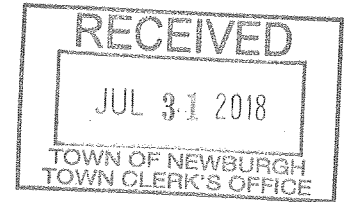


ZONING BOARD OF APPEALS

MEETING – JULY 26, 2018

(Time Noted – 7:00 PM)



Mr. McKelvey: I'd like to call the meeting of the ZBA to order. Betty, do you want to do the reading please?

Ms. Gennarelli: Sure, 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 a cell phone to please put them on silent or turn them off and when speaking, speak directly into the microphone as it is being recorded.

PRESENT ARE:

- DARRELL W. BELL
- RICHARD D. LEVIN
- JOHN D. MASTEN
- JOHN H. MC KELVEY
- PETER M. OLYMPIA JR.

ABSENT:

- ANTHONY R. MARINO
- DARRIN J. SCALZO

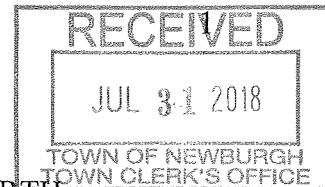
ALSO PRESENT:

- DAVID A. DONOVAN, ESQ.
- BETTY GENNARELLI, ZBA SECRETARY

Pledge of Allegiance to the Flag led by Richard Levin

(Time Noted – 7:02 PM)

Handwritten signature and date: 7/31/18



ZBA MEETING – JULY 26, 2018

(Time Noted – 7:02 PM)

DANIEL & ELISSA DICKINSON

SBL 6-1-12 (IN VICINITY OF NORTH
FOSTERTOWN, REVERE ROAD, TARBEN
WAY & STILLHOLLOW ROAD) A/R ZONE

Applicant is seeking an area variance from the requirements of New York State Town Law 280-a - (1) allowing a single family home to be constructed on property where no street or highway giving access to the property has been duly placed on the official map or plans and where such access is not on an existing state, county or town highway and is not a street shown upon a plat approved by the planning board nor is it a street on a plat duly filed and recorded in the office of the county clerk prior to the appointment of such planning board and (2) road must be suitably improved to the satisfaction of Town road specifications to have a Building Permit issued.

Mr. McKelvey: Betty.

Ms. Gennarelli: Yes, if anybody is here tonight for the Dickinson application we received a letter from Talcott Engineering.

In reference to the above at this time we are requesting to withdraw the application. We will reapply when we have all the required requested documents. Therefore, we will not be attending the Thursday, July 26, 2018 meeting.

So that means when they do come back, if they come back they have to reapply and do all the notices and postings and mailings, publications again as a new application.

Mr. McKelvey: I don't know if your mic is on Betty.

Ms. Gennarelli: Is that it? Can you hear me now?

Audience - We can hear you.

Mr. Bell: It's okay.

Ms. Gennarelli: Oh, not really, I have a lot of reading to do.

Mr. McKelvey: That sounds like it's on. Okay the first a...

PRESENT ARE:

DARRELL W. BELL
RICHARD D. LEVIN
JOHN D. MASTEN
JOHN H. MC KELVEY
PETER M. OLYMPIA JR.

ABSENT:

ANTHONY R. MARINO

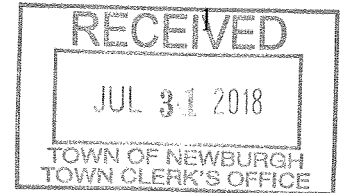
DARRIN J. SCALZO

ALSO PRESENT:

DAVID A. DONOVAN, ESQ.
BETTY GENNARELLI, ZBA SECRETARY

(Time Noted – 7:04 PM)

AG 7/31/18



ZBA MEETING – JULY 26, 2018

(Time Noted – 7:04 PM)

GARY VAN VLEIT JR.

122 ROCK CUT ROAD, NBGH
(47-1-28.21) R-1 ZONE

Applicant is seeking area variances for the minimum side yard setback and increasing the degree of non-conformity of the front yard setback on all County roads to build a side / rear deck (20 x 27) on the residence.

Mr. McKelvey: Betty.

Mr. Gennarelli: The first application before the Board this evening is Gary Van Vleit Jr., 122 Rock Cut Road, Newburgh seeking area variances for the minimum side yard setback and increasing the degree of non-conformity of the front yard setback on all County roads to build a side / rear deck (20 x 27) on the residence. The Public Hearing Notices for all the new applications being heard this evening were published in the Mid-Hudson Times on Wednesday, July 18th and The Orange County Post on Friday, July 20th. This applicant sent out twenty-two letters. All the mailings, publications and postings are in order. And we also had received a report from the Orange County Department of Planning and their recommendation is Local Determination. If you could just introduce yourself for the record?

Mr. VanVleit Jr.: Hi, my name is Gary Van Vleit; I live at 122 Rock Cut Road, Newburgh, NY.

Mr. McKelvey: Would you explain to the Board what you're looking for?

Mr. VanVleit Jr.: Yes, I'm looking to update the outside of my house by adding a deck that will actually cover an existing stoop...concrete stoop that's been there for years. It became dilapidated a...I have a choice to either update that and paint it or make a deck that's more feasible for my family. I have two young boys and we're looking for kind of a space where they can just you know, play outside and it's safer than having a giant hill in the backyard so it's going to take care of a lot of that issue too as well.

Mr. McKelvey: Is there any questions from the Board Members?

Mr. Levin: Is this one level (Inaudible)

Mr. Van Vleit: Yes, yeah it's going to be a walk out because where the door is currently to the left of that is my kitchen and then there's a bathroom so I don't have another area where I can put a walk out to have a deck in the back back so the idea was to have a walkout off the side of the house and walk around to a larger deck where we can you know put a table and chairs for dining.

Mr. McKelvey: Anyone else?

No response.

Mr. McKelvey: Is there anybody from the public that would like to speak?

No response.

Mr. McKelvey: Once again, is there anybody from the Board that wants to say anything?

No response.

Mr. McKelvey: If not, I'll look for a motion to...

Mr. Olympia: I'll move the application.

Mr. Masten: I'll second it.

Ms. Gennarelli: To close the Public Hearing.

Mr. McKelvey: To close the Public Hearing.

Mr. Olympia: Oh...close the Public Hearing.

Ms. Gennarelli: Okay, so Peter is the first to close it and I'm sorry, who was the second? Is that John...

Mr. McKelvey: John.

Ms. Gennarelli: ...Masten?

Mr. McKelvey: Yes.

Ms. Gennarelli: Roll call.

Darrell Bell: Yes

Richard Levin: Yes

John Masten: Yes

Peter Olympia: Yes

John McKelvey: Yes

Ms. Gennarelli: Okay, the Hearing is closed, they are going to come back and vote later.

Mr. VanVleit Jr.: Okay, thank you for your consideration.

(Time Noted - 7:07 PM)

ZBA MEETING – JULY 26, 2018 (Resumption for decision: 7:36 PM)

GARY VAN VLEIT JR.

122 ROCK CUT ROAD, NBGH
(47-1-28.21) R-1 ZONE

Applicant is seeking area variances for the minimum side yard setback and increasing the degree of non-conformity of the front yard setback on all County roads to build a side / rear deck (20 x 27) on the residence.

Mr. McKelvey: Okay, we're ready to resume the meeting.

Ms. Gennarelli: Okay, one second John...alright, on the first application Gary Van Vleit Jr., 122 Rock Cut Road, Newburgh seeking area variances for the minimum side yard setback and increasing the degree of non-conformity of the front yard setback on all County roads to build a side / rear deck (20 x 27) on the residence. This is a Type II Action Under SEQR. And do we have anything from the Board before we begin the balancing test?

Mr. McKelvey: Any questions? Anything?

Mr. Olympia: No.

Ms. Gennarelli: We'll go through the area variance criteria and discuss the five factors that you are weighing, the first one being whether or not the benefit can be achieved by other means feasible to the applicant?

Mr. McKelvey: No.

Mr. Bell: No, it can't.

Mr. Levin: I don't believe so.

Mr. Masten: No.

Ms. Gennarelli: The second, is there an undesirable change in the neighborhood character or a detriment to nearby properties?

Mr. Olympia: No.

Mr. Masten: No.

Mr. McKelvey: No.

Mr. Bell: No.

Mr. Levin: No.

Ms. Gennarelli: The third, whether the request is substantial?

Mr. McKelvey: No.

Mr. Bell: No.

Mr. Levin: No.

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

Mr. Olympia: No.

Mr. Levin: No, I don't think so.

Mr. Masten: No.

Mr. Bell: No.

Ms. Gennarelli: And then the fifth, whether the alleged difficulty is self-created? This is relevant but not determinative.

Mr. Olympia: No.

Mr. Levin: No.

Mr. McKelvey: I'll look for a motion to approve?

Mr. Bell: I'll second.

Mr. McKelvey: I didn't...I didn't make the motion.

Mr. Bell: I'll make a motion to approve.

Ms. Gennarelli: Okay, motion from Darrell? Okay, is there a second?

Mr. Masten: I'll second it.

Ms. Gennarelli: John Masten, okay.

Mr. McKelvey: Roll call.

Ms. Gennarelli: Roll call.

Darrell Bell: Yes

Richard Levin: Yes

John Masten: Yes

Peter Olympia: Yes

John McKelvey: Yes

Ms. Gennarelli: The vote is to approve.

PRESENT ARE:

DARRELL W. BELL
RICHARD D. LEVIN
JOHN D. MASTEN
JOHN H. MC KELVEY
PETER M. OLYMPIA JR.

ABSENT:

ANTHONY R. MARINO
DARRIN J. SCALZO

ALSO PRESENT:

DAVID A. DONOVAN, ESQ.
BETTY GENNARELLI, ZBA SECRETARY

(Time Noted – 7:38 PM)

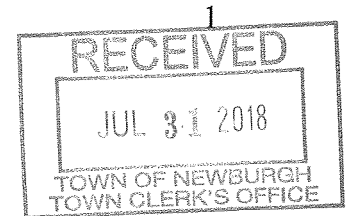
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7/31/18

ZBA MEETING – JULY 26, 2018

(Time Noted – 7:07 PM)

JENNIFER LINET

20 O'DELL CIRCLE, NBGH
(51-5-3) R-1 ZONE



Applicant is seeking area variances for the minimum rear yard setback, one side yard setback and the combined side yards setback; the maximum 10% lot building coverage and the 20% lot surface coverage and increasing the degree of non-conformity of the front yard setback to enclose (5' x 11') portion of the front porch and to rebuild and enlarge the rear deck (12' x 24') on the premises.

Ms. Gennarelli: The next application before the Board this evening is Jennifer Linet, 20 O'Dell Circle, Newburgh seeking area variances for the minimum side...I'm sorry, the minimum rear yard setback, one side yard setback and the combined side yards setback; the maximum 10% lot building coverage and the 20% lot surface coverage and increasing the degree of non-conformity of the front yard setback to enclose a 5' x 11' portion of the front porch and to rebuild and enlarge the rear deck 12' x 24' on the premises. This applicant sent out thirty-eight letters. All the mailings, publications and postings are in order.

Mr. McKelvey: Identify yourself please.

Ms. Linet: Jennifer Linet, 20 O'Dell Circle, Newburgh, NY.

Mr. McKelvey: Do you want to explain what you're looking for to us?

Ms. Linet: Sure, I'm looking to enclose a portion of my front porch. After a really bad winter I realized you walk right into a...my living space and you let in the cold and the elements so I'm looking to create a little mud room off of that front porch and then I have an existing deck that actually I took down because I had an issue with carpenter ants so I'm looking to replace that deck and make it bigger.

Mr. McKelvey: Any questions from the Board?

Mr. Levin: The deck in the rear you took it down I realized that and the new one is going to be bigger?

Ms. Linet: Yes.

Mr. McKelvey: You're not affecting anybody's view of the lake, right?

Ms. Linet: Correct, no.

Mr. McKelvey: Okay.

Mr. Levin: The lot lines aren't quite large there...on Orange Lake.

Ms. Linet: Yes.

Mr. McKelvey: And you're really down...off the road.

Ms. Linet: Yeah, yeah I'm the downhill one...

Mr. McKelvey: And you're a...

Ms. Linet: ...my house is higher than the rest so it won't be anything different than what it was.

Mr. McKelvey: And you're moving the steps to go down too?

Ms. Linet: Yes, I'm moving the steps to the side instead the front this way it opens up the bottom area.

Mr. McKelvey: Any questions from the public?

No response.

Mr. McKelvey: If not, I'll look for a motion to close the Hearing.

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

Mr. Bell: I'll second.

Ms. Gennarelli: Okay, roll call.

Darrell Bell: Yes

Richard Levin: Yes

John Masten: Yes

Peter Olympia: Yes

John McKelvey: Yes

Ms. Linet: Thank you.

(Time Noted - 7:09 PM)

ZBA MEETING – JULY 26, 2018 (Resumption for decision: 7:07 PM)

JENNIFER LINET

20 O'DELL CIRCLE, NBGH
(51-5-3) R-1 ZONE

Applicant is seeking area variances for the minimum rear yard setback, one side yard setback and the combined side yards setback; the maximum 10% lot building coverage and the 20% lot surface coverage and increasing the degree of non-conformity of the front yard setback to enclose (5' x 11') portion of the front porch and to rebuild and enlarge the rear deck (12' x 24') on the premises.

Ms. Gennarelli: The next application Jennifer Linet, 20 O'Dell Circle area variances for the minimum rear yard setback, one side yard setback and the combined side yards setback; the maximum 10% lot building coverage and the 20% lot surface coverage and increasing the degree of non-conformity of the front yard setback to enclose a (5' x 11') portion of the front porch and to rebuild and enlarge the rear deck (12' x 24'). This is a Type II Action Under SEQ. Does the Board have any comments before we go through the criteria?

Mr. McKelvey: There's no problem it's built down off the road.

Ms. Gennarelli: Okay, well go through the area variance criteria and discuss the five factors that you are weighing, the first one being whether or not the benefit can be achieved by other means feasible to the applicant?

Mr. McKelvey: No.

Ms. Gennarelli: The second, is there an undesirable change in the neighborhood character or a detriment to nearby properties?

Mr. Levin: No.

Mr. Olympia: No.

Mr. Masten: No.

Mr. McKelvey: No.

Mr. Bell: No.

Ms. Gennarelli: The third, whether the request is substantial?

Mr. Masten: No.

Mr. McKelvey: No, the neighbor has a deck.

Mr. Levin: And it fits in with the neighborhood.

Mr. Bell: Yup.

Ms. Gennarelli: Okay, the fourth, whether the request will have adverse physical or environmental effects?

Mr. Olympia: No.

Mr. Masten: No.

Mr. McKelvey: No.

Mr. Bell: No.

Mr. Levin: No.

Ms. Gennarelli: And then the fifth, whether the alleged difficulty is self-created? This is relevant but not determinative.

Mr. Olympia: No.

Mr. Levin: No.

Mr. McKelvey: No.

Mr. Bell: No.

Mr. McKelvey: Roll call.

Ms. Gennarelli: Do we have a motion for it?

Mr. McKelvey: Motion.

Mr. Olympia: I'll move...applicant.

Ms. Gennarelli: To...?

Mr. Bell: To what?

Ms. Gennarelli: To what?

Mr. Olympia: To approve. I'm sorry, yes.

Mr. McKelvey: Do we have a second?

Ms. Gennarelli: I can't just assume.

Mr. Olympia: (Inaudible)

Ms. Gennarelli: Did we have a second?

Mr. McKelvey: Richard.

Ms. Gennarelli: Richard? Okay.

Mr. McKelvey: Roll call.

Ms. Gennarelli: Roll call.

Darrell Bell: Yes

Richard Levin: Yes

John Masten: Yes

Peter Olympia: Yes

John McKelvey: Yes

Ms. Gennarelli: The motion is approved.

Ms. Linet: Woohoo.

PRESENT ARE:

DARRELL W. BELL
RICHARD D. LEVIN
JOHN D. MASTEN
JOHN H. MC KELVEY
PETER M. OLYMPIA JR.

ABSENT:

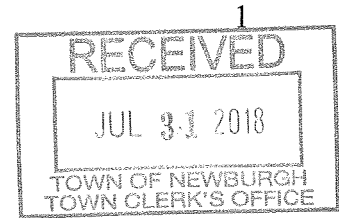
ANTHONY R. MARINO
DARRIN J. SCALZO

ALSO PRESENT:

DAVID A. DONOVAN, ESQ.
BETTY GENNARELLI, ZBA SECRETARY

(Time Noted – 7:40 PM)

7/31/18
BS



ZBA MEETING – JULY 26, 2018

(Time Noted – 7:09 PM)

RUSSELL NAPOLI

109 COACH LANE, NBGH
(58-6-18) R-2 ZONE

Applicant is seeking an area variance for increasing the degree of non-conformity of the front yard setback to build a covered front porch (10 x 40) with a vestibule (6 x 10) on the residence.

Ms. Gennarelli: Okay, the next application before the Board this evening is Russell Napoli, 109 Coach Lane, Newburgh seeking an area variance for increasing the degree of non-conformity of the front yard setback to build a covered front porch 10 x 40 with a vestibule 6 x 10 on the residence. This applicant sent out thirty-six letters. All the mailings, publications and postings are in order.

Mr. McKelvey: Could you raise that (mic) up there? Thank you. Just identify yourself.

Mr. Napoli: Russell Napoli, 109 Coach Lane, Newburgh, NY.

Mr. McKelvey: And what are you...explain to the Board what you're going to do.

Mr. Napoli: I had a...the house burned down, rebuilding the home, Thanksgiving night was a nightmare for us. The front porch, we tore it down and I want to rebuild it. The front porch that was there I'm only go out an additional two feet so the front variance with those changes and the reason I extended the wall there in the backyard is 84 so I don't know if you live close to 84 with the trucks you can't hear yourself think at night. So I would like to sit in the front with the house to block the sound from 84.

Mr. McKelvey: Any questions from the Board Members?

Mr. Bell: So what I saw it looked like, from what I saw, it looked like... I guess it was your nephew or someone that was there the gentleman...

Mr. Napoli: Dark hair?

Mr. Bell: Yes.

Mr. Napoli: That's my nephew.

Mr. Bell: He explained that the vestibule where you got the concrete foundation so that's where you putting that front part of that vestibule in there...?

Mr. Napoli: The vestibule sits right in the center of the deck.

Mr. Bell: In the center.

Mr. Napoli: So if you look...when you're looking...I have a picture if you want to see the picture of the...the plans...

Mr. Bell: I've got it here. I just make sure I am understanding what he explained to me out there.

Mr. Napoli: When you were there the front stairs are there now...

Mr. Bell: Okay.

Mr. Napoli: ...so when you go up the front stairs you'll go up the three steps to the deck and the vestibule is right there.

Mr. Bell: Okay, okay.

Mr. Napoli: So it's like right in the middle of the two sets of windows.

Mr. Bell: And the deck portion is coming...it's coming off of that in the front or did I misunderstand something about that? The deck is on the back side of the house correct?

Mr. Napoli: No the deck is on the front of the house.

Mr. Bell: It's on the front.

Mr. Napoli: And the vestibule sits inside it.

Mr. Bell: Inside of that, okay, got you.

Mr. Napoli: The vestibule only protrudes out six feet...

Mr. Bell: Okay.

Mr. Napoli: ...and the deck is actually ten feet...

Mr. Bell: Yeah.

Mr. Napoli: ...and it was eight...

Mr. Bell: Okay.

Mr. Napoli: ...so that's why I went out to the (Inaudible)...

Mr. Bell: Okay, okay. I understand.

Mr. Napoli: Okay, good.

Mr. McKelvey: Any other questions?

No response.

Mr. McKelvey: Anybody from the public would like to speak? Alright, come up to the microphone please. You can tilt that (mic) down.

Mr. Colombo: My name is Anthony Colombo, I live at 2 Pony Terrace and I've lived there for...since 1982. Now my question about this house is it burnt down and we had a letter sent out when they transferred it from being a one-family house to a mother and daughter house. Okay? Now as it turned out, it was turned into a mother and eleven daughter house because that's how many people were living in there when it burnt down and someone was killed, two people. So my concern is is this considered a one family house, a two family house? I don't know. So I'd like that answer.

Mr. McKelvey: Could you answer that?

Mr. Napoli: It's a one family house with an accessible (accessory) apartment for a one family house and everybody in the house was my extended family. It was my sons and my daughter-in-law's. I lost my wife, my two year old nephew Thanksgiving night. I've been there since 1973 so I mean, you know, it's a one family everybody that lives there is a Napoli.

Mr. McKelvey: Could you say you have an apartment?

Mr. Napoli: It's a...it's a single family house with an accessible (accessory) apartment on top of it. So it was a raised ranch and we put a dormer on it in 1989 I believe it was, is what he's referring to.

Mr. Levin: How many people can you sleep in the a...extension? You put a dormer on top how many people can sleep there? How many bedrooms do you have? (Inaudible)

Mr. Napoli: Yeah, the inside stuff from my house I didn't change anything. That's exactly the same foundation, footprint, everything else. The only thing I did is rebuilt it and I want to add the front porch and I only want to add two feet to it. So I don't really understand what does it matter who lives in my house it's my family.

Mr. Colombo: (Inaudible) That's not the issue, the issue is that we voted on having a mother and daughter...house.

Mr. Napoli: That was what they considered a one family with an accessible (accessory) apartment.

Mr. Colombo: Okay but when the accident happened it was in the paper that there were eleven people living there. I don't consider that one family, sir.

Mr. Napoli: Would you like to see ID's?

Mr. Colombo: (Inaudible)

Mr. Bell: Excuse me, excuse me. Could you step up to the mic because when you're talk? I need you to talk to us and not to the...not a debate between you two.

Mr. Colombo: It's not a debate. I'm just...this is a question that has troubled me for the longest time. If you apply for a variance for the houses that we have in Meadow Hill that were supposed to be one family and now it...it went from one family to a...supposedly a mother and daughter but at the time if you had seen they wrote in the paper that there were eleven people living there. I would consider that...

Mr. Donovan: So understand that that this Board is...is a Board of what's called appellate jurisdiction...

Mr. Colombo: Yes.

Mr. Donovan: ...so we're not a Board of original jurisdiction so in this matter, it was an application to the Building Department to do the construction work that's proposed. It didn't comply with the Zoning to the extent that it was increasing the degree of existing non-conformity with regard to the front yard. So this matter is referred to this Board solely for that purpose. We...

Mr. Colombo: Okay.

Mr. Donovan: ...we, this Board has no knowledge as to whether or not this is a single family simply or a single family with a permitted accessory apartment. I don't think that the Town of Newburgh recognizes anything...it's just accessory apartments...do we recognize a mother-daughter?

Ms. Gennarelli: There is no such thing in the Town as a mother-daughter anymore...

Mr. Donovan: Yeah, so...

Ms. Gennarelli: ...it's an accessory apartment.

Mr. Donovan: ...there's an accessory apartment that's if allowed is permitted by the Code Compliance or Building Department. So this Board doesn't...there was a time when this Board got involved in it but that's many years ago. So there's a limited purpose, there's a long way of me saying that we're not in a position to answer your question because that's not why this is here tonight.

Mr. Napoli: I just wanted to say to since 1989 I got married, I have two kids and I have my grandchildren living with me. So my sister passed and I still have my mother which eighty-nine years old so it's not a mother daughter it's a mother son and his family.

Mr. Colombo: Alright, you know, I have nothing to...nothing against having your family living with you but to me when it was set up for one thing and then when you read that you know, there

were that many people in there I...there's something wrong with that. That's my opinion. That's all.

Mr. McKelvey: They're all family though, right?

Mr. Napoli: Yeah, it's all Napoli's.

Mr. McKelvey: Any other questions from the Board?

No response.

Mr. McKelvey: Any other questions from the public?

No response.

Mr. McKelvey: I'll look for a motion to close the Hearing.

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

Mr. Masten: I'll second it.

Mr. McKelvey: Roll call.

Ms. Gennarelli: Roll call.

Darrell Bell: Yes

Richard Levin: Yes

John Masten: Yes

Peter Olympia: Yes

John McKelvey: Yes

Ms. Gennarelli: The Public Hearing is closed and then they'll come back and vote.

(Time Noted - 7:18 PM)

ZBA MEETING – JULY 26, 2018 (Resumption for decision: 7:40 PM)

RUSSELL NAPOLI

109 COACH LANE, NBGH
(58-6-18) R-2 ZONE

Applicant is seeking an area variance for increasing the degree of non-conformity of the front yard setback to build a covered front porch (10 x 40) with a vestibule (6 x 10) on the residence.

Ms. Gennarelli: The next application before the Board this evening is Russell Napoli, 109 Coach Lane, Newburgh seeking an area variance for increasing the degree of non-conformity of the front yard setback to build a covered front porch (10 x 40) with a vestibule (6 x 10) on the residence. And this is a Type II Action Under SEQR. And we'll go through the area variance criteria and discuss the five factors that you are weighing, the first one being whether or not the benefit can be achieved by other means feasible to the applicant?

Mr. Bell: No.

Mr. Levin: No.

Mr. Masten: No.

Ms. Gennarelli: The second, is there an undesirable change in the neighborhood character or a detriment to nearby properties?

Mr. Levin: I don't believe so.

Mr. Masten: No.

Mr. Olympia: No.

Mr. Levin: I think it's an improvement than anything else.

Ms. Gennarelli: The third, whether the request is substantial?

Mr. Bell: No.

Mr. Olympia: No.

Mr. Masten: No.

Mr. McKelvey: No.

Mr. Levin: No.

Ms. Gennarelli: And the fourth, whether the request will have adverse physical or environmental effects?

Mr. Olympia: No.

Mr. Levin: No.

Mr. Masten: No.

Mr. Bell: No.

Mr. McKelvey: No.

Ms. Gennarelli: And then the fifth, whether the alleged difficulty is self-created? This is relevant but not determinative.

Mr. Olympia: No.

Mr. Levin: No.

Mr. Bell: No.

Ms. Gennarelli: Having gone through the balancing tests of the area variance does the Board have a motion...?

Mr. McKelvey: Do we have a motion for approval?

Ms. Gennarelli: ...some sort of a motion?

Mr. Levin: I'll make a motion to approve.

(Inaudible)

Mr. Masten: I'll second it.

(Inaudible)

Ms. Gennarelli: Okay, we had how many people there now? Who was the first and second? Okay, Richard is the first and John Masten is the second?

Mr. Olympia: Yes.

Mr. Bell: Yes.

Ms. Gennarelli: Alright, roll call.

Darrell Bell: Yes

Richard Levin: Yes

John Masten: Yes

Peter Olympia: Yes

John McKelvey: Yes

Ms. Gennarelli: The motion is carried.

Mr. McKelvey: It's approved.

PRESENT ARE:

DARRELL W. BELL
RICHARD D. LEVIN
JOHN D. MASTEN
JOHN H. MC KELVEY
PETER M. OLYMPIA JR.

ABSENT:

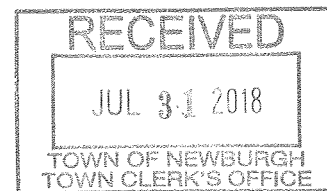
ANTHONY R. MARINO
DARRIN J. SCALZO

ALSO PRESENT:

DAVID A. DONOVAN, ESQ.
BETTY GENNARELLI, ZBA SECRETARY

(Time Noted – 7:42 PM)

AS
7/31/18



ZBA MEETING – JULY 26, 2018

(Time Noted – 7:18 PM)

BARBARA GASPERETTI

217 MAPLE DRIVE, NBGH
(49-3-5) R-1 ZONE

Applicant is seeking area variances for the minimum one side yard setback and the minimum combined side yards setback to construct an open deck (7 x 12) on the residence.

Mr. McKelvey: Betty.

Ms. Gennarelli: The next application before the Board is Barbara Gasperetti, 217 Maple Drive, Newburgh seeking area variances for the minimum one side yard setback and the minimum combined side yards setback to construct an open deck (7 x 12) on the residence. This applicant sent out thirty-five letters. All the mailings, publications and postings are in order.

Mr. McKelvey: Please identify yourself.

Ms. Gasperetti: Barbara Gasperetti, 217 Maple Drive.

Mr. McKelvey: Explain to us what you need.

Ms. Gasperetti: So on the front of my house was a cement structure with metal railings and it was falling apart. It was ten by four. I took it down and I want to put a twelve by seven deck on the front.

Mr. McKelvey: Any questions from the Board?

No response.

Mr. McKelvey: Any questions from the public?

No response.

Mr. McKelvey: Once again the Board anybody got any questions?

Mr. Bell: Nope.

Mr. McKelvey: I'd look for a motion to close.

Mr. Bell: I'll make a motion to close the Hearing.

Mr. Olympia: Second.

Ms. Gennarelli: Okay, roll call.

Darrell Bell: Yes

Richard Levin: Yes

John Masten: Yes

Peter Olympia: Yes

John McKelvey: Yes

Ms. Gasperetti: Thank you.

Mr. McKelvey: Thank you.

(Time Noted - 7:19 PM)

ZBA MEETING – JULY 26, 2018 (Resumption for decision: 7:42 PM)

BARBARA GASPERETTI 217 MAPLE DRIVE, NBGH
(49-3-5) R-1 ZONE

Applicant is seeking area variances for the minimum one side yard setback and the minimum combined side yards setback to construct an open deck (7 x 12) on the residence.

Ms. Gennarelli: The next applicant is Barbara Gasperetti, 217 Maple Drive, Newburgh seeking area variances for the minimum one side yard setback and the minimum combined side yards setback to construct an open deck (7 x 12) on the residence. This is a Type II Action Under SEQ. We'll go through the five factors that you are weighing, the first one being whether or not the benefit can be achieved by other means feasible to the applicant?

Mr. McKelvey: No.

Mr. Bell: No.

Mr. Levin: No, I don't think so.

Mr. Olympia: No.

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

Mr. Bell: No.

Mr. Masten: No.

Mr. McKelvey: No.

Mr. Olympia: No.

Mr. Levin: No.

Ms. Gennarelli: The third, whether the request is substantial?

Mr. Bell: No.

Mr. Levin: No.

Mr. McKelvey: No.

Mr. Olympia: No.

Mr. Masten: No.

Ms. Gennarelli: And the fourth, whether the request will have adverse physical or environmental effects?

Mr. McKelvey: No.

Mr. Olympia: No.

Ms. Gennarelli: And then the fifth, whether the alleged difficulty is self-created? Relevant but not determinative.

Mr. Bell: No.

Mr. Olympia: No.

Mr. Levin: No.

Ms. Gennarelli: Okay, does the Board have some sort a motion?

Mr. McKelvey: Anybody going to make a motion to approval?

Mr. Masten: I'll make a motion to approve.

Mr. Bell: I'll second.

Mr. McKelvey: Roll call.

Ms. Gennarelli: Roll call.

Darrell Bell: Yes

Richard Levin: Yes

John Masten: Yes

Peter Olympia: Yes

John McKelvey: Yes

Mr. McKelvey: The motion is approved.

Ms. Gennarelli: Thank you John.

PRESENT ARE:

DARRELL W. BELL
RICHARD D. LEVIN
JOHN D. MASTEN
JOHN H. MC KELVEY
PETER M. OLYMPIA JR.

ABSENT:

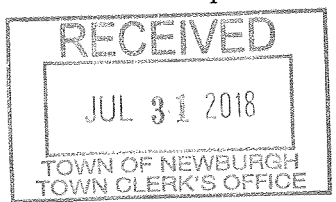
ANTHONY R. MARINO
DARRIN J. SCALZO

ALSO PRESENT:

DAVID A. DONOVAN, ESQ.
BETTY GENNARELLI, ZBA SECRETARY

(Time Noted – 7:44 PM)

BT
7/31/13



ZBA MEETING – JULY 26, 2018

(Time Noted – 7:19 PM)

WALTER BALCHUNAS &
KATHLEEN COX

88 BALMVILLE ROAD, NBGH
(43-5-30) R-1 ZONE

Applicant is seeking an area variance for the minimum one side yard setback to build a side / rear addition (20 x 40) on the residence.

Ms. Gennarelli: Okay, the next application is Walter Balchunas and Kathleen Cox, 88 Balmville Road, Newburgh seeking an area variance for the minimum one side yard setback to build a side / rear addition (20 x 40) on the residence. This applicant sent out sixteen letters. All the mailings, publications and postings are in order. Oh, I'm sorry, and we have received the report from the Orange County Department of Planning and their recommendation is Local Determination.

Mr. McKelvey: Please identify yourself.

Ms. Cox: My name is Kathleen Cox; I live at 88 Balmville Road in Newburgh. We applied for a variance. We have a small Cape Cod style house with two bedrooms and a bath upstairs and we would like to move a...put living space on the main floor so that we can stay in our house as long as possible. My husband is a retired iron worker and he's starting to get rickety knees and the stairs are getting a little harder for him so...

Mr. McKelvey: Questions from the Board?

Mr. Bell: No.

Mr. Levin: No.

Mr. Olympia: No.

Mr. McKelvey: Really there's no problem in the back because of the...the hill to the Desmond Estate.

Ms. Cox: Right.

Mr. Bell: I believe it was going forty feet back...

Ms. Cox: Right forty feet back...

Mr. Bell: ...and twenty...

Ms. Cox: ...twenty feet wide.

Mr. Bell: That's no problem.

Mr. Levin: Someday I'm going to come before the Board to ask for the same thing.

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

No response.

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

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

Mr. Masten: I'll second it.

Ms. Gennarelli: Roll call.

Darrell Bell: Yes

Richard Levin: Yes

John Masten: Yes

Peter Olympia: Yes

John McKelvey: Yes

Ms. Cox: Thank you.

(Time Noted - 7:21 PM)

ZBA MEETING – JULY 26, 2018 (Resumption for decision: 7:44 PM)

WALTER BALCHUNAS &
KATHLEEN COX

88 BALMVILLE ROAD, NBGH
(43-5-30) R-1 ZONE

Applicant is seeking an area variance for the minimum one side yard setback to build a side / rear addition (20 x 40) on the residence.

Ms. Gennarelli: Okay, the next one is Walter Balchunas and Kathleen Cox, seeking an area variance for the minimum one side yard setback to build a side / rear addition (20 x 40) on the residence. This is a Type II Action Under SEQR. We'll go through factors the first one being whether or not the benefit can be achieved by other means feasible to the applicant?

Mr. Levin: No, it can't.

Mr. Olympia: No.

Mr. Bell: No.

Ms. Gennarelli: The second, is there an undesirable change in the neighborhood character or a detriment to nearby properties?

Mr. McKelvey: No.

Mr. Bell: No.

Mr. Levin: No.

Mr. Masten: No.

Mr. Olympia: No.

Ms. Gennarelli: The third, whether the request is substantial?

Mr. Bell: No.

Mr. Masten: No.

Mr. McKelvey: No.

Mr. Bell: No, not at all.

Mr. Olympia: No.

Ms. Gennarelli: Okay, the fourth, whether the request will have adverse physical or environmental effects?

Mr. Olympia: No.

Mr. Levin: No.

Mr. Masten: No.

Mr. Bell: No.

Ms. Gennarelli: And then the fifth, whether the alleged difficulty is self-created? Relevant but not determinative.

Mr. Olympia: No.

Mr. Levin: No.

Mr. Masten: No.

Mr. Bell: No.

Mr. McKelvey: Can we have a motion for approval?

Mr. Levin: I'll make a motion to approve.

Mr. Masten: I'll second it.

Mr. McKelvey: Roll call.

Ms. Gennarelli:

Darrell Bell: Yes

Richard Levin: Yes

John Masten: Yes

Peter Olympia: Yes

John McKelvey: Yes

Ms. Gennarelli: The motion is carried.

PRESENT ARE:

DARRELL W. BELL
RICHARD D. LEVIN
JOHN D. MASTEN
JOHN H. MC KELVEY
PETER M. OLYMPIA JR.

ABSENT:

ANTHONY R. MARINO
DARRIN J. SCALZO

ALSO PRESENT:

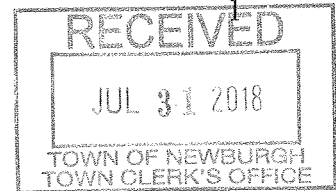
DAVID A. DONOVAN, ESQ.
BETTY GENNARELLI, ZBA SECRETARY

(Time Noted – 7:46 PM)

7/31/18
BB

ZBA MEETING – JULY 26, 2018

(Time Noted – 7:21PM)



ROSEMARIE & RONALD DeGROAT 19 YEOMAN ROAD, NBGH
(63-5-5) R-3 ZONE

Applicant is seeking area variances for (A) accessory buildings shall be in a side or rear yard and shall be set back 5 ft. from any property line to keep an accessory building (10 x 12) built without a permit and for (B) the minimum side yard setback and increasing the degree of non-conformity of the front yard setback to keep an above ground pool (15 x 30) with a deck (10'3" x 16'3") attached to the side of the dwelling built without a permit on the premises. (Has three front yards Yeoman/Archer/Little John).

Ms. Gennarelli: Okay, the next application before the Board this evening is Rosemarie and Ronald DeGroat who are seeking area variances for (A) accessory buildings shall be in a side or rear yard and shall be set back 5 ft. from any property line to keep an accessory building (10 x 12) built without a permit and for (B) the minimum side yard setback and increasing the degree of non-conformity of the front yard setback to keep an above ground pool (15 x 30) with a deck (10'3" x 16'3") attached to the side of the dwelling built without a permit on the premises. They have three front yards Yeoman, Archer and Little John. This applicant sent out forty-three letters. All the mailings, publications and postings are in order.

Mr. McKelvey: Identify yourself please.

Mr. Minuta: Good evening Chairman McKelvey a...and Members of the Board, Joseph Minuta with Minuta Architecture. I'm the architect for the client. I have with me this evening Ronald and Rosemary DeGroat who live at 19 Yeoman Road in Newburgh. We're here simply for some a...cleanup if you will. A...they're in the process of selling their home a...as many have experienced this lately a...Code Compliance has flagged a couple of items that they had a...the two have been read into the minutes. With respect to the shed that exists that has existed for quite some time and there is literally three inches in discrepancy and so that's there asking for that rather than having to actually move the shed a...to do that. We're also a...this property also has three front yards which, you know, as we know it's impossible to have three front yards and actually meet zoning setbacks. So the primary portion of the road is set on Yeoman which is their front yard and that's how you access the property. The side yard is where the swimming pool is a...and then you have the other which would normally be considered the side yard and the rear yard which is where the shed is. If we take a look at the side yard which is a...in the documents that we submitted that's where the pool is and now we have a Building Permit from 1984 a...it was actually 6-4-1984 for section, block 63-5-5, Permit # 0-5728. This was closed out a...November 8 of 1984 for this particular pool. A...the pool and the a...excuse me, steel pool 30 x 15 a...with the deck that's beside it. A...something I wanted to clarify is that the a...the Department had identified that the deck that attaches to the pool is actually attached to the house that would make it part of the house if it was attached. I can tell you I visited the site myself as the architect of record it is not attached to the house. It is fully self-supported. There's actually a gap, there's no penetrations or connections to the house itself. So it's fully supported a...self-standing structure there. A...what we're asking to do tonight is obviously this did receive approval back in 1984, zoning codes change over time as we know as far as setbacks are

concerned a...therefore we're simply looking to comply for variances for the current zoning that is a...placing a hardship on this property and we seek that relief. Oh, I...a, one more I have a letter from one of their neighbors that I'd like to present a to be read into the record for public comment and that's...

Mr. McKelvey: Give it to the Secretary please.

Mr. Minuta: Thank you.

Ms. Gennarelli: Thank you.

Mr. McKelvey: Do you want to read?

Ms. Gennarelli: You'd like me to read it now?

Mr. McKelvey: Yes, please.

Ms. Gennarelli: And this is from...I guess it's an email from Beck Whightstall, Whightstil; Dear Neighbors and Town of Newburgh Zoning Board, We are writing this letter to show our support for our long term neighbors and friends, Ron and Rose DeGroat. For the past fifteen years the DeGroats have been the neighbors that everyone would like to have. And are a...and are a large part of why our neighborhood feels like a neighborhood rather than a bunch just a bunch of houses. They have always been friendly, welcoming and conscientious. We have trusted them with the care of our home, pets and even our children when needed. They are always eager to help a neighbor when needed. Whether it's a loan of a tool from their shed or a swim in their pool on a hot day. They've been respectful of their neighbors and their neighbor's property. They are seeking a variance to complete the sale of their home to retire to a nicer climate. We are very sad to see them go. We see no reason why an approval of their requested variances shouldn't be granted. Thank you for your time and consideration. Beck Whightsil and Lisa Parken...Park...Pakenham and family.

Mr. McKelvey: Thank you.

Ms. Gennarelli: You're welcome.

Mr. McKelvey: You say that the...the pool and the deck had a permit?

Mr. Minuta: Yes, it was permitted in 1984 and the permit was closed out. A...I have a copy if you don't have one.

Mr. Levin: The deck is not connected to the house not in any way?

Mr. Minuta: No it's not.

Ms. Gennarelli: John, you were going to explain what the difference...why the house and the deck were considered one.

Mr. McKelvey: And that's a...because of a...the...

Ms. Gennarelli: The ten foot separation from the deck...

Mr. McKelvey: Yeah, it has to be a ten foot separation from the house...from the deck, right?

Ms. Gennarelli: Ten feet from the house.

Mr. McKelvey: Yeah, from the house.

Ms. Gennarelli: The deck has to be ten feet from the house...

Mr. McKelvey: Ten feet from the house.

Ms. Gennarelli: ...otherwise it's considered...

Mr. McKelvey: Part of the house.

Ms. Gennarelli: ...part of the house. That's what they mean when they say it's attached.

Mr. Minuta: Okay a...

Ms. Gennarelli: Check the code.

Mr. Minuta: Yeah, if you could provide that code section.

Ms. Gennarelli: Joe did.

Mr. Minuta: I...

Ms. Gennarelli: It's in the paperwork.

Mr. Minuta: Okay. A...fair enough...so anyway both these structures existed, received a building permit and was permitted and closed out in 1984. A...they are simply there now and a...

Ms. Gennarelli: Do you have a copy of the deck part or portion of it because I know that they had a C.O. for the pool?

Mr. Minuta: Well the both of them existed at the same time a...I only have the permit here. I was not...

Ms. Gennarelli: You only have for the pool, correct?

Mr. Minuta: I was there...this is use of structure A/G pool a...30 x 15 a...exactly. I don't know what else to say.

Ms. Gennarelli: It would have said a deck on there if they had had a C.O.

Mr. Minuta: Okay, so...

Ms. Gennarelli: That only said that they had a pool.

Mr. Minuta: Well I wasn't here in 1984 all I can tell you is the deck was.

Ms. Gennarelli: Well it's not reflected in the records is all I'm saying.

Mr. McKelvey: The deck would need a permit.

Mr. Bell: The deck would need a separate permit for the pool.

Ms. Gennarelli: It would have.

Mr. McKelvey: It would have, yes.

Mr. Minuta: But as we all...we all know that you know, records are...back then were not kept as they are today. And the fact of the matter is it does exist and it has existed for all this time. I...I...can't give you (Inaudible) either way.

Mr. Donovan: So, so if the...if the Board was inclined to act in your client's favor as always any...any approval that's granted is subject to whatever permits and approvals from Code Compliance may be required. Code Compliance is certainly well equipped to figure that out. In terms of whether it's connected or not connected I think, respectfully, you're better off for your clients if you get the variance. Cause if you say you don't need the variance and the Board doesn't give you the variance, you go to Code Compliance and they say, yes you do then, we're a nice group but then you've got to come back here so...

Mr. Minuta: I'm not asking to not have the variance I'm asking to have the variance to simply take the current zoning which is being imposed on this...on this lot a...which obviously met the code at the time (Inaudible) the time simply that you know, their existing condition which was legal back in 1984 which is no longer legal that the current code simply respect that so that they don't have to tear down what already exists. Thank you.

Mr. McKelvey: Any Board Members have any questions.

Mr. Levin: I don't.

Mr. McKelvey: Anybody from the public have any questions?

No response.

Mr. McKelvey: So I'll look for a motion to close the Hearing.

Mr. Bell: I'll make motion to close the Public Hearing.

Mr. Levin: I'll second it.

Ms. Gennarelli: Roll call.

Darrell Bell: Yes

Richard Levin: Yes

John Masten: Yes

Peter Olympia: Yes

John McKelvey: Yes

Mr. McKelvey: Now...in order to...

Ms. Gennarelli: Before proceeding...

Mr. McKelvey: Oh, before...go ahead...

Ms. Gennarelli: 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 in very shortly.

(Time Noted - 7:30 PM)

ZBA MEETING – JULY 26, 2018 (Resumption for decision: 7:46 PM)

ROSEMARIE & RONALD DeGROAT 19 YEOMAN ROAD, NBGH
(63-5-5) R-3 ZONE

Applicant is seeking area variances for (A) accessory buildings shall be in a side or rear yard and shall be set back 5 ft. from any property line to keep an accessory building (10 x 12) built without a permit and for (B) the minimum side yard setback and increasing the degree of non-conformity of the front yard setback to keep an above ground pool (15 x 30) with a deck (10'3" x 16'3") attached to the side of the dwelling built without a permit on the premises. (Has three front yards Yeoman/Archer/Little John).

Ms. Gennarelli: Okay, and then the last one is...Rosemarie and Ronald DeGroat seeking area variances, that's 19 Yeoman Road, seeking area variances for (A) the accessory buildings shall be in a side or rear yard and shall be set back 5 ft. from any property line and for (B) the

minimum side yard setback and increasing the degree of non-conformity of the front yard setback to keep the above ground pool (15 x 30) with a deck (10'3" x 16'3"). This is a Type II Action Under SEQR.

Mr. Levin: Does this include a variance for the deck?

Ms. Gennarelli: For the deck, yes, the pool and the deck.

Mr. Levin: Okay.

Ms. Gennarelli: We'll go through the area variance criteria and then discuss the five factors that you are weighing, the first one being whether or not the benefit can be achieved by other means feasible to the applicant?

Mr. McKelvey: No.

Mr. Olympia: No.

Mr. Bell: No.

Mr. Levin: No.

Mr. Masten: No.

Ms. Gennarelli: The second, if there is an undesirable change in the neighborhood character or a detriment to nearby properties?

Mr. Olympia: No.

Mr. Levin: No.

Mr. Masten: No.

Mr. Bell: No.

Mr. McKelvey: No.

Ms. Gennarelli: The third, whether the request is substantial?

Mr. Levin: No.

Mr. Olympia: No.

Mr. Masten: No.

Mr. Bell: No.

Mr. McKelvey: No.

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

Mr. Olympia: No.

Mr. Masten: No.

Mr. Bell: No.

Mr. Levin: No.

Mr. McKelvey: No.

Ms. Gennarelli: And fifth, whether the alleged difficulty is self-created? This is relevant but not determinative.

Mr. Levin: No.

Mr. Bell: No.

Mr. McKelvey: And we had...we had a...we had a neighbor come in and say they agreed to it, they like it.

Ms. Gennarelli: Does the Board have some sort of a motion?

Mr. McKelvey: Do we have a motion for approval?

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

Mr. Olympia: Second.

Ms. Gennarelli: Roll call.

Darrell Bell: Yes

Richard Levin: Yes

John Masten: Yes

Peter Olympia: Yes

John McKelvey: Yes

Ms. Gennarelli: The motion is carried.

PRESENT ARE:

DARRELL W. BELL
RICHARD D. LEVIN
JOHN D. MASTEN
JOHN H. MC KELVEY
PETER M. OLYMPIA JR.


ABSENT:

ANTHONY R. MARINO
DARRIN J. SCALZO

ALSO PRESENT:

DAVID A. DONOVAN, ESQ.
BETTY GENNARELLI, ZBA SECRETARY

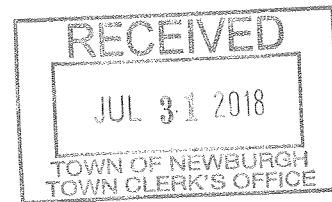
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 7/31/18

ZBA MEETING – JULY 26, 2018

END OF MEETING

(Time Noted – 7:48 PM)



Mr. McKelvey: That concludes our meeting for tonight.

Ms. Gennarelli: Everybody is approved and so now you go back to the Building Department.

Audience Members: Thank you.

Ms. Gennarelli: You're welcome.

Mr. McKelvey: Thank you.

Ms. Gennarelli: Do you want to go over the minutes?

Mr. McKelvey: Yes. The minutes...

Mr. Masten: How you doing Joe?

Ms. Gennarelli: Does everybody...has everyone had a chance...excuse me for a second...

Mr. McKelvey: Has everybody has read the minutes, right?

Mr. Olympia: Yes.

Mr. Donovan: You guys (Audience Members) can go.

Mr. McKelvey: You can go home. Do we have a motion to approve the minutes?

Mr. Olympia: I'll move that we approve the minutes from the last meeting.

Mr. McKelvey: Do we have a second.

Mr. Masten: I'll second it.

Mr. McKelvey: All in favor?

Aye All

Mr. McKelvey: What else?

Ms. Gennarelli: Do we have a motion to adjourn?

Mr. McKelvey: Oh, yes.

Mr. Levin: Yes.

Mr. McKelvey: All in favor?

Aye all.

Ms. Gennarelli: The meeting is adjourned.

PRESENT ARE:

DARRELL W. BELL
RICHARD D. LEVIN
JOHN D. MASTEN
JOHN H. MC KELVEY
PETER M. OLYMPIA JR.

ABSENT:

ANTHONY R. MARINO
DARRIN J. SCALZO

ALSO PRESENT:

DAVID A. DONOVAN, ESQ.
BETTY GENNARELLI, ZBA SECRETARY

(Time Noted – 7:50 PM)

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7/31/18