ZONING BOARD OF APPEALS

MEETING – MAY 28, 2015

(Time Noted – 7:02 PM)

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

PRESENT ARE:

 GRACE CARDONE

 RICHARD LEVIN

 JAMES MANLEY

 JOHN MASTEN

JOHN MC KELVEY

ABSENT:

 MICHAEL MAHER

 DARRIN SCALZO

ALSO PRESENT:

 DAVID A. DONOVAN, ESQ.

 BETTY GENNARELLI, ZBA SECRETARY

 GERALD CANFIELD, CODE COMPLIANCE

(Time Noted – 7:04 PM)

ZBA MEETING – MAY 28, 2015 (Time Noted – 7:04 PM)

NANCY DePALMA & MIKE DePALMA 10 HAANS COURT, WALLKILL

 (2-3-34) R/R ZONE

Applicant is seeking area variances for the maximum allowed square footage of accessory structures and the maximum allowed storage for not more than (4) four vehicles to keep two prior built accessory structures (A - 40x20x15 rear yard shed) and (B - 40x20x15 front yard shed) and also for accessory structure (B) a variance for such building shall not project closer to the fronting street than the main building.

Chairperson Cardone: Our first applicant this evening Nancy DePalma and Mike DePalma.

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

Mr. Manley: Madam Chair I am going to recuse myself from this action.

Chairperson Cardone: Okay, I have to let you know that with Mr. Manley recusing himself…

Mr. Brown: (Inaudible)

Chairperson Cardone: …yes…

Mr. Brown: I understand.

Chairperson Cardone: …we have just four Board Members that will be voting.

Mr. Brown: Fortunately we have that. Okay, thank you. Charles Brown, engineer for the applicant, what this is a single-family residence on a fifty-four acre site a…we’re here tonight because a…my client a…put two a…accessory…

Mr. McKelvey: Can you move to the other side (of the easel) please so we can see?

Mr. Brown: …sure…two accessory barns. This is the residence here, accessory barn one there and one down here and do to the nature of these barns a…the Building Department determined that they could be vehicles parked in ‘em and that one of ‘em is forward of the house and that the combination of both of them exceeds the square footage permitted based upon the formula in…in the Zoning Code. A…the barns are existing so it’s…it’s a…a…it’s not going to a…have an environmental effect a…or an effect on the neighborhood a…it is a very, very large piece of property again fifty-four acres so the impact on the environment is…is a…none a…we had some other issues with this site all those have been resolved some with the DEC and some with the Building Department. For a…for pools and other a…structures that were in the DEC a…buffers and wetlands but we took care of all that. A…and we’re here seeking variances for those two structures and for a total of I guess ten a…on-site parking spaces because each barn is considered capable of handling four vehicles which is…you know, is a reach and the house itself has a two-car garage on it. And a…we’re here to answer any questions from the public and a…hopefully get the variances for a…my…my client.

Mr. Levin: Are you saying the barn closest to the front is capable of four vehicles?

Ms. Gennarelli: Richard, can you pull your mic in please? Thanks.

Mr. Levin: Yeah.

Mr. Brown: That you know…that…that isn’t my determination that based upon the Building Department a…it’s a twenty by twenty structure with a you know, eight foot door then it has two ten foot a…sheded roofs of each side so really you could really only get three vehicles in each one a…and a…that would cut you know the total vehicle spaces down to eight instead of ten. A…but again this all came through the Building Department and you know, we…we responded based upon that. A…based upon the size of the property and a my client you know, does hunt and he does have farm vehicles and what not a…back hoes you know, equipment, machines so a…you know he does park a back hoe underneath one of those sheds but other than that they have not been used for vehicles. But again, you know we have to follow the Code that’s why we’re here.

Mr. Donovan: Charlie, relative to that issue, how many vehicles do you propose to have on the site?

Mr. Brown: Well again its two car garage and right now it’s just a back hoe under one of the sheded sides of the thing but the way that the Building Department looks on it is if it’s capable of sheltering a vehicle then it counts as a space. A…four of those are actually exterior in other words it’s just a roof with…with posts.

Mr. Donovan: Correct, the way that this has come down before, if Code Compliance sees a structure that capable of housing more than vehicles, if you can have more than four vehicles on the site they include that in the denial. A…my question generally is to people…how many vehicles do you intend to have? Because if you intend to have less than four then the Board does not grant a variance from that requirement you are simply not permitted to have more than four.

Mr. Brown: Okay, well we’re okay with that because there’s…there’s no…no chance that there will be more than four vehicles a…inside the structures on this site. He…he also has a pretty substantial gravel parking area in front of the building and that’s where he keeps the work trucks because they don’t…she don’t fit into any of these structures.

Mr. McKelvey: Well it has to be a…written to the decision that you can only have four vehicles on-site.

Mr. Brown: Four vehicles inside of…

Ms. Gennarelli: John, pull you mic in please.

Mr. Brown: …the buildings.

Mr. McKelvey: Yeah, I guess…sorry.

Ms. Gennarelli: Just for clarification Charlie I…I have forty by twenty, I think you said twenty by twenty.

Mr. Brown: The buildings are…the base buildings are twenty by twenty and then they have a ten foot sheded roof on each side which is open to the exterior. We did provide pictures you know, with application.

Ms. Gennarelli: Okay.

Chairperson Cardone: (Inaudible)

Mr. Brown: That’s where the twenty by forty comes it includes those sheded roofs.

Mr. Donovan: Just going back to the vehicle issue the point that I’m trying to accomplish is that if you’re only…if you’re asking for four or less vehicles I don’t the Board to give you a variance for ten vehicles.

Mr. Brown: Again, we don’t need a variance for ten vehicles. We have no intention of using ten vehicles so if a…the Board you know choses to grant us a variance and there’s a restriction on the number of vehicles to…to four we’re with that but again four vehicles within structures. I mean we’re not going to limit vehicles parking on-site, correct?

Mr. McKelvey: That’s…that’s what I asked Dave.

Mr. Brown: Yeah.

Mr. McKelvey: We put it in there.

Mr. Donovan: But I believe and I’ll defer to Jerry on this, but I believe Code Compliance’s interpretation is that you cannot have more than four vehicles stored on-site whether they are inside, outside, upside or downside…it…it’s four.

Mr. Brown: Really?

Mr. Donovan: Yeah.

Mr. Brown: My understanding it was…it was only within structures.

Mr. Donovan: No, it’s…we had…we had a written interpretation from Mr. Mattina two months ago on that issue and it’s…and it’s…the Code Compliance’s interpretation is not more than four.

Mr. Brown: Six? Six enough for you?

Mr. DePalma: Six vehicles, I don’t need more than…?

Mr. Brown: Counting the backhoe though?

Mr. DePalma: (Inaudible)

Mr. Brown: We…we…we’d ask for six then. Four registered vehicles plus a back hoe and…and a…and plus a tractor.

Chairperson Cardone: Have you read the report from the Orange County Department of Planning?

Mr. Brown: A…yes I did.

Chairperson Cardone: Okay, I’d like to read it into the record.

We note that the bulk of the project site is constrained by the presence of the New York State Department of Environmental Conservation regulated wetlands and the DEC required one hundred foot wide wetland buffer. The appellate has been in contact with the DEC, has complied with their recommended remediation for the project site. We further note that in the last two years the Town of Newburgh has referred eight requests for area variances that have involved accessory structures in excess of the maximum of allowed square footage. If the Town wishes to review that provision of the Zoning Code, County Planning would be happy to offer our assistance. And their recommendation is Local Determination.

Mr. Brown: Thank you.

Chairperson Cardone: I have a question for Mr. Canfield. We have a number of things in the communication a…that was sent to Mr. Campbell and I notice that anything referring to the DEC was settled. Was there other issues though from the Building Department? Issues that have not been settled?

Mr. Canfield: Nothing outstanding other than the request for the variances a…that we’re aware of. The issue with the DEC and the pond that has been a…handled in accordance with the DEC’s regulations. The applicants have been requested to plant, I think it was some forty-five hundred dollars in plantings, which they have done a…per the DEC recommendations. With that Mr. Brown has certified that everything has been complied with in accordance with the DEC’s regulations. The Building Department is okay with that.

Chairperson Cardone: And the third floor occupancy?

Mr. Brown: The…the third floor is not proposed to occupied at this time a…in the event that the third floor was proposed to be occupied we would submit an application to the Building Department a…for that including a…required sprinkler system and whatnot. There’s…there’s a…the third floor is…is at this time not occupied and will not be occupied.

Chairperson Cardone: Do we have questions from the Board?

No response.

Chairperson Cardone: You mentioned storing a backhoe and a trailer? Is that a temporary?

Mr. Brown: A…my client is a contractor it’s a…it’s you know equipment that he uses on job sites when he’s on a job site the…the a…equipment is not a…at…at this location. A…when he’s not working whether it’s in the wintertime or whatnot the backhoe and trailer are stored on site.

Mr. McKelvey: He’s not running a business from there is he?

Mr. Brown: A…yeah, I mean he is actually so you know, but that’s going to be terminated a…actually this weekend. He’s moving the business to another location so you know again if that’s a condition of…of a…of variances of business not operating from this particular piece of property my client would be willing to agree to that.

Mr. Levin: Will the vehicles go to the new location?

Mr. Brown: Yes, they will, which in retrospect a…means that we don’t need a variance for the additional parking spots so we’re okay with the four then.

Mr. Levin: That’s going to be next week? You agree to four no more?

Mr. Brown: This weekend, right, right. Well it’s the four permitted by Code.

Mr. Levin: Yes.

Mr. Brown: We would not need a variance for additional parking.

Ms. Gennarelli: Richard you are going to have to get closer I know you’re…

Mr. Levin: I’m sorry.

Ms. Gennarelli: That’s okay, either that or pull that mic all the way in.

Chairperson Cardone: Mr. McKelvey had a question about the overhang in the front of the dwelling unit but I understand that that’s been taken care of as far as Permits?

Mr. Brown: A…yes, yeah there…there’s a overhang in front of the a…garage right in front of the building there a…that was constructed after the residence without a Permit a…I did inspect the structure of that and did so certify it a…that…that documentation was provided to the Building Department and it’s my understanding that they are okay with it.

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

No response.

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

Ms. Gennarelli: You are going to have to come up to the microphone sir.

Mr. Hughes: My name is Hughes, I live in Middlehope. That stream that eventually ends up into the reservoir I’d like to know what the concerns with the DEC were during this and what was resolved and what was pointed out because that eventually ends up going into our reservoir and you’re saying they’re running a business out of there now and its construction and backhoes and work trucks. Has there been any spills or contamination or anything that went on on that property?

Mr. Brown: No, there’s been no storage of materials a…or spills on the site. The stream is a considerable distance a…away, it’s down in here a…it’s also you know flood way back there to a…the DEC a…asked us to give…to provide some compensatory a…a plantings which we did a…to make up for the disturbance for the one shed which is in the buffer. We had nothing in…there’s no structures or anything else in the wetland itself.

Mr. Hughes: You mentioned something about a pond as well.

Mr. Brown: The pond was here it was partially dug when my client bought the property a…that…we had to…provided a…wetlands plantings all round that pond in conformance with the DEC requirements a…and again both structures are…are actually the structure and the pool are in the wetland buffer. One…one barn and the pool but there is nothing in the wetland itself.

Mr. Hughes: So in short without writing a novel the pond was created in a critical wetland area and so was part of the structures that exist there so I think I’d like to know a little bit more about what the DEC had to say about overriding all that.

Mr. Brown: Again, the DEC has signed off on this, the pond was constructed in the wetland, it was a…a wet area to begin with a…it actually now has a…some pretty exotic fish in it so it’s actually a wetland improvement. A…the DEC a…asked us to leave the pond just plant wetland species around it. That’s the only thing actually in the wetland. The a…other structure in the buffer and a…neither of them are within fifty feet of the wetland itself so they did not impact the wetland and the DEC did sign off on them and that was Doug Gaugler if you want to check with him a…or the correspondence that was provided to the Board.

Mr. Hughes: I think I’d like to know about that before a vote goes on if there is something on there that should be adjusted or corrected.

Mr. Brown: Well…

Chairperson Cardone: I can read a paragraph from the report that I have.

The other violations (pond, mowing)…and this pond that you’re interested in…do not automatically meet permit issuance standards, and so must be remediated. The pond itself may remain as is, since it is said to be shallow and vegetated, which is sufficient for it to be considered part of the wetland. However, the cleared area surrounding the pond must be planted with trees and shrubs to restore the wetland in that area. Mr. DePalma has agreed to the following: replanting this area per the attached mitigation plan, with no future mowing of the area; stopping the mowing of the field to the east of the pond, with a barrier of planted trees to block off access; and the removal of the culvert and restoration of the natural stream channel. Mr. DePalma has been cooperative with regard to resolving these issues (violations) on his property and has already begun some of the required work. I will be following up with him in the near future to ensure that the work is completed as required.

Then there’s a…another communication

This is a follow up to my 4-2-15 email concerning NYS freshwater wetland law violations on the referenced property. I went to the site today (and met with the owner Michael DePalma) to inspect the plantings that were required to restore the wetland where disturbed, and to discourage (any) further disturbance by mowing in the wetland area. The plantings have been installed as required and done according to plan. I do not anticipate any further action by the DEC on this matter assuming no new disturbances to the wetland or wetland buffer on the property.

And that’s from Douglas Gaugler of Bureau of Habitat

Mr. Brown: Gaugler.

Mr. Hughes: Well I…I know the history of this property going back for fifty, sixty years and there were some crazy things that went on there in the last twenty-five years where people were building where they shouldn’t have been building and they went through the wetlands and tore things up. I don’t know how much more went on before this gentleman did what he did but I would like to make a note on the record that on that side of the road in that particular area we’re right across the street from our reservoir with what we drink and we need to keep in mind that there should be no further subdivisions in that area and that we’ve got to take a good look at what’s going on around there. Thank you. Thank you for answering those questions.

Mr. Brown: No problem. Thank you.

Chairperson Cardone: Thank you. Do we have any other comments?

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

Mr. Masten: I’ll second it.

Ms. Gennarelli: Roll call.

 Richard Levin: Yes

 James Manley: Recused

 John Masten: Yes

John McKelvey: Yes

 Grace Cardone: Yes

Mr. Brown: Thank you.

 (Time Noted - 7:26 PM)

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ZBA MEETING – MAY 28, 2015 (Resumption for decision: 9:14 PM)

NANCY DePALMA & MIKE DePALMA 10 HAANS COURT, WALLKILL

 (2-3-34) R/R ZONE

Applicant is seeking area variances for the maximum allowed square footage of accessory structures and the maximum allowed storage for not more than (4) four vehicles to keep two prior built accessory structures (A - 40x20x15 rear yard shed) and (B - 40x20x15 front yard shed) and also for accessory structure (B) a variance for such building shall not project closer to the fronting street than the main building.

Chairperson Cardone: The Board is resuming its regular meeting. The first application Nancy DePalma and Mike DePalma, this is a Type II Action under SEQR. Do we have discussion on this application?

Mr. Donovan: And just for clarification there is no request for a variance for more than four cars.

Mr. Brown: Correct.

Chairperson Cardone: And all of the outstanding violations were taken care of?

Mr. DePalma: Yes.

Mr. Brown: Yes.

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

Mr. Masten: I'll second it.

Ms. Gennarelli: Roll call.

 Richard Levin: Yes

 James Manley: Recused

 John Masten: Yes

John McKelvey: Yes

Chairperson Cardone: I just want comment and remind people that one of the conditions was that a business would not be run at this location. Is that understood?

Mr. Brown: Yes. We understand.

Chairperson Cardone: In that case, yes.

 Grace Cardone: Yes

PRESENT ARE:

 GRACE CARDONE

 RICHARD LEVIN

 JAMES MANLEY

 JOHN MASTEN

JOHN MC KELVEY

ABSENT:

 MICHAEL MAHER

 DARRIN SCALZO

ALSO PRESENT:

 DAVID A. DONOVAN, ESQ.

 BETTY GENNARELLI, ZBA SECRETARY

 GERALD CANFIELD, CODE COMPLIANCE

 (Time Noted – 9:16 PM)

ZBA MEETING – MAY 28, 2015 (Time Noted – 7:26 PM)

BIRKS REALTY INC. 200 AUTO PARK PLACE, NBGH

 (97-2-11.2) I / B ZONE

Applicant is seeking area variances for the front yard landscape buffer of 35 feet and the required buffer from the IB zone to the adjacent R-2 residential zoning district to expand the showroom and service building of the automobile dealership (Hudson Valley Chrysler Dodge Jeep Ram).

Chairperson Cardone: Our next applicant Birks Realty Inc.

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

Mr. Sarchino: Good evening, Joe Sarchino with the firm of John Meyer Consulting. I’m here tonight representing Hudson Valley Chrysler. It was previously a Park Motors location. The site is located on Auto Park Place and Route 17 (17K). We’ve been before the planning board processing a site plan approval for the expansion of an existing building to renovate the façade and…and create a new dealership in that location. During that process the existing condition, two existing conditions were noted by the Town that were existing non-conformities on the lot. The first one was a thirty-five foot landscape buffer is required along 17K adjacent to the a…adjacent to that roadway. There presently exists parking in that location. The second one, the site is located in an I/B Zoning District here, down in the corner of the property to the rear we bound a R-2 Zoning District as well. So as part of that in the Code Section 185-18-C-(5)-(a) a hundred foot buffer is required and that would be this line right here is the dash line, the grey area is existing parking. So that, that again is an existing parking area. The proposed application, if you see the building here, the site plan application presently before the Board basically is just filling these two square areas here. There are no improvements in the front yard here and no proposed improvements in this location either so we’re not increasing the existing non-conformity. I just wanted to make note of that. We did submit some pictures to the Board as required, just so you could see, again I have them here. This is the front yard so that is an existing condition in the front yard. Again we’re not proposing to increase it or anything like that it’s just to remain existing. In the rear, along the residential boundary you can see the existing parking lot here; we have a substantial evergreen buffer in the back along that property line. Actually, here’s a winter picture just to see what it looks like in the winter as well and there is a substantial evergreen between this property and the residential property. So basically that’s a summary of the two variances that are required. Again they are just for the existing conditions and there was no proposed work in this location or in this location in the rear as well.

Mr. Donovan: I know there are existing conditions so you don’t propose to encroach any further into either area but could you give us for the front yard landscape buffer is required thirty-five feet how much is there provided currently?

Mr. Sarchino: Well there is a green area here of thirty-five feet, thirty-five point seven three feet. The present buffer from or the setback from the property line is approximately two to three feet in this location, a little bit more here but the existing green area from 17K is thirty-five point seven three feet.

Mr. Donovan: Okay, so you achieved the buffer just not from the property line?

Mr. Sarchino: Correct.

Mr. Donovan: And how about on the adjacent residential zoning district?

Mr. Sarchino: Again this green area exists from the property line, there’s an encroachment of approximately thirty feet…thirty-five feet here and approximately eight feet in this location. It varies a little bit. We are fortunate though in the back that the evergreen buffer was planted previously and it’s very mature and very established.

Chairperson Cardone: I have the report from the Orange County Department of Planning.

We note that at this time according to the Short Environmental Assessment Form prepared by the applicant storm water flows off site onto adjacent properties. If it is the choice of the ZBA to approve this variance thereby allowing development of the site as proposed by the applicants we encourage them to request that additional storm water management measures be made part of the existing vegetated buffer areas.

Mr. Sarchino: I’m assuming that would be part of what the planning board is looking but the…the project proposes to reduce the amount of impervious area as we’ve stated to the planning board so we…we’re actually having less impervious area than presently exists. So I would imagine we’d be addressing the engineering portion of the design a…with the planning board during the course of that work but we are proposing less impervious I’m not sure if the Planning Department realizes that.

Chairperson Cardone: Do we have questions from the Board?

Mr. Levin: Is there a way of moving the buffer area back so you’re not in…in…so you are in compliance?

Mr. Sarchino: There really isn’t in order to try to…in order to keep the parking count that the dealership has presently. It would substantially reduce the amount of parking and a…

Mr. Levin: I have noticed that you…the dealership has used the buffer area to park cars from time to time.

Mr. Sarchino: I’m not sure that this dealership did but if they did I will inform them that they should not be doing that and…

Mr. Levin: No, this is a different dealership. I realize that.

Mr. Sarchino: Yeah, I know that…I know…I don’t want to say but other ones do do that I have seen but I don’t think that they have but the one down at the corner.

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

Mr. Manley: I have a…a…just something that I just wanted to point out the County pointed out in their memorandum to us that they had a concern with respect to the…additional storm water management measures being included in the project due to the fact that the a…water actually goes onto the other properties that surround the…the site. So I’m wondering what a…what the applicant is going to do to mitigate that?

Mr. Sarchino: We aren’t changing the existing condition so a…I really, I mean in this location this is a gravel parking lot so basically the water percolates into the ground there. The drainage in the front here goes to a catch basin here and here…excuse me…it ties into the State DOT system and that’s been like that for many, many, many years now. So a…there really aren’t any changes other than what we’re doing here which is a reduction in the amount pervious pavement and this gravel parking lot is proposed to remain gravel. Nothing…we’re not proposing to change that at all so since we aren’t proposing anything new I…I certainly would address that maybe in the planning process but I don’t think, you know, there isn’t any changes to the drainage or new pavement or we’re not changing the direction of the pavement so maybe they just didn’t realize that when they prepared the letter.

Mr. Manley: Well I’ll actually read the comments into the record for just for the record. This is from the County Department of Planning to the Town of Newburgh ZBA, subject applicant Birks Realty, comments:

The planning department has reviewed the submitted materials regarding the appeal for an area variance. While the Zoning Board of Appeals must weigh the local issues in balancing the needs of the appellant with the potential impacts on the surrounding area it does not appear that inter-municipal or county-wide impacts would result if the Board finds that granting relief is warranted in this matter. We note that at this time according to the Short Environmental Assessment Form prepared by the applicant storm water flows off site onto adjacent properties. If it is the choice of the Zoning Board of Appeals to approve this variance thereby allowing development of the site as proposed by the applicants we encourage them to request that additional storm water measures be made part of the existing vegetated buffer areas. And the County recommendation is Local Determination.

That was my only note.

Chairperson Cardone: Any questions from the Board?

Mr. McKelvey: Could we…could we give the planning board this statement from the County?

Chairperson Cardone: We could.

Mr. Sarchino: That’s where it would be addressed. I would address it the planning…

Mr. McKelvey: Yeah, that’s why I say make sure that they know about this.

Mr. Sarchino: Correct.

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

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

Mr. Masten: I’ll second it.

Ms. Gennarelli: Roll call.

 Richard Levin: Yes

 James Manley: Yes

 John Masten: Yes

John McKelvey: Yes

 Grace Cardone: Yes

Chairperson Cardone: Thank you.

 (Time Noted - 7:38 PM)

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ZBA MEETING – MAY28, 2015 (Resumption for decision: 9:16 PM)

BIRKS REALTY INC. 200 AUTO PARK PLACE, NBGH

 (97-2-11.2) I / B ZONE

Applicant is seeking area variances for the front yard landscape buffer of 35 feet and the required buffer from the IB zone to the adjacent R-2 residential zoning district to expand the showroom and service building of the automobile dealership (Hudson Valley Chrysler Dodge Jeep Ram).

Chairperson Cardone: On the next application Birks Realty. This is an Unlisted Action under SEQR. Do I have a motion for Negative Declaration?

Mr. McKelvey: I’ll make that motion.

Mr. Manley: Second.

Ms. Gennarelli: Roll call.

 Richard Levin: Yes

 James Manley: Yes

 John Masten: Yes

John McKelvey: Yes

 Grace Cardone: Yes

Chairperson Cardone: Do we have discussion on this application?

Mr. Manley: Well the only concern that I have is what was addressed by the County and I would like to a…really point out that we really should have that a condition of our approval would be that the County’s comments get addressed by the planning board.

Mr. Donovan: So I don’t think we can bound them, bind the planning board but what we could do is a…indicate or make a condition of our approval that the planning board take into consideration before they take any action on the application the comments raised by the Orange County Planning Department with something in their record indicating that they had taken those into consideration.

Mr. Manley: Correct. With that I’ll make a motion for approval.

Mr. Masten: I'll second.

Ms. Gennarelli: Roll call.

 Richard Levin: Yes

 James Manley: Yes

 John Masten: Yes

John McKelvey: Yes

 Grace Cardone: Yes

Chairperson Cardone: The motion is carried.

PRESENT ARE:

 GRACE CARDONE

 RICHARD LEVIN

 JAMES MANLEY

 JOHN MASTEN

JOHN MC KELVEY

ABSENT:

 MICHAEL MAHER

 DARRIN SCALZO

ALSO PRESENT:

 DAVID A. DONOVAN, ESQ.

 BETTY GENNARELLI, ZBA SECRETARY

 GERALD CANFIELD, CODE COMPLIANCE

 (Time Noted – 9:18 PM)

ZBA MEETING – MAY 28, 2015 (Time Noted – 7:38 PM)

TARSIO FAMILY LIMITED 283 FOSTERTOWN ROAD, NBGH

 (39-1-21.1) R-2 ZONE

Applicant is seeking an area variance for the maximum allowed square footage of accessory structures, the maximum height of accessory structures and an accessory structure closer to the street than the front of the main building to keep an existing accessory building (barn) for a proposed (5) five-lot subdivision.

Chairperson Cardone: Our next applicant Tarsio Family Limited.

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

Mr. Manley: Madam Chair with this one I am also going to recuse myself.

Chairperson Cardone: With Mr. Manley recusing himself we have just four Members voting which means that all would have to vote in the same way. Do you understand?

Mr. Lytle: Yes, good evening I’m Ken Lytle representing the Tarsio Family a…subdivision. The subdivision is located in between Fostertown Road and Wells Road here in the Town of Newburgh. It’s an eight point six acre property we’re planning to divide it into four…five lots. A…there’s and existing barn, large barn, that’s been around for many, many years on the property and that’s what we’re here tonight for. We need variances for that a…three variances, one is for the square footage of the existing barn, the other is for the height of the barn and the other is for the one being closer to the main road than the existing dwelling. If the Board has any comments…

Mr. McKelvey: If the barn stays what are they going to use it for?

Mr. Lytle: The family, the Tarsio family it’s been in their father’s name and actually a property for years. They planned a…no change to it at all. Again the father always had horses for years and horses in there for many, many years again, all the paddocks that are out there on the property and they thought actually in respect to family and his father that had passed away to keep the house and the barn tied together.

Chairperson Cardone: I understand the barn has been there for about a hundred years.

Mr. Lytle: That’s my understanding from the family, that’s correct.

Chairperson Cardone: I have the report from the Orange County Department of Planning and that is Local Determination.

Mr. Levin: What would be required if you turned that barn into a home?

Mr. Lytle: You’d have to be…

Audience member: Inaudible.

Ms. Gennarelli: Excuse me; if you are going to speak you have to come up to the microphone.

Audience member: Inaudible.

Ms. Gennarelli: If anybody is going to speak you need to come up to the microphone.

Chairperson Cardone: Right and I will be asking for comments.

Audience member: Inaudible.

Mr. Lytle: My understanding is to convert that into a house there’d have to be another sub-division down road separating the existing dwelling from the barn. That would have to be a separate application… (Inaudible)

Mr. Levin: But there’s no plans to do that right now?

Mr. Lytle: Absolutely none, none.

Chairperson Cardone: At this point nothing is going to be done to that structure? It’s going to stand as it is and has it has been for many years.

Mr. Lytle: Yes.

Chairperson Cardone: Do we have any questions or comments from the public? If so, step to the microphone. Mr. Hughes and…you were first, then Mr. Hughes.

Mr. Rossi: My name is Sal Rossi I live…

Ms. Gennarelli: Excuse me; can you get closer to the mic? It is being recorded. Thank you.

Chairperson Cardone: Okay speak into the microphone.

Mr. Rossi: My name is Sal Rossi, corner of Wells and Fostertown Road. My only concern was can the barn become a rental, a rental you know housing rental?

Mr. Lytle: My understanding anything proposed like that would have to go back to the Building Department for their review.

Mr. Rossi: Okay and…and if this a…if the variance is not granted what happens to the barn?

Chairperson Cardone: If the variance is not granted then they…it’s a matter of subdividing the land. Once they subdivide it that structure as it stands it can stay right as it is but once they subdivide the land that’s why they are before us because now they have to meet the current requirements.

Mr. Rossi: Okay, so I…I guess I’m not understanding something. So if…if this subdivision is approved a…does the…does the barn stay or does the barn have to go? Because the…

Chairperson Cardone: Without the variance it would…

Mr. Rossi: …barn is now non-conforming, correct?

Chairperson Cardone: Right, without the variance it would have to go.

Mr. Rossi: So they would have to take it down?

Chairperson Cardone: Right.

Mr. Rossi: Okay, I don’t think that’s a good idea but…a…I just again my concern is it becoming a rental, you know a…you know because a pretty large area and it’s…it right next to my property. That’s the one thing I don’t want.

Mr. Lytle: That’s all horse stalls right now you probably know the barn very well. There’s nothing proposed for that at all.

Mr. Rossi: Okay, all right, that’s all I have. Thank you.

Chairperson Cardone: Yeah, I was going to ask you to make a comment Mr. Canfield.

Mr. Canfield: Thank you. In response to that gentlemen’s question this is what’s known as an R-2 Zone, multiple dwellings are permitted in an R-2 however for that to happen the applicant would have to file for a planning board site plan approval and at that point most likely there would be another Public Hearing. There’d be an opportunity for the public to input plus all Permits and everything would be required. Okay? Actually if there were any conversion to this barn he would need a Building Permit and based on what the proposal was would dictate what level of review it would receive. Okay?

Mr. Rossi: Yes.

Mr. Donovan: And Jerry…I’m sorry.

Mr. Canfield: I have one other question perhaps for Ken. I heard Grace you had said that this barn is a hundred plus years old is there any historical a…registered paperwork on this barn or is it a listed historical building?

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

Mr. Lytle: As far as I understand from the family it is not listed and there’s no historic value that they know of.

Audience member: Inaudible.

Chairperson Cardone: Mr. Hughes you also had a comment?

Mr. Hughes: Thank you. Just some general housekeeping Ken may know. Historically that barn is a hundred years old, across the street the house that burned down was a hundred and fifty years old. Right there, there’s a fifty-seven lot subdivision that’s been approved that died right next to the south border of the Tarsio property that goes up and around from Fostertown Road and it goes back over to Wells where the power lines are. You’re familiar with what I’m talking about. There’s a hook in there and I don’t know whether it’s dead dead, and it can be revived but during the process of going through that fifty-seven lot subdivision. You’re going to keep the barn and house together, the main house that Mr. Tarsio with that barn as one lot?

Mr. Lytle: That’s the family plan.

Mr. Hughes: You, Mr. Rossi so you can understand what…how they get coupled together. And you’re looking four other lots?

Mr. Lytle: That is correct.

Mr. Hughes: There is a right-of-way and there’s an easement that was granted from that fifty-seven lot sub-division that is right up against your south border there. Are you going to have water and sewer for these four lots?

Mr. Lytle: No, the two lots that front on Wells Road will have water and sewer.

Mr. Hughes: Yes.

Mr. Lytle: And everything else is going to remain on septic and well.

Mr. Hughes: Okay so then there’s two things floating here for the purpose of water and the seventy-five acre swamp across the road. They’re supposed to bring a road and a pipe down there and a retention pond on the other side of the road you might look into connecting into that. Let’s stop pissing in each other’s wells.

Mr. Lytle: Thank you very much.

Mr. Hughes: Thank you.

Mr. Donovan: Jerry, I had a question I…this is not really a ZBA question but five lots are allowed in the zone?

Mr. Canfield: (Inaudible)

Ms. Gennarelli: Was that affirmative? Can you give him the microphone?

Mr. Canfield: Yes, yes it is permitted. It is a minor subdivision.

Mr. Donovan: Okay. And the reason for the gap in between Lots 2 and 3, Ken?

Mr. Lytle: Those are the two lots that come off of actually Wells Road right? That’s what you’re talking about?

Mr. Donovan: Yeah, correct there’s a…

Mr. Lytle: Yep, dealing with actually Jim and talking to Jim Osbourne town engineer and talking about where a…well water, sewer whatever we do is a…it was discussed to actually share those common driveways and in doing so propose actually a fifty foot strip there in case down the road somebody else would want to do something. We have no provisions for anything at this point but again it was a recommendation for Jim and again there actually to extend that sewer manhole you see in the first seventy-five feet at that point for that reason.

Mr. Donovan: Yeah, I just so…just to be…the question as to what could happen there…there is the potential, whether it happens or not is unknown but for obviously future development. Right, that’s what…

Mr. Lytle: It is…a separate application by someone else who would ever maybe entertain purchasing that. Again the family wanted to keep as large an estate with the barn and with the house at that time. But again they didn’t want to limit someone down the road.

Mr. Hughes: It would be a shame to ruin that whole corner in that area; Mr. Rossi lives next door, in a very small well-kept place. You could condition this with no further subdivision it being that it is a minor subdivision. They call it the creeping subdivision if you do it any other way.

Chairperson Cardone: Do we have any other comments? Mr. Rossi?

Mr. Rossi: Has anyone looked at the traffic impact on…on this and then on…

Chairperson Cardone: I should mention that…

Mr. Rossi: …possible future subdivision simply because as anybody who lives on Fostertown Road it gets like a super speedy highway right now? Wells Road right in front of my house, the stop sign is fifty feet up and people are doing fifty at my driveway to stop at the stop sign. So has anybody looked at the traffic impact?

Chairperson Cardone: As far as the…the properties the Board Members do visit all of the properties that we discuss. That is an issue that this Board wouldn’t handle because we just have to focus on the variance that’s before us however, this is before the planning board and the planning board is supposed to address those issue. Now I don’t know if they’ve had a Public Hearing or they’re planning to have a Public Hearing…

Mr. Lytle: Yeah, right now actually the planning board has not had a Public Hearing yet this is the first step going to the ZBA to decide what we’re going to do with the barn.

Mr. Rossi: Okay, okay.

Mr. Lytle: And you’ll get notified again.

Mr. Rossi: Okay, thank you.

Chairperson Cardone: And that’s the chance to bring up your concerns about the traffic.

Mr. McKelvey: With the speeding issue you could also go to the Town Board.

Mr. Rossi: I have. I…I…actually the Supervisor’s Office and in fact today I…I…related that I had to call the Town of Newburgh Police for an incident that happened on Fostertown Road. They can’t do anything. They have to…they have to witness it…not me, so…thank you.

Chairperson Cardone: And there was a lady that wanted to make a comment. You can take that microphone off of…

Ms. Gennarelli: You can pop it right off, it’s a little high.

Ms. Cassidy: Too high for me.

Ms. Gennarelli: It pops right off. There you go.

Ms. Cassidy: Thank you. Hi, I’m Susan Cassidy; I live on the other side of the woods from the Tarsio property. There’s the Tarsio property and there’s the woods there which I guess is the proposed fifty-seven lot subdivision and then I’m on Adonna Drive and the back of my property goes against those woods. So actually I really just have a question I’m trying to understand what is going to happen. So the existing house will remain and the barn will remain?

Mr. Lytle: As one parcel that’s correct.

Ms. Cassidy: And then there will be four additional houses built?

Mr. Lytle: Right. Two…

Ms. Cassidy: On Wells?

Mr. Lytle: Yep, two on…if you want to look at the map…two right along Fostertown Road…

Ms. Cassidy: Two on Fostertown?

Mr. Lytle: Yep, Fostertown Road, two on Fostertown where those white a…paddocks are currently…

Ms. Cassidy: Oh so then in front of the house?

Mr. Lytle: Yep and the other two will be on Wells Road all by themselves. The two on each road and that be it.

Ms. Cassidy: And this is the barn?

Mr. Lytle: That’s the barn which would be actually…attached that with the existing home.

Ms. Cassidy: This is the existing home?

Mr. Lytle: That’s correct. The home is to remain, yes.

Ms. Cassidy: Okay, I just wanted to understand what was going on since it was kind of in my backyard and I guess that’s all. I mean a…I prefer horses but you know what am I going to do? I am also concerned about traffic of course because pretty soon I won’t be able to make a left out of my street because the traffic is getting really nutty but anyway that’s my comment.

Chairperson Cardone: Now you’re on the same side of Fostertown or are you across the street?

Ms. Cassidy: Same side of Fostertown, yes. It’s called Adonna Drive.

Chairperson Cardone: Okay.

Ms. Cassidy: In fact it’s the next turn that you can make or the next right turn right after the Tarsio property.

Chairperson Cardone: Thank you.

Ms. Cassidy: You’re welcome.

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

No response.

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

No response.

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

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

Mr. Levin: I’ll second it.

Ms. Gennarelli: Roll call.

 Richard Levin: Yes

 James Manley: Recused

 John Masten: Yes

John McKelvey: Yes

Grace Cardone: Yes

 (Time Noted - 7:53 PM)

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ZBA MEETING – MAY28, 2015 (Resumption for decision: 9:18 PM)

TARSIO FAMILY LIMITED 283 FOSTERTOWN ROAD, NBGH

 (39-1-21.1) R-2 ZONE

Applicant is seeking an area variance for the maximum allowed square footage of accessory structures, the maximum height of accessory structures and an accessory structure closer to the street than the front of the main building to keep an existing accessory building (barn) for a proposed (5) five-lot subdivision.

Chairperson Cardone: On the next application Tarsio Family Limited, this is a Type II Action under SEQR. Do we have discussion on this application?

No response.

Chairperson Cardone: We were looking at the accessory building which was closer to the street than the main building.

Mr. McKelvey: That building has been there for a hundred years.

Mr. Donovan: And it had a pre-existing non-conforming protected status and that status is…is lost resulting in this requirement for a variance because of the sub-division application.

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

Mr. Levin: I'll second.

Ms. Gennarelli: Roll call.

 Richard Levin: Yes

 James Manley: Recused

 John Masten: Yes

John McKelvey: Yes

Grace Cardone: Yes

PRESENT ARE:

 GRACE CARDONE

 RICHARD LEVIN

 JAMES MANLEY

 JOHN MASTEN

JOHN MC KELVEY

ABSENT:

 MICHAEL MAHER

 DARRIN SCALZO

ALSO PRESENT:

 DAVID A. DONOVAN, ESQ.

 BETTY GENNARELLI, ZBA SECRETARY

 GERALD CANFIELD, CODE COMPLIANCE

 (Time Noted – 9:19 PM)

ZBA MEETING – MAY 28, 2015 (Time Noted – 7:53 PM)

HARSHIDHI, INC./MANJU BAPODRA 5202 ROUTE 9W, NBGH

 (BUDGET INN) (27-2-21.2) B/LHI ZONE

Applicant is seeking area variances for the rear yard setback, one side yard setback, the combined side yards setback, the minimum lot width, the minimum lot area and the 15 Ft. setback for the free-standing sign to build an addition on the motel premises to be used for motel supply related storage.

Chairperson Cardone: Our next applicant Harshidhi, Inc. Budget Inn.

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

Mr. Medenbach: My name is Barry Medenbach, professional engineer I have an office in Stone Ridge, New York and I’m representing the client tonight. I’ll just put the map on the board here. This is a sixteen a…motel that’s located on Route 9W north of a…I guess Balmville area. I believe the motel has been there since the 1950’s. It’s on a non-conforming lot. Its non-conforming setbacks. They’ve had a problem with storage of you know, items they use the linens and furniture things like that. They have a…they have a container out in the parking lot which is in violation and we’ve been before the planning board a…and after considering all the options we decided to come and add a…an addition to the back of the building that is a twenty by sixty feet although it seems somewhat large but they would like to make sure they have enough room for storage a…simply for storage a…and of course we need area variances all the way around pretty much. The area that the addition is going to be placed is a fairly level area a…in the backyard so we’re up against a residential area. There’s a steep slope that’s heavily wooded so there’s a lot of screening there. I don’t think you’ll see this addition at all from the highway at the front. There’s a a…diesel service station just to the south of the property and there’s a building to the north which I believe is…I don’t know if it’s in operation. I think it was a restaurant-nightclub kind of facility is that correct?

Mr. Levin: Rhoda Arms.

Mr. McKelvey: Rhoda Arms.

Mr. Medenbach: You probably know better than me. So we’re here tonight for a variance.

Mr. Donovan: Is it possible…?

Mr. McKelvey: You do have…

Mr. Donovan: I’m sorry.

Mr. McKelvey: You do have plenty of room back there.

Mr. Medenbach: Yeah, there’s plenty of room for this it’s just a…we have forty-three feet to the rear property line where a…sixty feet is required. The other end of the building is fifty-five feet. So we aren’t…we’re encroaching on that rear yard. We’re not creating any encroachment other than what exists now on the side. I mean the…the main building I think is…it’s like two point seven feet from the property line on the one side so…

Mr. Donovan: I was going to ask if could you for us on the referral from the planning board there are six separate variances called out…

Mr. Medenbach: Yes.

Mr. Donovan: How many variances relate to the proposed addition and how many variances relate to existing conditions?

Mr. Medenbach: A…just the rear yard and a…I guess the side yard is interpretation…the rear yard is definitely related to a…the addition but the existing building doesn’t comply either so we’re shortening that setback a…from a…fifty-five feet to a…forty-three feet so where sixty feet is required so a…it…the side yard right now as I said is two point seven feet on the existing building. A…the required side yard a…and I’m not finding…

Chairperson Cardone: Fifty feet.

Mr. Medenbach: Fifty feet yeah fifty feet where a…we have twenty-seven so we still don’t comply with the side or the…

Mr. Donovan: I…I…if I could only just ask it this way?

Mr. Medenbach: Yeah.

Mr. Donovan: My understanding is the only non-conformity that’s being created by the proposed addition is the forty-three foot rear yard setback?

Mr. Medenbach: Well that…that’s true but the a…the other…the other part of the building now doesn’t comply. There…there’s also, there’s a violation of the rear yard for a portion of the building now.

Mr. Donovan: Sure but that…that’s exacerbated by…

Mr. Medenbach: Yes, that’s correct.

Mr. Donovan: …the request. And all the others are existing conditions?

Mr. Medenbach: Yeah, the side, the front, the sign they’re all existing conditions.

Chairperson Cardone: The…the sign was there…I have a question on the sign maybe Mr. Canfield you can answer that?

Mr. Canfield: I’m sorry, just…the twenty-seven feet or the…yeah the twenty-seven feet would be for the side yard because of the proposed addition would be an additional variance because it would be increasing the degree of non-conformity. Currently…

Mr. Donovan: Do you mean I was wrong Jerry?

Mr. Canfield: Well I would hate to say that but…so yes, just to add that point that there is a variance request for increasing the degree of non-conformity.

Chairperson Cardone: And my question is how did the sign a…was there a Permit for the sign?

Mr. Medenbach: (Inaudible)

Mr. Canfield: Sure.

Mr. Donovan: (Inaudible)

Mr. Medenbach: The sign is preexisting but a…I believe there is a provision in the Town Law that says once we apply for a variance we have to get variances for all the non-conformity whether they are preexisting or being created now so the sign setback is a preexisting condition. We’re trying to correct with a variance now.

Chairperson Cardone: Maybe Mr. Canfield I think can clarify that further.

Mr. Canfield: That’s not totally accurate the…the provision that requires these variances is that by virtue of the site plan any existing non-conformities lose their existing protection so that’s what brings so many different variance because of the site plan.

Mr. Medenbach: Thank you for correcting that because I didn’t fully understand it.

Mr. Levin: And on the front you’re talking about removing the existing storage container is that going in to this addition?

Mr. Medenbach: No that would be taken off site.

Mr. Levin: Completely off site?

Mr. Medenbach: Yes. There’s also a…a wood stockade fenced area that they put a roof over that they were using for storage, you know, it’s not fully enclosed. A…although it’s somewhat protected from the weather. They’re going to use that for the dumpster to put the dumpster in there so it’s in a full enclosure.

Mr. Manley: I notice on here that you a…really don’t have the septic area delineated. Are you not certain that the septic is where it’s stated? Because you put reputed…

Mr. Medenbach: Well we know it’s over there. We just don’t know how big it is, how many pipes, we don’t know what’s underground.

Mr. Manley: Do we know whether or not it’s adequate for the a…

Mr. Medenbach: Yes they’re functioning…

Mr. Manley: …have there been any tests?

Mr. Medenbach: …I…I’ve been assured that it’s been functioning. They pump the tank all the time there’s a…there’s a…a…there’s a cover over the distribution box so it’s…it’s being maintained and it does function and if you go to the site it’s a…if it was failing you would know it. You know it’s enclosed by pavement on all sides so it’s…it’s not like it’s running off of the woods somewhere so it…it does seem to be functioning and they are on Municipal water.

Chairperson Cardone: No?

Mr. Canfield: (Inaudible)

Mr. Levin: There’s no water?

Mr. Medenbach: That’s what everybody says but they tell me they get a water bill and they get water… Is that correct? You’re on Municipal water? That’s what the client is telling me.

Mr. Canfield: Then do you know if it comes down from the back? From Albany Post Road? Because there is no Municipal water on Route 9W there.

Ms. Gennarelli: Can you come up to the microphone?

Mr. Bopodra: (Inaudible)

Mr. Canfield: It comes from Albany Post Road down, okay.

Mr. Bopodra: (Inaudible)

Mr. Canfield: At the planning board that was a question.

Mr. Medenbach: Yes, I didn’t know the answer to that then.

Mr. Canfield: Because there is no Municipal water on this stretch of Route 9W.

Chairperson Cardone: But there is on Albany Post?

Mr. Canfield: They’re getting it from the back.

Mr. Bopodra: (Inaudible)

Ms. Gennarelli: Excuse me, excuse me, you have to come...

Chairperson Cardone: You have to use the microphone.

Ms. Gennarelli: …to the microphone.

Mr. Bopodra: We…we never have any well water (Inaudible) it’s always been ever since we…we’re there since 1999 and a…before that we rented the place for about five years so…from around like ’90…’96. Water line is coming from behind the building it’s up the…up the hill, you know the water line is.

Mr. Manley: My…my concern is with respect to the additional lot coverage area. You’re now going to be increasing or actually you’re going to be decreasing the amount of impervious space with respect to adding lot additional structure and based on the fact that the Town has changed the code and it is non-conforming…the growth of the non-conforming use is, I think, going to add stress to the property based on the…the amount of square footage that you’re looking for simply storage.

Chairperson Cardone: And you said that area behind the stockade fence with the roof over it…right now that’s being used for storage?

Mr. Medenbach: Yes.

Chairperson Cardone: And that will then be opened up so that the dumpsters can be put there instead of there.

Mr. Medenbach: Yeah, the dumpster will be stored in there. They’ll leave the same doors in the front on that so that will remain an enclosure.

Mr. McKelvey: In…in the area where you want to build beyond those trees is there houses up there?

Mr. Medenbach: A…there’s residents up here, I’m not exactly sure if it’s a rental or… Do you know Jerry? Behind it…it’s kind of a…

Mr. McKelvey: Because you can’t…you couldn’t see anything there.

Chairperson Cardone: No you can’t see the houses from that point but they’re…

Mr. Medenbach: (Inaudible) …Gardens…Maple Gardens…

Chairperson Cardone: (Inaudible) Albany Post.

Mr. Medenbach: …is that a rental complex or something? I thought it may have been a multi-family. I’m not really sure but you can…I sent some photos looking at that slope in…

Chairperson Cardone: Right.

Mr. Medenbach: …back. If you look in through the trees you can kind of see the outline of the building.

Chairperson Cardone: Yes.

Audience Member Inaudible

Chairperson Cardone: Please use the microphone.

Audience Member Inaudible

Mr. Canfield: That may be rental property. It’s I believe it’s the old Rhoda…the old Rhoda family…

Chairperson Cardone: Right.

Mr. Canfield: …home has residents a…but it may be a rental property now. Is it a multiple dwelling or a complex I’m not certain of that. If it is, it’s probably not legal but I shouldn’t say that.

Mr. McKelvey: Of course this time of year with the growth of the trees you can’t see anything back there.

Mr. Canfield: Just one more comment to…to Mr. Manley’s comment, Jim you raised a question about the lot coverage a…the surface area, according to Mr. Medenbach’s table a…he’s showing that it’s within the compliable limits. Okay a…lot surface coverage is sixty percent he’s claiming that it’s fifty-four percent with the proposed which complies. Lot coverage requirement is twenty-five percent and he’s indicating that it’s fourteen percent which complies. As for impervious area a…currently I believe there was a grass area, okay…the only additional drainage, I’m not an…an engineer by no means but…the only additional drainage you would be looking at would be roof…roof drainage of the structure, that’s it.

Mr. Medenbach: That is correct. And I…and I believe there was a concrete slab back there a…on part of it.

Chairperson Cardone: The report from the Orange County Department of Planning is for Local Determination.

Mr. Medenbach: The photos I have the ground is snow covered but I believe there’s a slab in part of the area that the building is going to be a…the addition is going to be.

Chairperson Cardone: Do we have any comments from the public? Mr. Hughes?

Mr. Hughes: Mr. Engineer are you right handed or left handed?

Mr. Medenbach: I’m right handed.

Mr. Hughes: Where you got the dumpster proposal and the thing that’s there now suppose you move that storage over there and put the dumpsters at the furthest north point and your new storage area next to it and eliminate all the problems you got, you could do the same thing right on the other end of the building?

Mr. Medenbach: We still have setback issues there too.

Mr. Hughes: I know but the…you’re not going to…

Mr. Medenbach: And there’s…there’s grading issues too.

Mr. Hughes: …you’re not going to…but I’m trying to steer you to something I’m not trying to argue with you.

Mr. Medenbach: Yeah.

Mr. Hughes: I’m looking for another way because what you’re asking them to do is way over board. If you’ve got another way where you can go to the other side of the building you might be able to meet a less serious infringement on all of the rules and regulations you’re trying to pound on. Two things you got going there Jerry, water comes down from the top, Rhoda Arms, Joey’s house and the Maple thing that he quoted that’s the house next door…the water comes down hill always.

Mr. Medenbach: Just to respond to that, we…we did explore other areas and this is…this creates the least amount of violation of setbacks where we put it. The other area where we are very close to twenty-six feet from the property line a… And then there’s also grading issues here, if you look on the map there is this block retaining wall runs around here, steep slope comes down there so if you know if we were going to put an addition on this side there we’d have to cut into that slope and there’d be more disturbance.

Chairperson Cardone: Right. I did walk back there and I did see that. Do we have any other questions from the Board?

No response.

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

Mr. Masten: I’ll make a motion.

Mr. Levin: I’ll second it.

Ms. Gennarelli: Roll call.

 Richard Levin: Yes

 James Manley: Yes

 John Masten: Yes

John McKelvey: Yes

 Grace Cardone: Yes

Chairperson Cardone: Thank you.

 (Time Noted - 8:09 PM)

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ZBA MEETING – MAY28, 2015 (Resumption for decision: 9:19 PM)

HARSHIDHI, INC./MANJU BAPODRA 5202 ROUTE 9W, NBGH

 (BUDGET INN) (27-2-21.2) B/LHI ZONE

Applicant is seeking area variances for the rear yard setback, one side yard setback, the combined side yards setback, the minimum lot width, the minimum lot area and the 15 Ft. setback for the free-standing sign to build an addition on the motel premises to be used for motel supply related storage.

Chairperson Cardone: On the application of Budget Inn - Harshidhi, Inc., this is a Type II Action under SEQR. Do we have discussion on this application?

Mr. McKelvey: As I said before, I think they have plenty of room back there and if it’s just for storage.

Mr. Manley: I have a concern with the size, the increase of the degree of non-conformity of the property. I know they are trying to clean up some of the other issues but I just I think there’s a better way to address this.

Chairperson Cardone: I don’t really see that, having walked in back of the building that is the logical area. To me, that looked like the logical area to put the addition.

Mr. McKelvey: You’re not going to see it from the front of the motel.

Chairperson Cardone: Do we have a motion for approval?

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

Mr. Masten: I'll second it.

Ms. Gennarelli: Roll call.

 Richard Levin: Yes

 James Manley: No

 John Masten: Yes

John McKelvey: Yes

 Grace Cardone: Yes

PRESENT ARE:

 GRACE CARDONE

 RICHARD LEVIN

 JAMES MANLEY

 JOHN MASTEN

JOHN MC KELVEY

ABSENT:

 MICHAEL MAHER

 DARRIN SCALZO

ALSO PRESENT:

 DAVID A. DONOVAN, ESQ.

 BETTY GENNARELLI, ZBA SECRETARY

 GERALD CANFIELD, CODE COMPLIANCE

 (Time Noted – 9:21 PM)

ZBA MEETING – MAY 28, 2015 (Time Noted – 8:09 PM)

LEONARDO VILLACHICA 14 KNIGHTS CIRCLE, NBGH

 (108-4-13) R-1 ZONE

Applicant is seeking area variances for the minimum rear yard setback and the maximum lot surface coverage to keep a prior built pool and pool deck.

Chairperson Cardone: Our next applicant Leonardo Villachica.

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

Ms. Rojas: Hi, my name is Edith Rojas I’m coming on behalf of my father Leonardo Villachica. We’re coming to request an area variance to keep a built deck and pool a…we…we had an old pool that was a…old and a deck that was rotten so a…we just wanted to change it to a…to a new one which when they went to get the pool a…they…they asked if…my…my father asked if he could, you know could…repeat a Permit or so and they told him…they told him well you know he was not informed correctly that he…that he all…they told him he had a pool already he didn’t need another…another a…a Permit for to replace a pool and a deck so I’m here to day to ask for a you know, an area variance.

Chairperson Cardone: The prior pool was not installed by your family?

Ms. Rojas: No it was…it was when they bought the house it was already there and the deck also. But it was an old…it was an old deck and (inaudible).

Chairperson Cardone: And then you constructed the new one on the same…?

Ms. Rojas: On the same where it was the old one.

Mr. Levin: Everything is the same size?

Ms. Rojas: Well they made it a little bit bigger. They you know, the pool they made it a little bit bigger that’s why I’m coming for an area variance.

Chairperson Cardone: If I remember correctly there was a…another structure. Was there another structure? Was there another structure as you are facing the house to the left of the driveway?

Ms. Rojas: To the left…not that I know. Facing the driveway right?

Chairperson Cardone: A storage shed? Was there a storage shed?

No response

Chairperson Cardone: Do you have a storage shed?

Ms. Rojas: Yes a small one, a small one just a small…it’s not that big, it’s small.

Mr. McKelvey: That shed is on the property…

Chairperson Cardone: Jerry, I think that shed looks like that needs a variance.

Mr. McKelvey: Here.

Mr. Canfield: I don’t see a shed on this map that I have here. Do you have a survey? I think one of the variances is that are in question is the surface coverage so if there is a shed that’s not listed I don’t know that it was included in my…in Joe’s calculations.

Ms. Gennarelli: That’s not their survey.

Mr. McKelvey: Oh, I’m looking at the wrong one.

Chairperson Cardone: Right.

Ms. Gennarelli: They have a plot plan.

Chairperson Cardone: Because I don’t have a survey.

Ms. Gennarelli: It’s a plot plan.

Mr. Donovan: I thought John was just special because he was the only one that got it.

Mr. McKelvey: No, no I was looking at the wrong one.

Ms. Gennarelli: They didn’t have a survey.

Chairperson Cardone: I recall…I recall seeing a…

Ms. Rojas: Yeah, it’s a small…it’s a small…it’s a small one just like a really small one just for…

Chairperson Cardone: Right, it was very small but it looked like it was right almost on the property line when I went to...when I made the site visit.

Mr. Canfield: I don’t think that we were aware that it was there. It’s not included in Joe’s…

Ms. Rojas: I didn’t know we were…that we had to, I’m sorry.

Mr. Canfield: Yeah, right, right.

Ms. Rojas: I didn’t know it.

Mr. Canfield: If the Board wishes we can further examine what’s there and then re…recalculate what the actual percentage. I mean if there is another structure on the site it will affect the degree of the variance that you’re looking for. One of them is the actual total a…surface coverage of the lot and it’s based on everything that we have before us which is the structure, the driveway, the pool, the deck. We don’t have calculations for the actual structure. This is accessory structure that we’re talking about.

Mr. Donovan: Jerry, do you have any idea how that was calculated because the only thing that I’m seeing is a plot plan that was hand drawn with a note that says not to scale which is clearly not to scale because that’s thirty…this is thirty-three so…

Ms. Rojas: Well we didn’t have the survey, we couldn’t find the survey.

Mr. Donovan: Okay.

Ms. Rojas: And I was the one who draw that.

Mr. Donovan: Okay.

Ms. Rojas: I try my best though.

Mr. Donovan: But…

Mr. Canfield: That’s where he got the calculations from.

Mr. Donovan: Okay.

Ms. Rojas: I didn’t think we had to like put the shed there. I didn’t have an idea that was…

Mr. Canfield: Is the shed on the survey?

Mr. Donovan: Well there’s no survey there’s…

Mr. McKelvey: There is no survey I had…

Mr. Canfield: I thought you said you had a survey.

Ms. Rojas: No, we don’t have it.

Mr. Donovan: They…they couldn’t find it so a plot plan was drawn but…

Mr. Canfield: Okay.

Mr. Donovan: It indicates not to scale. It sure is not to scale.

Chairperson Cardone: I think that a…we would need something more accurate. In the meantime do have any other questions from the Board and do we have any comments from the public? Yes? The lady in the back had her hand up first and then the gentleman.

Ms. Hassett: My name is Donna Hassett, I live behind them, so the property backs up to…to mine. I just bought the house about a year and a half ago so I don’t even know what the survey is but my property line I was told that the stone wall was the property line. I’m not sure. Is there a way that I could get a copy of the survey? Is there something I have to do? But there is a shed on the property and I know the pool was there when…when I bought the house I mean, I don’t know what the depth is supposed to be as far as the property line what the actual measurement has to be if there is a minimum.

Chairperson Cardone: I don’t have a copy of the survey. What we have is a…just a plot plan that was hand drawn.

Ms. Hassett: Well then like the gentleman said that maybe we need to have a little bit more accurate. I mean I don’t know what the…the Town requirements are as far as the setback a…so I don’t know I don’t want to make a decision based on inaccurate information but I know there…

Chairperson Cardone: Right…

Ms. Hassett: …is the pool and the shed.

Chairperson Cardone: …and that’s what we’re looking for also.

Ms. Hassett: Thank you.

Chairperson Cardone: The gentleman.

Mr. Tellerio: Hi, my name is Albert Tellerio, I...I live also in the house behind them right next to Donna’s house. My…my two concerns are the property line. When I bought my house I was told there’s a stream right in front of my…my backyard and when I cross that stream it goes…it’s still my property past the stream up to the wall, up to the stone wall that Donna was speaking of. So I…my only concern is if the pool is actually on my property or not or is it supposed to be a certain distance from my property. That’s one thing I would like to know. Number two that that last summer when they dug up that pool, that pool wasn’t there last summer. I don’t know if it was somewhere else but it wasn’t where it is now. Cause last summer they had a tractor back there and they dug up a hole and they made a pool and the pool is all the way on the edge, all the way on the edge right next to the wall, the stone wall and it has not been eight years. I bought the house eight years ago and that pool wasn’t there before so I don’t know you know I’m not sure. She said there was a pool there before, there might have been but I didn’t see a pool there before. So my only concern is that it’s not on my property a…also my second concern is when I bought the house the person that I bought the house from complained that the…the neighbor next to them, not them but the neighbor that lives to the left of them used to dump a lot of stuff in the stream and he would always catch him through the window throwing stuff in the stream and my only concern that…that property would be very, very close to my property, my stream and if you know any debris falls or you know it’s close to that stream I…I’m responsible for cleaning that stream. It’s right in front of my property so each…each member…next to me that stream runs along their property and we’re responsible to making sure that that flows and there’s no flooding. There’s been times there’s a lot of you know, a lot of garbage in there. I’m not saying they do anything. I’m just…just showing concern that that the property something really close to my stream how that would affect me in the future a…but I’m not here to hinder anyone so…put a pool or anything like that but I just want make sure those issues are addressed that’s all I’m trying to do.

Chairperson Cardone: Okay, thank you. Jerry, did you…?

Mr. Canfield: Based on what you’ve heard this evening and again looking at what we’re looking at as a hand drawn sketch then my suggestion would be to…to have the Board request the applicant to provide a survey. It’ll be an additional expense to you however it’s probably for yourself and your neighbors own protection to make sure we know where your property line is, where their property line is and this Board can then make an accurate decision on…on what’s being asked for.

Mr. Donovan: Jerry, just looking at the deed that was provided in connection with the application at the end of the description there’s a reference which indicates that the metes and bounds description a…as described is pursuant to a survey made by Howard Weeden dated June 30, 2005 and Mr. Weeden is a local Orange County surveyor. So that would be a good place to start.

Ms. Rojas: Oh, okay, cause I know the lawyer that had the (inaudible) you know he passed away and we…we didn’t even know where to find…you know get it from.

Mr. Donovan: It looks like that survey may have even been prepared in connection with the acquisition because its references dated June 30, 2005; the deed is dated August 3, 2005.

Ms. Rojas: Can I have the name again that you said, what’s his name again so I can write it down?

Ms. Gennarelli: Howard Weeden.

Mr. Donovan: This is the deed they provided, right?

Ms. Gennarelli: No, we don’t have a deed.

Mr. Donovan: They didn’t provide a deed?

Ms. Gennarelli: We don’t have a deed for them…

Chairperson Cardone: In the application.

Ms. Gennarelli: Oh, I’m sorry, a deed yes, I’m sorry, I got confused…yes, I’m sorry I totally zoned it has been a twelve hour day after eight…I’m sorry.

Chairperson Cardone: On the last page.

Ms. Rojas: On the deed.

Chairperson Cardone: The name of the surveyor right at the bottom of this page.

Ms. Rojas: Okay I have it. All right, okay.

Mr. Canfield: If I may suggest to the applicant as well, you may first try to FOIL your records if you haven’t done that already, go to the Town Clerk’s office, you can fill out a Freedom Of Information request and they’ll send the form to our department, we can pull your building file and see perhaps over the years if something was done to the property that a deed…a survey does exist. I don’t know. I haven’t checked but with that FOIL if we have it you are welcome to have a copy of it.

Chairperson Cardone: And actually any of the neighbors could also do the same if they have questions about their property lines.

Mr. Canfield: Let’s not promote business for my department now.

Chairperson Cardone: It’s okay busy right now more than public. Okay do we have a motion to hold the Public Hearing open until next month?

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

Mr. McKelvey: And I’ll second it.

Ms. Gennarelli: Roll call.

 Richard Levin: Yes

 James Manley: Yes

 John Masten: Yes

John McKelvey: Yes

 Grace Cardone: Yes

Chairperson Cardone: Now the neighbors will not be re-noticed but it will be the fourth Thursday of the month, next month that’s June 23rd.

Ms. Gennarelli: 25th.

Chairperson Cardone: 25th, June 25th, same time, same place but June 25th.

Ms. Rojas: Thank you.

Chairperson Cardone: And at that time…in the meantime if you could get in touch with Mr. Canfield’s office to see what exactly it is you need to have.

Ms. Rojas: I will. Thank you.

PRESENT ARE:

 GRACE CARDONE

 RICHARD LEVIN

 JAMES MANLEY

 JOHN MASTEN

JOHN MC KELVEY

ABSENT:

 MICHAEL MAHER

 DARRIN SCALZO

ALSO PRESENT:

 DAVID A. DONOVAN, ESQ.

 BETTY GENNARELLI, ZBA SECRETARY

 GERALD CANFIELD, CODE COMPLIANCE

 (Time Noted - 8:24 PM)

ZBA MEETING – MAY 28, 2015 (Time Noted – 8:24 PM)

WILLIAM LODGE 2 PLATTEKILL TURNPIKE, NBGH

 (60-2-37.1) R-3 ZONE

Applicant is seeking area variances for a prior built accessory apartment - 185-38-C-(2) - the lot shall meet the requirements of the zoning district for a single-family dwelling; the prior built addition - minimum lot area, minimum rear yard setback, minimum one side yard setback and the minimum combined side yards setback to keep the prior built accessory apartment and addition on the residence. And prior built accessory building - the 12 x 9 - accessory building shall be set back 10 ft. from the main dwelling and for both the 12 x 9 and the 10 x 12 - accessory buildings shall be setback 5 ft. from the rear property line and shall not occupy more than 10% of the yard area to keep the prior built accessory structures.

Chairperson Cardone: Our next applicant William Lodge.

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

Mr. Brown: Charles Brown, I’m the engineer for the applicant, we were here last month I don’t see any new public so I could forego the a…the whole a…presentation I did. We’re here for a host of variances. Last month there were some concerns about the accuracy of the survey we provided a…in the meantime we provided a copy of Howard Weeden’s survey with the actual raised seal on it to the Zoning Board and some documentation that he verified the accuracy of that. While that survey does show an additional shed on the other side of the line on the Slaughter property which could be the cause of their confusion a…so anyway we’re here to again answer any questions from the Board or from the public.

Mr. Levin: We didn’t get that.

Mr. Brown: You didn’t get that?

Mr. Levin: You didn’t provide that to the Board…

Mr. Brown: The survey?

Mr. Levin: That survey.

Mr. Brown: This is my original plot plan, the survey was provided to the Board. I have a copy of what was provided to the Board. It was actually in the a…in the information that’s on the planning, I’m sorry the Zoning Board website with the documentations. I do have a copy of it.

Mr. Levin: There was a question about a six foot stake that was on the property that…

Mr. Brown: Okay, yeah again, I have brought copies of that if you don’t have it, I have it here with me.

Ms. Gennarelli: You should have it.

Chairperson Cardone: This is it. You don’t have this?

Ms. Gennarelli: We all have it. Is that the one that John had?

Mr. McKelvey: That’s the one that I had. He’s got it.

Mr. Brown: Did you find it?

Mr. Levin: This is no different than it was before.

Ms. Gennarelli: April 27th.

Mr. Brown: This is what was provided to the planning board (Zoning Board) on the 27th.

Ms. Gennarelli: To the Zoning Board.

Mr. Brown: This is our map, correct, this is the survey we based upon and there is also some correspondence from Howard a…the first email that he verified his survey a…it shows the sheds the way we had them and it also shows that additional shed which again may be the cause of confusion.

Mr. Levin: This is the fence line right here?

Mr. Brown: Yeah, the fence line is the fence is a little bit off the line as we show as Howard shows. It’s a…on my client’s property. I also have a copy of the email from Howard.

Mr. Levin: Charlie, this is what I’m talking about, this stake right here...this right here.

Mr. Brown: Well Howard…they yeah the stake that’s just a ball on the…what would that be…north…?

Mr. Levin: This right here.

Mr. Brown: …east corner, right, that stake is…is not a property corner. This iron pin found on the southeast corner a…that’s the one they…they based the survey on. He found those, these two pins, he based the survey upon that. A…you see he does not note this pin over here because that is not a property corner. He notes the other three.

Mr. Manley: Jerry, is there currently a C.O. on the property for the accessory apartment and the single family residence?

Mr. Canfield: I’m not really sure. I’m not up to speed on this application. I missed that meeting I believe it was last month. I know Mr. Mattina a…and Mr. Campbell I think have been extensively involved in this a…but no I’m no prepared to answer your question factually. I don’t know what the status of it is.

Mr. Manley: Okay but, I would imagine that a lot of this was built without Permits that’s...

Mr. Canfield: I believe that is the largest part of this issue.

Mr. Manley: Right.

Mr. Brown: There is a C.O. for the original residence, there’s not a C.O. for the accessory apartment a…the breezeway to the garage or the sheds. A…these were all built a…by my client’s parents prior to them inheriting the property a…and a…you know there was…therefore there was a lack of inspections and whatnot. We’ve been working with the Building Department. I did a…dye test the septic to verify that it has the capacity to a…service a number of bedrooms a…and the variance…well one of the variances requested tonight is for the accessory apartment so that can’t get a C.O. without a variance from this…this Board here. The other variances are the garage a…and accessory apartment, a breezeway are all too close to the property line as are the two sheds a…and a…I mean I can go through the whole presentation again if you want.

Mr. Manley: No, I…

Chairperson Cardone: You said there is a C.O. for the original structure?

Mr. Brown: The original residence has a C.O., yes.

Chairperson Cardone: And from what year was that?

Mr. Brown: Oh boy, I’d have to go back and look at the property report. It was a…a long time ago a…the a…sequence of events where the original residence was built a…and then the garage was built as a freestanding garage a…then the breezeway was built and then the accessory apartment was put in and then the sheds were. So but if I’m right I think it was the ‘70’s…

Is that right Bill?

Mr. Lodge: Yes.

Mr. Brown: Yeah, the original C.O. on the residence was in the ‘70’s.

Mr. Manley: Now let’s hypothetically just make up a date that some of these structures; the accessory apartment was built twenty years ago. The issue becomes now that because that was never…there was no Building Permit taken out the Codes were different twenty years ago. So when your applicant…let’s say the Board grants a variance for the accessory apartment it has to be constructed based on 2015… No?

Mr. Brown: That’s understood, yes the accessory apartment if…if it is granted a variance tonight a…would have to a…conform with current Code to get a C.O. That’s correct.

Mr. Canfield: The…the international building code does have a provision that does permit the building code official in his determination if he can determine the timeframe of construction he has the authority to apply those codes that were in effect at that time. Okay? Generally with the type of materials used a…we can determine a timeframe when that particular product or that type of material was used a…commonly it’s done with lumber a…as the dimensions of lumber changes as time goes on. Usually that’s you know consistent with that era of construction so a…the building department has that ability to do that, just for clarification.

Mr. Brown: I’m looking at my notes here actually the garage was built in 1970 which was after the a…the permanent residence so that the C.O. on the primary residence pre-dates 1970.

Mr. Levin: Charlie can I ask you a question on this? Last week…last month we were talking about the septic system and I see there was a perc test done on it already?

Mr. Brown: Yeah, we had done that before the last meeting but the ZBA did not have the documentation on that and…and a…Jerry wasn’t here…at the last meeting. We dye tested it. We…what we do is we a…put dye into the system and then we run in this case five hundred a…twenty some odd gallons through the system and…and witness the septic...that day and the following day to make sure that a…no dye a…reaches the surface of the ground. A…that is a standard way of testing an existing septic system a…when we get buildings that have been vacant for a certain period of time we would actually a…put additional water in there because we make the assumption that a…you know, the ground has dried up around the septic that hasn’t been used. But since this one was in service a…we ran five hundred some odd gallons through the a…through the system a…with…with dye. That’s based upon a…design flows a…from several years ago. The current design flows are down to a hundred and ten gallons per day per bedroom so in other words for four bedrooms you’d only need four hundred and forty gallons through the system. However again based upon the age of the dwelling we used the old flow rates which are higher because they didn’t have low flow fixtures back then.

Mr. Manley: And how many gallons was the septic again, one thousand two hundred and fifty? Was that the a…septic tank?

Mr. Brown: The septic tank is a twelve fifty, yes.

Mr. Levin: And that’s acceptable to the Town of Newburgh?

Mr. Brown: The actual size of sep tanks is based on the Orange County Health Department a…Orange County Health Department and a…a…New York State Health Department regulations a…and yes a twelve hundred and fifty gallon tank is the size required for a four bedroom residence.

Mr. Canfield: Are you sure about that?

Mr. Brown: Yes.

Mr. Canfield: For four bedrooms?

Mr. Brown: Twelve fifty…

Mr. Canfield: Plus fifteen?

Mr. Brown: No a thousand is three bedrooms, twelve fifty is four bedrooms.

Mr. Canfield: Okay.

Chairperson Cardone: Any questions from the Board or any comments from the public?

Mr. McKelvey: Does that include the accessory apartment? Is the septic on that?

Mr. Brown: Yes the primary residence is three and the accessory apartment would be one bedroom, actually it would be more like a studio because again we were talking about current codes. The back portion of that accessory apartment where the original bedroom is doesn’t have the ceiling height per current codes to qualify as a bedroom. So it would be a studio apartment with a very large walk-in closet is what essentially it would be.

Mr. McKelvey: Okay.

Chairperson Cardone: And this gentleman…

Mr. Manley: And I just have one other question and that is because this is going to technically be a two-family…you have an accessory apartment and the residence structure, the County is going to look at that as just…because really if you have two units in a…sharing one septic you might have multiple…you’re going to have more people than you would if was a regular single family home generally.

Mr. Brown: Well the septic design is based on the number of bedrooms regardless of the number of units. That’s the way the County and…and the State Health Department look at it. A…as far as the zoning in Newburgh accessory apartment in a private residence is not considered a duplex it’s considered an accessory apartment and there is a separate provision in your code that covers that. But a…as far as the regulations for septic it’s just based on the number of bedrooms a…I mean you could do a…a four unit apartment building on a septic system based upon the number of bedrooms that’s…that gives you a designed rate now a days at a hundred ten gallons per day per bedroom. That was just changed a…a year and four months ago down it used to be a hundred and thirty gallons per day per bedroom but again they’re…they’re recognizing the fact that everybody is using low flow fixtures. That’s pretty much all you can get, low flow fixtures for your toilet, showerheads, everything else so they’ve been actually been reducing the design flows for septic systems a…over the years. It was a hundred and fifty gallons per day per bedroom back fifteen years ago.

Chairperson Cardone: This gentleman had a comment. You can take the microphone off.

Mr. Slaughter: Okay, I’m Doug Slaughter I live right behind them…

Ms. Gennarelli: Doug, can you just tilt it down toward you?

Mr. Slaughter: Tilt it down…and my only concern are the sheds. I don’t know about nothing else there. I don’t know how a boundary line can keep jumping. It seems every time I come up here someone is saying that the boundary is different. It’s been that way all these years and now all of a sudden it’s not right. The sheds are actually on the line. If you come down and look at the post and we ran a line across one of the sheds is on the line. It’s supposed to be I guess five feet or six feet I don’t know what. But I’m worrying about the future. That’s my sister, as long as they live there I had no problem with the shed but I don’t want a new owner to come and then give them my property. I mean I don’t want to have to be up here a year from now when someone else buys the house arguing about the same thing. I want the sheds moved. Its two sheds that’s all sheds…you know, and they’re not cemented down or nothing, just move the sheds I’m happy. But I don’t want the future owner to get my property or have to argue about this in a year from now. So I would just like the sheds being moved. Thank you.

Chairperson Cardone: Okay, thank you. Do we have anything else from the Board or the public?

Mr. Donovan: Can I just review my notes from the last meeting? Charlie, did you indicate that the two sheds that are shown on the drawing that you gave us and then also shown on Howard Weeden’s survey, you’re going to remove one and move one?

Mr. Brown: We could move one. The one that’s closest to the garage so that would eliminate the a…the requested variance of a accessory structure being a…less than ten feet to the primary structure. That’s this one right here.

Mr. McKelvey: What about the ones that’s right on the property line?

Mr. Brown: So, if it’s a condition of…of variances a…you know, okay, we could move them. We could move them; move them to the five foot off the property line.

Mr. Donovan: Okay.

Mr. Levin: Could it be moved to the rear?

Mr. Brown: Actually it is the rear. This is the rear of the property.

Mr. Levin: No, no, to the a…is it south or you go down here, the back of the house there’s little woods in that area.

Mr. Brown: Back in here?

Mr. Levin: Yeah.

Mr. Brown: A…we could have an area over there where yes, they both could go a…it wouldn’t violate the right of way a…it wouldn’t violate the septic system a…so yeah we could…we could move them both over here. A…we have to be a little careful about moving them we don’t want to you know drive over a septic tank or septic system so a…there is room there, five foot off that side property line and ten foot off the building where we could fit both of those, yes.

Mr. Levin: Actually if the owner’s agree to it a…by removing them both I don’t think it would change the value of the house at all…it would…

Mr. Brown: Removing or moving them?

Mr. Levin: What?

Chairperson Cardone: Removing.

Mr. Brown: Removing?

Mr. Levin: Removing.

Mr. Brown: A…my client Bill Lodge.

Mr. Lodge: Hi, how are you doing? My name is Bill Lodge. I really don’t have a problem moving them it’s not…it’s not a big thing to me. All right, to me I’d just like to get the variance and if the variance is held up by those two sheds, consider them gone. I’ll get rid of them in a heartbeat. It’s not a…it’s not an issue with them.

Mr. McKelvey: You have to get them five feet off the property line.

Chairperson Cardone: Yeah, but they couldn’t…

Mr. Lodge: No I’ll just get rid of them.

Mr. McKelvey: You’ll remove them all together, yeah?

Mr. Lodge: I’ll just have them, I’ll remove them, it’s not a big thing. I mean I have chain saws and that type of equipment in there that I can stick in the garage in a heartbeat so you know, it’s not a…it’s not a big issue at this point. For me it’s not, I think it is for my wife either.

Mr. Levin: That would eliminate Mr. Slaughter’s a…complaint completely.

Mr. Lodge: Correct.

Mr. Brown: Okay, thank you both.

Chairperson Cardone: Anything else from the Board? Yes?

Mr. Slaughter: I would like to know if the boundary line is right or wrong or is this right where that flag is, on the right hand side when you go in?

Mr. Manley: From what the a…from what the surveyor has shown and the surveyor is a licensed professional so he obviously is putting his license on the line by not…if he is not putting the correct boundary on a survey so he’s…

Mr. Slaughter: So the random flag that he just put up not long ago, that’s right?

Mr. Manley: I…I would imagine…Charlie, is that the brand new flag that’s up, is that the…?

Mr. Brown: The flag he is talking about is over by the telephone pole. Okay? That is not a property corner. Normally when surveyors do a survey like this they set a pin based upon where they set their transit so in the event they ever have to go back and survey the property or survey and do a dish or anything else they know exactly where they put their transit on the last station. A…generally they will place that in…in a location where they can get to the most…most of the property. Sometimes I got to set up two stations. A…he did tell me that that stake is not a property corner. The other corners have pins. The iron pins are the property corners a…he did locate those and he did confirm the survey. We provided a copy of the email from Howard Weeden that…that states that. Mr. Slaughter you’re…you’re welcome to call Howard Weeden a…you’re welcome to hire another surveyor…that’s…

Mr. Slaughter: All right, thank you, I’m not getting anywhere.

Chairperson Cardone: Anything else from the public? Or the Board?

No response.

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

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

Mr. Manley: Second.

Ms. Gennarelli: Roll call.

 Richard Levin: Yes

 James Manley: Yes

 John Masten: Yes

John McKelvey: Yes

 Grace Cardone: Yes

Mr. Brown: Thank you.

 (Time Noted - 8:45 PM)

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ZBA MEETING – MAY 28, 2015 (Resumption for decision: 9:21 PM)

WILLIAM LODGE 2 PLATTEKILL TURNPIKE, NBGH

 (60-2-37.1) R-3 ZONE

Applicant is seeking area variances for a prior built accessory apartment - 185-38-C-(2) - the lot shall meet the requirements of the zoning district for a single-family dwelling; the prior built addition - minimum lot area, minimum rear yard setback, minimum one side yard setback and the minimum combined side yards setback to keep the prior built accessory apartment and addition on the residence. And prior built accessory building - the 12 x 9 - accessory building shall be set back 10 ft. from the main dwelling and for both the 12 x 9 and the 10 x 12 - accessory buildings shall be setback 5 ft. from the rear property line and shall not occupy more than 10% of the yard area to keep the prior built accessory structures.

Chairperson Cardone: On the next application William Lodge this is a Type II Action under SEQR. Do we have discussion on this application? There was agreement that the two sheds would be removed.

Mr. Brown: Yes.

Mr. Levin: Can I make a motion for approval based upon the removal of the two sheds?

Mr. McKelvey: Also no more than four vehicles which is in code anyhow. I'll second that.

Ms. Gennarelli: Roll call.

 Richard Levin: Yes

 James Manley: No

 John Masten: Yes

John McKelvey: Yes

 Grace Cardone: Yes

Chairperson Cardone: The motion is carried.

PRESENT ARE:

 GRACE CARDONE

 RICHARD LEVIN

 JAMES MANLEY

 JOHN MASTEN

JOHN MC KELVEY

ABSENT:

 MICHAEL MAHER

 DARRIN SCALZO

ALSO PRESENT:

 DAVID A. DONOVAN, ESQ.

 BETTY GENNARELLI, ZBA SECRETARY

 GERALD CANFIELD, CODE COMPLIANCE

 (Time Noted – 9:22 PM)

ZBA MEETING – MAY 28, 2015 (Time Noted – 8:45 PM)

JOHN & CAROL HUDELSON 200 OAK STREET, NBGH

 (9-3-50.11) R-3 ZONE

Applicant is seeking an Interpretation of 185-15-A-1 and/or an area variance for the maximum allowed height of accessory structures to build a two-story garage (40 x 30 x 19’6”).

Chairperson Cardone: Next on our agenda is Carol and John Hudelson and I will read a communication from Carol Pauli Hudelson.

We ask that the Board hold our Hearing open until the June meeting. We do not yet ha e the information we need from Central Hudson. A representative looked at our utility line and said that we will need to schedule a visit with a different representative, from a different department, who can better discuss our options. In addition, on the date of your next meeting, I must be at a conference in Seattle, where I am scheduled to lead a discussion the following morning. Thank you, again, for your continuing time and attention. Sincerely yours, Carol Pauli Hudelson.

Do we have a motion to hold this Hearing open until the June meeting?

Mr. McKelvey: I’ll make that motion.

Mr. Masten: I’ll second it.

Ms. Gennarelli: Roll call.

 Richard Levin: Yes

 James Manley: Yes

 John Masten: Yes

John McKelvey: Yes

 Grace Cardone: Yes

Chairperson Cardone: Before proceeding the Board will take a short adjournment to confer with Counsel over any legal questions that we may have concerning tonight’s applications. I would ask in the interest of time if you could wait out in the hallway and Mr. Canfield would you please remain?

PRESENT ARE:

 GRACE CARDONE

 RICHARD LEVIN

 JAMES MANLEY

 JOHN MASTEN

JOHN MC KELVEY

ABSENT:

 MICHAEL MAHER

 DARRIN SCALZO

ALSO PRESENT:

 DAVID A. DONOVAN, ESQ.

 BETTY GENNARELLI, ZBA SECRETARY

 GERALD CANFIELD, CODE COMPLIANCE

 (Time Noted – 8:47 PM)

ZBA MEETING – MAY 28, 2015

END OF MEETING (Time Noted – 9:22 PM)

Chairperson Cardone: I have a letter here from…it’s an update, it’s always nice when we get updates because we do tell people that are before the planning board that they should make a report to us and we do have one from Mr. Minuta.

On March 10, 2015 our office received from our client the ZBA approval dated January 22nd that were dated and received by the Town of Newburgh’s Clerk’s Office on March 3rd pursuant to same this letter is being sent in compliance to update the ZBA regarding the applicant’s diligent pursuit of this application. Status, the project will be heard June 4, 2015 by the Town of Newburgh planning board to seek final site plan approval. At this meeting, architectural drawings will be reviewed for the ARB portion of the meeting. We await comments from Orange County Planning and New York State DOT for this application. Respectfully submitted, Joseph Minuta.

That’s nice. There is a provision on all of the…anything that is before the planning board that the six months do not start until they are completed the process with the planning board as long as they are diligently pursuing the application and they are supposed to report to us on…

Mr. Manley: That they are being diligent.

Chairperson Cardone: Yes.

Ms. Gennarelli: Monthly.

Chairperson Cardone: And someone actually did it.

Mr. Donovan: It’s nice.

Mr. Manley: Wow.

Chairperson Cardone: Everybody has the minutes from last month? Any corrections?

No response.

Chairperson Cardone: Do I have a motion to approve?

Mr. Manley: So moved.

Mr. Masten: I’ll second it.

Chairperson Cardone: All those in favor say Aye?

Aye - All

Chairperson Cardone: Opposed?

No response.

Chairperson Cardone: Is there any other business to come before the Board?

No response.

Chairperson Cardone: Do we have a motion to adjourn?

Mr. McKelvey: I’ll make that motion.

Mr. Masten: I’ll second it.

Chairperson Cardone: All in favor say Aye?

Aye All

Chairperson Cardone: Opposed?

No response.

Chairperson Cardone: The motion is carried. The meeting is adjourned.

PRESENT ARE:

 GRACE CARDONE

 RICHARD LEVIN

 JAMES MANLEY

 JOHN MASTEN

JOHN MC KELVEY

ABSENT:

 MICHAEL MAHER

 DARRIN SCALZO

ALSO PRESENT:

 DAVID A. DONOVAN, ESQ.

 BETTY GENNARELLI, ZBA SECRETARY

 GERALD CANFIELD, CODE COMPLIANCE

 (Time Noted – 9:27 PM)