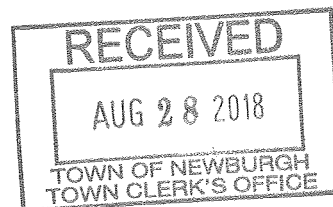


**ZONING BOARD OF APPEALS**



**MEETING – AUGUST 23, 2018**

(Time Noted – 7:06 PM)

Mr. Scalzo: 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 relief under the Code. The Board will then ask the applicant any questions it may have and then any questions or comments from the public will be entertained. After all of the Public Hearings have been completed the Board may adjourn to confer with Counsel regarding any legal questions it may have. The Board will then consider the applications in the order heard. The Board will try to render a decision this evening; but may take up to 62 days to reach a determination. I would ask if you have cell phones to please put them on silent or turn them off and when speaking, speak directly into the microphone as it is being recorded. Ms. Gennarelli the roll call please.

**PRESENT ARE:**

- DARRELL W. BELL
- RICHARD D. LEVIN
- ANTHONY R. MARINO
- JOHN D. MASTEN
- JOHN H. MC KELVEY
- PETER M. OLYMPIA JR.
- DARRIN J. SCALZO

**ALSO PRESENT:**

- DAVID A. DONOVAN, ESQ.
- BETTY GENNARELLI, ZBA SECRETARY
- GERALD CANFIELD, CODE COMPLIANCE

Pledge of Allegiance to the Flag led by Darrell Bell

(Time Noted – 7:08 PM)

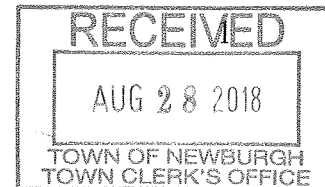
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ZBA MEETING – AUGUST 23, 2018

(Time Noted – 7:08 PM)

RICHARD & TONI ROTH

160 OAK STREET, NBGH  
(9-3-28) R-3 ZONE



Applicant is seeking area variances for the maximum allowed 1000 square foot of accessory structures, for the maximum allowed height of accessory structures and for the maximum allowed four (4) vehicles storage to build an accessory building (40 x 70 x 28) on the premises.

Mr. Scalzo: Our first applicant this evening is Richard and Toni Roth, 160 Oak Street, Newburgh. They seek area variances for the maximum allowed 1000 square foot of accessory structures, for the maximum allowed height of accessory structures and for the maximum allowed four (4) vehicles storage to build an accessory building which is 40 x 70 x 28 feet high on the premises. Ms. Gennarelli...

Ms. Gennarelli: The Public Hearing Notices for all the new applications being heard this evening were published in the Mid-Hudson Times on Wednesday, August 15<sup>th</sup> and The Orange County Post on Friday, August 17<sup>th</sup>. This applicant sent out twelve letters. All the mailings, publications and postings are in order.

Mr. Scalzo: Thank you.

Ms. Gennarelli: You're welcome.

Mr. Scalzo: Sir, please introduce yourself and state your case.

Mr. Roth: My name is Richard Roth...my name is Richard Roth; I'm here to seek a variance for an accessory building to store my personal items in at 160 Oak Street.

Mr. Scalzo: Okay, I'll...members of the audience will let you know, all of us on the Board are obliged by position to visit each one of the properties so we all are personally familiar with them. So, moving forward I'm going to just turn to the Board at this point. Anybody have any comments on the application or have any questions for the applicant? I'll start with Mr. Bell.

Mr. Bell: You say personal property with...this is a...what type of personal property is this?

Mr. Roth: I have a speedboat, a thirty-two foot speedboat, I have an enclosed trailer a...I have an antique collection of juke boxes and furniture and I have a couple of vehicles.

Mr. Bell: Okay, I know when I was coming up the driveway there...there was a car parked here and you know, a truck to the side. Is...you're looking at that open field to the left side or...behind?

Mr. Roth: Yes, the open field all the way in the back, twenty-five feet off...

Mr. Bell: Okay.

Mr. Roth: ...and roughly two hundred feet from the road.

Mr. Bell: Okay.

Mr. Scalzo: Mr. Olympia?

Mr. Olympia: How many vehicles do you plan on storing there?

Mr. Roth: I have four at the present time.

Mr. Scalzo: Mr. McKelvey?

Mr. McKelvey: How come the building is so high?

Mr. Roth: Because it has an attic in it.

Mr. McKelvey: Why the attic?

Mr. Roth: Because I have a lot of light stuff that I'd like to store up there.

Mr. McKelvey: You know we only allow fifteen feet?

Mr. Roth: I know that.

Mr. Levin: Do you live in the house, sir?

Mr. Roth: No I rent that.

Mr. Levin: You rent it?

Mr. Roth: I rent that.

Mr. Levin: Okay, so you don't live there, okay.

Mr. Scalzo: Mr. Masten?

Mr. Masten: I had the same question John has because of the height and right now that's all I've got right now Darrin.

Mr. Scalzo: Thank you. Mr. Marino?

Mr. Marino: None right now.

Mr. Scalzo: No?

Mr. McKelvey: I think this building is bigger than the house.

Mr. Scalzo: The building is...is larger than the square footage wise than the house. As I say we have all visited the site a...Oak Street is a...you know, it's a quite curvy road, looking around I did see one barn across the street from you a little bit but it appears to be say a hundred year old barn a... probably for original farm works that had occurred. As far as changing the character of the neighborhood this would look quite industrial with what you've proposed here...and a...not that you had proposed any screening but I'm sure that you that could be a recommendation from the Board. But what I'm going to bring your attention to that you would not know is four years ago approximately we had an applicant in here that was approximately one thousand feet from your lot. They came in here looking for an accessory structure that they were going to construct. They were looking for twelve hundred square feet and they were looking for twenty-three feet in height. They were denied. We did allow them some relief from the Code but as far as the information that I can provide to you a smaller structure was not given the variances that they had requested. So that being said, are you married to this size building with the height and the...?

Mr. Roth: My original plans was for a building fifty by a hundred (50 x 100) because the building I have now is a little bit smaller than that and I would need space to be able to put it in you know, that much stuff.

Mr. Scalzo: Okay would there be any other...any...I mean obviously you're here for this action on this property...is there any other storage areas that you could possibly explore other than this lot?

Mr. Roth: Not really, I've owned that lot since I think '92 or something like that, you know, and actually when I bought it that was my intent to hopefully build a building but I had no idea that you know, you had to have a variance to build a certain size building.

Mr. Scalzo: Okay, I'm going to go back to the Board...anyone?

Mr. Donovan: If I can while...just...in kind of...so you're not versed in what the ZBA does I'm sure a...the Board by State Law has to consider five different factors to weigh, it's a balancing test.

Mr. Roth: Okay.

Mr. Donovan: One of the factors the Board has to weigh is the magnitude of the variance. Right? So over the Town Code requirement that the a...the bulk area of the building is three hundred percent over what's permitted in Town and the height is eighty-six percent over. So, you know, as the Chairman indicated before when the Board has analyzed these things in the past that's one of the factors that they have to weigh and so it's a...it's a...an extremely substantial variance that you're looking at. And that's I think prompted the Chairman's question as to whether or not a...you want to rethink the magnitude of the variance. You don't have to but I think it was the suggestion of the Chairman.

Mr. Scalzo: Well I...I don't know that I would say suggest, I'm just pointing out to the applicant, you know...

Mr. Donovan: Perhaps a better word.

Mr. Scalzo: ...other...others have tried and were not so successful with...with their applications. So one more time for the Board before I open it up to the public...

No response.

Mr. Scalzo: So anyone here, members of the public here to speak about this action?

Audience Member: Where is Oak Street?

Mr. Scalzo: It's Route 9W in Middlehope. Hearing none, one last opportunity for the Board?

No response.

Mr. Scalzo: Okay, in that case, do I hear a motion perhaps...?

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

Mr. Masten: I'll second it.

Mr. Scalzo: Motion from Mr. Levin, second from Mr. Masten.

Ms. Gennarelli: Roll call.

Darrell Bell: Yes

Richard Levin: Yes

Anthony Marino: Yes

John Masten: Yes

John McKelvey: Yes

Peter Olympia: Yes

Darrin Scalzo: Yes

Mr. Scalzo: The Public Hearing portion is closed. We will try to render a decision this evening.

Mr. Roth: Thank you.

(Time Noted - 7:14 PM)

ZBA MEETING – AUGUST 23, 2018 (Resumption for decision: 7:34 PM)

RICHARD & TONI ROTH

160 OAK STREET, NBGH  
(9-3-28) R-3 ZONE

Applicant is seeking area variances for the maximum allowed 1000 square foot of accessory structures, for the maximum allowed height of accessory structures and for the maximum allowed four (4) vehicles storage to build an accessory building (40 x 70 x 28) on the premises.

Mr. Scalzo: I am calling the meeting back to order. We will attempt to make determinations for the four applicants heard this evening. All of the applicants this evening are Type II Actions Under SEQR. So we are with regard to applicant number one, Richard and Toni Roth, 160 Oak Street, Newburgh seeking area variances for the maximum allowed 1000 square foot of accessory structures, for the maximum allowed height of accessory structures and for the maximum allowed four (4) vehicles storage to build an accessory building on the premises. We heard testimony this evening from the applicant. We have read the application. We have visited the site. Comments from the Board? I will start off with I...I...my opinion is that it is...this would be certainly out of character with the neighborhood. I saw no other structures even relatively close to it that resemble what it is a...in visual aspect as well as size. It is...twenty-eight feet is...is the a...what the applicant is...is looking for. You know our Code states fifteen. We have allowed relief of...from a structure height on another action approximately four years ago that a...you know, we can reference that but it's...I believe it's just not in character of what we're looking...what the neighborhood is. So at that point, anyone have any comments to add to that?

Mr. Olympia: No.

Mr. Bell: No.

Mr. McKelvey: I just think it's too much over all the way. Height and...

Mr. Scalzo: Height and size, yeah, it far eclipses the dwelling itself. So if no other questions from the Board I will go through the a...questions for balancing here. The area variance criteria and discuss the five factors that we are weighing, the first one being whether or not the benefit can be achieved by other means feasible to the applicant? At this point, we did give the applicant an opportunity to consider downsizing his application but that was not put forth to us as a possibility. Anyone disagree with that?

Mr. Bell: I agree.

Mr. Levin: I agree.

Mr. McKelvey: I agree.

Mr. Scalzo: The second, if there is an undesirable change in the neighborhood character or a detriment to nearby properties? As I say I...I think it would be an undesirable change to the neighborhood.

Mr. Levin: I do too.

Mr. Scalzo: Anyone else? No? The third, whether the request is substantial? And again the size...

Mr. Bell: The size...

Mr. Scalzo: ...size of the structure far eclipses the size of the home.

Mr. Levin: Very substantial.

Mr. Scalzo: Actually the percentagewise it's substantial. The fourth, whether the request will have adverse physical or environmental effect? I'm not sure if it would have an adverse physical or environmental effect a...a visual effect certainly. The fifth, whether the alleged difficulty is self-created? This is relevant but not determinative. It is self-created.

Mr. Bell: It is self-created.

Mr. Scalzo: Anyone have any further comments on this applicant?

Mr. Marino: I would like to see the applicant perhaps downsize the building because the entire area is very rural. I don't see anything negative about the building going up there that he wants to put but a violation of our Code perhaps he could downsize the building and then...

Mr. Scalzo: We have granted relief Mr. Marino.

Mr. Marino: Yeah, we...we have.

Mr. Scalzo: You know but we...the application is as the application is we need to vote...

Mr. Marino: Yeah, I understand that.

Mr. Scalzo: ...as the application is.

Mr. Marino: Maybe he'll reconsider and come back at a later date.

Mr. Scalzo: Perhaps.

Mr. McKelvey: It's all up to him.

Mr. Scalzo: So in this case do I have a motion for approval?

No response.

Mr. Scalzo: Hearing none, do I have a motion for disapproval?

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

Mr. Masten: I'll second it.

Ms. Gennarelli: Roll call.

Darrell Bell: Yes

Richard Levin: Yes

Anthony Marino: Yes

John Masten: Yes

John McKelvey: Yes

Peter Olympia: Yes

Darrin Scalzo: Yes

Mr. Scalzo: The motion carried, application disapproved.

PRESENT ARE:

DARRELL W. BELL  
RICHARD D. LEVIN  
ANTHONY R. MARINO  
JOHN D. MASTEN  
JOHN H. MC KELVEY  
PETER M. OLYMPIA JR.  
DARRIN J. SCALZO

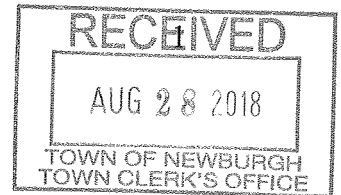
ALSO PRESENT:

DAVID A. DONOVAN, ESQ.  
BETTY GENNARELLI, ZBA SECRETARY  
GERALD CANFIELD, CODE COMPLIANCE

(Time Noted – 7:38 PM)

*JG* 8/28/18





ZBA MEETING – AUGUST 23, 2018

(Time Noted – 7:14 PM)

DOUGLAS & JOYCE REYES

81 ROCK CUT ROAD, NBGH  
(49-5-1) R-1 ZONE

Applicant is seeking an area variance for increasing the degree of non-conformity of the front yard setback (Roma Drive) to build a front deck (12 x 20) on the residence. (Corner lot Rock Cut Road (CR-23) and Roma Drive).

Mr. Scalzo: Our second applicant this evening is Douglas and Joyce Reyes, 81 Rock Cut Road, Newburgh seeking an area variance for increasing the degree of non-conformity of the front yard setback from Roma Drive or Rock Cut Road to build a front deck (12 x 20) on the residence. It is a corner lot which is the corner of Rock Cut Road (CR-23) and Roma Drive. Ms. Gennarelli...

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

Mr. Scalzo: Thank you very much and as I mentioned before we have all visited the site so we are familiar with the property.

Ms. Gennarelli: You're welcome.

Mr. Scalzo: Sir if you could identify yourself?

Mr. Reyes: My name is Douglas Reyes. I am taking a permit to build a deck in the front of my house on Rock Cut Road for my family and I to enjoy it, that's pretty much it.

Mr. Scalzo: Okay, I...the big willow tree out in front kind of screens you from Rock Cut Road and that's the portion of the dwelling that the deck will be put on. Is it where the portion...I can see the board up against...?

Mr. Reyes: Yes sir.

Mr. Scalzo: ...that's where it's going to begin and it's going to extend towards Rock Cut Road.

Mr. Reyes: Yes.

Mr. Scalzo: Yes, okay. I...I...as I've said I've been there so I'll return to the Board. Mr. Bell?

Mr. Bell: I have no questions.

Mr. Scalzo: Mr. Olympia?

Mr. Olympia: I have no questions.

Mr. Scalzo: Mr. McKelvey?

Mr. McKelvey: It will improve the looks of the front of the house.

Mr. Scalzo: I would agree. Mr. Levin?

Mr. Levin: How long has the deck been gone?

Mr. Reyes: I don't understand.

Mr. Levin: How long has that deck that fell off the front of the...been gone?

Mr. Reyes: I never had one.

Mr. Levin: You never had one, oh.

Mr. Reyes: No.

Mr. Levin: I think it will improve the house a lot.

Mr. Reyes: Oh, yes.

Mr. Scalzo: Mr. Masten?

Mr. Masten: I have nothing right now.

Mr. Scalzo: Mr. Marino?

Mr. Marino: I'm good.

Mr. Scalzo: Very good, at this point I would like to open this up to any members of the public to comment on this application.

No response.

Mr. Scalzo: Okay, I'll turn give the Board one more opportunity.

No response.

Mr. Scalzo: In that case, perhaps I can hear a motion to close the Public Hearing.

Mr. McKelvey: I make that motion.

Mr. Bell: I'll second it.

Mr. Scalzo: Motion from Mr. McKelvey, second from Mr. Bell.

Ms. Gennarelli: Roll call.

Darrell Bell: Yes

Richard Levin: Yes

Anthony Marino: Yes

John Masten: Yes

John McKelvey: Yes

Peter Olympia: Yes

Darrin Scalzo: Yes

Mr. Scalzo: The Public Hearing is closed. We will try to render a decision this evening.

Mr. Reyes: Thank you.

Mr. Scalzo: Thank you.

(Time Noted - 7:17 PM)

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ZBA MEETING – AUGUST 23, 2018 (Resumption for decision: 7:38 PM)

DOUGLAS & JOYCE REYES

81 ROCK CUT ROAD, NBGH  
(49-5-1) R-1 ZONE

Applicant is seeking an area variance for increasing the degree of non-conformity of the front yard setback (Roma Drive) to build a front deck (12 x 20) on the residence. (Corner lot Rock Cut Road (CR-23) and Roma Drive).

Mr. Scalzo: The second application this evening Douglas and Joyce Reyes, 81 Rock Cut Road, Newburgh seeking an area variance for increasing the degree of non-conformity of the front yard setback (Roma Drive) to build a front deck (12 x 20) on the residence, a corner lot Rock Cut Road (CR-23) and Roma Drive. As I mentioned before this is a Type II Action Under SEQR. Any discussion from the Board prior to us going the criteria?

Mr. McKelvey: I think it will improve the front of the house.

Mr. Olympia: Yes.

Mr. Masten: Yes.

Mr. Marina: I would agree.

Mr. Bell: And safety. As it is it just creates safety issues.

Mr. Scalzo: Oh, yeah, front door leading to nowhere. Alright so we will go through the area variance criteria and discuss the five factors, the first one being whether or not the benefit can be achieved by other means feasible to the applicant? This has two front yards and I'm not sure that that really weighs into this at all however, the a...front is screened by a very large tree. Can it be achieved by other means, perhaps with a smaller deck? Second, if there's an undesirable change in the neighborhood character or a detriment to nearby properties a...?

Mr. Olympia: No.

Mr. Scalzo: I agree I believe it's in character with the neighborhood. The third, whether the request is substantial?

Mr. McKelvey: No.

Mr. Levin: No, it's not substantial.

Mr. Olympia: No.

Mr. Scalzo: The fourth, whether the request will have adverse physical or environmental effects?

Mr. Olympia: No.

Mr. McKelvey: No.

Mr. Levin: No.

Mr. Scalzo: It doesn't appear so. And the fifth, whether the alleged difficulty is self-created? Relevant but not determinative. Yes, it is self-created...

Mr. Olympia: Yes.

Mr. Scalzo: ...but it's a...not a detriment to the applicant. So at this point I'll look to the Board for a motion.

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

Mr. Bell: I'll second it.

Mr. Scalzo: Motion from Mr. Levin, second from Mr. Bell.

Ms. Gennarelli: Roll call.

Darrell Bell: Yes

Richard Levin: Yes

Anthony Marino: Yes

John Masten: Yes

John McKelvey: Yes

Peter Olympia: Yes

Darrin Scalzo: Yes

Mr. Scalzo: The motion carried.

PRESENT ARE:

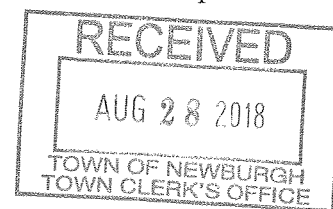
DARRELL W. BELL  
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ANTHONY R. MARINO  
JOHN D. MASTEN  
JOHN H. MC KELVEY  
PETER M. OLYMPIA JR.  
DARRIN J. SCALZO

ALSO PRESENT:

DAVID A. DONOVAN, ESQ.  
BETTY GENNARELLI, ZBA SECRETARY  
GERALD CANFIELD, CODE COMPLIANCE

(Time Noted – 7:40 PM)

*Handwritten signature and date: 8/23/18*



ZBA MEETING – AUGUST 23, 2018

(Time Noted – 7:17 PM)

SUSAN McDONALD, SHERYL PLUCHINO 19 STIRRUP DRIVE, NBGH  
DANIEL ADKINS (58-1-6) R-2 ZONE

Applicant is seeking an area variance for the maximum allowed square footage of accessory structures (329.09 sq. ft.) by formula to build an accessory building (14 x 30) on the premises.

Mr. Scalzo: Our third applicant for the evening is Susan McDonald, Sheryl Pluchino and Daniel Adkins, 19 Stirrup Drive, Newburgh seeking an area variance for the maximum allowed square footage of accessory structures (329.09 sq. ft.) by formula to build an accessory building (14 x 30) on the premises. Ms. Gennarelli...

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

Mr. Scalzo: Very good, thank you.

Ms. Gennarelli: You're welcome.

Mr. Scalzo: If you could please identify yourself? Identify yourself for the record please.

Ms. Pluchino: Sheryl Pluchino.

Mr. Scalzo: And I'm sorry I butchered your name.

Ms. Pluchino: That's okay.

Mr. Scalzo: And just you're...here for?

Ms. Pluchino: We're here for we want to put up a shed to put a lot of stuff for storage in it. We're kind of overcrowded and we're going to put one of our cars, two of our cars in there if we can and that's basically it. Just to alleviate some storage, we rent a storage area so we'd like to get rid of that payment per month.

Mr. Scalzo: I understand and there's...there is a small metal shed behind the house currently?

Ms. Pluchino: Yes.

Mr. Scalzo: It's my understanding the proposal is to remove that if you were to gain approval for this application?

Ms. Pluchino: Yes.

Mr. Scalzo: Okay, the yard is very neat...

Ms. Pluchino: Nice and flat.

Mr. Scalzo: Yeah, it certainly would make it easy. Now you've mentioned storing a car in there. I'm going to look over to our Code Compliance...isn't there a Code issue regarding storing a vehicle? Is it a wood floor, or would it be a concrete floor stick built or...?

Ms. Pluchino: Wood.

Mr. McKelvey: If you're going to store a car it has to be concrete.

Mr. Canfield: Fire Code doesn't permit any storage of combustibles or flammable material it has to be a non-combustible floor.

Mr. Scalzo: That...that may not play into the application...that's just for your information.

Ms. Pluchino: Oh, okay.

Mr. Scalzo: So when it comes to storing items in that shed be aware that Fire Code would prevent you from storing a vehicle or anything else that's...

Audience Member Inaudible

Mr. Canfield: Fire Code indicates anything...any flammable combustible materials can't be stored on a combustible floor so...

Mr. Scalzo: So if you're lawnmower was empty you could store it there.

Mr. Donovan: You have the right to remain silent. Anything you say can and will be used against you.

Ms. Pluchino: So the car stays outside all covered up...

Mr. Scalzo: Our Code Compliance gentleman is...is just letting you know what the Fire Code is.

Audience Member (Inaudible)

Ms. Pluchino: So it stays outside all covered...

Audience Member (Inaudible)

Mr. Scalzo: So I'm going to return to the Board, Mr. Bell, any questions?

Mr. Bell: No, I'm good, thank you.

Mr. Scalzo: Mr. Olympia?

Mr. Olympia: No.

Mr. Scalzo: Mr. McKelvey?

Mr. McKelvey: No.

Mr. Scalzo: Mr. Levin?

Mr. Levin: My question was going to be about the extra shed that you're going to take away.

Ms. Pluchino: Yes.

Mr. Levin: That shed is a...is on concrete isn't it?

Ms. Pluchino: A...it kind of used to be but now it's kind of like a dirt floor...

Mr. Levin: Oh.

Ms. Pluchino: ...it's very old.

Mr. Levin: Inaudible.

Ms. Pluchino: Yeah.

Mr. Levin: It actually is not that difficult to put a concrete floor down I don't believe. You were going to do it weren't you? Or your husband was a...

Mr. Pluchino: Looked at it but it comes with a...you know, it's a shame to a...tear up...

Ms. Gennarelli: Sorry, if you're going to speak you're going to have to come to the microphone because this is all being recorded.

Mr. Pluchino: I'm Sheryl's husband John Pluchino. It would be a shame to tear up a...a good floor. It's a...it's an Amish built shed and a...I just...I can't see you know, chopping it all up and putting a concrete. It's just an extra added cost that I really don't need.

Mr. McKelvey: I...I did mention to you when we were there that you needed a concrete floor for it.

Mr. Pluchino: If I had a garage door.

Mr. McKelvey: Yes.

Mr. Pluchino: It's going to have barn doors.

Mr. McKelvey: It doesn't matter if you're going to store a car.

Mr. Pluchino: You told me that a...barn doors were permissible...you said if it was a garage door it would have to be concrete.

Mr. McKelvey: Concrete to store cars...right, Jerry?

Mr. Canfield: I'm sorry?

Mr. McKelvey: He's going to have a barn door but that doesn't matter if he's going to store a car?

Mr. Canfield: Yes, and again no to repeat myself but there's Fire Code requirements that dictate what you can and can't do. It doesn't...it's not the issue of what doors are on it. If you can physically pull a vehicle in and out then the assumption is fair that there's going to be a vehicle in there. If the vehicle has flammable liquids it has to be a non-combustible floor. That's the requirement.

Mr. McKelvey: Would we call it a shed or a garage?

Mr. Scalzo: Oh it's...



Mr. Donovan: Well I think it's...we would call it an accessory structure.

Mr. Scalzo: Accessory structure.

Mr. Donovan: That's how the Code defines it and you're here tonight because you're over the total square footage allowed for accessory structures. I think the information relative to the composition of the floor is informational only, right, as far as the ZBA is concerned.

Mr. Scalzo: Correct.

Mr. Donovan: Whatever a Board Member may have said on that issue is trumped by whatever the Fire Code and whatever Code Compliance says with respect to the Code requirements.

Mr. Pluchino: Can a floor get painted with some fire retardant material?

Mr. Donovan: Again, that's going to be a question for Code Compliance. All you're here for tonight is a variance to exceed the total allowable square footage for the accessory structure.

Mr. Scalzo: That information is not going to weigh on the application this evening.

Mr. Pluchino: Okay.

Mr. Canfield: We can address that should you get approved here.

Mr. Pluchino: Okay.

Mr. Scalzo: Okay, at this point I'd like to open it up to any members of the public that want to speak on this action.

No response.

Mr. Scalzo: Hearing none, I'll look back to the Board for one more opportunity.

Mr. Bell: I'm good.

Mr. Scalzo: Okay, then perhaps I can hear a motion?

Mr. Masten: I make a motion we close the Hearing.

Mr. Bell: I'll second it.

Mr. Scalzo: Motion from Mr. Masten, second from Mr. Bell.

Ms. Gennarelli: Roll call.

Darrell Bell: Yes

Richard Levin: Yes

Anthony Marino: Yes

John Masten: Yes

John McKelvey: Yes

Peter Olympia: Yes

Darrin Scalzo: Yes

(Time Noted - 7:25 PM)

ZBA MEETING – AUGUST 23, 2018 (Resumption for decision: 7:40 PM)

SUSAN McDONALD, SHERYL PLUCHINO 19 STIRRUP DRIVE, NBGH  
DANIEL ADKINS (58-1-6) R-2 ZONE

Applicant is seeking an area variance for the maximum allowed square footage of accessory structures (329.09 sq. ft.) by formula to build an accessory building (14 x 30) on the premises.

Mr. Scalzo: The third applicant this evening Susan McDonald, Sheryl Pluchino and Daniel Adkins, 19 Stirrup Drive, Newburgh seeking an area variance for the maximum allowed square footage of accessory structures (329.09 sq. ft.) by formula to build an accessory building (14 x 30) on the premises. This is a Type II Action Under SEQR. Any discussion from the Board prior to the criteria.

Mr. Olympia: No.

Mr. Bell: No.

Mr. Scalzo: Alright whether or not the benefit can be achieved by other means feasible to the applicant? Perhaps with a smaller shed but this is really not that...

Mr. Levin: It's not that large.

Mr. McKelvey: No.

Mr. Scalzo: Second, if there is an undesirable change in the neighborhood character or a detriment to nearby properties?

Mr. Olympia: No.

Mr. Masten: No.

Mr. Scalzo: Other properties in the neighborhood did have sheds. I didn't evaluate whether they were that size or not but I did see other sheds there.

Mr. Scalzo: The third criteria, whether the request is substantial?

Mr. Bell: No.

Mr. Olympia: No.

Mr. McKelvey: No.

Mr. Levin: No.

Mr. Masten: No.

Mr. Scalzo: It wouldn't appear so. The fourth, whether the request will have adverse physical or environmental effects?

Mr. Bell: No.

Mr. Olympia:

Mr. McKelvey: No.

Mr. Scalzo: And the fifth, whether the alleged difficulty is self-created? Relevant but not determinative and yes, it is self-created however a...it should not affect the a...

Mr. Olympia: I'll move that the application be approved.

Mr. Bell: I'll second it.

Mr. Scalzo: Motion from Mr. Olympia, second from Mr. Bell.

Ms. Gennarelli: Okay, roll call.

Darrell Bell: Yes

Richard Levin: Yes

Anthony Marino: Yes

John Masten: Yes

John McKelvey: Yes

Peter Olympia: Yes

Darrin Scalzo: Yes

Mr. Scalzo: The motion carried.

PRESENT ARE:

DARRELL W. BELL  
RICHARD D. LEVIN  
ANTHONY R. MARINO

JOHN D. MASTEN  
JOHN H. MC KELVEY  
PETER M. OLYMPIA JR.  
DARRIN J. SCALZO

ALSO PRESENT:

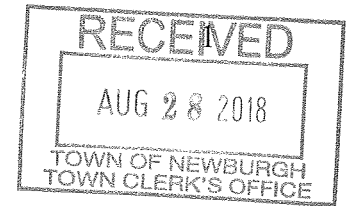
DAVID A. DONOVAN, ESQ.  
BETTY GENNARELLI, ZBA SECRETARY  
GERALD CANFIELD, CODE COMPLIANCE

(Time Noted – 7:42 PM)

*[Handwritten signature]*  
8/28/18

ZBA MEETING – AUGUST 23, 2018

(Time Noted – 7:25 PM)



ROSAURA & MOISES MARTINEZ

4 HELENE TERRACE, NBGH  
(76-3-3) R-3 ZONE

Applicant is seeking an area variance for the minimum side yard setback to keep an 8' x 32' rear addition and enclosed deck built without a Permit on the premises.

Mr. Scalzo: Our final applicant this evening is Rosaura and Moises Martinez, 4 Helene Terrace, Newburgh seeking an area variance for the minimum side yard setback to keep an 8' x 32' rear addition and enclosed deck built without a Permit on the premises. Ms. Gennarelli...

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

Mr. Scalzo: Thank you very much.

Ms. Gennarelli: You're welcome.

Mr. Scalzo: Mr. Brown?

Mr. Brown: Thank you Darrin. My name is Charles Brown I'm the engineer for the applicant. It's an existing house on Helene Terrace. There was an addition built without a Permit in the rear a...like you said 8' x 32' a...it's not out of character with the neighborhood, matter of fact the house right next door is actually closer to the property than this addition and there's another one across the street that's also closer to the property line. These are all undersized lots and with the a setbacks the way they are in this Zone it...it occupies a substantial percentage of...of the a lot. So the lot buildable area is very small. It's well screened by a hedge line and a stockade fence. It's not the negative impact on the environment and that sums it up.

Mr. McKelvey: When was it built?

Audience Member Inaudible

Mr. Brown: How long? Twelve years ago.

Mr. Scalzo: Mr. Brown, I do agree with your assessment it is in character with the neighborhood. It didn't appear that a, you know, it was out of place at all.

Mr. Levin: I felt the same way.

Mr. Scalzo: My a...my question is really...standing back and looking at it and there's one photo in the application package that...that illustrates it as well. It appears that it...it's not level. It almost appears as though the left or...looking at the left corner is sinking. Now I did go take a look at the footing and it looks to be on sono-tube a...and you know, actually that's gonna...I'm going to look to Code Compliance in this case. Should this application move forward what...does

Code Compliance...would they actually have to go out and look for non destructive testing but would they have to see excavated footings to verify Code Compliance?

Mr. Canfield: Yes, should this applicant get approved that's the first step in the process. The next step obviously is to file for a Building Permit. I'm not certain at this time if they have and perhaps that's what brought them here but in any event before that Permit is issued a...there should be determinations made probably structural analysis from an engineer's report as to the stability in the construction of the addition along (Inaudible) with inspections as well from our department.

Mr. Scalzo: Thank you Mr. Canfield.

Mr. Brown: Yeah, they did file for the Permit and we were denied because we needed a variance before we could get the Permit so this is the first step. The next step would be getting the Permit and doing the inspections as...as Jerry said.

Mr. Scalzo: Okay, I have no further questions so I'm going to look to the Board. I'm going to start at the other end. Mr. Marino?

Mr. Marino: The only comment I have is he has a beautiful dog.

Mr. Scalzo: Oh, absolutely. I agree.

Mr. Marino: I think the back porch like that is an asset to the house and proper with the neighborhood.

Mr. Scalzo: Yes, I agree. Mr. Masten?

Mr. Masten: I agree with it. It's an addition to help.

Mr. Scalzo: Mr. Levin?

Mr. Levin: No questions.

Mr. Scalzo: Mr. McKelvey?

Mr. McKelvey: No.

Mr. Scalzo: Mr. Olympia?

Mr. Olympia: No questions.

Mr. Scalzo: Mr. Bell?

Mr. Bell: None.

Mr. Scalzo: At this point I'll open it up to members of the public. Anyone have comments on this application?

No response.

Mr. Scalzo: Hearing none, one last opportunity to the Board.

No response.

Mr. Scalzo: All right, well someone if I may have a motion?

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

Mr. Masten: I'll second it.

Mr. Scalzo: Motion from Mr. McKelvey, second from Mr. Masten.

Ms. Gennarelli: Roll call.

Darrell Bell: Yes

Richard Levin: Yes

Anthony Marino: Yes

John Masten: Yes

John McKelvey: Yes

Peter Olympia: Yes

Darrin Scalzo: Yes

Mr. Scalzo: The Public Hearing is closed.

Mr. Brown: Thank you.

Mr. Scalzo: Thank you. Before proceeding the Board will take a short adjournment to confer with Counsel regarding legal questions raised by tonight's applications. If I could ask in the interest of time if you could wait out in the hallway and then we'll call you back very shortly.

(Time Noted - 7:29 PM)

ZBA MEETING – AUGUST 23, 2018 (Resumption for decision: 7:42 PM)

ROSAURA & MOISES MARTINEZ 4 HELENE TERRACE, NBGH  
(76-3-3) R-3 ZONE

Applicant is seeking an area variance for the minimum side yard setback to keep an 8' x 32' rear addition and enclosed deck built without a Permit on the premises.

Mr. Scalzo: And our final applicant for the evening is Rosaura and Moises Martinez, 4 Helene Terrace, Newburgh seeking an area variance for the minimum side yard setback to keep an 8' x 32' rear addition and enclosed deck built without a Permit on the premises. This is a Type II Action Under SEQR. Any comments or questions from the Board before we go through the criteria.

Mr. Olympia: None.

Mr. McKelvey: No.

Mr. Levin: No.

Mr. Scalzo: Okay, whether or not the benefit can be achieved by other means feasible to the applicant? Well it's pre-existing in this case a...or pre-application. Second, if there is an undesirable change in the neighborhood character or a detriment to nearby properties?

Mr. Bell: No.

Mr. Olympia: No.

Mr. McKelvey: No.

Mr. Levin: No.

Mr. Masten: No.

Mr. Marino: I don't think so.

Mr. Scalzo: We've heard testimony and the Board concurred that it is very much in character with the neighborhood. The third, whether the request is substantial? It doesn't appear so from again the a...character of the neighborhood. The numbers and percentagewise it doesn't appear to be as well. The fourth, whether the request will have adverse physical or environmental effects?

Mr. Bell: No.

Mr. McKelvey: No.



Mr. Scalzo: I don't believe so. And the fifth, whether the alleged difficulty is self-created? Relevant but not determinative. Yes, it is self-created a...but we can move forward. I would...I cannot bring a motion forward but I would like to if the Board does feel the desire to approve this that it be conditioned upon the environmental...or the engineering report for the footings and foundations and just general acceptability of the structure itself.

Mr. McKelvey: I think that it would be done by the Permit anyhow.

Mr. Scalzo: You're probably right but I just wanted it on record.

Mr. McKelvey: I make a motion we approve.

Mr. Bell: I'll second it.

Mr. Scalzo: Motion from Mr. McKelvey, second from Mr. Bell, Roll Call.

Ms. Gennarelli: Okay, roll call.

Darrell Bell: Yes

Richard Levin: Yes

Anthony Marino: Yes

John Masten: Yes

John McKelvey: Yes

Peter Olympia: Yes

Darrin Scalzo: Yes

Mr. Scalzo: The motion carried.

PRESENT ARE:

DARRELL W. BELL  
RICHARD D. LEVIN  
ANTHONY R. MARINO  
JOHN D. MASTEN  
JOHN H. MC KELVEY  
PETER M. OLYMPIA JR.  
DARRIN J. SCALZO

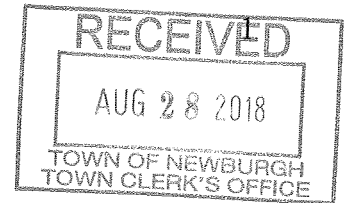
ALSO PRESENT:

DAVID A. DONOVAN, ESQ.  
BETTY GENNARELLI, ZBA SECRETARY  
GERALD CANFIELD, CODE COMPLIANCE

(Time Noted – 7:45 PM)

*8/28/18*

ZBA MEETING – AUGUST 23, 2018



END OF MEETING

(Time Noted – 7:45 PM)

Mr. Scalzo: That is the end of the Public Hearing portion of the meeting for this evening. Thank you very much for coming. Mr. Canfield does have some other Board business that he would like to discuss with the Board. Mr. Brown is there something?

Mr. Brown: A...yes, regarding the application for Dan Dickinson which...which I withdrew. We do now have all the paperwork that we need to prove that a...we have use of that...there's also a maintenance agreement that was put into place. A...do I need to go back to the Building Department first for a rejection or can I come straight to this Board and re-apply for a...that variance to use the right of way as access to the property?

Ms. Gennarelli: You have to check with Mr. Canfield from what I understand he has to start over we have nothing at this point.

Mr. Scalzo: Okay, we'll defer to the Code Compliance.

Mr. Canfield: Yeah, Mr. Brown has indicated he's the applicant's representative. During deliberations I mentioned this to him that his client had called me today a...and his question is how does he...how does he reappear before the Board? I've taken the liberty of reading July's minutes which was the last action before this Board where upon Mr. Brown's letter the item was withdrawn from that agenda. There had been a few adjournments and I believe the outstanding issue from re-reading June's minutes was an road maintenance agreement that Mr. Dan Bloom testified to this Board that he was in the process of drawing up. A...I'm not certain that in July this Board took an official action as far as closing the hearing or withdrawing the application entirely.

Mr. Scalzo: I believe the applicant withdrew the application.

Mr. McKelvey: Yeah.

Mr. Bell: Yeah, the applicant.

Mr. Donovan: Yeah, the application is withdrawn. I mean it has to come back here for a Public Hearing. I think your question is whether you need to make application and be denied and appeal that...

Mr. Canfield: Yes, Dave, it's...it's a procedural question. How does this applicant get back before the Board?

Mr. Donovan: So if...if you have everything the best way is...is to submit to Code Compliance, have it denied and appeal that back here. I think that makes it cleaner.

Mr. Brown: Okay, okay. Thank you.

Mr. Canfield: So basically it would be a new application.

Mr. Donovan: Yeah, it's...it's the same application right but it's a new application...

Mr. Canfield: But, yeah...

Mr. Donovan: ...with additional information...

Mr. Canfield: ...official when it's the same...

Mr. Donovan: ...that we need but I think it makes it cleaner the fact that okay that you have the denial, you appeal the denial here and nothing got short circuited, no one, you know...

Mr. Canfield: The re-notification process and everything still applies.

Mr. Donovan: Yes, yes, well yeah, I think that's a given. Right?

Mr. Brown: That was understood.

Mr. Canfield: Okay.

Mr. Scalzo: Mr. Brown, please assume that a...perhaps some of the Board Members have gotten rid of some of the information that we had when the applicant...

Mr. Brown: Well we would reapply with a full...

Mr. Scalzo: With everything.

Mr. Brown: ...application package and with the additional information that was requested by the Board.

Mr. Scalzo: As if we know nothing.

Mr. Brown: And there's new members here to, so yes, we would a full new application. Okay, we'll go to the Building Department first?

Mr. Scalzo: Start over. Thank you very much. And as far as I know that concludes the meeting...the Public Hearing portion of the meeting and now we need to vote on the meeting minutes from the July meeting.

Mr. Bell: Good night, yes, you can.

Audience Members leaving meeting room

Ms. Gennarelli: Good night. Back to the Building Department for all those that were approved. Okay?

Mr. Scalzo: Yes, we just need to a vote on the acceptance of the meeting minutes for the July meeting. Anybody have any corrections, or comments to those minutes? No? Do I have a motion to approve?

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

Mr. Masten: Second.

Mr. Scalzo: All those in favor say Aye?

Aye - All

Mr. Scalzo: Do we have anything else Ms. Gennarelli?

Ms. Gennarelli: Not that I know of.

Mr. McKelvey: Motion to adjourn.

Mr. Scalzo: A motion to adjourn from Mr. McKelvey.

Mr. Masten: Second.

Mr. Scalzo: Second from Mr. Masten. All in favor say Aye?

Aye All

Mr. Scalzo: The meeting is adjourned.

PRESENT ARE:

DARRELL W. BELL  
RICHARD D. LEVIN  
ANTHONY R. MARINO  
JOHN D. MASTEN  
JOHN H. MC KELVEY  
PETER M. OLYMPIA JR.  
DARRIN J. SCALZO

ALSO PRESENT:

DAVID A. DONOVAN, ESQ.  
BETTY GENNARELLI, ZBA SECRETARY  
GERALD CANFIELD, CODE COMPLIANCE

(Time Noted - 7:50 PM)

*8/28/18*