if the structure can accommodate more than four cars (vehicles) or could accommodate more than four cars (vehicles) I think what Code Compliance refers the matter to us and issues their disapproval they indicate if he is going to need more than four he is going to need a variance or the applicant will need a variance. What we typically do is I would ask the question, if he says no that application (variance) is withdrawn, he can’t have more than four. We don’t deny the variance; we just consider the request withdrawn.

Chairperson Cardone: Anything else from the Board?

No response.

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

Mr. Manley: Second.

Ms. Gennarelli: Roll call.

 Richard Levin: Yes

 Michael Maher: Yes

 James Manley: Yes

 John Masten: Yes

John McKelvey: Yes

 Darrin Scalzo: Yes

 Grace Cardone: Yes

Chairperson Cardone: Okay, thank you.

Mr. Maruco: Thank you.

 (Time Noted - 9:03 PM)

ZBA MEETING – OCTOBER 23, 2014 (Resumption for decision: 10:02 PM)

DAVID MARUCO 280 FOSTERTOWN ROAD, NBGH

 (20-1-21) R-2 ZONE

Applicant is seeking area variances for the maximum allowed square footage of accessory structures, the maximum height of accessory structures and the maximum allowed storage for not more than (4) four vehicles to build an accessory structure (50’ x 33’ x 28’6” two-story detached garage).

Chairperson Cardone: On the application of David Maruco, 280 Fostertown Road, seeking area variances for the maximum allowed square footage of accessory structures, the maximum height of accessory structures and the maximum allowed storage of not more than (4) four vehicles to build an accessory structure 50’ x 33’ x 28’6” which is a two-story detached garage. This is a Type II Action under SEQRA. Do we have discussion on this application?

Mr. Scalzo: What was the final height we were looking at here?

Chairperson Cardone: The height that’s proposed is (28’6) twenty-eight six.

Mr. Donovan: My recollection was there was discussion but no reduction indicated.

Mr. Levin: No, he said he would bring it down three feet.

Chairperson Cardone: Well that would only bring it to twenty-five which is still…

Mr. Levin: Still over…really over.

Chairperson Cardone: Right at this point it’s ninety percent over.

Mr. Maher: Are we willing to ask the applicant what he make…what concessions he may give?

Mr. Maruco: I’m sorry what?

Mr. Maher: Dave are you…we…we discussed different heights here, dropping some areas from ten foot to…from twelve foot to ten foot as far as (inaudible) goes, I mean what are you…?

Mr. Maruco: If we could like you…like you were saying a…like the eight twelve…?

Mr. Maher: Okay.

Mr. Maruco: …which was a…a it could certainly dropped it a…and it allowed me enough space upstairs, you know, head space and you know the width and I’m fine with that with going with a eight twelve pitch.

Mr. Maher: So that would…that would drop the height to…again…twenty three foot eight based on my calculations.

Mr. Manley: That’s still pretty…that’s still pretty high.

Chairperson Cardone: That’s still pretty high.

Mr. McKelvey: Yeah, that’s high.

Mr. Scalzo: If…if we were to remain consistent on the other applicants we heard this evening its way too high. It’s a…I don’t know how we can accept that at this point.

Mr. Manley: I mean in the past to the Board has generally in the past with most accessory structures like this never…never gone that high, there’s been very, very remote cases.

Mr. Scalzo: Maybe for a cupola but not for…the support seemed to outweigh the non-support as far as the adjoining neighborhood went.

Mr. Manley: That’s you know obviously just one test of the…one hurdle to overcome.

Mr. Scalzo: Correct.

Mr. Manley: The structure would actually be bigger than the house.

Mr. McKelvey: Yeah, that’s what I said to him.

Chairperson Cardone: And a…taking off the overhangs how much Joe…how much would that take off of the square footage because also very high on that sixty-three percent.

(Inaudible)

Ms. Gennarelli: I’m sorry, can you get the microphone?

Mr. Mattina: Yeah, the carport was two eighty-eight and the rear overhang was a hundred so three-eighty eight. It would be a variance of (139.4) one thirty-nine point four.

Chairperson Cardone: One thirty-nine point four and what’s the percentage on that? So it would be nine hundred and sixty-eight square feet would be the total, correct?

Mr. Maher: About sixteen percent or so? Joe?

Chairperson Cardone: No because his…he doesn’t get a thousand, he gets eight twenty-eight point six.

Mr. Maher: No I meant sixteen percent variance (Inaudible)… (Inaudible) A…is that what it is?

Chairperson Cardone: So it would be reducing the variance percentage on the square feet to fourteen percent?

Mr. Maher: If the applicant was agreed to it.

Mr. Donovan: Yeah, because it’s his…his application. He can agree to that or not.

Chairperson Cardone: Right.

Mr. Donovan: Or he can ask the Board to…to…to that is his proposal to reduce the total square feet…the footage to nine sixty-eight which would be a fourteen percent variance.

Mr. Maruco: Yeah, yup that’s fine.

Mr. Donovan: Is that your request to the Board?

Mr. Maruco: Yeah, I can eliminate the overhangs and just focus on the a…the actual garage itself.

Mr. Scalzo: And that leaves still outstanding the height.

Chairperson Cardone: What would the percentage be a…?

Mr. Canfield: Less than fifteen.

Chairperson Cardone: Less than fifty?

Mr. Canfield: Fifteen…percent.

Ms. Gennarelli: That’s the overhang.

Mr. Canfield: On square footage.

Chairperson Cardone: Right. I’m talking about the percentage on the building height.

Mr. Maher: The height well again I don’t want to speak for the applicant obviously. A…you know I mean you can…what was discussed was…twenty-three foot eight…you still over fifty percent.

Chairperson Cardone: You’re still over fifty, yeah.

Mr. Maher: Inaudible.

Chairperson Cardone: I don’t think there’s as big an issue with the…with the neighbors seeing it. There’s probably only one neighbor that could even…even see it but…

Mr. Maruco: And actually when the…when the leaves are down you really can’t see it. You’ve been to my property it’s…even trying to look through…he’s…he’s a hundred and fifty feet through the trees you…you can’t see. You can barely see at night when he has the light on.

Mr. Manley: It is large, the concern even at twenty-three it’s still too…it’s still two stories.

Chairperson Cardone: Yeah.

Mr. McKelvey: Right.

Chairperson Cardone: Would it be possible to bring it down to twenty feet? Or eighteen…what would that leave as far as the percentage?

Mr. Maher: Twenty foot would be thirty-three percent.

Mr. Levin: That’s still high.

Mr. Donovan: Well may I suggest that it may be difficult to just pick a height. He’s got to design the building.

Chairperson Cardone: Right.

Mr. Maher: Possibly hold the Hearing open if…if…

Mr. Donovan: Well we closed the Hearing.

Chairperson Cardone: We closed the Hearing.

Mr. Donovan: We have sixty-two days but and…and…you know, I’m only a lawyer but I assume when you design a building you don’t pick a height and back into it. Right, generally speaking? I…I guess you could but…a…

Mr. Manley: If we Reserved Decision till next month…

Chairperson Cardone: The building is really too large and too tall based on what we’ve seen in the past and on other things that we’ve ruled on in the past and a…certainly bringing down the square footage helps because it brings down to only a fifteen percent from a sixty-three percent percentage but I…I think that the building height also needs to be worked on.

Mr. Maruco: But the…the actual square footage should be fine. I mean, it’s just a…it’s actually just a three-car garage…

Chairperson Cardone: Right.

Mr. Maruco: …the square footage should be fine.

Chairperson Cardone: But I also think…

Mr. Donovan: It’s not fine, I’m sorry to interrupt…

Chairperson Cardone: Okay.

Mr. Donovan: … it’s not…it’s not fine, it’s in excess but it’s not dramatically in excess.

Mr. Maruco: Right.

Mr. McKelvey: You’ve got to get the roof down.

Mr. Maher: I mean a…

Mr. Maruco: The only…the only other option that I think would be possible to work is if I come down to like my house four twelve pitch and add the shed to the back but it’s going to bring up the square footage but it’s going to…it’s going to eliminate it from being a two-story and…and the square footage upstairs. Right, because you’re eliminating the height from being seen but the shed style basically what you build off the back side won’t even be seen by anybody.

Mr. McKelvey: You’re still going to go up in the square footage though.

Mr. Maruco: It’s going to bring up the square footage that’s correct.

Mr. McKelvey: Well you’ve got to bring it down.

Chairperson Cardone: It becomes a tradeoff if you bring down the height enough to make that a lower, much lower percentage.

Mr. Maruco: But it’s also…I mean it’s also…in a sense, I mean you’ve seen the pictures and stuff in the…in the area it’s also we’re building…it really can’t be seen by people a…do you know what I’m saying? So I mean to give me an acceptance would be appreciated but I mean you know, it’s in an area that’s not really visual and my neighbors don’t…those neighbors that were here are the neighbors that are close to me. They’re my next door neighbors right next to me.

Mr. McKelvey: They don’t write the Code.

Mr. Maruco: Sorry?

Mr. McKelvey: They don’t write the Code though.

Mr. Maruco: No, I understand that. That’s why we’re here. That’s…that’s…I’d be happy with that I mean if the Board would be…accept the a…extra square footage and come down on the height where it’s...

Mr. Scalzo: Personally I think I’d need to see this again. I…I…

Mr. Donovan: Because we’re not dealing with real numbers.

Chairperson Cardone: Right.

Mr. Scalzo: Yeah.

Chairperson Cardone: Well we could reopen.

Mr. Donovan: It depends on the…it depends on the extent of the changes. At the present time, it seems to me, you still have…you have…you have time to make your decision a…now the people who left tonight though think the Hearing is closed so…

Chairperson Cardone: Right.

Mr. Donovan: …so the only way we could reopen is we re-notice.

Chairperson Cardone: Is to re-noticing.

Mr. McKelvey: Can we hold it over?

Mr. Donovan: We have sixty-two days to make the decision.

Chairperson Cardone: We have sixty-two days but we would need more information.

Mr. McKelvey: Yeah.

Mr. Scalzo: I….I agree but I…I don’t know that hold or re-noticing would a…I believe we’ve heard the testimony from the neighbors. I don’t believe it’s going to change much you know with a different design.

Chairperson Cardone: But legally speaking we would have to.

Mr. Donovan: I think the only issue is if he comes back with a dramatically changed design the folks who were here in favor and opposed are not going to come back because we closed the Public Hearing. Now if he comes back with a mod…you know, if he eliminates or diminishes the variances then I don’t think there’s a problem. If it’s a different structure then I think it’s a problem.

Chairperson Cardone: Right.

Mr. Donovan: So if he came back with a fifteen foot high building and a fourteen percent square footage then I…I don’t have an issue because it’s less than what he asked for.

Mr. Manley: It might be best for us to Reserve Decision, give the applicant an opportunity to kind of re-tool things a little bit now that he’s heard the concerns of the Board. And then come back and if it’s relatively the same design with less in height and…

Mr. Maruco: Well that’s why…it actually… the purpose…this whole purpose of this is because I need the space that I need that I’m putting in for. If I come…if I were to come back smaller and whatnot it wouldn’t serve the purpose that I have. It’s like I might as well just put a shed up and throw everything in the shed. Do you understand what I’m saying?

Chairperson Cardone: But…but you can’t just put a shed up because…

Mr. Maruco: No, I…I understand…I…

Chairperson Cardone: …if you put a shed up you’re going to be adding square footage.

Mr. Maruco: No, yeah right, right…I’m just saying…implying that…you know I need the footage, square footage that I have I…can eliminate the overhangs and the…the side of the garage I could come down on the height on the roof if I eliminate storage upstairs which is fine but I would need the storage in the back cause I need storage.

Mr. McKelvey: That’s just a tradeoff on the overhang.

Mr. Maruco: I’m sorry?

Mr. McKelvey: That would be just a tradeoff to the overhang.

Mr. Donovan: Well the alternative is to vote on the application submitted to you.

Mr. Manley: Right and I think that where we’re at at this point because if we can’t come to some sort of…decision, then we have to vote.

Mr. Maruco: Well I could…if I come down to like the four twelve pitch it will eliminate any storage upstairs that would definitely drop the height tremendously and as far as storage in the back I wanted to go to the length of the…of the garage, there’s twenty eight feet, I can…I can shrink that down a little too. I could probably do maybe like a…like a ten by twenty which is so…you know, I mean I know it’s three hundred square feet more but I need to put things. I need a place to put things, I mean you saw the pictures it’s…I have nowhere to put anything. Right now I don’t…I don’t even have a shed only I need to get that out of my house so I can finish my house and start living.

Chairperson Cardone: Well you know I think at this…

Mr. Maruco: You know it’s tough.

Chairperson Cardone: …at this point we’re talking about the…the height that has to come down. You know I think by eliminating the two overhangs you certainly decrease the percentage of the…

Mr. Maruco: Right.

Chairperson Cardone: …variance for…

Mr. Maruco: Right.

Chairperson Cardone: …the square foot down to under fifteen percent. But the height you know still over fifty percent is still a very high percentage.

Mr. Maher: Maybe there’s a different roof configuration that you can think of that might accommodate…

Mr. Maruco: Nah...it’s either barn gable style or that’s not gonna…it’s still gonna…

Mr. Levin: How about lowering the walls?

Mr. Maruco: Sorry?

Mr. Levin: How about lowering the walls? Come down.

Mr. Maruco: Well that’s…I don’t think I’d be able to do that. I’ve been thinking out there how I could do it to get a…

Mr. Levin: Well you’re twelve feet now.

Mr. Maruco: Twelve feet yeah (inaudible).

Mr. Levin: Two feet off.

Mr. Maruco: What was it…Mike what was it you said Mike you said eight twelve what was the…the height on that, on the eight twelve?

Mr. Maher: At eight twelve you are going to be eight foot above the floor on the twenty four foot wide section. It’d be nine foot.

Mr. Maruco: So I’m six…it’d be six feet over the variance, right?

Mr. Maher: Well no the fifteen foot is the maximum requirement so if you had a ten foot sidewall, ten foot, nine, eleven foot…you…you’re still four feet over on that end of the…the…I’m sorry, ten and one is you know eleven and nine and eight is going to be nineteen so you’re four foot over there so…I mean that gives you…it’s closer yet like (inaudible) suggested there I mean a ten foot sidewall, one foot of floor space and then eight foot of…eight foot of rafter. But yet you ‘ve got to remember you have a twenty foot wide section to that will add to that again so…again it’s got to be something you bring back to the Board that you know, whatever you think is going to be reasonable.

Mr. Maruco: Well what’s…I mean I know it’s hard to say but what’s acceptable that I can…?

Mr. Donovan: Well the way it…

Mr. Maruco: …try to configure something to…

Mr. Donovan: …the way this is supposed to work is there’s an application to the Board, the Board rules on the application. Everyone is trying to be helpful…

Mr. Maruco: Sure, I understand.

Mr. Donovan: But, but it’s not…it’s not the Board’s job to tell you what they’ll accept. You make a proposal the Board votes. Sometimes, we have attorneys have an expression, it’s easier to try a case then to try and settle a case. So, you know…

Mr. McKelvey: You’ve got to bring it down.

Chairperson Cardone: What would the percentage be? You’re talking about nineteen feet?

Mr. Maher: Nineteen feet would be four foot over, that’s roughly what twenty percent or so…a ballpark there? At nineteen feet.

Chairperson Cardone: Well if you can come back with…I don’t know how the rest of the Board feels…

Mr. Maher: I think…I think you have some…I think you now have a overall picture and from that point you know, you’ve got to make a decision what you, like Mr. Donovan said, you’ve got to come up with your plan you know, preferably with some drawing to illustrate what you…what you would like to do to you know what…

Mr. Maruco: Right, what would work and according to the Code.

Mr. Maher: …then come before the Board that they would approve basically on the information that you have tonight.

Mr. Manley: There’s probably a good chance that if we vote on what we have that there won’t be enough votes to get it to pass, that would be my guess. But…I mean I’d be willing to Reserve Decision and allow the applicant to you know, come back but you only have one bite at the apple next month because we have to make a decision by next month.

Mr. Maruco: Okay I can…I can work with that. I could…I can if I have to come back to…to get a decision, I will have to figure something out.

Mr. Maher: So would we want something back before the meeting or…or…what would the time frame be?

Chairperson Cardone: Preferably before the meeting.

Mr. Manley: At least ten days before the meeting.

Mr. McKelvey: You have to get something in ten days before the meeting to…to our secretary.

Mr. Maruco: I’m sorry what time?

Mr. McKelvey: You have to get something in to the secretary before the meeting.

Mr. Maher: So whatever…whatever we…

Mr. McKelvey: So we can see it.

Mr. Maher: …whatever drawings, you prepared some drawings here if you do something similar.

Mr. Maruco: Okay, ten days before the meeting.

Mr. Maher: What date? Betty what date is the meeting?

Ms. Gennarelli: The 25th. Tuesday the 25th.

Mr. Maher: So by the 15th of November.

Mr. Maruco: Okay.

Mr. Manley: Keeping in mind the two things we identified is the height and the square footage as the two areas we are going to be looking at.

Mr. McKelvey: I’ll make a motion we Reserve Decision.

Chairperson Cardone: Do we have a second?

Mr. Levin: I second.

Ms. Gennarelli: Roll call.

 Richard Levin: Yes

 Michael Maher: Yes

 James Manley: Yes

 John Masten: Yes

John McKelvey: Yes

 Darrin Scalzo: Yes

 Grace Cardone: Yes

Chairperson Cardone: So we will Reserve Decision until next month. If you could get those drawings in then we can get the figures from Mr. Mattina on what the percentages would be.

Mr. Maruco: Okay, very good.

Chairperson Cardone: Thank you.

Mr. Maruco: Thank you.

PRESENT ARE:

 GRACE CARDONE

 RICHARD LEVIN

 MICHAEL MAHER

 JAMES MANLEY

 JOHN MASTEN

JOHN MC KELVEY

 DARRIN SCALZO

ALSO PRESENT:

 DAVID A. DONOVAN, ESQ.

 BETTY GENNARELLI, ZBA SECRETARY

 GERALD CANFIELD, CODE COMPLIANCE

 JOSEPH MATTINA, CODE COMPLIANCE

 (Time Noted – 10:23 PM)

ZBA MEETING – OCTOBER 23, 2014 (Time Noted – 9:03 PM)

RAYMOND QUINONES 40 DEVITO DRIVE, NBGH

 (23-2-32.2) R-3 ZONE

Applicant is seeking an Interpretation of 185-15-A and/or area variances for the maximum allowed square footage of accessory buildings and the maximum height to build an accessory building (detached garage 40 x 30 x 22’8.1”).

Chairperson Cardone: Our next applicant Raymond Quinones.

Mr. Brown: Charles Brown for the applicant and a…I first would like to a…talk about my request for the interpretation. I’ve done some more research with the Town of Newburgh Zoning Code and a…this a…provision Section 185-15 a…actually applies to all zones and a all accessory buildings. A…so if a we go with Mr. Canfield’s interpretation that means for instance the restaurant on the a…on the application for the a…hotel would also have to come here for variances both for size and height a…and a that applies in all the commercial zones for a…the accessory storage buildings which are permitted up to fifty percent of the primary building a…which you know again based upon Mr. Canfield’s interpretation of this section would be in direct conflict in the code. A…I’ve been doing engineering in this Town for over twenty years now and we’ve done quite a few accessory garages a…this is actually the first time I’ve ever been sent to this Board a…for this section when we weren’t in the rear or side yard setback. A…pulled a copy of the code back to 2005 and it reads virtually the same just to make sure that the other code…this section hadn’t changed and it hasn’t. A…and again in that section also a…there is a provision of not occupying more than ten percent of the yard. Well we’re not occupying any of the yard a…so again that’s what I’d like to say regarding the interpretation of that section a…185-15. A…moving on, getting to a…the variance request a…I did go back out into the field and take a look at this, you know, based upon comments from a…the adjoining property owner’s to the rear a…there is some pretty good screening in between, some a…a…a lot of trees some of them evergreens even and there’s also a two accessory structures, one on each of their properties that are in between their residences and a...Mr. Quinones’s proposed garage. A…we a…we set the height because we were trying to make this garage look similar in nature to the house. This is the house a…which we designed was built two years ago. This is the proposed garage a…we would like to you know again, keep that height and a…and area as proposed. A…I did bring pictures that I took a…when I was out there a couple of days ago and they do show the trees, the screening in the back and…and the a…the other structures that are on the adjoining lots which are actually right on the property line.

Mr. Donovan: So Charlie, just so I’m clear, when last we were here I…I think we adjourned indicating you going to take a look at making the structure shorter and smaller, this is that my recollection.

Chairperson Cardone: That is correct.

Mr. Brown: Yes, I discussed that with my client and a…he would rather not do that.

Mr. Donovan: Okay, just so we’re clear.

Mr. Brown: Yeah. Is that correct Ray? Yes.

Mr. McKelvey: Your height is still high here though.

Mr. Brown: Well again because we meet the setbacks I don’t see that this a…a…is a…anymore of an impact than a larger house would be as far as a…can we achieve the same result with another way? Yeah, we can. We can actually connect this proposed to the garage with a breezeway that becomes part of the primary structure and we wouldn’t even be here for a variance. A…so…again a…I’m really looking for the interpretation first and then you know a…we don’t…we don’t want to drop the height or the size. I can bring these pictures up to the Board if they’re interested.

Mr. Brown approached the Board with the pictures.

Mr. Brown: The picture with the truck that is pretty much where the garage, the front of the garage is going to be located and it does show the a…the existing vegetation in back a…the other pictures they show the other structures that are on the lot between their residences and where this garage is proposed. Here…

Mr. Scalzo: Can you turn that around?

Ms. Gennarelli: Charlie, can you switch mics you’re coming in very clouded? Can you use the other one? Thanks.

Mr. Scalzo: Where is this garage located on the …

Ms. Gennarelli: That (the mic) comes off.

Mr. Brown: That? I don’t know if it’s a garage that building is right on this corner. It’s right here on the stone wall and on the a…property line with a…Zurl. It’s actually on the DeSantis property so it’s right on this corner right here. And that other smaller shed is essentially right…right there.

Mr. Scalzo: Any idea of the offsets from the property line to those accessory structures?

Ms. Gennarelli: Darrin, can you please pull your microphone in? I can’t hear you.

Mr. Scalzo: Sorry.

Ms. Gennarelli: Thank you.

Mr. Scalzo: Any idea on the offset distances from the property line to those accessory structures on the contiguous adjoiners?

Mr. Brown: Mike (Darrin) I couldn’t be exact there, it’s certainly less than five foot because they’re essentially right against that stone wall that’s shown as the property line on this map.

Chairperson Cardone: Where was this picture taken from?

Mr. Brown: That’s from…that’s from the back of Quinones’s property.

Chairperson Cardone: And the height of this building is?

Mr. Brown: I have no idea.

Chairperson Cardone: It’s one story.

Mr. Brown: Yes.

Chairperson Cardone: I think Mr. Brown wanted us to speak about the interpretation first and my interpretation is that this is an accessory building and it must meet the requirements of an accessory building as to height and square foot.

Mr. Brown: Well I…I…I understand that…

Chairperson Cardone: That’s…

Mr. Brown: …so then that would apply to any accessory building in any zone like I said including a…storage buildings and warehouse facilities a…out parcel or I mean a restaurants on the same parcel as malls, etcetera, etcetera, etcetera. A…again the way I read this provision if that only those two restrictions the…the height and the area only apply when we’re in the setbacks a…and that’s what I’m here for the interpretation for and I guess we could poll the Board.

Mr. Donovan: Well that’s up to the Chair the way she wants to conduct the meetings.

Chairperson Cardone: Right.

Mr. Brown: I apologize.

Chairperson Cardone: Well if the a…a…if before proceeding I think that a…we’re not at the point where we’re going to be voting on it right at this point and that’s why it would be best for you to make your argument for the variances…

Mr. Brown: Okay.

Chairperson Cardone: …in case you would need them.

Mr. Brown: Okay.

Chairperson Cardone: I’m just giving you my opinion at this point.

Mr. Brown: I understand I appreciate that. While I go through the variances a…the effect is minimized because we meet the setbacks a…there is existing screening along the back property line a…including several other buildings so that minimizes the visual impact. This is an oversized lot so we’re way under on the lot coverage a…and a…it’s not out of character with the neighborhood, based on the architectural style that we’re proposing it’s a…well in conformance as much as possible with the look of the house itself.

Chairperson Cardone: And is there a business being run from this location?

Mr. Brown: No.

Mr. Scalzo: Charlie, if you could as you’re at the left side of the house with…

Ms. Gennarelli: I’m sorry Darrin; you are going to have to pull it (the mic) in. Is it on?

Mr. Scalzo: It is I just wasn’t speaking into it. Thank you.

Ms. Gennarelli: Thank you, thank you.

Mr. Scalzo: As you were the left side of the house if you were looking into the garage on the right the topography generally slopes down towards the rear property line, correct?

Mr. Brown: Yes. It’s very gently sloped downward toward the rear, yes.

Mr. Scalzo: And then after you cross that stonewall does it generally slope up, remain flat or continue down?

Mr. Brown: I think it slopes up from there a...I actually designed the addition for the Zurl’s house many years ago and I’m pretty sure it…it pitches down toward the back there. A…eventually it runs off to the east towards the…or I’m sorry, the west towards the river. Wait a minute; let me get my bearings here. It drains towards the back of the MLB properties, it drains down this way. I actually did this subdivision here too.

Mr. Scalzo: Thank you.

Mr. Manley: I believe that someone from the public…

Chairperson Cardone: Yes, I do too, I was waiting until the Board had finished with their questions and then I was going to invite the public to make comments. Do we have any other questions from the Board at this time? If not, I would ask if there are any members of the public who like to make comments. Yes, please come to the microphone.

Ms. Zurl: I am Lyn Zurl and I am pretty much right behind it. My property slopes way down which is one of the reasons why when you look from any vantage point on my entire whole property most particularly my backyard which is where I spend ninety-nine percent of my time if there is not a blizzard or a monsoon. It looks like there’s a two-story apartment building in the back. I also I don’t understand about the physics of perspective or stuff like that but I know when I look back there you know every…everything seems like it’s on the property line. And but it…it’s the height and for all the vegetation and the foliage you should look at it now, there’s not a leaf on a tree.

Chairperson Cardone: Okay, thank you.

Mr. Manley: Do you have an accessory structure on your property at all?

Ms. Zurl: It’s been there for longer than I’ve been there; it’s like a six by eight.

Mr. Manley: Okay, and about how tall, how high?

Ms. Zurl: Like this (raising her arm up) or maybe a little taller, it’s one…it’s like a little barn roof type thing.

Chairperson Cardone: Maybe ten feet, would you say?

Ms. Zurl: I don’t even think it’s ten probably eight because if I go like this I’m…when I’m inside cause I just did close…I was repairing it a little bit I can touch the very top so it’s like eight feet, no, it can’t be eight feet.

Mr. Manley: This…this particular picture is not yours, correct? Or is it yours? Is that one that we’re speaking of?

Ms. Zurl: I wish, no, that’s not mine.

Mr. Manley: Okay, that’s not yours. Is that your neighbor or…?

Ms. Zurl: I wish that was mine.

Mr. Manley: Okay, yours is smaller than that?

Ms. Zurl: A-huh, mine is like over this way.

Mr. Manley: Okay, thank you.

Ms. DeSantis: I’m Jacquelyn DeSantis and I’m the owner of that shed. It is a shed on pilings, there some space between the wall…the stone wall and the shed and the fence of Lyn’s house. But it’s on pilings and it’s been there a long time. I don’t know how tall it is, it’s just one story, you know one story as a matter of fact I have an eight foot ladder when I stand it up it hits on the…the ceiling and then you’ve got a point after that so…

Mr. Manley: So it might be twelve feet tall?

Ms. DeSantis: Well to the point probably more…or maybe, I don’t know, I never measured it.

Chairperson Cardone: But it’s a one-story?

Ms. DeSantis: Yes, yes.

Ms. DeSantis: Just to reiterate what we said last month about this being a little excessive, the size and the height that’s all.

Mr. Brown: I…I just don’t want the Board to misunderstand where I was coming from on this. What I was saying is that these structures and…and here’s a…a copy of a picture of…of the Zurl shed. They a…block the view from their residence a…this is Zurl’s house and there’s her shed and her shed is in direct line of where we’re putting this garage. That was the point that I was trying to make.

Chairperson Cardone: I don’t think the problem was with having a shed or a garage. I think the problem was the size of the structure rather than the fact of having a shed or a garage.

Mr. Manley: I guess that the question that…that I have for the…for the neighbors that live in the neighborhood if any of them are willing to give some additional input is exactly what the Chair says, it’s not necessarily putting a garage but the concerns that I’m hearing is it’s the height of the garage. If the height maybe wasn’t big you…there wouldn’t be an issue. You…you know, you’d be able to live some size but not so big.

Audience Member Inaudible

Ms. Gennarelli: You have to go to the mic and identify yourself for the record.

Ms. Tarcio: Tracie Tarcio, I live at 38 Devito Drive which is right in front of him. He’s a flag lot so I live right in front of him. And I think it’s the square footage plus he already has a shed there so I just think it’s a lot of square footage and the height on top of it is just too much. And what he said about it being in line with a…the development itself there is no other accessory building that size in our neighborhood. So the height and the size of it, to me, doesn’t…it’s not in line.

Chairperson Cardone: Okay, yes?

Ms. Zurl: If having this building where it’s proposed to be it is way, way, way, way, way closer to all the houses on Linda Drive and Linda Drive than to any of the other homes and home sites in the development proper. It sits way, way back which is the whole thing. It seems like it’s on our property line. I don’t think other than the lady that just spoke who is kind of in front and way lower I don’t even think any of the other people could even hardly see that house or anything but when you stand anywhere on our properties or even right out on Linda Drive it seems like it’s right there.

Chairperson Cardone: Where is your house? Is…is yours on…?

Ms. Zurl: I have the…could I get this thing out of my…I could show you.

Chairperson Cardone: Right.

Mr. Manley: Would that map up there help?

Ms. Gennarelli: Grace, on the corner down here on your paperwork.

Ms. Zurl approached the easel and pointed out her property.

Mr. Scalzo: Yes, yes.

Ms. Zurl: So my house kind of sits right here but I am going a little bit lower. I…I…don’t know maybe I’m using the wrong terminology (inaudible) not my expertise but I call it perspective

Chairperson Cardone: Please use the microphone.

Mr. McKelvey: You can take that off.

Ms. Gennarelli: You can take that off, sorry.

Chairperson Cardone: Now you referred to Linda Drive, I’m asking…you don’t live on Linda Drive though?

Ms. Zurl: Yes.

Chairperson Cardone: You do live on Linda Drive?

Ms. Zurl: Yes, yes. Linda Drive is kind of here and my house is somewhere like here but any place you look I mean it this…I don’t even know who a garage could fit but then again it’s not my expertise but it’s going to be like right in there. And it’s so tall and all…again in the summer there’s foliage but then the leaves come off the trees and it’s…it’s right there and there’s another shed there and two other garages and…but it is…it’s the height thing. I mean we just live in…our houses are all from like the mid ‘60’s, ‘70’s whatever. When a house you know, was like what…? Ten feet tall however I mean not like the…excuse me, but the mc mansions that they make now which is like having a skyscraper in your backyard. So when you look from our little 1960’s ranch houses and whatever it’s like you…

Chairperson Cardone: I am familiar with Linda Drive so I know where that is.

Ms. Zurl: Oh, yeah well I mean it’s a very…it’s an older street…

Chairperson Cardone: Right.

Ms. Zurl: …with older type houses when stuff wasn’t you know, five thousand square feet.

Chairperson Cardone: Okay.

Mr. Scalzo: If…if…if I’m looking at the Bulk Requirements Zone R-3 your rear yard requirement is forty feet, you’re minimum one side yard is fifteen if this lot were undeveloped today the house could go right where that garage is, couldn’t it?

Mr. Brown: That’s correct. Yes, we are meeting the setbacks. We got forty two off the rear line and seventeen and a half off of the sideline. A…I do have a…the GIS aerial a…that shows a…the relationship of all the houses. Mr. Quinones’s is the one a…with the dirt because this was taken when it was newly built but you can see the relationship of…of the other houses on the…on the street behind us. We go back in reverse order.

Mr. Scalzo: Inaudible. And you’re proposing to remove the existing shed, correct?

Mr. Quinones: Yes.

Chairperson Cardone: I have a question for Joe was the shed counted in the total square footage?

Mr. Brown: The shed was counted in the square footage that’s two hundred and forty of it. A…this building that we’re proposing is a hundred and twenty a…twelve hundred square feet a…if a…that’s the desire of the Board, yes, if we have this garage we could remove the shed. There’s enough space in the garage and a…I would…just discussed it with my client we would be willing to the fifteen foot height a…if we a…get granted the variance for the a…the area of the building.

Chairperson Cardone: You’re willing to drop the height you said?

Mr. Brown: To the fifteen foot, yes.

Chairperson Cardone: Okay, because I think that is the issue, the height.

Mr. Brown: Yeah, that is the impression I get too.

Chairperson Cardone: But then you would need to keep the shed? Is that correct? Yes?

Mr. Quinones: Yes.

Mr. Brown: Yes.

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

No response.

Chairperson Cardone: Any other comments from the public?

No response.

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

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

Mr. Masten: I’ll second it.

Ms. Gennarelli: Roll call.

 Richard Levin: Yes

 Michael Maher: Yes

 James Manley: Yes

 John Masten: Yes

John McKelvey: Yes

 Darrin Scalzo: Yes

 Grace Cardone: Yes

Chairperson Cardone: Thank you.

 (Time Noted - 9:28 PM)

ZBA MEETING – OCTOBER 23, 2014 (Resumption for decision: 10:23 PM)

RAYMOND QUINONES 40 DEVITO DRIVE, NBGH

 (23-2-32.2) R-3 ZONE

Applicant is seeking an Interpretation of 185-15-A and/or area variances for the maximum allowed square footage of accessory buildings and the maximum height to build an accessory building (detached garage 40x30x22’8.1”).

Chairperson Cardone: On the application of Raymond Quinones, 40 Devito Drive, first we will vote on the Interpretation of 185-15-A. Do we have discussion on the interpretation?

No response.

Chairperson Cardone: And to refresh your memory a permitted accessory building may be located in a required side or rear yard providing that such building except for farm purposes shall not exceed fifteen feet in height. And it goes on, parts two, three and four and limited to a thousand square feet of a lower number as determined by the formula.

Mr. Donovan: So to make this as simple as possible if you…if you a…wish to a…adopt the interpretation that it would be the variance is not required. If you wish to deny the interpretation a variance is required.

Chairperson Cardone: Well in my interpretation a variance is required. That’s my interpretation but I need to hear from other Board Members and see if we have any kind of a motion.

Mr. Scalzo: My interpretation is that a variance is not required.

Chairperson Cardone: Well I think we have to look at the intent of the Zoning Code and I think that the intent applies to the a…the accessory building. Do we have any kind of a motion? Or do we have any further discussion on it?

No response.

Chairperson Cardone: I think if we look at intent and we look at the many accessory structures that have come before us in the…at least the many years that I’ve been on the Board and that was the interpretation that was used at the time.

Mr. McKelvey: I have to agree with you there, what we’ve done in the past.

Mr. Manley: The Town did a a…Master Plan, they redid the Master Plan back in 2005.

Chairperson Cardone: Right.

Mr. Manley: They started around 2001, 2002 that never came up, especially you know I was on the Town Board at the time, that never came up as an issue, you know, that that was, you know, a problem area. And it’s my understanding that the intent of the Board has always been that a variance would be required for that. That’s just based on my experience.

Chairperson Cardone: Do I have a motion that a…that the interpretation is that a variance is required?

Mr. McKelvey: I’ll make that motion.

Mr. Levin: I’ll second that.

Ms. Gennarelli: Roll call.

 Richard Levin: Yes

 Michael Maher: Yes

 James Manley: Yes

 John Masten: Yes

John McKelvey: Yes

 Darrin Scalzo: No

 Grace Cardone: Yes

Chairperson Cardone: The motion is carried. And now we’ll look at the variance. An area variance for the maximum allowed square footage of accessory buildings and the maximum height to build an accessory building a detached garage 40 x 60 (30) x 22’8.1”.

Mr. Donovan: I believe during the…I’m sorry.

Chairperson Cardone: I just wanted to say this is a Type II Action under SEQRA before I forget to say it.

Mr. Donovan: Okay, I believe during the course of the Hearing a…that the applicant agreed to reduce the height to fifteen feet.

Mr. Brown: That is correct and he will also remove the existing structure from his property. Do you want me to say that into the microphone?

Ms. Gennarelli: Please.

Mr. Brown: That’s correct and he also agreed to remove the existing two hundred and forty square foot. So that would be no height variance and a twenty percent variance on the square footage for the accessory structure.

Mr. Manley: I make a motion we approve.

Mr. Levin: I second.

Ms. Gennarelli: Roll call.

 Richard Levin: Yes

 Michael Maher: Yes

 James Manley: Yes

 John Masten: Yes

John McKelvey: Yes

 Darrin Scalzo: Yes

 Grace Cardone: Yes

Mr. Brown: Thank you for your time.

Chairperson Cardone: The motion is carried. Thank you.

PRESENT ARE:

 GRACE CARDONE

 RICHARD LEVIN

 MICHAEL MAHER

 JAMES MANLEY

 JOHN MASTEN

JOHN MC KELVEY

 DARRIN SCALZO

ALSO PRESENT:

 DAVID A. DONOVAN, ESQ.

 BETTY GENNARELLI, ZBA SECRETARY

 GERALD CANFIELD, CODE COMPLIANCE

 JOSEPH MATTINA, CODE COMPLIANCE

 (Time Noted – 10:31 PM)

ZBA MEETING – OCTOBER 23, 2014 (Time Noted – 9:28 PM)

MICHAEL & ELISA PODLAS 71 COCOA LANE, NBGH

 (34-2-71.31) R-2 ZONE

Applicant is seeking an area variance for no building shall be closer to the fronting street than the main building to keep two prior built accessory buildings (12x24 & 12x24 storage/garages).

Chairperson Cardone: The next applicant Michael and Elisa Podlas.

Mr. Podlas: Good evening my name is Michael Podlas, 71 Cocoa Lane, and I guess we’re trying to move forward with my request for an area variance. I just want to note that since our last meeting I did speak with Mr. Canfield and a…Mr. Campbell at the Building Department and we discussed the measures that I needed to take to move forward with the pool and pool deck a…one of those items was to renew the Permits which I have done and address the girder issue with regards to the span on the footings which I also have pictures. I have taken care of that. I’m just a…we have an inspection dated for Monday, that was the earliest appointment that I can get and a…there’s a couple of other little things like the gate latch and the pool alarm that needed to be addressed besides the girder but the girder was the main issue. I have pictures that I have taken if it helps any.

Mr. Podlas approached the Board.

Mr. Podlas: The top page is the left side of the…if you’re looking at the rear of the pool deck the top page is the left side and the second page is the right side and what I’ve done a…per my suggestion and the…and the Building Department did approve it was I added a four two by ten to the existing girder and a…I was advised I had to have it through bolted a…every sixteen inches on center which I have done with half inch by eight inch galvanized bolts.

Mr. McKelvey: Is this what you agreed to, Jerry?

Mr. Canfield: I’m sorry?

Mr. McKelvey: You agreed this…this is what you…have you agreed to this?

Mr. Canfield: I think this is dead (the mic) and I’m nodding my head.

Mr. Donovan: Let the record reflect that Mr. Canfield nodded in the affirmative to the statement.

Chairperson Cardone: So all Permits are current, is that correct, now?

Mr. Canfield: Yes, let the record show that I nodded my head, yes.

Chairperson Cardone: Yes.

Ms. Gennarelli: Mr. Canfield nodded his head, yes.

Mr. Manley: Madam Chair, would you be looking for a motion at this point?

Chairperson Cardone: Yes, I would be.

Mr. Manley: I would make a motion that we close the Public Hearing.

Mr. McKelvey: I’ll second that.

Ms. Gennarelli: Roll call.

 Richard Levin: Yes

 Michael Maher: Yes

 James Manley: Yes

 John Masten: Yes

John McKelvey: Yes

 Darrin Scalzo: Yes

 Grace Cardone: Yes

Chairperson Cardone: Thank you.

Mr. Podlas: Just I’m not familiar with this; do I wait till the end of the meeting or how to…wait here?

Chairperson Cardone: Right, right now I’m going to call a short adjournment then afterward we will vote on all of the a things that have been before us tonight.

Mr. Podlas: Thank you.

Chairperson Cardone: So you can wait out in the hallway then come back in. Before proceeding the Board will take a short adjournment to confer with Counsel regarding any legal questions raised by tonight’s applications. If I could ask in the interest of time if you could wait out in the hallway and then we’ll call you in shortly.

 (Time Noted - 9:33 PM)

ZBA MEETING – OCTOBER 23, 2014 (Resumption for decision: 10:31 PM)

MICHAEL & ELISA PODLAS 71 COCOA LANE, NBGH

 (34-2-71.31) R-2 ZONE

Applicant is seeking an area variance for no building shall be closer to the fronting street than the main building to keep two prior built accessory buildings (12x24 & 12x24 storage/garages).

Chairperson Cardone: On the next application Michael and Elisa Podlas, 71 Cocoa Lane, seeking area variances no building shall be closer to the fronting street than the main building to keep two prior built accessory buildings (12x24 & 12x24 storage/garages). This is a Type II Action under SEQRA. Do I have discussion on this application?

Mr. McKelvey: Well he did a…finally meet with Code Compliance and I think he straightened everything out.

Chairperson Cardone: And I think even though its closer to the fronting street you really can’t see it from the street and it’s a logical place for it.

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

Mr. Masten: I'll second it.

Ms. Gennarelli: Roll call.

 Richard Levin: Yes

 Michael Maher: Yes

 James Manley: Yes

 John Masten: Yes

John McKelvey: Yes

 Darrin Scalzo: Yes

 Grace Cardone: Yes

PRESENT ARE:

 GRACE CARDONE

 RICHARD LEVIN

 MICHAEL MAHER

 JAMES MANLEY

 JOHN MASTEN

JOHN MC KELVEY

 DARRIN SCALZO

ALSO PRESENT:

 DAVID A. DONOVAN, ESQ.

 BETTY GENNARELLI, ZBA SECRETARY

 GERALD CANFIELD, CODE COMPLIANCE

 JOSEPH MATTINA, CODE COMPLIANCE

 (Time Noted – 10:32 PM)

ZBA MEETING – OCTOBER 23, 2014 (Resumption for decision: 10:32 PM)

ANTHONY ALAN GIANCOLA 613 GIDNEY AVENUE, NBGH

 (76-9-2) R-3 ZONE

Applicant is seeking an area variance for the maximum allowed square footage of accessory structures to build a carport (26 x 30).

Chairperson Cardone: Okay, we had Reserved Decision from the September meeting for Anthony Alan Giancola, 613 Gidney Avenue. At that time he was going to meet with Mr. Canfield it was my understanding. Did that meeting happen, Mr. Canfield?

Mr. Canfield: We haven’t heard anything. He hasn’t come by and seen us.

Chairperson Cardone: Well we still have sixty-two days.

Ms. Gennarelli: By the next meeting it will be sixty-one so…

Chairperson Cardone: Right, but we can Reserve the Decision till then…

Ms. Gennarelli: The decision was Reserved but it can be held over till then, reserved held over.

Chairperson Cardone: Right.

Mr. Manley: The only thing is we don’t have anything from the applicant requesting such.

Mr. Donovan: We don’t need it.

Chairperson Cardone: We don’t need it.

Mr. Donovan: By…by law we have sixty-two days not to…all right so you’re motion is to reserve are unnecessary but put something on the record that we currently decided to wait but you don’t have to, you have sixty-two days, by law.

Chairperson Cardone: So we’ll see if he…

Mr. McKelvey: If he shows up.

Chairperson Cardone: …see if we see him next month or if Mr. Canfield sees him.

Mr. Canfield: Thank you.

PRESENT ARE:

 GRACE CARDONE

 RICHARD LEVIN

 MICHAEL MAHER

 JAMES MANLEY

 JOHN MASTEN

JOHN MC KELVEY

 DARRIN SCALZO

ALSO PRESENT:

 DAVID A. DONOVAN, ESQ.

 BETTY GENNARELLI, ZBA SECRETARY

 GERALD CANFIELD, CODE COMPLIANCE

 JOSEPH MATTINA, CODE COMPLIANCE

 (Time Noted – 10:34 PM)

ZBA MEETING – OCTOBER 23, 2014 (Resumption for decision: 10:35 PM)

JIN KANJANAKIRITUMRONG-GRABEK 349 MEADOW AVENUE, NBGH

 (66-2-3) I / B ZONE

Applicant is seeking a use variance to allow a personal service business in an I / B Zone to convert an existing single-family dwelling into a hair salon.

Chairperson Cardone: On Grabek I have a letter from Darren Doce. Ms. Grabek requests that you Reserve your Decision on the use and area variance for the above referenced parcel and place her application on next month’s agenda. At the October 15, 2014 (Town) Board meeting a local law was introduced that would allow personal service establishments in the I/B zone. Ms. Grabek requests you reserve your decision in order to see how the process with the Town Board develops. Is that true?

Mr. McKelvey: They didn’t do anything at the last Town Board meeting because I was there.

Mr. Donovan: Well, if I can, I spoke to the…the attorney that appeared at the last meeting Dan Sullivan today. He indicated that they were going to ask for this and I said that that was kind of anticipated based upon what was discussed with Vince Doce at the last meeting but I requested that they provide a letter indicating that they were waiving the sixty-two day requirement. So if we went past sixty-two days we wouldn’t have to vote. This letter does not do that.

Ms. Gennarelli: He called me today, Doce and we discussed how many days it was so I had said to him he didn’t have to request it at this one if he wanted to either next month or that’s when the sixty-one days would be.

Mr. Donovan: It would have been easier for him to do it now because it…it puts a bullet to his head or to our head but it’s going to end up the gun is going to be turned around.

Ms. Gennarelli: Well, that…

Chairperson Cardone: Well he would have to…he would have to request…he would have to request it by the next meeting.

Ms. Gennarelli: Okay. Okay.

Mr. McKelvey: He’s just waiting for the Town Board to do something.

Mr. Donovan: Well I think that they can read tea leaves so.

PRESENT ARE:

 GRACE CARDONE

 RICHARD LEVIN

 MICHAEL MAHER

 JAMES MANLEY

 JOHN MASTEN

JOHN MC KELVEY

 DARRIN SCALZO

ALSO PRESENT:

 DAVID A. DONOVAN, ESQ.

 BETTY GENNARELLI, ZBA SECRETARY

 GERALD CANFIELD, CODE COMPLIANCE

 JOSEPH MATTINA, CODE COMPLIANCE

 (Time Noted – 10:38 PM)

ZBA MEETING – OCTOBER 23, 2014 (Resumption for Decision – 10:35 PM)

JIN KANJANAKIRITUMRONG-GRABEK 349 MEADOW AVENUE, NBGH

 (66-2-3) I / B ZONE

Applicant is seeking area variances for the lot area, the lot width, one side yard setback, the combined side yards setback and accessory structures setback to convert an existing single-family dwelling into a hair salon in an I / B Zone.

**Same minutes used for both the use variances and the area variances**

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 (Time Noted – 10:38 PM)

ZBA MEETING – OCTOBER 23, 2014

END OF MEETING (Time Noted – 10:38 PM)

Chairperson Cardone: Do we have anything else? Anybody, aside from the Minutes? Has everybody seen the minutes from last month? Do I have a motion to approve the minutes?

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

Mr. Scalzo: Second.

Chairperson Cardone: All those in favor say Aye?

Aye - All

Chairperson Cardone: Opposed?

No response.

Chairperson Cardone: Do we have a motion to adjourn?

Mr. McKelvey: So moved.

Mr. Maher: Second.

Chairperson Cardone: All in favor say Aye?

Aye All

Chairperson Cardone: Opposed?

No response.

Chairperson Cardone: The meeting is adjourned.

PRESENT ARE:

 GRACE CARDONE

 RICHARD LEVIN

 MICHAEL MAHER

 JAMES MANLEY

 JOHN MASTEN

JOHN MC KELVEY

 DARRIN SCALZO

ALSO PRESENT:

 DAVID A. DONOVAN, ESQ.

 BETTY GENNARELLI, ZBA SECRETARY

 GERALD CANFIELD, CODE COMPLIANCE

 JOSEPH MATTINA, CODE COMPLIANCE

 (Time Noted – 10:40 PM)