ZONING BOARD OF APPEALS

MEETING – OCTOBER 24, 2013

(Time Noted – 7:01 PM)

Mr. McKelvey: I’d like to call the meeting of the ZBA to order. The first order of business is the Public Hearing scheduled for today. The procedure of the Board is that the applicants will be called upon to step forward, state the 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 extended (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 that they were heard. The Board will try to render a decision on all applications this evening; but the Board may have up to 62 days to reach a determination. I would ask if you have a cell phone to please put it on silent or turn it off. And I'd also state that the Board Members have all made visits to the sites we will be discussing tonight. And also when speaking, speak directly into the microphone it is being recorded.

PRESENT ARE:

 JOHN MC KELVEY

 MICHAEL MAHER

 JAMES MANLEY

 JOHN MASTEN

 ROSEANNE SMITH

ABSENT:

GRACE CARDONE

ALSO PRESENT:

 DAVID A. DONOVAN, ESQ.

 BETTY GENNARELLI, ZBA SECRETARY

 GERALD CANFIELD, CODE COMPLIANCE

(Time Noted – 7:03 PM)

ZBA MEETING – OCTOBER 24, 2013 (Time Noted – 7:03 PM)

CPK UNION LLC. (SHOPPES AT UNION) 1217 ROUTE 300, NBGH

 VITAMIN SHOPPE (96-1-11.1) I B ZONE

Applicant is seeking an area variance for the maximum allowed signage to install two signs on the building.

Mr. McKelvey: The first application tonight CPK Union LLC. - Vitamin Shoppe.

Ms. Gennarelli: Just one second, I left my other sheet in the office I’m going to have to wing it. I apologize. Okay, the Public Hearing Notices for all the new applications being heard this evening were published in the Mid-Hudson Times on Wednesday, October 16th and The Sentinel on Friday, October 18th. This applicant we had a problem with the mailings, they sent out fourteen but there was a mistake in the notices and in the publications. So Dave…

Mr. McKelvey: So tonight we will hold the Hearing but we won’t be able to vote on it until next month.

Ms. Medina: I’m aware of that. Well the reason why I am here I’m applying for…

Ms. Gennarelli: Excuse me, can you just identify yourself?

Ms. Medina: Well, I’m sorry. My name is Gisella Medina; I come from CAD Signs representing the Vitamin Shoppe. The reason we are applying for a variance is because the Vitamin Shoppe wants to add two additional “V” logos to the towers, illuminated logos at twenty-four a…twenty-seven square feet. Just because the current sign that they have is not illuminated and is not so visible plus its low a…and this is the reason why it’s to gain visibility at nighttime, daytime for…for the business.

Mr. McKelvey: Any questions from the Board? Is this sign going to be illuminated?

Ms. Medina: Yes.

Ms. Smith: The other signage is not illuminated?

Ms. Medina: No. I was just there now and it’s like…you can barely see it at night, at all.

Mr. McKelvey: That’s the one along the…?

Ms. Medina: Yes, yes.

Mr. Manley: Now you’re aware that the total…total signage maximum is nine hundred and four square feet…

Ms. Medina: Right.

Mr. Manley: …and there’s already been approved one thousand three hundred and thirty-three point five square feet that were allotted above and beyond what the Code presently allows. So now you’re asking for another variance…?

Ms. Medina: An additional twenty…

Mr. Manley: …fifty-four, for fifty-four…twenty-seven and twenty-seven?

Ms. Medina: Twenty-seven and twenty-seven, correct.

Mr. Manley: Now in that one thousand three hundred and thirty-three point five square feet does that include the signage that’s on the main sign that’s out by the road on the marques?

Ms. Medina: The one on the…by the pylon?

Mr. Manley: Pardon?

Ms. Medina: On the pylon sign do you mean?

Mr. Manley: Yes.

Ms. Medina: I am assuming that, yes. I’m not too sure because I just come for the additional variance. I…you know, I got the denial and I read that part but I’m not too sure if that pylon sign is included on that one thousand thirty-three square footage that we currently have.

Mr. McKelvey: Is that included, Jerry? Do you know?

(Inaudible)

Ms. Gennarelli: Joe gave us a list.

Mr. McKelvey: The pylon sign is that included?

Mr. Canfield: I’m not sure if it was in their calculations but I do have some questions.

Ms. Medina: Okay, I’m sorry to interrupt; we have Jon Radlove from the Vitamin Shoppe representing the Vitamin Shoppe directly so he may be able to answer that.

Mr. Jon Radlove: Good evening, I work directly with the landlord.

Mr. McKelvey: Speak directly into the mic please.

Mr. Radlove: Good evening I’m Jon Radlove from the Vitamin Shoppe, I’m the construction manager and when we worked with the landlord that additional monument signage was part of his signage package I believe, for his whole plot of land for his restaurant, I guess a future tenant that’s coming next to me. I believe it’s a bakery and myself as well. Now the other reason we’re requesting this is not just for ourselves but I’m under the impression that the rest of that plot is being developed in the near future. Being able to show everybody that there’s retail shops and giving a little bit more visibility to the entire center would will benefit everybody not just The Vitamin Shoppe including the current restaurant and deli or bakery whatever the neighboring tenant finalizes being. I haven’t visited the site in…since it was constructed in March so I’m not sure if the neighboring tenant is open for business or erected their signage.

Mr. Maher: So when the…when the proposed construction was when the sign package that was put together originally that was approved by the Vitamin Shoppe?

Mr. Radlove: Correct, that was approved by corporate approval and then we submit to the Towns a...the landlord also approves what we submit and I believe he’s provided a letter saying he agrees with our, you know, with our current renderings and with what we propose to do to enhance his building. Whenever we apply for signage we have to have landlord permission because we don’t technically own the building.

Mr. Maher: No, I understand that but generally speaking there’s corporate minimums that are required and obviously when the…when the first proposal was put forth I assume that met the requirements at the time.

Mr. Radlove: It met our corporate requirements at the time but it was less than what we would prefer. I mean obviously we wanted to be in the Town of Newburgh so even though the sign Code was a little bit restrictive for what we would prefer obviously because it…it's a prospering town and somewhere where we want to do business we obviously always have a give-and-take with what we accept and allow. I mean, similar to when we build in Boston or towns along those lines and they have BRE’s and…and, you know, the signage boards are even more restrictive Codes then…then what the Town of Newburgh has. So our…our corporate…I guess the simple answer is we’re flexible. It's a…it’s a floating line for what our corporate requirements are for every location. Obviously we’d like to add the signage simply to enhance. If we have to continue doing business as is of course we will course. We signed the lease, we’re in it for the long term because we think Newburgh and our store can profit together, you know, as we grow our business. I mean, obviously if this…if this store takes off and does really well we’re 700 stores strong we’re looking at 1200…1400 stores before we stop building new. The Town of Newburgh obviously is…is another place where we would be willing to put two - three stores and neighboring towns as well just simply because it would be beneficial if this store does well.

Mr. Maher: I guess my…my question would be then if in fact the issue is only that it's not illuminated and not visible at nighttime what would preclude you from just lighting the current sign and not have to add?

Mr. Radlove: That would be beneficial, absolutely. That wasn't what was approved originally. I would also have to go back to the landlord because some of that would require his approval before…because I'm not changing that currently we're just adding the “V’s”. So I'm assuming some of his objection might have been to the illuminated signs with his neighboring tenants because they hang so low on the building so it nighttime hours it would cast quite aglow on the sidewalk directly. What would be my assumption as to why we discussed not illuminating and just wall sconce lighting.

Ms. Smith: So the signage along the wall will not have a spotlight on it?

Mr. Radlove: It…it does currently have some wall sconces that help illuminate it but…

Ms. Smith: Right.

Mr. Radlove: …wall sconces never illuminate signs at nighttime perfectly because there are shadows and things along those lines but those will not change those will remain as they currently sit right now. It will be just the…the logo “V” up in the tower that will be illuminated. If you…if you've driven by the property, which I'm assuming everybody here has, you know that the building is little bit setback off of the street a…with ample parking for a lot of future retail but a you know that would benefit me as well as anybody. The more traffic the better.

Mr. Canfield: Mr. Chairman, I do have a few questions.

Mr. McKelvey: Go ahead.

Mr. Canfield: Typically, well first let me back up and say that this is a proposed project that’s been before the planning board for several years a…I believe the site plan goes back to 2007.

Mr. Radlove: Yes sir, that is correct. That is correct.

Mr. Canfield: A…and…and this project has had several different tenants and…and different proposals. The…the approved site plan and I believe Mr. Manley had mentioned it a…it calls for future buildings. There's a couple of other commercial occupancies that are proposed for the site. The signage calculations at that time a…were granted for a larger amount than was permitted even though it's a corner lot. At the time there was a comprehensive signage plan that was part of the site plan that I believe the Zoning Board and the planning board both approved at that time. And I think as recent as 2012 they got back before this Board and…and got the variance for the total signage package. With that being said my question is is that this applicant the Vitamin Shoppe is looking for a variance above and beyond what was approved on the comprehensive signage plan because the total signage square footage for the site has not been used yet because the other two buildings have not been built yet. To…if I can finish…typically what happens with these multiple building on a site the signage always becomes…the signage Ordinance becomes a free-for-all and it's first come first serve and the last one in is the one that's left with the burden of oh my gosh I need more signage. That's not the case here but just for clarification for the Board I believe, what they're asking for is a variance above and beyond what was approved and allotted for that location. And again for further clarification my understanding that the signage that's proposed here are the two large “V’s” two sides of the tower which I think they're about 27 sq. ft. each so that would be like 100 or 54 sq. ft. total is what you're asking for. A…the existing sign does say The Vitamin Shoppe, it is illuminated. I think they’re looking for the additional two “V’s” on the tower. But I think it should be clear for the Board that they're asking for a variance to what was approved for your location. Is that correct?

Mr. Radlove: For my location when I originally permitted, as far as a comprehensive sign plan that was submitted for the landlord involving future retail I would have to review my documents to answer that question accurately and probably have to discuss it with the landlord. There was a sign plan I know put before the Board. What that totally encompassed I'm not positive. For the sign code said and what the landlord approved I am asking above and beyond for what I originally submitted, yes. I originally submitted to the landlord…

Mr. Canfield: If I can, just interrupt you? You should be perhaps addressing the Board. I just raised the question for the Board’s benefit but…

Mr. Radlove: Okay, absolutely…

Mr. Canfield: …your exchange should go through the Board.

Mr. Radlove: …absolutely, I’m sorry sir. I am asking originally I submitted these two signs that are currently on my building based on what sign code allowed. I am now submitting and the landlord approved that submission. I have since wanted to increase the signage on both towers by a total of 54 sq. ft. from what I originally submitted to the landlord and to this Board. The landlord has already agreed to allow me to install these “V’s” but it requires the sign code to be adjusted to allow me the additional 54 sq. ft. If that infringes on a total comprehensive sign plan at this time I'm unaware of that. I could find out the answer but I don't have that now what the…how that would affect that total sign package that might've been approved when the landlord submitted his entire package.

Mr. Donovan: And I do think that issue is important because my recollection is the same as Jerry's is that we approved an overall signage package for the…for the site as to be built and if we start now doing it on a piecemeal fashion obviously there's other buildings to be built, there's other tenants to come in. Then the issue would be as you frequently ask me, is what we're doing setting a precedent? And I think you would have to consider that if in fact you were to increase the total allowable signage for the site presently with regard to this application when Jerry just confirmed that my understanding is accurate. There's other buildings to be built, other signs to be constructed in this area.

Mr. Canfield: Yes I also might add that…

Mr. Radlove: A…did that answer the first part of your question? I'm just…

Mr. Canfield: …the comprehensive plan that was submitted a…did take into consideration the Vitamin Shoppe. It wasn't just tenant to be proposed so the comprehensive signage and I have a copy here…

Mr. Radlove: Yeah, yes sir and we were…

Mr. Canfield: Okay.

Mr. Radlove: …we were in from ground one. We were the initial tenant discussing this location with the landlord in developing this property from the start. So yes, I…I'm assuming we were considered but our sign package, if you also notice, from the initial sign package that was submitted back then our brand has changed, our look has changed and…and because of the way we do our sign now and the way it's installed it…it takes up more square footage without really illuminating or broadening the view of our sign. It's just a look that our marketing and the demographic that we wanted to go after decided to do. So unfortunately, for me, it takes up more square footage on a building to install this type of sign then what my other signs used to take up with the same visibility factor, I guess for lack of a better…

Mr. Maher: Let…let me muddy the waters. Is it safe to say the east and north elevation are the same size signs you have currently on the building?

Mr. Radlove: Yes sir.

Mr. Maher: Very close, I mean…

Mr. Radlove: Yes sir.

Mr. Maher: And going to say roughly about 25 or 30 feet long and about three foot high?

Mr. Radlove: Yes sir.

Mr. Maher: Okay. So your approval was for 81 sq. ft. on the east elevation and 26 on the north.

Mr. Radlove: Okay. I…I…I would…

Mr. Maher: Is that correct?

Mr. Radlove: …I would have…I would have to go back and look…

Mr. Maher: It’s on your submission so…

Mr. Radlove: Absolutely I…I…I don't have that in front of me.

Mr. Maher: So my question is if both of them are the same size and they’re roughly about 75 to 80 sq. ft. apiece and the approval was only for 170 to begin with total, that kind of adds to the issue of you already over it and you, basically your testimony minute ago you said that you’re new signage actually takes up more square footage than originally planned so…

Mr. Radlove: But that was from what was submitted back in 2007.

Mr. Maher: No, I understand...

Mr. Radlove: I'm sure that has been adjusted and…throughout the...

Mr. Maher: But based on the information we have here both signs were, according to you, and from driving by, again 25 to 30 foot long about two and a half to three foot high. You approval is for 81 sq. ft. on one and 26 on the other so obviously there’s about sixty or fifty five square feet that’s in addition to already been utilized that wasn’t on the original plan…

Mr. Radlove: Correct.

Mr. Maher: …and now we have an additional 54…

Mr. Radlove: Correct.

Mr. Maher: …54…for yourselves so obviously if in fact, you know, the Board’s inclined or discuss the…the “V’s” we also have to look now at the overall square footage of the original sign that was placed on the north elevation that's obviously above the square footage allotted prior.

Mr. Radlove: There was already a variance granted for that additional square footage prior to this request from what I understand. Am I correct? I'd have to go back and look at my documents once again.

Mr. Maher: So are you saying above and beyond...

Mr. Radlove: This this would be my second variance for this location based on the original sign code we submitted an additional variance to have the sign that is directly on the main drive increased and left the side sign alone. So there was already one variance granted for this property.

Mr. Maher: Right, the current one on the east elevation which is facing Route 300 is for 81 sq. ft. which is about the sign of the size you have now.

Mr. Radlove: Right.

Mr. Maher: So I guess my…my question is for the north elevation based on the information provided you have 26 allowed that's what I'm questioning.

Mr. McKelvey: Is there anybody from the public want to…here to speak on this?

No response.

Mr. Donovan: Well as indicated before the a…mailing actually reflected inaccurate address for the property so I believe Betty that they are going to re-notice with the…

Ms. Gennarelli: I re-noticed already and…

Mr. Donovan: …publish…

Ms. Gennarelli: …yes, I am going to publish, yes.

Mr. Donovan: Okay, okay. So what I would suggest is a motion from the Board just to continue the Public Hearing to the November twenty…whatever…what meeting is that.

Ms. Gennarelli: 26th.

Mr. Donovan: November 26th.

Ms. Gennarelli: Tuesday, November 26th.

Mr. Donovan: And that is a Tuesday…Tuesday before Thanksgiving.

Mr. Manley: I would make a motion that the Public Hearing be held open to the November 26th meeting.

Mr. Masten: I’ll second it.

Ms. Gennarelli: Roll call.

 Michael Maher: Yes

 James Manley: Yes

 John Masten: Yes

 Roseanne Smith: Yes

 John McKelvey: Yes

Mr. Maher: I would just, in adding I would just make sure that at the next meeting that you have the information about both signs existing and if in fact a variance was granted for that north elevation that we have the information in hand so that we can have the overall square footage that exists versus what was approved and what you’re actually looking for.

Mr. Radlove: Absolutely. Thank you for your time.

PRESENT ARE:

 JOHN MC KELVEY

 MICHAEL MAHER

 JAMES MANLEY

 JOHN MASTEN

 ROSEANNE SMITH

ABSENT:

GRACE CARDONE

ALSO PRESENT:

 DAVID A. DONOVAN, ESQ.

 BETTY GENNARELLI, ZBA SECRETARY

 GERALD CANFIELD, CODE COMPLIANCE

 (Time Noted - 7:22 PM)

ZBA MEETING – OCTOBER 24, 2013 (Time Noted – 7:22 PM)

FRANCISCO MIRANDA 6 KNIGHTS CIRCLE, NBGH

 (108-4-17) R-1 ZONE

Applicant is seeking area variances for one side yard setback, the combined side yards setback and for increasing the degree of non-conformity of the front yard setback to build a 2-story garage addition (24’ x 25’) on the residence.

Mr. McKelvey: Next we have a…Francisco Miranda.

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

Mr. Johnson: Good evening ladies and gentlemen, we’re here for an addition to the existing house…

Mr. Donovan: I’m sorry, just if…for the record because we keep minutes and everything if you could your name, address.

Mr. Johnson: Floyd Johnson with Finer and Associate.

Mr. Miranda: Francisco Miranda from 6 Knights Circle.

Mr. Donovan: Thank you.

Mr. Johnson: We’re here to apply for a variance a…for the side yard to add a two-car garage and an upper level with a bedroom, bath and TV room.

Mr. McKelvey: And the addition is where…where the driveway goes in, right?

Mr. Johnson: Yes. The addition would be exactly right where that driveway ends that’s where it would end, where the existing driveway is. So doing…we’re I guess shy 10.4 feet of meeting the variance.

Mr. McKelvey: Questions from the Board?

Mr. Johnson: The existing…the existing house is quite small. It’s 1600 sq. ft. Right now it has two small bedrooms, small bath, the kitchen is sort of small and the dining room is sort of small too. So we have four adults who are living in the house. Two daughters are living with you now, right?

Mr. Miranda: Yes.

Mr. Johnson: The two daughters are there and we just have a...two bedrooms existing.

Mr. Johnson: Yes.

Mr. Donovan: Jerry, I noticed the other side yard is…is non-conforming now. Do we know when the house was built or was there a Zone change there?

Mr. Canfield: Yes, I believe that area was changed.

Mr. McKelvey: Any more questions?

No response.

Mr. McKelvey: Anyone from the public?

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

Ms. Smith: Second.

Ms. Gennarelli: Roll call.

 Michael Maher: Yes

 James Manley: Yes

 John Masten: Yes

 Roseanne Smith: Yes

 John McKelvey: Yes

Mr. McKelvey: We just closed the Hearing.

Ms. Gennarelli: They closed the Hearing and then they are going to come back and vote.

Mr. Johnson: Okay.

 (Time Noted - 7:26 PM)

ZBA MEETING – OCTOBER 24, 2013 (Resumption for decision: 9:16 PM)

FRANCISCO MIRANDA 6 KNIGHTS CIRCLE, NBGH

 (108-4-17) R-1 ZONE

Applicant is seeking area variances for one side yard setback, the combined side yards setback and for increasing the degree of non-conformity of the front yard setback to build a 2-story garage addition (24’ x 25’) on the residence.

Mr. McKelvey: We will resume our meeting.

Ms. Gennarelli: One moment John, it’s got to boot up, the computer is not as fast as you.

Mr. Donovan: The later it gets the harder it is to boot up, isn’t it?

Ms. Gennarelli: No, it’s always very slow. Okay, now I’m ready.

Mr. McKelvey: Okay, we’re ready to resume a…the first item here is Francisco Miranda, an area variance for one side yard setback, the combined side yards setback and for increasing the degree of non-conformity on the front yard setback to build a 2-story garage addition (24’ x 25’) on the residence. Do we have any comments from the Board?

Mr. McKelvey: Do we have a motion?

Mr. Masten: I'll make a motion.

Mr. Manley: Second.

Ms. Gennarelli: Is that a motion to approve?

Mr. McKelvey: That’s what I was going to ask.

Ms. Gennarelli: Is that a motion to approve?

Mr. Masten: Yes.

Mr. Manley: Second.

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

Ms. Gennarelli: Thank you John. Roll call.

 Michael Maher: Yes

 James Manley: Yes

 John Masten: Yes

 Roseanne Smith: Yes

 John McKelvey: Yes

PRESENT ARE:

 JOHN MC KELVEY

 MICHAEL MAHER

 JAMES MANLEY

 JOHN MASTEN

 ROSEANNE SMITH

ABSENT:

GRACE CARDONE

ALSO PRESENT:

 DAVID A. DONOVAN, ESQ.

 BETTY GENNARELLI, ZBA SECRETARY

 GERALD CANFIELD, CODE COMPLIANCE

 (Time Noted – 9:17 PM)

ZBA MEETING – OCTOBER 24, 2013 (Time Noted – 7:26 PM)

STEVEN & RITA ALEXANDER 7 MANZO ROAD, NBGH

 (7-1-27) A / R ZONE

Applicant is seeking area variances for the maximum allowed square footage of accessory buildings, the accessory building shall not project closer to the fronting street than the main structure and the maximum allowed storage for not more than (4) four vehicles to build an accessory building (64’ x 26’).

Ms. Gennarelli: The next one is Alexander, John.

Mr. McKelvey: Next is Steven and Rita Alexander.

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

Mr. Alexander: Hi, good evening, I’m Steve Alexander; this is my wife Rita Alexander. And our intention was to build a garage 64 feet by 26 feet on the site of where the old garage used to be.

Ms. Gennarelli: Steven, I’m sorry, could you just tilt it (the mic) up a little bit more so it picks up?

Mr. Alexander: Okay?

Ms. Gennarelli: That’s good. Yeah.

Mr. Alexander: Is that better?

Ms. Gennarelli: Yes, thank you.

Mr. Alexander: So, you know, we’re applying for variances one for proximity to the frontage, a…and the other for the size, the size of accessory buildings on the property. It’s an old apple orchard and a…the a…there’s actually an easement out to the road so there’s really no frontage but it…it’s two hundred and sixty feet from the southerly line and about five hundred feet from Merritt Lane which is the nearest street, not really visible. There is no other garage on the property and we bought the home in 2011 with the intention of building a garage. We just have our own personal vehicles and quite a number of household type items to store. We moved from a home that was four thousand square feet, this one is about eighteen hundred. Kids have grown but we still have things with us. A couple of personal vehicles, a lot of garden, yard things like that, that’s what we intend to put in there, personal use.

Mr. Maher: Would you be keeping the accessory building, the 9’6 x 10’ building or would that be coming down?

Mr. Alexander: No, the shed is there, it’s in…the block…it’s a block shed, it’s in decent shape. You know, we’ve cleaned it up a little bit, thought we might keep something there.

Ms. Smith: Will there be any kind of services going into this garage, such as water, plumbing, electric?

Mr. Alexander: A…you know, we have not planned on that at this point. It’s a post frame construction, I have been giving some thought to a solar system to provide some electricity but right now we don’t have any plans for services.

Mr. Donovan: I’m sorry, I wasn’t at the property, is this there? Did you already build it? Is it already there?

Mr. Alexander: No, no.

Ms. Smith: No.

Mr. McKelvey: No.

Mr. Alexander: No, no, it’s an existing slab and foundation. The old one fell.

Mr. Donovan: Yeah, I’m just; Joe’s notes indicated 64 x 26 pole barn located on existing slab foundation that just confused me.

Mr. Maher: When did you say that the garage collapsed?

Mr. Alexander: Before we bought the property, they said there was a snowstorm in February of 2010. It was a…a cinderblock construction.

Mr. Donovan: What’s going to be in the structure?

Mr. Alexander: Inside it? We have two leased vehicles and one other car that I own. Two cars that we use…

Mr. Donovan: Let me just ask, do you intend or do you want to have more than four vehicles in there?

Mr. Alexander: No.

Mr. Donovan: And, and the reason for the request is because the size of the structure, there’s a provision in the Code that says you can’t have more than four so it actually gets to us as a request for more than four so what I would suggest to the Board if it’s not a request for more than four we don’t grant that variance. We actually would strike that and indicate that he can’t have more than four.

Mr. Alexander: We’re okay with that.

Mr. Donovan: Okay.

Mr. McKelvey: Any more questions? Anybody from the public?

No response.

Mr. Canfield: John.

Mr. McKelvey: Yes, Jerry.

Mr. Canfield: I…I have one question a…the plan that was submitted indicates an encroachment of a garage 11.21 feet, four…four foot eighteen inches a…that’s the neighbors or do you own that parcel as well or no?

Mr. Alexander: This is eleven feet onto our western property line?

Mr. Canfield: Yes.

Mr. Alexander: Yeah, that’s a structure that belongs to the neighbor.

Mr. Canfield: And that was like that when you purchased?

Mr. Alexander: Yes.

Mr. Canfield: My question Dave, does that present an issue at all or…?

Mr. Donovan: Yes, it presents an issue. Does it present an issue that we need to address in terms of our variance? I wouldn’t think so. No. That’s…

Mr. Canfield: Okay.

Mr. Donovan: …a private issue between…it may become an issue for your department I guess, Jerry because now it’s too close to the lot line and it’s technically a violation, I suppose. But it would be the neighbor’s violation not the Alexander’s violation.

Mr. Canfield: I…I…I kind of thought you were going to say that.

Mr. Donovan: Okay. You might want to tell your neighbors, if they can…if it’s movable it might make their life a little easier before Mr. Canfield’s department gets out there and…

Mr. Alexander: If he waits another two years it will be gone, it’s going down.

Mr. Donovan: Oh, okay, let’s hope it doesn’t fall on your property though.

Mr. Alexander: It’s sliding down the hill into his property.

Mr. McKelvey: Do we have a motion to close the Hearing?

Ms. Smith: I’ll make a motion.

Mr. Masten: I’ll second it.

Ms. Gennarelli: Roll call.

 Michael Maher: Yes

 James Manley: Yes

 John Masten: Yes

 Roseanne Smith: Yes

 John McKelvey: Yes

Mr. Alexander: Thank you.

Ms. Gennarelli: The Hearing is closed. They are going to come back and vote. They just closed the Hearing. They are going to come back and vote.

Mr. Alexander: Tonight?

Ms. Gennarelli: Tonight.

Mr. McKelvey: Tonight, yes.

Ms. Gennarelli: It’s up to you whether you leave or not.

Mr. Alexander: Okay.

Ms. Gennarelli: But they haven’t voted on it yet they just closed the Public Hearing so…okay, okay.

 (Time Noted - 7:34 PM)

ZBA MEETING – OCTOBER 24, 2013 (Resumption for decision: 9:17 PM)

STEVEN & RITA ALEXANDER 7 MANZO ROAD, NBGH

 (7-1-27) A / R ZONE

Applicant is seeking area variances for the maximum allowed square footage of accessory buildings, the accessory building shall not project closer to the fronting street than the main structure and the maximum allowed storage for not more than (4) four vehicles to build an accessory building (64’ x 26’).

Mr. McKelvey: The next is Steven and Rita Alexander area variance for the maximum allowed square footage of access (accessory) buildings and access (accessory) building shall not project closer to the front yard (fronting) street than the main structure and the maximum allowed storage for not more than (4) four vehicles to build an accessory building (64’ x 26’).

Mr. Donovan: As I understand from the conversation this evening with the applicants a…there is no request for the storing of more than 4 vehicles so that variance…that request is withdrawn and if you’re inclined to grant the variance there would be a condition that they not store more than four vehicles.

Ms. Smith: I’ll make a motion to grant the variance with the condition they cannot store more than four vehicles.

Mr. McKelvey: Do we have a second?

Mr. Maher: Second.

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

Ms. Gennarelli: Roll call.

 Michael Maher: Yes

 James Manley: Yes

 John Masten: Yes

 Roseanne Smith: Yes

 John McKelvey: Yes

PRESENT ARE:

 JOHN MC KELVEY

 MICHAEL MAHER

 JAMES MANLEY

 JOHN MASTEN

 ROSEANNE SMITH

ABSENT:

GRACE CARDONE

ALSO PRESENT:

 DAVID A. DONOVAN, ESQ.

 BETTY GENNARELLI, ZBA SECRETARY

 GERALD CANFIELD, CODE COMPLIANCE

 (Time Noted – 9:18 PM)

ZBA MEETING – OCTOBER 24, 2013 (Time Noted – 7:34 PM)

ADAM & SANDRA SHAPIRO 307 LAKESIDE ROAD, NBGH

 (50-1-17) R-1 ZONE

Applicant is seeking area variances for increasing the degree of non-conformity of one side yard setback, the combined side yards setback and lot building coverage to keep the prior built left side enclosed non-conforming porch and area variances for one side yard setback, the combined side yards setback, the maximum lot building coverage and the maximum lot surface coverage to continue building the front addition (4 x 8) on the residence.

Mr. McKelvey: Next on the agenda is Adam and Sandra Shapiro.

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

Mr. McKelvey: Say your name.

Mr. Shapiro: My name is Adam Shapiro, this is my wife Sandra, we reside at 307 Lakeside Road here in Newburgh. Tonight we’re a…we’re seeking a variance, actually two variances, for one a prior built screened in porch which we enclosed and converted into a toy room and we’re also looking to a…add a 4 x 8 addition onto our existing property for a mudroom and a small entryway.

Ms. Smith: When did you close in the existing porch?

Mr. Shapiro: The existing porch was closed in in 2003.

Ms. Smith: 2003?

Mr. Shapiro: Yeah, around that time.

Mr. Donovan: When did you buy the house?

Mr. Shapiro: In a…September of 2002, I believe, yeah. Yeah.

Mr. McKelvey: Was the porch…was there a Permit to close the porch?

Mr. Shapiro: No, we didn’t…no we never got a Permit to do that.

Mr. Maher: Did you extend the porch or just enclose it?

Mr. Shapiro: We just…we just enclosed the porch.

Mr. Donovan: Now there’s a number of variances that you’ve requested and some of them are fairly substantial especially with regard to the combined side yard and the one side yard but would you say what you’re proposing to do is consistent with the other homes around Orange Lake?

Mr. Shapiro: There’s…there’s been work in the past, I mean our neighbors a…

Mr. Donovan: But in terms of distance beside…you…you provided…

Mr. Shapiro: Yeah.

Mr. Donovan: …a survey prepared by Dan Yanosh and I see that neighbors on either side have their homes very close to your property line…

Mr. Shapiro: Yeah, yeah.

Mr. Donovan: So, my just my question is would it be consistent? Having that narrow a side yard would be consistent with the rest of the neighborhood?

Mr. Shapiro: Yes, correct.

Mr. McKelvey: It’s very close.

Ms. Smith: Yes.

Mr. Shapiro: Our properties are very close, yeah.

Ms. Smith: Long, long and narrow.

Mr. Shapiro: Yes. Long and narrow. Yes.

Mr. McKelvey: I have two letters here a…

We’re…we’re writing in response to the letter we received from the Town of Newburgh Zoning Board in regards to Adam and Sandra Shapiro variance request. Please utilize this letter in lieu of our attendance at the Hearing scheduled for Thursday, October 24th. We have been neighbors to the Shapiros for the past thirteen years or so and watched these newlyweds at the time create wonderfully…wonderful family. After all these years we have come to view each other as family and rely on one another as such. They’re responsible and caring individuals and we have missed them for these two and a half months. We had wanted to let the Board know that we are in support of the Shapiro building the addition to their home and keeping the pre-existing toy room for their minor children. Adam and Sandra have always kept us apprised of what their intentions were and have been and we are in 100% support of what the plans state. We believe we’ve been not only will…will this addition bring the much needed space to the growing family but also add value to their home and our neighbors as well.

And this was a…Mr. and Mrs. Reynolds. I have another letter here in support. It’s fairly long a…

Mr. Donovan: I think you can just indicate to the record that it’s received from…

Mr. McKelvey: Yes.

Mr. Donovan: I don’t…I don’t…

Mr. McKelvey: Nugent, is it Nugent?

Mr. Shapiro: Nugents they are here as well tonight too.

Mr. Donovan: And they a…also are in favor of the variance requested by Mr. and Mrs. Shapiro.

Mr. McKelvey: Any other questions? Any questions from the public? Do I have a motion to close?

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

Mr. Manley: Second.

Ms. Gennarelli: Roll call.

 Michael Maher: Yes

 James Manley: Yes

 John Masten: Yes

 Roseanne Smith: Yes

 John McKelvey: Yes

Mr. Shapiro: Thank you.

 (Time Noted - 7:40 PM)

ZBA MEETING – OCTOBER 24, 2013 (Resumption for decision: 9:18 PM)

ADAM & SANDRA SHAPIRO 307 LAKESIDE ROAD, NBGH

 (50-1-17) R-1 ZONE

Applicant is seeking area variances for increasing the degree of non-conformity of one side yard setback, the combined side yards setback and lot building coverage to keep the prior built left side enclosed non-conforming porch and area variances for one side yard setback, the combined side yards setback, the maximum lot building coverage and the maximum lot surface coverage to continue building the front addition (4 x 8) on the residence.

Mr. McKelvey: Adam and Sandra Shapiro area variance for the increase of the non-deg…the degreeable non-conformity of one side yard setback, the combined side yards set…side yard setback and lot building coverage to keep the prior built left side enclosure non-conforming porch and area variance for one side yard setback, the combined side yards setback, the maximum lot building coverage and the maximum lot surface coverage one of…to continue building the front addition (4 x 8) on the side yard…on the residence. This is a Type II Action under SEQRA.

Mr. Manley: Well the rear porch is existing, they just enclosed it and we received some testimony from…written testimony from the neighbors that they have no objections and it’s certainly within the character of the neighborhood. Most of those houses are all close together already. I would have no problem making a motion for approval.

Mr. Masten: I'll second it.

Ms. Gennarelli: Roll call.

 Michael Maher: Yes

 James Manley: Yes

 John Masten: Yes

 Roseanne Smith: Yes

 John McKelvey: Yes

Mr. McKelvey: The motion is carried.

PRESENT ARE:

 JOHN MC KELVEY

 MICHAEL MAHER

 JAMES MANLEY

 JOHN MASTEN

 ROSEANNE SMITH

ABSENT:

GRACE CARDONE

ALSO PRESENT:

 DAVID A. DONOVAN, ESQ.

 BETTY GENNARELLI, ZBA SECRETARY

 GERALD CANFIELD, CODE COMPLIANCE

 (Time Noted – 9:19 PM)

ZBA MEETING – OCTOBER 24, 2013 (Time Noted – 7:40 PM)

HARVEY, JODY 320 QUAKER STREET, WALLKILL

 (3-1-51.22) A / R ZONE

Applicant is seeking a use variance or an area variance for 185-38 B. Criteria (4) - The principal dwelling shall not be less than five years old to keep the prior built accessory apartment on the lower level of the premises.

Mr. McKelvey: The next a…on the agenda is Jody Harvey.

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

Mr. Manley: Mr. Chairman I’m going to actually recuse myself with respect to the applicant.

Mr. McKelvey: State your name.

Mr. Cella: I’m Jonathon Cella, engineer of records to the project. We’re here to receive variances for a previously constructed accessory apartment in the a…ground floor of a existing bi-level at 320 Quaker Street. The existing a…kitchen was built in the rear corner and occupies part of the rear garage. The Building Department was there and found to be in conformance with a…the rest of Zoning Section 185 – 38. But because the residence is less than five years old we require a variance. The residence was built in 2009 and it's now a…four years and two and a half months approximately so actually it would be the five years old but we like the variance now. A…we meet all other Bulk Requirements for the Zoning District in the A/R Zoning. The property is approximately 1 1/2 acres and it's a…a four-bedroom residence. The bedroom count was not altered by the construction of the accessory apartment. We have some financial information we could present showing that a…the applicant purchased the house in 2009 and invested a reasonable amount of money constructing the…the apartment, landscaping and some other improvements in the house and…the due to the economic…economy the value is now a lot less than it was in 2009. So we feel that there is a hardship.

Mr. Maher: So is it your position that there is a use variance is not required?

Mr. Cello: A…it is permitted…it is my opinion but I thought that it would be more of an area variance since it is just the age of the house of not the use.

Mr. McKelvey: I thought we had something from the County, I can't find it.

Mr. Donovan: Now Mike there's…there's…it… it’s obviously it's not your run-of-the-mill variance application a…so you could look at it in this fashion that the use is not allowed unless the house is more than five years old so therefore it’s a use variance or you could look at it as a…the other way that a…the use is allowed but for the time frame so the proper analysis would be an area variance. A…I’ve kind of struggled with it because we haven't had too many of the…this…if any of this particular issue a…you know, at the end of the day I would come down on the side of an area variance a…as opposed to a use variance because the use is permitted subject to certain criteria.

Mr. McKelvey: And that's what the County is saying.

Mr. Donovan: What the hell do they know so maybe I'm wrong.

Mr. McKelvey: No they're saying that the requested use variance if granted would not alter the essential character of the neighborhood.

Mr. Donovan: Oh so that…and they're saying that it is the use variance?

Ms. Gennarelli: They are saying it is the use variance.

Mr. Donovan: Oh then…then I'm definitely right.

Mr. McKelvey: That's what they're saying. And they’re…theirs is Local Determination.

Mr. Canfield: If I may John also, I…I agree with counsel a…and…and you may want to think of this like this if this was six months from now, move the clock forward, this application wouldn't even be before you because the five years have passed. So and again I…I agree with the applicant's representative that it is a use that is permitted, it's a time issue a…and again if it was six months later in 2014 they wouldn't even be here.

Mr. Maher: Are there other areas of the Code that have time sensitive issues on them?

Mr. Canfield: No not when it comes to accessory apartments a…if you may remember prior to 2008 a…applications of this nature would have to come before this Board a…for a Special Permit to allow the accessory apartment. In 2008 the Town Board took the position to somewhat streamline this process and allow the Code Compliance Department to handle these such applications. A…and they sent this criteria a…again the only outstanding criteria the criteria that's not met is the five-year factor. A…and it's just so close timeline.

Mr. Maher: Do you have any knowledge of the reasoning for the five-year timeframe?

Mr. Canfield: I…I think to promote the need for this family's having elderly people to take care of a…and to discourage rental property, a…income-based property. I believe that was the intent at the time.

Mr. Donovan: Yeah my…my recollection is that the five-year period which is somewhat arbitrary because any period you pick is arbitrary is so the builders wouldn't build a home with the intent that there be an accessory apartment. Rather it was you know you built the home and then circumstances a…came about that dictated that it would be better for you have an accessory apartment.

Mr. Canfield: And it also with that a…just prior to 2008 there was several changes in identifying two-families. If you remember back in that timeframe, again like Dave said, to discourage a…rental properties in that sense whereas if a building were constructed as it two-family the lot size and the requirements are much greater. In this A/R zone I believe its 100,000 sq. ft. for two-family as opposed to 40,000 for single family. So I think that's the rationale.

Mr. Cello: If I may a…the a…the apartment was constructed for an elderly fam…family member…of the applicant.

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

No response.

Ms. Smith: A motion to close the Hearing.

Mr. McKelvey: Go ahead.

Mr. Maher: Second.

Ms. Gennarelli: Roll call.

 Michael Maher: Yes

 John Masten: Yes

 Roseanne Smith: Yes

 John McKelvey: Yes

 (Time Noted - 7:48 PM)

ZBA MEETING – OCTOBER 24, 2013 (Resumption for decision: 9:19 PM)

HARVEY, JODY 320 QUAKER STREET, WALLKILL

 (3-1-51.22) A / R ZONE

Applicant is seeking a use variance or an area variance for 185-38 B. Criteria (4) - The principal dwelling shall not be less than five years old to keep the prior built accessory apartment on the lower level of the premises.

Mr. McKelvey: Next application Jody Harvey use variance or an area variance for the 185-38 B. Criteria (4) - The principal dwelling shall not be less than five years old to keep the prior built accessory apartment on the lower level of the premises. This is a Type II Action under SEQRA. Any comments?

Mr. Maher: I think we put the use variance to rest there and are just looking for an area variance a…it is an allowed use in the area. The only issue is obviously the time a…has not a…past the five year point. I'll make a motion for approval.

Ms. Smith: I'll second.

Ms. Gennarelli: Roll call.

 Michael Maher: Yes

 James Manley: Abstain

Ms. Gennarelli: I’m sorry.

 John Masten: Yes

 Roseanne Smith: Yes

 John McKelvey: Yes

PRESENT ARE:

 JOHN MC KELVEY

 MICHAEL MAHER

 JAMES MANLEY

 JOHN MASTEN

 ROSEANNE SMITH

ABSENT:

GRACE CARDONE

ALSO PRESENT:

 DAVID A. DONOVAN, ESQ.

 BETTY GENNARELLI, ZBA SECRETARY

 GERALD CANFIELD, CODE COMPLIANCE

 (Time Noted – 9:20 PM)

ZBA MEETING – OCTOBER 24, 2013 (Time Noted – 7:48 PM)

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

 (22-4-6) R-3 ZONE

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

Mr. McKelvey: Next is C D & Sons Construction Corp.

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

Mr. Brown: I’m Charles Brown, the a…engineer for the applicant a…this is a...a proposed two-lot subdivision that's been submitted to the planning board in the R-3 zone. A…there is a house under construction right now, a…we are proposing a subdivision a…to achieve that subdivision we need a…a width variance on Lot-2 and a width variance and side yard setback variance for Lot -1. A…a…these…these houses a…these lots would be served by Town water which actually the stub ends right in front of the…a north end of the property which is why we a…did the geometry the lots the way we did a…because then the water service would be uphill the septics would be downhill to the proposed residences. A…the a…the pro…proposed lots are pretty much in character with the neighborhood, most of the lots in the neighborhood are…are hundred wide by a hundred fifty. A…we’re looking at ninety-five wide by hundred fifty deep or two hundred deep, I'm sorry a...for Lot-2 and eighty-six…eighty-five point eight feet wide a…two hundred foot deep for Lot-1. Lot-1 is the one that the house is under construction on. A…we did look at an alternate that would be to a…do the lots in a…in the other direction and we could meet the…all the Zoning criteria that way however based upon again the typography and where the water service is a…as far as engineering that is not a viable option. A…the variances are…are not substantial a…for Lot-1 it’s less than a…five foot for the yard and a…less then fifteen feet for the width a…for Lot-2 it’s…it’s five foot for the width. A…there would be no adverse effects to the neighborhood because this would a…permit the a…construction of another residence which it actually would increase the tax revenue for the Town. A…and we’re here for those requested variances.

Mr. Manley: Mr. Brown the original house that’s currently a…being finished, it’s under construction…

Mr. Brown: Yes.

Mr. Manley: …was that house constructed as to the original plans submitted to the Town?

Mr. Brown: A…yes, yes. It…it’s…it’s…

Mr. Manley: In the location that it was supposed be located in?

Mr. Brown: Yes, it’s in the location a…that…that it was proposed in a…we did have to modify the septic design. We…in other words we…we went out and did a substantial additional testing to verify that we could a…do two septics on this…this property but the lot…a…the a…the building, the footprint where it is…yes, that’s exactly as proposed originally.

Mr. McKelvey: Any other questions? Anybody from the public?

Mr. Donovan: Hey Charlie, just to reiterate, water and sewer for both lots, right?

Mr. Brown: No, no, water, we have Town water a…

Mr. Donovan: But…

Mr. Brown: …but…but on-site septic systems. Those have been designed.

Mr. Donovan: Okay.

Mr. Brown: And they have been a…checked by Pat Hines (inaudible) a… This…this Bannerman View also I…I forgot to mention is a private road a…so this would be another additional house on that road that would contribute to the maintenance of that private road.

Mr. McKelvey: Any other questions from the Board?

Mr. Manley: You had indicated that the home was built in the exact spot that it was supposed to be built in? Was that correct?

Mr. Brown: It’s under construction, right now but yes, it is per our original plot plan submitted to the Building Department a...for the a…parcel.

Mr. Canfield: Jim just…

Mr. Manley: It looks to me as it might be outside the building envelope. I’m looking at the…I’m looking at the plans here and that’s why I’m confused. It appears as if the home is situated outside the original building envelope.

Mr. Brown: Well again, the lot as it exists now is all one parcel. It’s completely within the building envelope of the original parcel.

Mr. Manley: I understand but when you split the property…

Mr. Brown: Right.

Mr. Manley: …you’re not in…within the building envelope that you would need to be in based on the…

Mr. Brown: That is correct. Yes, and that’s why we’re asking for the side yard variance for a…Lot-1 a…we could actually move that line over a…meet the side yard variance with this, we would still need a width variance for Lot-1 and…and still need a width…width variance for Lot-2 a…the draw back to that is a…the new Newburgh Code for a…building envelope which was put in a couple of years ago. Right Jerry? A…we wouldn’t meet that on Lot-2…a…with the way this plan is now we do meet that, we meet the building envelope requirements for that new a…a…new zoning change.

Mr. Manley: Now was this originally two separate parcels?

Mr. Brown: No.

Mr. Manley: It was always one parcel? Was never split?

Mr. Brown: It was always one parcel a…my client a…who (inaudible) owned the property did bring this before this Board roughly ten years ago and a…I don’t know how he did it without going before the planning board because it kind of violates process but this Board granted variances for the widths for both lots a…at that time. Obviously that’s expired its…it’s you know again ten years ago. So but no it’s been one lot all along.

Mr. Manley: Then I’m just wondering how did if…the build…how did the building envelope come into play on this…on this particular document? If the…if the home was originally built when it was one parcel how did that building envelope wind up there? I’m just trying to understand that.

Mr. Brown: If…if…well this lot line here is for both. This is for both lot line, this doesn’t exist right now.

Mr. Manley: Correct but if it didn’t exist would you actually need the building envelope to be right there? What I’m wondering is how did that building envelope originally get there?

Mr. Brown: As far as as where the house is being constructed now? It was, the building envelope was based upon the entire parcel.

Mr. Manley: And…

Mr. Brown: And it meets that.

Mr. Manley: And but who put that original building envelope in there? Was that the engineer…the…?

Mr. Brown: That was me, yes.

Mr. Manley: Okay.

Mr. Brown: A…at that time we weren’t anticipating subdividing the property however, during construction my client came to me and said a…based on the septic design could we do this? A…again we went out tested for the septic, we have adequate a…adequate slope for a septic system, pretty decent perc rate and a…originally we thought to Town water service ended at the hydrant a…based upon (inaudible) and getting it flagged, the surveyor came out and picked that up and the Town water actually extended all the way over to in front of our proposed Lot 2. A…based upon those things a…we decided to go to the planning board with a proposed subdivision. This is the map they a…looked at and they referred us to you guys a…for the variances.

Ms. Gennarelli: Jerry, if you are not going to talk could you give him back the microphone?

Mr. Canfield: I have something to say but I was just waiting…to be asked?

Mr. McKelvey: Go ahead Jerry.

Mr. Canfield: To further clarify Jim I see the look on your face that you are still not satisfied. The original lot proposal, actually I should say the Building Permit original proposal the house was moved. Okay? The original building envelope has changed, with this proposal for this subdivision the building envelope has changed because now we’re looking for two lots. Typically when a site plan or excuse me a survey or plot plan is proposed to the Building Department for a Building Permit we request that the house be located within that buildable area, that buildable envelope area, which is dictated by setbacks by what zone it’s in. The original plot plan called for the setbacks and the original house was approved within those setbacks. Because they proposed the subdivision now this building envelope has shrunk to comply to this particular lots requirements. Okay? And by doing that they cannot comply with the side set yard…side yard setback and that’s why you’ll see that the existing building or the house that’s under construction was currently somewhat over that building envelope line so that creates one variance for them. Okay?

Mr. Manley: Jerry had the applicant built that home in that initial a…envelope would they have been able to sub-divide the second property?

Mr. Canfield: Perhaps, yes, based on the physical dimensions. A…the applicant is always given the ability a…afforded the ability to move that house location inside that buildable area or that building envelope a…as long as they comply with the zoning and the requirements. They don’t encroach a…that setback line, they are given that luxury to do so. A...if the septic system was…which is a pre-engineered design a…as you see like on this proposal in front of you a…the little circles indicate perc tests that were done in that area. That’s an engineered area where calculations for the septic design are predicated on the perc rates for that given area. Okay? If that’s what’s submitted and for some reason field conditions warrant that septic area is to be moved then it’s up to the design professional to resubmit engineered drawings to show that the area that the new septic is located in will withstand the septic demand for that particular house based on how many bedrooms, a…daily usage you know, it’s calculated out that way. Now there’s something else with this a…I believe Charlie had mentioned to the Board this is a referral from the planning board. A…the applicant went before the planning board in September a…and that’s when it was learned of these a…violations or not violations but variances that are needed a…but one issue and I believe it was in the referral from the planning board that the planning board had asked that you pay particular attention to the fact that water is available. And…and the reasoning for that is is that if you look at your R-3 Zoning Table, lot size without water and sewer or water or sewer is 40,000 sq. ft. These dimensions that are proposed are predicating that on the fact that water is available and that allows a reduced lot size simply because with Town water you don’t have a well and you don’t have requirements between the septic and the well. So it’s very important that the applicant, I would suggest, prove to this Board a…that Town water is available because it changes all the variances that perhaps could be requested then if water is not a variable…available. The original Building Permit was based on the fact that yes, water was available a…the map that’s before you and that’s an item I’m sure the planning board would want to have cleaned up is a…typically the fire hydrant at the end of the line indicates that it’s at the end of the line. This main does not continue on this map it’s dictated as that. It says existing fire hydrant and water valve (end of line) but there is a footnote that says the Water Department on October 1, 2013 indicated that that line was extended. That needs to be clarified and with this proposal a…we’re looking for the waterline to even go further down the street to service this line. So if the Board should choose to approve these variances my suggestion would be a condition a…that prior to that approval that water is indicated that it’s available, the Water Department indicates that. And I believe the applicant was instructed at the planning board level to do so. He may have already contacted the Water Department. I don’t know, Charlie?

Mr. Donovan: Jerry, that was the purpose of my question but I misread Mike’s letter to say water and sewer. So that was…

Mr. Brown: (Inaudible.)

Ms. Gennarelli: Can you give him the microphone?

Mr. Canfield: Here you go Charlie.

Ms. Gennarelli: Thank you.

Mr. Brown: A…we did that, we…we called A11 to get the stakeout, we were actually pleasantly surprised that the water line does extend all the way up to a…Arcopolla’s driveway there for Lot 2 which means, you know, we have the ability to tap into the water. A…you know, again a…assuming that a…not to be presumptuous but that this Board does grant the variances we will be back before the planning board and a…that issue will be resolved and I suspect a…and they do want us to get together with a…with a…Jim Osbourne and I suspect what’s going to happen is they will a…request that we put a fire hydrant at the end of the line there because as this stands now a…again we assumed that the fire hydrant was at the end of the line normally that’s the case a…that this line goes beyond that and by the way this line was put in privately a…but a…the…the way the line is shown now that…that was as flagged by the Town of Newburgh a…a Water Department or Highway Department a…Doug Elliot. A…again I…I’m assuming that the a…that the planning board will request that we put a hydrant at the end of the line in front of our Lot #2 a…this way that…that stuff can be flushed because right now with that dead end a...really a...either we put a hydrant on that line to flush it or we have to do something within the residence to…to make sure that that line stays clean.

Mr. Donovan: Jerry, do you know is this part of a Water District, is this a Town District and is the property within that District?

Mr. Canfield: Yes, yes.

Mr. Donovan: Would that I mean physically obviously if it’s right there you can tap into it but my question was from a legal point of view if the property was in the…in the District so you’re paying whatever District charges then it would follow then it would be entitled to have water…water line but whatever confirmation, if require a letter, I think that’s appropriate from the Town engineer…

Mr. Canfield: Yeah, I…I…and again I…this is more I guess a legal question then Dave. I don’t know if this Board without assurance from the Town that water is available…will be available a…that the Board can grant a variance for this because the lots at this time without the fact or without be known for sure that water is available the lot size does not comply.

Mr. Donovan: Well again, assuming and…and…and I don’t want to assume but assuming the Board is interested in granting the variances is you could do it one of two ways. You could wait until you get a letter from the Town engineer or you could condition the approval on proof that…proof to the Building Department that it’s within the a…Water District and entitled to Town water, whatever…whatever comfort level the Board has.

Mr. Canfield: From an enforcement standpoint a…the note of condit…the condition note that’s fine. As long as I have something that we can enforce a…in the event that a…you know water is not available. We have a mechanism to get any future applicant back before the Board and basically this is about…all about assurances for the Town a…

Mr. Brown: Understood.

Mr. Canfield: So…

Mr. Brown: You know, we would have no problem with a…you know…if…if this Board a…chose to go that route with a…making the a…variances if granted conditional on a…proof of availability of water a…number one and number two that the property is in the Water District.

Mr. McKelvey: Are these…are these…is this a spec house?

Mr. Brown: Yes.

Mr. McKelvey: And the other one will be too?

Mr. Brown: Yes, yes. The views are tremendous from up there.

Mr. McKelvey: Any other questions?

Mr. Manley: Just one other question, any…the…the surrounding properties that surround a…these two proposed locations, are they on Town water or are they on a…a well?

Ms. Gennarelli: Charlie.

Mr. McKelvey: Charlie the mic.

Mr. Brown: All…all of the a…a lots with houses on Brooker Drive a…and a…a…Bannerman View except for the lot at the corner are on Town water. A…the lot at the corner actually is a…is a substantially sizeable lot, the house is well…well set back from Bannerman View and that house is on a well. All the rest of them are on Town water. I did verify that myself with the…with the a… (Inaudible) neighborhood and found the valves for…for all the houses that are out there.

Mr. Manley: Would you be able to provide something to the Board that just indicates that the applicant is going to hook up to Town water and that the Town basically recognizes that Town water is available and that they would make that available to the applicant?

Mr. Brown: Without hooking up to Town water these lots basically don’t exist…

Mr. Manley: Correct.

Mr. Brown: …no, the planning board cannot grant the subdivision approval a…without a…the availability of water because we would need to put in wells and a…the separation distances a…between the wells and septics would…would, you know, make the lots impossible. In addition to that as…as Jerry said without Town water service on these lots, the minimum lot size is for 40,000 sq. ft. just shy of an acre. A…so again without Town water this subdivision is not viable and I believe, you know, that that’s, you know, something that the, you know, planning board a…would take care of with their approval process.

Mr. Manley: Right but have you spoken to anybody from the Town that indicated that you are able to hook up and it’s not a problem if you want to hook up? Have you gotten any…anything from the Town that says yes, not a problem, we’re…we’re going to let you hook up?

Mr. Brown: Well when we submitted the Building Permit for the original house based on the entire parcel a…that was based upon hooking up to…to the water and again we…we showed our service coming all the way back. Again Bannerman View is a private road a…and the Bannerman View right-of-way (inaudible) by the…by the a…by the hydrant a…again based on this application we…we did call for field flagging of…of the waterline and had the surveyor go out there pick that up and that’s what’s reflected on the map now and that shows the water a…waterline in front of both lots. A…it’s in the District; I mean that much I know. I mean a…be certainly be willing to provide any proof that this Board needs that…that a…we have the availability number one of water and the legal right to access it. I don’t have a problem doing that at all.

Mr. Manley: Okay, I’m just wondering that if all this is for not, if the Town says, hey, you know you’re not able to hook up, for whatever reason. I’m…I’m just surprised that you haven’t even checked to see if you could actually hook up or not yet. Cause if by some reason you’re not able to then all of this work that has been done is for not.

Mr. Brown: A…the only time I’ve…

Mr. McKelvey: Mic.

Ms. Gennarelli: Charlie…

Mr. Brown: Inaudible.

Ms. Gennarelli: Charlie…

Mr. Brown: Inaudible.

Ms. Gennarelli: Charlie can you take the microphone please?

Mr. Brown: The only time that I’ve dealt with a piece of property that was on a Town waterline that wasn’t able to hook up was a…North Fostertown and Frozen Ridge when I did a subdivision over there and that was too close to where it was treated. A…I’ve been doing this a long time and anytime that we’ve had a lot with…with a…a water service a…you know contiguous to the lot we’ve had the right to hook up to it. But again it…it…it is in the District, it is the Water District I can provide that proof to this Board a…and a…I’m going to you know, pass this off to my client because apparently he’s anxious to jump in here.

Mr. Dominguez: Yeah, and I don’t know if this will help but we got the Permit approved…

Mr. McKelvey: Your name…your name.

Mr. Dominguez: Oh, Carlos…Carlos Dominguez, president of C D & Sons a…we got the Permit approved from the Water Department hook up to the main. I don’t know if that helps or not.

Mr. Manley: That helps.

Mr. McKelvey: That helps a lot.

Mr. Manley: Thank you.

Mr. Canfield: John, just one other comment with Jim…Jim you had mentioned the other wells a…one of the items a…that Mr. Brown was instructed to a…clarify for the planning board when they come back is to show any wells, surrounding wells a…and septics and also to indicate that there is compliance with the separation requirements a...that’s one of the requirements as well as some other items that are be done to the plans…a…the planning boards engineering consultants had picked that up and made those comments.

Mr. Manley: Yeah, that would be my only concern with more dense housing there’s going to be potential for, you know, affluent runoff and saturation into the ground and we don’t want to contaminate neighbors’ wells if they are on a well. That would be my only concern.

Mr. Canfield: And a very good point a…and there are Health Department Code requirements a…for those. There’s predetermined separations whether the well and septic is up gradient, down gradient from each other. That dictates the separation that’s required. And that’s why the planning board a…engineering consultant asked for those separations to be depicted on the plans.

Mr. McKelvey: Actually those houses, the other houses on Bannerman is…should be on water.

Mr. Brown: They are.

Ms. Gennarelli: Charlie, just take the mic back.

Mr. McKelvey: Is there plans to build houses beyond this?

Ms. Gennarelli: Can you use the microphone please?

Mr. Brown: This…this is a…a…this is the only parcel in this area that…that a…my client owns so anything else beyond that I really can’t say a…what the intentions of the individual owners are. A…directly across the street from us a…is undeveloped a…right now a…but all…all along this side of Bannerman and then around the corner on Brooker a…all of those…all those lots are built on. They all are on Town water except for the one house that…that I did mention which is on a very big lot right at the bend of Bannerman…Bannerman View.

Mr. McKelvey: Any other questions? Anybody from the public?

No response.

Ms. Smith: Motion to close the Hearing.

Mr. Manley: Second.

Ms. Gennarelli: Roll call.

 Michael Maher: Yes

 James Manley: Yes

 John Masten: Yes

 Roseanne Smith: Yes

 John McKelvey: Yes

Mr. Brown: Thank you.

 (Time Noted - 8:14 PM)

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ZBA MEETING – OCTOBER 24, 2013 (Resumption for decision: 9:20 PM)

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

 (22-4-6) R-3 ZONE

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

Mr. McKelvey: Next is C D & Sons Construction Corporation area variance for Lot Building Permit (Lot #1) one side yard setback and the minimum lot width and for Lot #2 for the minimum lot width for a proposed Two-lot subdivision. This is a Type II Action under SEQRA. Any comments from the Board? Do we have a motion?

No Response.

Mr. Donovan: It’s going to be a long night.

Mr. McKelvey: Do we have a motion…of some kind?

No Response.

Mr. McKelvey: This is also a Type II.

Mr. Donovan: Well the Board is not a…doesn’t think they have enough information or if you’re not prepared to make a decision, you do have (62) sixty-two days from tonight to make a decision but I suggest we not wait (62) sixty-two days at this dais.

No Response.

Mr. Donovan: So if you want to decide next month you can do that.

Mr. Manley: Well I’d be prepared to make a motion for a Reserved Decision.

Ms. Smith: I would second.

Ms. Gennarelli: Roll call.

 Michael Maher: Yes

 James Manley: Yes

 John Masten: Yes

 Roseanne Smith: Yes

 John McKelvey: Yes

Mr. McKelvey: C & R Realty…

Mr. Canfield: John, just one question on that Reserved Decision, is there anything else that the Board wishes the applicant to bring back? Any additional information you’re looking for perhaps?

Mr. Manley: I think the one thing that a…maybe if we could get a copy is to show that it’s definitely within the a…Consolidated Water District and that those two pieces of property are within there. If they’re not, then they going to have to be…they’re going to have to petition the Town Board to get included into the Water District.

Mr. Canfield: I believe the applicant is in the office…or excuse me, in the…in the audience if you may want to direct to him what you want from him.

Mr. Manley: Okay, if you could a…get from the Town something that states that you are within the Water District and just have it to Betty prior to the next meeting so that we can review it.

Applicant Inaudible

Mr. Manley: From either the Town engineer or the Water Department, you know, basically on their letterhead that states that you’re within. They may have to the tax office or the assessor’s office to get verification as to whether or not you are in the…in the Water District.

Ms. Smith: Jim, in the Water District and that he will hook into it, correct?

Mr. Manley: Right, right.

Ms. Smith: Just to verify that. Okay.

PRESENT ARE:

 JOHN MC KELVEY

 MICHAEL MAHER

 JAMES MANLEY

 JOHN MASTEN

 ROSEANNE SMITH

ABSENT:

GRACE CARDONE

ALSO PRESENT:

 DAVID A. DONOVAN, ESQ.

 BETTY GENNARELLI, ZBA SECRETARY

 GERALD CANFIELD, CODE COMPLIANCE

 (Time Noted – 9:24 PM)

ZBA MEETING – OCTOBER 24, 2013 (Time Noted – 8:14 PM)

CRH REALTY VIII LLC. 1000-1006 UNION AVENUE, NBGH

 (Crystal Run Healthcare) (97-3, 6, 7, 8, 26) I/B ZONE-NEWBURGH

 (4-1-72.2) TOWN OF NEW WINDSOR

Applicant is seeking an Area variance for the maximum height to build a new Crystal Run Healthcare medical building; and also an Interpretation of 185 - Zoning Code - Table of Use and Bulk Requirements - IB District - Schedule 8 - Accessory Uses - Column A. #2 cafeterias, clinics and recreation facilities for the use of employees engaged on the premises to employ a mobile MRI (magnetic resonance imaging) unit as an accessory use to be parked/used in the parking lot of the proposed medical building.

Mr. McKelvey: Next is CRH Realty VII LLC. (Crystal Run Healthcare). Are they out in the hall?

Mr. Donovan: Are they out there Jerry? Should we go…?

Mr. Manley: Do you want me to check to see if they are out there?

Mr. Masten: Maybe they left.

Ms. Gennarelli: Maybe they didn’t come tonight.

Mr. Manley: Yup, they’re out there.

Mr. McKelvey: They’re out there.

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

Mr. Cordisco: Good evening everyone, sorry to keep you waiting. I’m Dominic Cordisco from Drake, Loeb. It’s my pleasure to be representing Crystal Run Healthcare tonight and I have with me Mike Archangel, who is with Columbia Development. He’s in charge of the construction for Crystal Run and we also have John O’Rourke, our engineer from Lanc & Tully. And we’re here before you on two a…requests and we've been referred by the planning board and a…I will turn it over to John O'Rourke in a moment just to walk you through the site plan. We're seeking to forms of relief the first is a area variance for the height of the…of our proposed building. Just to a…a…a…take a step back for a second Crystal Run Healthcare is proposing to build a 60,000 sq. ft. building at a…on Route 300 across from Wal-Mart for a medical office building. The Code in the I/B Zone allows buildings up to 40 feet in height that would seem to accommodate a three-story building. We have some exceedances above the 40 foot height which we could get into a moment. Our second form of relief that we're looking for is a Interpretation from the Board on Crystal Run Healthcare would like to have a mobile MRI a…facility brought to the site from time to time. And a…the site plan is being designed to accommodate that. Basically it's a MRI on a truck that a…would be brought onto the site. The site plan could accommodate it. There was some question as to whether or not it was permitted in the Code. We took a very close look at this a…and a…we believe that we’re asking…one of the things we're asking for is an Interpretation that the Code in the I/B zone allows a…clinics as accessory uses. So we believe it falls within that category. Not squarely a…in the sense that there is some question as to whether or not we need the Interpretation at all. Bear in mind a medical office building itself could have a...a mobile…excuse me, have an MRI facility in the building so its use that's part of the primary used to the site a…but we could get into that in a moment. At this point I'd like to turn it over to John O'Rourke to walk you through the site plan and then Mr. Archangel will show you the elevations of the building. And then we'll be happy to address any questions or comments you may have. John…

Mr. O'Rourke: Only one microphone tonight?

(Inaudible)

Ms. Gennarelli: Jerry's got it.

Mr. Donovan: Jerry's the talking so much he just kept it.

(Inaudible)

Mr. O'Rourke: Thank you very much. Good evening, John O'Rourke with Lanc & Tully Engineering. As Dominic alluded to have a 300, Route 300 our proposed entrance is across the street from the existing Wal-Mart. A…our building if you look on Sheet 2 we've provided you a him site line to kind of give you an elevation look at what we're proposing. The building is approximately 500 feet back from the intersection looking in this direction which is the most prominent view and from this direction it's 600 feet looking in this direction. The elevations…so we're proposing a 48 foot high building which is only the front façade, the rest of the building is 40 feet. There is a proposed 4 foot screen wall for to hide any rooftop facilities, air conditioning units. And in the front you'll notice there is just a crown in through here which is basically just a front façade. So we provided some profiles, the ground elevation actually drops several feet from the existing road a…so due to the distance back and the elevation drop we don't feel that it's going to be a…a visual impact by any stretch of the imagination for the additional area variance for height variance that were looking for. Go back to the first one the MRI this proposed multiunit is in the rear of the…the a…building back in through here. I'll defer to Mike…I think it's two…two times a week?

Mr. Archangel: (Inaudible)

Ms. Gennarelli: I’m sorry, sir could you step up to the microphone. Thank you.

Mr. O’Rourke: I’m sorry, my mistake.

Ms. Gennarelli: It’s being recorded so…

Mr. O’Rourke: My mistake, I should brought…it is two times a week.

Mr. Archangel: Two times a week it is anticipated, if there is a demand Michael or three times a week.

Mr. Donovan: And what hours would be there?

Mr. Archangel: Generally from seven o'clock to 6 PM is…is the operational hours.

Mr. Donovan: And…and I would presume you don't leave your MRI out in the parking lot overnight?

Mr. Archangel: It...it will remain in that location.

Mr. Donovan: It will remain in that location?

Mr. Archangel: Will…will and then what…what it does basically is go to the other facilities and the purpose of all that is to keep the…the cost of healthcare down. Everybody shares in the cost of the equipment so therefore the operational cost is less per…per facility.

Mr. Donovan: And…and if I…oh…I'm sorry John.

Mr. McKelvey: I was just…is it going to be powered from the building?

Mr. Archangel: The building itself.

Mr. Donovan: Jerry I had a question, is what Dominic said before accurate, in terms of if this…a…if we had an MRI inside the building would it be permitted?

Mr. Canfield: Yeah, yes providing that it complied with all the Building Code recommendations or requirements a… I guess a better question Dave would be…would it be before this Board? The answer to that question is no. If it were in this building it wouldn't be before this Board.

Mr. Donovan: You’re right that was the question I wanted to ask.

Mr. Canfield: (inaudible)

Mr. Donovan: So my…my kind of view of it, just for the Board’s edification is that it's not an accessory uses part of the primary use. That…that…that's my analysis, it’s not a…it’s not a separate use it just happens be in a…in an accessory structure in the parking lot. If the use is allowed in the building it’s part of the primary use that you wouldn’t need a variance for, in…in my estimation.

Mr. Manley: But does this as an accessory structure though have wheels?

Mr. Masten: Yes.

Mr. Archangel: Yes.

Mr. Donovan: Well I mean…

Mr. Manley: If it has…if it has a plate, if it's registered and it has a license plate on it then it’s not really an accessory structure it's… (Inaudible)

Mr. Donovan: But it's not accessory use either.

Mr. Manley: It's a trailer.

Ms. Smith: Yeah a vehicle.

Mr. Canfield: That's…that's…

Mr. Manley: It's…it's a registered trailer that…

(Inaudible - Mr. Donovan, the Board Members & Mr. Canfield speaking at the same time)

Mr. Canfield: …answer is it a trailer or is it a one piece truck?

Ms. Gennarelli: If you could give…can you give him the…Dominic can you give him the microphone? I’m sorry.

Mr. Archangel: A…the answer to the question the best I can answer is a…it does have wheels, it's mobile but it is one piece. It’s one function a…

Mr. Canfield: Can I…can I…can you drive it there or it needs to be driven by say a tractor…?

Mr. Archangel: No it has…it has to be driven…

Mr. Canfield: …or a (Inaudible)…?

Mr. Archangel: …there. It has to be driven there.

Mr. Canfield: So it is a trailer?

Mr. Archangel: It is a trailer.

Mr. Canfield: Okay. That’s the question, okay.

Mr. Manley: And it…it…it is registered with I’m assuming with the NYS Department of Motor Vehicles as a…

Mr. Archangel: That’s correct.

Mr. Manley: …trailer of some sort?

Mr. Archangel: Yes.

Mr. Donovan: And, to my knowledge these things are not uncommon.

Mr. Archangel: Very common. A…I myself have used it a…also used it in another facility which was at one point in time a lithotripsy which a…for kidney stones. I’ve been there several times; I’ve gone to different locations several times, a different type of use but basically the same function.

Mr. McKelvey: I have too.

Mr. Archangel: And again the idea is to share costs with other facilities because the expense of these facilities in each and every building and they are not utilized every day for the most part is the concept to keep the healthcare costs down.

Mr. Donovan: And I noticed that the VA actually has a similar type of unit that they bring an ophthalmologist around I only know because I bring my father to it so it's not uncommon to have these types of a…

Mr. Archangel: I don't believe so no.

Mr. Masten: John, John just a point of interest, right now there's one down in Cornwall Hospital, up on the North side of the building, one of these portable units.

Mr. McKelvey: I think the a…the unit at…on 207 brings one in too.

Mr. Masten: Yes.

Mr. Archangel: I'm sure they do it's quite common actually.

Mr. Cordisco: Yeah that…that's right next to my office and you're absolutely right there is a mobile unit there a…on 207 in New Windsor.

Mr. McKelvey: How’s the noise level?

Mr. Cordisco: A…I can't hear it at all and I parked my car right in the next parking lot.

Mr. McKelvey: It's just a question, I know inside its noisy.

Mr. Cordisco: Yeah a…I imagine so, will it bangs.

Mr. McKelvey: We know that.

Mr. Cordisco: You know it does. What we are touching on here is like how…how does this use fit into the Code? And the planning board attorney Mr. Donnelly a…suggested that we come for interpretation because in his view a…it wasn't something that specifically laid out in the Code but what you're touching on if I may, is…is that it's not really a structure because it has wheels and is driven away so it's not attached to the property. Its use is in truly accessory because it's something that could be done inside the building if it was located inside. A…and so what we did was look at the Code and you do have an accessory use that identifies clinics is being accessory to a medical office and clinic is not a defined term in your Code and when I went and looked at the dictionary definition of clinic it's a place where you can get medical treatment and medical diagnosis. So I was thinking…our thought process was is that if you are getting medical treatment, medical diagnosis in something that's an accessory use to a principal use being a medical office building than that way a…it seemed to me it would be the best fit without being specifically called out in the Code. And if that's a…perhaps Michael you could walk them through the a…elevation of the building.

Mr. Archangel: Is this on? I'd like to show you two a…elevations, at this point you can see this is more considered our front elevation and…and this elevation I'll show you the height but this is our Urgent Care location, our entrance if you will which is basically right there. This is our main covered entrance which is in reference to what you see here Crystal Run Health. The building itself is 48 feet high to the…to the parapet which says Crystal Run. This particular portion of the building is 40 feet high and then you'll see briefly and I'll show you the other elevation, the screening of the building goes up to 44 so were trying to screen all the HVAC, all equipment on the roof. This better depicts that, again this is the front elevation as you can see its 48 feet to the highest parapet level which is a very minor amount of the building. This area here you see is the parapet that would cover all the screening of the HVAC and whatever equipment is on that roof. But the primary building if you will is at a 40 foot level. So this this area here is what we’re asking for a variance for the height, for the screening as well as the a…the main entrance parapet which will go up to 48 feet. That basically only happens on the front of the building at this location. The screening would be obviously all around the building that goes up to 44 feet. Any questions relative to that?

Mr. McKelvey: Jerry, this is…this is a requirement that they have this to cover the HVAC system, right?

Mr. Canfield: Yes, our Design Guidelines and also a…our Zoning Code requires screening of a…HVAC equipment a…heating and air conditioning equipment. In looking at this and this is also planning board referral that this project a…I did observe something that 185-18, perhaps Dave can look at that and…and that deals with exceptions to a…district regulations, 185-18 B specifically deals with height and it says that height requirements may be waived a…in…in a…lines or for items such as antennas, spheres a…but the one interesting topic that is permitted is cooling towers. Now we’re not talking about cooling towers per se but a cooling tower is similar to HVAC (inaudible) a…it may be something for this Board to consider that this request here could fall into that category a…

Mr. Donovan: Except I guess Jerry the a…the a…I’ll just call it the higher façade which has the name Crystal Run Healthcare is at (48) forty-eight feet, right? So that…that wouldn’t fall into a…the 185-18 B?

Mr. Canfield: Well the façades are not pulled out, I mean typically with anything the façade is attached to the building. It is considered part of the building.

Mr. Donovan: Right.

Mr. Canfield: A…this is a façade or a parapet, it appears that this is more a…a decorative type façade that may be a…typical of this style building or the applicant’s wishes. I’m not certain there I haven’t seen the architecturals but a...it…it’s not that that’s the height, the occupyable or habitable height of the building so what…what does exceed the building height is just…it’s a two component piece here or two components; A) the screening which is required a…for aesthetics to cover up the heating, ventilation and air conditioning equipment and B) this parapet or façade that is an aesthetic issue. So it’s my opinion that the intent of the height was to take into consideration the occupyable space. That’s not the case here. I think we…we have a double standard that in one…one respect we’re asking for screening and then we’re holding back and saying well there is a height requirement on it a...and like I said looking at that 185-18 a…it says may have the ability to waive. Well again the question comes up, who has that ability? I think that ability is only vested in the Zoning Board of Appeals. I don’t think the planning board has the authority to waive that. It’s only the Zoning Board and it’s just for your consideration if...if you choose to look at that but…

Mr. Manley: My perspective, I’m not really so concerned with the height. I don’t think that the eight feet is really going to make a huge difference. I mean, we have other buildings in the Town that are fairly, you know, tall and this would be in my opinion consistent with that. I mean if you look at the old Fleet Bank building, which is you know, where Time Warner is in its three-stories. It, you know, it doesn’t detract from the Town a…you know the architecture of this building is very, you know, pleasant. It’s not you know anything that’s out of…out of the ordinary. I think it…it actually a very nice building and I think that it would, you know, provide a great service to the residents of the Town with respect to their healthcare. One of the things that I want to talk about a little bit eventually when we get to it is…is definitely the trailer a…and I’m not necessarily opposed to it but where my concerns come in are with respect to creating a precedent with respect to that type of…may not be an MRI trailer but it may be a different trailer somewhere else in the Town. So there, I’m going to have some…some issues with that, I mean, with the Interpretation.

Mr. Maher: Well I guess, Jerry currently when the Red Cross comes to Town with their bus to draw blood is there a Permit issued for that?

Mr. Canfield: No.

Mr. Maher: I mean that’s…

Mr. Canfield: Do you mean the Red Cross at the Town Hall?

Mr. Maher: I didn’t say that. No I mean it does…

Mr. Canfield: Again no.

Mr. Maher: …it does go other places but my…my point being it’s still a registered vehicle in New York State that requires no permit to travel around currently so I…I think this would be, you know, while different it’s also somewhat consistent with…with providing a medical service a…at the same time.

Ms. Smith: It would follow a schedule, correct?

Mr. Archangel: Yes.

Ms. Gennarelli: Jerry can you give him the microphone?

Ms. Smith: You said a few times a week at your facility?

Mr. Archangel: (Inaudible)

Mr. McKelvey: Take the mic please?

Ms. Gennarelli: Mike, thank you.

Mr. Archangel: Initially it’s proposed to go two times a week and then again depending on a…you know what the demand is it may go more. It may…it may be that demand is not that great, it may be once a week but…but from experience it’s at least a couple of times a week.

Mr. McKelvey: I think most of the around here a…I…I know the one on 207 and then I think the one…I went to one in Middletown one time a…it was only once a week.

Mr. Archangel: Right. It…it’s different in every area.

Mr. McKelvey: Yeah.

Mr. Maher: Would there be any plan to keep it there permanently?

Mr. Archangel: No.

Mr. Maher: No?

Mr. Archangel: No. If that would be the case we would find room in the building. The anticipation is it’s approximately two times a week.

Mr. Manley: The one thing that comes to my mind which I want to point out to the Board is back in 2002 there was a…part of our packet…there was a Vet that wanted to open up a cancer hospital for animals. And a…you know it was in a B Zone and it was not permitted. The Board at that point granted a use variance for particular facility and down the road around 2007, I think Jerry, your office had an issue with a mobile MRI or radiation type of facility for…for animals which was not permitted and that became a battle back and forth for…for quite a while. I think that opens the door for more trailers like that that potentially may…may present itself to be a problem so…I mean if we can come up with a way I think regulate it or control it a bit so it’s not a problem.

Mr. McKelvey: If I…if I remember right though that was powered by a generator.

Mr. Canfield: Yes, that’s exactly right John. A…John was the only guy (here tonight) on the Board at that time and so he remembers it a...

Mr. Donovan: There were six other women?

Mr. Canfield: A…a…yeah, you’re right Jim back in 2002 a…there were a couple of issues that…that I think you should be considering perhaps a…that was a B Zone a…that whole ordeal originated…originated from a complaint from the neighbors. That B Zone a…bordered a residential zone. Anytime you have residential zones that back up to commercial zones it’s a potential for a problem simply because of the different natures of the activity that goes on. That in fact why the Town a…requires screening such as landscaping or what and…and in this case this complaint started because of the noise. That particular unit was powered a…by an external generator and it…it became an issue a…eventually it just went away. The applicant pulled it away but you’re 100% right Jim it did come before the Board and the main issue at that time was the noise. A…the use that was being proposed was also a use variance because it wasn’t granted in a…or wasn’t permitted in a B zone. A…at that time the decision and resolution a…that…that use was permitted by the Board and there was much discussion in the minutes at the Public Hearing about the MRI unit. Although the Board’s decision was not definitive, in my opinion, whether it was permitted or not they honed more on a…conditioning the resolution to force the applicant to eliminate the generator and use more of a permanent power source which in this case I think the applicant has indicated that that’s what they propose to do. A…also I bring to your attention that this is an IB Zone a…there are no residents around this. The back side of it is the Lake a…the front side is route 300 with commercial development on the north and the south a…just for your consideration a…basically that’s it. At that time we didn’t know how to handle it a…because we didn’t have any others but again that was some eleven years ago, the medical field has changed, you know, greatly and as we discussed there are many of these trailer throughout.

Ms. Smith: It looks to me where you propose to put the trailer you have screening also. Is that some type of screening a…shrubbery or something right there?

Mr. Archangel: This would be a green area which we would landscape then if necessary we could screen it with a wall.

Mr. McKelvey: Mike, you got to have the mic. This is being recorded.

Mr. Archangel: (Inaudible)…the hang of it. Right now it’s proposed as asphalt with landscaping and so forth a…if the Board so chose we could screen that with a small retaining wall or decorative wall up to a certain height. The nearest residence is probably 500 feet away a…at this location so a…we have our retention pond, detention pond at this location so it would be fully screened from a visual standpoint and again if necessary we could build a…a decorative wall. So once the MRI is in place for the most part you wouldn’t even be able to see a…the mobile unit.

Mr. McKelvey: The planning board could probably…might even recommend that.

Mr. Archangel: Yeah, we’ve done that before as well.

Mr. Manley: Would it be possible, I mean, because the building is so nice would there be a consideration to move it out towards the rear part so it’s not seen from either side or from the front area? Is that a possibility? Because I’m assuming…

Mr. Archangel: This being what we would consider the front a…

Mr. Manley: Correct.

Mr. Archangel: I wouldn’t consider this to be the front a…I guess we could look at that a…but at this point we’re you know, doing space planning for it that that’s kind of a key location the way the interior layout is currently being…or evolving. Could we look at that? Sure. You…you would think more in this particular area?

Mr. Manley: Well I…I’m just thinking if you’re going to you know, if…if…even like a house if you had something if put it from, you know, instead of the front which is the nicest part, the front and side people are going to see, it…you know in a back it…it doesn’t detract from how nice the building looks.

Mr. Archangel: Well I must not be understanding you because this is the two what I would consider the fronts, two fronts if you would...

Mr. Manley: Right.

Mr. Archangel: …which are here and here so that would be a likely spot for me or back here not to detract from…

Mr. Manley: Right, right.

Mr. Archangel: …the architecture of the building.

Mr. Manley: Correct.

Mr. Archangel: So, it’s originally it’s being proposed at this location. Could we look at this location? Sure. Is this location any better than this? It’s a matter of opinion, I guess.

Mr. Maher: And I guess, I guess Jim’s point is that that if it was on that…on that portion there it wouldn’t be visible from anywhere really; I mean the side is towards 300…

Mr. Archangel: We can certainly look at that.

Mr. Maher: But by the same token then you’ll be moving your loading dock and…and compactor…

Mr. Manley: Right.

Ms. Smith: Yeah.

Mr. Maher: …to a visible area which may be worse than, you know looking at the…the trailer…

Ms. Smith: Exactly.

Mr. Maher: (Inaudible) that it’s there.

Mr. Archangel: John, does it matter to you, I mean you’re…you’re the site engineer, does it have any difference?

Mr. O’Rourke: No. Again that the point was is with the wall and the screening we’re really trying to hide the dumpster and the generator back in this area even further away from these residents because we thought that was more of an impact than the…than the trailer being here so that’s why it’s designed like that.

Mr. McKelvey: The generator that you are talking about, is that an emergency generator?

Mr. O’Rourke: Yes, yeah, that and the dumpster enclosure and compactor as well so those are the ones we thought were more important from the planning board perspective to kind of shield as much as we can rather than the MRI and through here. Again, five days out of the week there is nothing there so that’s why we thought this was a better spot.

Mr. Donovan: And from…from 300 John, I mean how…how visible would the MRI trailer be as you’re traveling on 300? Certainly traveling in that direction you’re not going to see it.

Mr. O’Rourke: You’re not going to see it at all. If you’re coming up here and stopping at this…

Mr. Donovan: Just with the difference in elevation?

Mr. O’Rourke: The elevation is the same but you have this area in through here so it’s over 600 feet. So if you are the first car parked here and you just hit the red light and you’re looking around could you see the very front of that in the distance? Maybe but this typically is again hidden on all the sides so you may just see a white piece of material 600 feet away. I mean it’s the side of a…a tractor trailer and you’re not getting the side view because that’s hidden so it would just be the front view. So between the landscaping in through here and whatever occurs here visibility is absolutely minimal.

Mr. Donovan: What…what’s there now, I don’t…

Mr. O’Rourke: Here?

Mr. Donovan: Yeah.

Mr. O’Rourke: A…there’s a…I think there’s a series of small buildings in through here. Now I know there was some proposal to do some other…in front of the planning board a…but right now there’s two buildings in through there. Again with the vegetation and the distance you’re going to see a shade of white every so often that would be about it.

Mr. McKelvey: That building on the corner is empty, right?

Mr. O’Rourke: Yes, two buildings, I guess.

Mr. Donovan: And both are empty?

(Inaudible)

Mr. McKelvey: Yeah.

Mr. O’Rourke: Thank you.

Mr. Cordisco: If you have no further questions, I would always be happy to answer anything that…

Mr. McKelvey: I’d like to open it to the public too. Is there anybody from the public that would like to speak?

Mr. Gebhards: John Gebhards, I’m director of the Quassaick Creek Watershed Alliance and currently we are in doing in cooperation with the Orange County Planning Department a watershed management plan for the Quassaick Creek. This a…development is in the Quassaick Creek watershed and more importantly in the sub-watershed of Lake Washington and as you all may very well know Lake Washington is a drinking water source for the City Of Newburgh. Lake Washington gets its primary water sources from surface drainage and has a very small watershed, a large portion of includes the Route 300 which is continually being more and more developed. Runoff from the developmental in that corridor is critical to having the quantity and the quality of water we maintain in the Washington Lake for drinking water for the City. So it’s important that the Board to recognize that any action taken should have that in mind. I…a…would like to request a… Did the Board receive a 239 referral from the County Planning Department? I understand that just came out this afternoon. I have not seen that. Is it possible to read that into the minutes of the Board?

Mr. Manley: I’ll be happy to read it.

Local Referring Board: Town of Newburgh Zoning Board

Applicant: CRH Realty

Proposed Action: Area variance related to maximum allowed building height with relation to a mechanical roof screen and the central lobby roof.

Reason for County Referral (Review): The real property parcels involved in the proposed action are within 500 feet of NYS Route 300.

Date of Full Statement: October 15, 2013

Comments: County Planning is in receipt of the GML 239 referral for the above referenced Local Law. Based upon our review of the submitted materials, our office has found no evidence that significant inter-municipal or county-wide impacts would result from approval of the Area Variance. Please note for the future that it is the opinion of the County Attorney’s office that such interpretations are not a mandatory referable action under to GML process. However, we appreciate this referral and are willing to continue to review future actions to provide comments. County Planning will expect to comment specifically on the site plan and other next actions when referred to us under the GML process.

Because this Area Variance is expected to be an early action leading to additional referrals and to fuller review of a commercial development on site, we need to make the Applicant and the Town aware of the very high (site) sensitive…sensitivity to Washington Lake. This site currently drains immediately to Washington Lake, a surface water drinking reservoir owned and operated by the City of Newburgh. Consistent with the County Comprehensive Plan and the County Water Master Plan, both adopted by the County Legislator…Legislature; source water supply protection is of highest importance.

The County is actively involved in at least two relevant regional initiatives. First, the Planning Department in coordination with the City and Town of Newburgh, Town of New Windsor, Town of Plattekill, Ulster County Planning Department, and the NYS Department of State are in the process of finalizing a Watershed Management Plan for the Quassaick Creek, which includes Washington Lake.

Second, this Department with the Orange County Water Authority, NYC Department of Environmental Protection, the towns of Newburgh and New Windsor, and the City of Newburgh are also completing a facility plan for interconnection and the sharing of water supply to address predictable demand and to define alternative supplies when NYC aqueduct water is unavailable. With both these projects, absolute protection of current water supply sources, such as Washington Lake, is an essential element.

Therefore, any development related to this site requires detailed review in order to avoid or limit all potential impacts on Washington Lake, a vital drinking water supply in immediate proximity. We advise the Town to begin preparing the Applicant for assurance that this water supply will be absolutely not impacted by site development.

Information on the Watershed Plan or the NE Orange Water Supply project can be viewed and/or downloaded from the Orange County Water Authority website:

<http://waterauthority.orangecountygov.com>

Additionally, County Planning recommends that the Applicant be prepared to refer the site plans and appropriate documentation to the City’s Planning Department and Engineer for review.

County Recommendation: Local Determination

Dated: October 23, 2013

David Church, Commissioner of Planning

Mr. Gebhards: Thank you very much.

Mr. McKelvey: Anyone else?

Mr. Guerra: Good evening, my name is Adelino Guerra, I’m a CPA, my office is at 163 Old Little Britain Road. I’m four buildings in from a…Route 300, right behind Home Depot so I am very concerned. I’m…I’m for this project obviously. I think it’s good for the area and so forth. The three concerns I have, I couldn’t see the gentleman was blocking where the MRI trailer was going. I just want to see how close it is to my office. It’s on the side of the building?

Mr. O’Rourke: Correct.

Mr. Guerra: Okay that’s probably right in my view but that’s fine. The other concern I would have when the Danza Group was proposing a shopping center there I had made a deal with him that he was going to use my driveway for drainage instead of going up to where the tailor is he was coming through my property. For that he was giving me access to the sewer that supposedly was going across to where Wal-Mart is so I’m assuming you’re going to have a sewer. I hope.

Mr. O’Rourke: I’m not sure what he’s proposing. A…right now we’re looking at sewer again, this is conceptual stage in front of the planning board a…the sewer is going to…most likely come out to the front of our building in through here and then bore under Route 300. We’ve actually been in contact with both the City and the Town for that sewer. So we’re not proposing any sewer that I’m aware of over in this section.

Mr. Guerra: All right. Well what…what Tony…what Tony was doing, he was going to hook me up to the sewer in exchange for a right-a-way through my driveway down to a…once Old Little Britain. I guess he was concerned about drainage. It wasn’t a sewer pipe it was a drainage pipe of some kind.

Mr. O’Rourke: Okay if I may? Again not knowing the particulars and what agreements by Danza…it’s this property owner here?

Mr. Guerra: Well he owned that to with…with the property you’re putting your project on.

Mr. O’Rourke: Oh, okay. I was not…

Mr. Guerra: He…he owned both; he owned the first two buildings and that property…

Mr. O’Rourke: I think he owns property along here a…I think we’re buying this from someone else but be that as it may, it’s beyond me, a…we’re proposing again an access Old Little Britain Road again with the dealing with the proposed land swap with this property owner here.

Mr. Guerra: Okay, that’s the one that you already control?

Mr. O’Rourke: Excuse me?

Mr. Guerra: You already control that? You already control that?.

Mr. O’Rourke: In other words… (Inaudible)

Mr. Guerra: You already control that?

Mr. O’Rourke: (Inaudible) …yes.

Mr. Guerra: In other words, you already control that, you’re not…

Mr. O’Rourke: We’re not, yes, we’re not going to be using your…

Mr. Guerra: Okay.

Mr. O’Rourke: …driveway whatsoever.

Mr. Guerra: Fine, fine, okay. And of course the drainage was a concern you…you’re…a…a…as the other gentleman was concerned too. So I’m fine, thank you.

Mr. McKelvey: Well the drainage from the…the a…parking lot and that’s going to be taken care of with that pond.

Mr. O’Rourke: Yes, and I…I should say before this again…before this project there was another project approved by the planning board a…where they had a…secured from the City an easement a…which we are also utilizing. So the City obviously we’re working with them, they’re aware of this, they’ve actually…we have an easement to discharge our sewer…storm sewer specifically to the levels right in this area. So obviously we’re working with them. We’ve told the planning board preliminarily that we will design this basin to treat 110% of our site. So not even just 100% of our site, we’re going above and beyond. Obviously we’re aware of the water quality issues and we are working with the Town, the planning board and the City on that. So we will certainly take that into consideration. Another point that I make and for the height variance, if we don’t get the height variance potentially and we’re still in the conceptual design but that means this story…the building would have to drop by a floor. So when we drop by a floor it would have to get wider so we’d actually have more disturbance. We’re trying to keep this as…as tight as possible but from a County Planning, you know, the higher we go the better it is for the water quality. Again we’ll address that a…through the planning board process.

Mr. McKelvey: This building is similar to the one in Middletown.

Mr. Maher: It’s the same.

Mr. McKelvey: It’s the same, right?

Mr. O’Rourke: Well we’ll say a little bit better…but no. Yeah, it actually is just a little bit smaller than the one in Middletown.

Mr. McKelvey: Any other questions from the public?

Ms. Gennarelli: You could take that mic off, yes, or tilt it down.

Mr. McKelvey: Or tilt it, yes.

Ms. Tracy: My name is Deanna Tracy and I own the property at 165 Old Little Britain Road and it was very difficult for me to see where things are going but it looks like there’s a driveway that’s now going to be butted up next to my property. Is that correct? Is that going to be an access from Old Little Britain Road into your property because I can’t…we can’t see back there, so…

Mr. O’Rourke: If I may a…Southerland?

Ms. Tracy: Yes.

Mr. O’Rourke: Yes, a…that’s where the access drive would be butting up against your property. There’s a landscaped isle between it and then, yes. This is a secondary access.

Ms. Tracy: Okay.

Mr. O’Rourke: A…that both the planning board and emergency services had requested.

Ms. Tracy: Okay, so that’s not going to…I mean that’s not going to affect me in any way with traffic and such, right?

Mr. O’Rourke: Well there…

Ms. Tracy: (Inaudible)

Mr. O’Rourke: …will be occasional cars driving up and down but not touching your property, no.

Ms. Tracy: Okay and then are they having any plans to be widening Old Little Britain Road for the traffic that’s being, I guess, it’s getting busier and busier but are there plans to widen Old Little Britain Road?

Mr. Manley: That may be something that the planning board after they have their traffic consultants look at it may determine but that’s going to at the planning board level.

Ms. Tracy: That’s not right now?

Mr. McKelvey: We don’t control that.

Ms. Tracy: Oh, you don’t, no?

Mr. Manley: When it gets back to their board, they’ll review that so my suggestion would be to look on the Town’s website for when they are going to have the meeting and when this is before the planning board and go to the meeting and you’ll be able to see exactly what and share in some of the input.

Ms. Tracy: Okay. And I just have one question, since now I’m going to be a corner lot do I get more signage? I could put a “V” for vitamins. Thank you.

Mr. McKelvey: Anyone else? More comments from the Board? Do I have a motion?

Mr. Masten: I’ll make a motion.

Mr. Maher: Second.

Ms. Gennarelli: Roll call.

 Michael Maher: Yes

 James Manley: Yes

 John Masten: Yes

 Roseanne Smith: Yes

 John McKelvey: Yes

Mr. McKelvey: Now in hopes of time, we want to confer with our attorney if any…anything lawful, we ask you to go out in the hall and wait for…we’ll call you back in.

 (Time Noted - 8:58 PM)

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ZBA MEETING – OCTOBER 24, 2013 (Resumption for decision: 9:24 PM)

CRH REALTY VIII LLC. 1000-1006 UNION AVENUE, NBGH

 (Crystal Run Healthcare) (97-3, 6, 7, 8, 26) I/B ZONE-NEWBURGH

 (4-1-72.2) TOWN OF NEW WINDSOR

Applicant is seeking an Area variance for the maximum height to build a new Crystal Run Healthcare medical building; and also an Interpretation of 185 - Zoning Code - Table of Use and Bulk Requirements - IB District - Schedule 8 - Accessory Uses - Column A. #2 cafeterias, clinics and recreation facilities for the use of employees engaged on the premises to employ a mobile MRI (magnetic resonance imaging) unit as an accessory use to be parked/used in the parking lot of the proposed medical building.

Mr. McKelvey: Next applicant CRH Realty VII LLC. area variance for the maximum height to build a new Crystal Run Healthcare medical building; and also an Interpretation of 185 - Zoning Code - Table of Use and Bulk Requirements - IB District - Schedule 8 - Accessory Uses - Column A. #2 cafeterias, clinics and recreation facilities for the use of employees engaged on the premises to employ a mobile MRI (magnetic resonance imaging) unit as an accessory use to be parked/used in the parking lot of the proposed medical building.

Mr. Manley: We will be handling each of these separately with separate motions?

Mr. Donovan: That’s up to the Board but certainly you can do that sure.

Mr. McKelvey: Yeah, which do want to handle first?

Mr. Manley: Might as well go with the easy one, the area variance.

Mr. Maher: Yeah, I think the a…the building obviously an addition…a nice addition to the area for a vacant piece of property there. I don’t think the a…the height is overly excessive. Obviously like Mr. Canfield stated that the majority of it is required by the Code currently to hide the a…the a/c and…and heating units on the roof there and the small parapets there don’t seem to be a…outlandish. I’d a…I’d move for an approval.

Mr. Donovan: What I’d ask you to do prior to that with respect to the a…the height variance on this commercial building is to adopt a Negative Declaration.

Mr. McKelvey: Oh yes, this is an Unlisted Action under SEQRA and we need a Negative Dec.

Mr. Manley: I’ll make a motion for a Declaration of Negative Declaration.

Ms. Smith: I’ll second that motion.

Ms. Gennarelli: Roll call.

 Michael Maher: Yes

 James Manley: Yes

 John Masten: Yes

 Roseanne Smith: Yes

 John McKelvey: Yes

Mr. Donovan: I’m sorry Mike.

Mr. Maher: I’ll a…repeat the…I’ll make…I’ll move for an approval on the a…the forty foot height requested.

Mr. Manley: I’d just add that a…what Mike said is a…especially with the building a…the concern was if they did not go with the higher height on the front that they’d have to extend the size of the building which in my opinion would create more of a problem with the…with the water runoff. You’re going to have more surface area a…and of course that would negatively impact Washington Lake so I think by keeping the building smaller and going up higher is going to help matters. So was that a motion Mike?

Mr. Maher: Yes, I did…twice. Should I make it again?

Mr. Manley: You can’t second your own motion. I’ll second the motion.

Ms. Gennarelli: Okay, that was for approval on that, right?

Mr. Maher: Yes, Right.

Ms. Gennarelli: Roll call.

 Michael Maher: Yes

 James Manley: Yes

 John Masten: Yes

 Roseanne Smith: Yes

 John McKelvey: Yes

Mr. Donovan: Can I just…? With regard to the Interpretation it’s a Type II Action under SEQRA.

Mr. McKelvey: Yeah, Type II, any comments on the Interpretation?

Mr. Manley: I’m not necessarily opposed to it a…I think it falls within the Interpretation that they’re requesting that it is a clinic which therefore means it’s part of the…the use. A…the only thing I have which may not fall within our purview is the location and I…and I would say when we make our approval perhaps we can just ask the planning board to take a look at if they can somehow work to put that into the back? Move the parking spaces around a little bit, there was an area that in the back, where they may be able to put it and then just move the parking spaces to where they were going to have the…the unit, as an option.

Mr. McKelvey: Do we have a second?

Mr. Masten: I’ll second it.

Mr. Donovan: Let me make sure I understand the condition because I don’t understand the condition so…could you do that for me again? Sorry Jim.

Mr. Manley: If the planning board could, not directing them to do it but asking them if there’s a possibility that when they’re looking at placement of the MRI unit instead of placing on the side, where they had it, to move it into the back a…by Washington Lake?

Mr. Donovan: Okay, with the…the…the a intent is to screen it from…

Mr. Manley: Further from both sides.

Mr. Donovan: (Inaudible)

Mr. Manley: From Little Britain Road and from 300.

Mr. Donovan: So If you said to screen, to ask the planning board to screen it to the maximum extent practicable from Route 300 and any, any visibility (Inaudible)…

Mr. Manley: Correct.

Mr. Donovan: …as opposed to…maybe I…I guess I’m saying if they could find a better way to landscape it and screen it in its current location as opposed to…?

Mr. Manley: Fine.

Mr. Donovan: Would that be an issue or…?

Mr. Manley: That would be fine.

Ms. Smith: Yeah.

Ms. Gennarelli: And then you want to…would approve it then? Is that the motion for approval?

Mr. Manley: Correct.

Ms. Gennarelli: Okay, thank you.

Mr. McKelvey: Do we have a second?

No response.

Mr. McKelvey: Do I have a second.

Mr. Masten: I second it.

Ms. Gennarelli: Okay, roll call.

 Michael Maher: Yes

 James Manley: Yes

 John Masten: Yes

 Roseanne Smith: Yes

 John McKelvey: Yes

Mr. McKelvey: Okay. Did I miss yours? (To the Shapiros) Okay.

Mr. Donovan: You were so fascinated by what we’re doing?

Mr. Shapiro: Amazed at the process.

Mr. Maher: So am I every day.

Ms. Gennarelli: Better than TV.

PRESENT ARE:

 JOHN MC KELVEY

 MICHAEL MAHER

 JAMES MANLEY

 JOHN MASTEN

 ROSEANNE SMITH

ABSENT:

GRACE CARDONE

ALSO PRESENT:

 DAVID A. DONOVAN, ESQ.

 BETTY GENNARELLI, ZBA SECRETARY

 GERALD CANFIELD, CODE COMPLIANCE

(Time Noted - 9:31 PM)

ZBA MEETING – OCTOBER 24, 2013

END OF MEETING (Time Noted – 9:31 PM)

Mr. McKelvey: Everybody has had a chance to read the minutes? Do I have a motion to approve them?

Ms. Smith: I make a motion to approve the minutes.

Mr. Maher: Second.

Mr. McKelvey: All those in favor?

Aye - All

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

Mr. Manley: So moved.

Mr. Masten: I make a motion. No, no problem, second.

Mr. McKelvey: All in favor say Aye.

(Inaudible)

Ms. Gennarelli: All in favor say Aye.

Aye All

PRESENT ARE:

 JOHN MC KELVEY

 MICHAEL MAHER

 JAMES MANLEY

 JOHN MASTEN

 ROSEANNE SMITH

ABSENT:

GRACE CARDONE

ALSO PRESENT:

 DAVID A. DONOVAN, ESQ.

 BETTY GENNARELLI, ZBA SECRETARY

 GERALD CANFIELD, CODE COMPLIANCE (Time Noted – 9:32 PM)