ZONING BOARD OF APPEALS

MEETING – OCTOBER 27, 2016

(Time Noted – 7:04 PM)

Mr. McKelvey: I’d like to call the meeting of the ZBA to order.

Ms. Gennarelli: 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. Roll Call

PRESENT ARE:

 DARRELL BELL

 RICHARD LEVIN

 MICHAEL MAHER

 JOHN MASTEN

JOHN MC KELVEY

 DARRIN SCALZO

ABSENT:

 JAMES MANLEY

ALSO PRESENT:

 DAVID A. DONOVAN, ESQ.

 BETTY GENNARELLI, ZBA SECRETARY

Mr. McKelvey: Before we start I’ll just mention all the Board Members visited the sites.

Pledge of Allegiance to the Flag led by Darrell Bell

(Time Noted – 7:06 PM)

ZBA MEETING – OCTOBER 27, 2016 (Time Noted – 7:06 PM)

ROUTE 17K PREMIUM GAS INC. 91 ROUTE 17K, NBGH

 (95-1-34) I/B ZONE

Applicant is seeking area variances for the maximum amount of square footage of signage allowed, more than one free-standing sign per lot and signs may not be closer than 15 feet to a street line (Mobil sign and gas pricing sign) to re-install non-conforming signs for a new Mobil gas station.

Mr. McKelvey: Okay Richard.

Mr. Levin: Our first applicant tonight is Route 17K Premium Gas Inc., they’re seeking area variances for the maximum amount of square footage of signage allowed, more than one free-standing sign per lot and signs may not be closer than 15 feet to a street line (Mobil sign and gas pricing sign) to re-install non-conforming signs for a new Mobil gas station.

Ms. Gennarelli: One moment please the Public Hearing Notices for all the new applications being heard this evening were published in the Mid-Hudson Times on Wednesday, October 19th and The Sentinel on Friday, October 21st. This applicant sent out eleven letters. All the mailings, publications and postings are in order. You may begin.

Mr. Labbe: Thank you. My name is Paul Labbe, I represent JSP Land Development, we’re here on behalf of the owner of the property and what we’re proposing is sign changes in three areas; to the canopy, to the existing logo ID free-standing sign and to an existing price sign that’s on the property.

Mr. McKelvey: Couldn’t the price sign and the…the two signs go up together like most of the other gas stations in the area?

Mr. Labbe: They could, there is…there is a option to install…potentially install a logo can on top of the price sign. We would have to determine the stability of that…that pole there and it is a small pole.

Mr. McKelvey: Because the Mobil way out on 17K has one sign.

Mr. Labbe: Right, over the top of the…

Mr. McKelvey: Yeah.

Mr. Labbe: …gas.

Mr. McKelvey: Most…almost all the gas stations in Newburgh has single sign.

Mr. Labbe: But what we’re proposing is to use existing a…signs that’s on site. The hi-rise sign that’s on the…as you’re facing the property on the left and then the existing price sign on…on the right…

Mr. McKelvey: Was there two signs there?

Mr. Labbe: There is now, yes.

Mr. McKelvey: I was going to ask you if you’re going to use that other…the upper sign?

Mr. Labbe: Right, that…that’s what proposed is…is that logo would be replaced. That’s a fabric material that goes in there. It’s…it’s existing, the frame is still up there. There’d have to be some work done on the…on the sign itself but a…we propose to reinstall what was a previously there as far as a logo.

Mr. McKelvey: Any other Board Members have any questions?

Mr. Labbe: The other item I would mention, we…we didn’t speak to much about it, is like the canopy image…the canopy over the gas dispensers would be a blue and white…blue and white stripped with a two Mobil letter, channel letter signs on each side a towards the road. They’d be internally illuminated a displaying the logo of the brand.

Ms. Gennarelli: John, I have a report from Orange County would you like me to read…

Mr. McKelvey: Okay, yeah, please.

Ms. Gennarelli: …that into the record?

Mr. McKelvey: Please.

Ms. Gennarelli: Okay, this is from Orange County Department of Planning.

The Planning Department has reviewed the submitted materials regarding the appeal for an area variance. While the Zoning Board of Appeals must weigh the local issues in balancing the needs of the appellant with the potential impacts on the surrounding area, it does not appear that intermunicipal or countywide impacts would result if the board finds that granting relief is warranted in this matter. We note that the application proposes to replace existing unlit signage with electronic signage, although the proposed location and size of the signage remains unchanged from what currently exists. We advise the Town to determine whether the proposed signage has the potential to cause a hazard for drivers, and if so, to determine whether mitigation may be necessary. And the County recommendation is Local Determination.

Mr. McKelvey: I don’t see any problem there because the signs were there before.

Mr. Maher: Just to…so it’s…just to clarify so the math on here says two hundred and eighty-two proposed so basically the tall pylon sign would be double sided, I’m assuming?

Mr. Labbe: Correct.

Mr. Maher: They’re a hundred and twenty square feet each…

Mr. Labbe: Correct.

Mr. Maher: That gives you a total of two forty for that one there?

Mr. Labbe: That’s obviously the largest portion of all this.

Mr. Maher: Right, the sign on the canopy is a single sign?

Mr. Labbe: There’s two signs, one on each side as approaching.

Mr. Maher: So one on each side?

Mr. Labbe: Correct.

Mr. Maher: So you got…and that’s roughly fourteen square feet?

Mr. Labbe: Right, thirteen and a half correct.

Mr. Maher: So, we’re at…that’s two sixty-seven and then the…the price sign. I don’t see a spec for the size of that one there. I may have missed it here.

Mr. Labbe: Forty-five fifty-seven.

Mr. Maher: Inches, I’m assuming?

Mr. Labbe: Correct. Forty inches wide and seven inches high.

Mr. Maher: So…

Mr. Donovan: Aren’t you swapping out what’s there?

Mr. Labbe: Yes, yes.

Mr. Donovan: So to the perimeter, the area there’s no…there’s no change, correct?

Mr. Labbe: No change, no change at all.

Mr. McKelvey: Was there signs on the…was there a canopy over it before with signs on?

Mr. Labbe: Yeah. I enclosed some additional photographs and one of the photographs shows a…it’s painted over now but it shows where a…a previous sign was mounted on the canopy. That’s where all those large holes are.

Mr. McKelvey: So there’s really no change.

Mr. Labbe: There’s no change really.

Mr. McKelvey: Any other questions from the Board?

Mr. Maher: Yeah, I just…I just want to clarify the signage.

Mr. McKelvey: Okay.

Mr. Maher: I want to make sure those numbers are right before we give him something that’s not going to work for him. So we’re in agreement it’s two hundred and forty square feet for the…the one pylon sign?

Mr. Labbe: I have a hundred and twelve.

Mr. Maher: A hundred and twelve square feet per?

Mr. Labbe: A hundred and twelve on each side…one side. So that would be…

Mr. Maher: Two twenty-four.

Mr. Labbe: …two twenty-four, correct.

Mr. Maher: And we’re comfortable with twenty-seven foot for the two signs on the canopy? Thirteen and a half each?

Mr. Labbe: Correct.

Mr. Maher: And then thirty…let’s say thirty-two for round numbers for the a…for the double sided price sign?

Mr. Labbe: Double sided? Yes, you’re counting each side.

Mr. Maher: Yeah.

Mr. Labbe: Yes, correct.

Mr. Maher: Okay, yep, so then…alright, we’re good there. Yes, John the calculations that Joe has on the money so we’re good.

Mr. McKelvey: Because what…what they’re asking for is what’s there now.

Mr. Maher: No, I understand, I just wanted to make sure that if we give him a variance for two hundred and eighty feet and he needed three hundred I wanted to make sure that…

Mr. McKelvey: Oh, yeah, okay.

Mr. Maher: …the correct amount on their form so but it…it is on the money, so…

Mr. McKelvey: Any other questions?

No response.

Mr. McKelvey: Any questions from anybody 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. Masten: I’ll second it.

Ms. Gennarelli: Roll call.

 Darrell Bell: Yes

 Richard Levin: Yes

 Michael Maher: Yes

 John Masten: Yes

 Darrin Scalzo: Yes

John McKelvey: Yes

Mr. Donovan: So the Hearing is closed, the Board will vote at the end of the meeting.

Mr. Labbe: Okay, thank you very kindly.

Mr. Maher: Thanks.

 (Time Noted - 7:12 PM)

ZBA MEETING – OCTOBER 27, 2016 (Resumption for decision: 8:56 PM)

ROUTE 17K PREMIUM GAS INC. 91 ROUTE 17K, NBGH

 (95-1-34) I/B ZONE

Applicant is seeking area variances for the maximum amount of square footage of signage allowed, more than one free-standing sign per lot and signs may not be closer than 15 feet to a street line (Mobil sign and gas pricing sign) to re-install non-conforming signs for a new Mobil gas station.

Mr. McKelvey: The Board is ready to resume the meeting.

Mr. Levin: We open with Route 17K Premium Gas Inc. they’re seeing an variance for the maximum amount of square footage of signage allowed, more than one free-standing sign per lot and signs may not be closer than 15 feet to a street line (Mobil sign and gas pricing sign) to re-install one non-conforming sign (non-conforming signs) for a new Mobil gas station.

Mr. Donovan: This is an Unlisted Action under SEQR so before you take any action you can go through the balancing test but you’ll need to vote on SEQR.

Ms. Gennarelli: Okay, we’re going to go through the balancing test now. Let’s see the first one is whether the benefit can be achieved by other means feasible to the applicant. Do we have discussion on this?

Mr. McKelvey: Well he’s…he’s just using the same sign.

Mr. Levin: It’s the same signs going back up in the same position.

Ms. Gennarelli: Okay, is the…is it going to cause an undesirable change in the neighborhood character or detriment to nearby properties?

Mr. Maher: No, it’s consistent with what’s there now.

Ms. Gennarelli: Whether the request is substantial?

Mr. Levin: No.

Mr. Masten: No.

Ms. Gennarelli: Whether the request will have adverse physical or environmental effects?

Mr. Maher: The fact that it’s pre-existing it’ll have no effects.

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

Mr. Donovan: And to the extent that they purchased the property with the knowledge of the situation it is self-created, just for the Board’s edification.

Mr. Maher: Self-created but with the…with the pre-existing signs it’s understanding that they would be accepted or as the application says re-installed so they are existing signs or existing openings for the signs to be put into so…

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

Mr. Donovan: Well before the Board votes on any approval you need to act on SEQR.

Ms. Gennarelli: A Negative Declaration.

Mr. Donovan: We would need to make that motion, correct.

Mr. McKelvey: So we would need a Negative Declaration.

Mr. Maher: I’ll make a motion for a Neg Dec.

Mr. Scalzo: I’ll second that.

Ms. Gennarelli: Okay, roll call.

 Darrell Bell: Yes

 Richard Levin: Yes

 Michael Maher: Yes

 John Masten: Yes

 Darrin Scalzo: Yes

John McKelvey: Yes

Mr. Scalzo: And now I’ll make a motion for approval.

Mr. Maher: Second.

Ms. Gennarelli: Roll call.

 Darrell Bell: Yes

 Richard Levin: Yes

 Michael Maher: Yes

 John Masten: Yes

 Darrin Scalzo: Yes

John McKelvey: Yes

Ms. Gennarelli: The motion is approved.

PRESENT ARE:

 DARRELL BELL

 RICHARD LEVIN

 MICHAEL MAHER

 JOHN MASTEN

JOHN MC KELVEY

 DARRIN SCALZO

ABSENT:

 JAMES MANLEY

ALSO PRESENT:

 DAVID A. DONOVAN, ESQ.

 BETTY GENNARELLI, ZBA SECRETARY

 (Time Noted – 8:58 PM)

ZBA MEETING – OCTOBER 27, 2016 (Time Noted – 7:12 PM)

DONALD & JUNE RUDIE 411 LAKESIDE ROAD, NBGH

 (28-1-15) R-1 ZONE

(Lot Line change between 411 & 417 Lakeside-Minutes of Hearing and presenting together)

Applicant is seeking area variances for the minimum side yard setback and the minimum habitable floor area for an existing dwelling for a lot line change application before the planning board.

Mr. Levin: Our next applicant is Donald and June Rudie, on 411 Lakeside Road. They’re asking for a variance…area variance for the minimum side yard setback and the minimum habitable floor area for an existing dwelling for a lot line change application before the planning board. Also…

Mr. McKelvey: Yeah, we’re going to do them together.

Mr. Levin: …together, Billie June Rudie and Milford (Mildred) Albert, 417 Lakeside Road. They’re asking for area variances for the front yard setback and the minimum allowed habitable floor area for an existing dwelling for a lot line change application before the planning board.

Ms. Gennarelli: Okay and each of these applications sent out twenty-four letters and all mailings, publications and postings are in order.

Mr. McKelvey: Good evening.

Mr. McQuire: Good evening, my name is Ryan McQuire, I’m with KC Engineering. I’m here tonight with the applicant Donald Rudie and basically I’m just here to represent what we’re discussing with the planning board as we were referred here for some pre-existing, non-conforming conditions. The applicant is proposing a lot line change between…

Mr. McKelvey: Do you want to put that up on the Board?

Mr. McQuire: …yeah, does this work over there or…

Mr. Donovan: There’s another microphone…

Ms. Gennarelli: Yes, another mic…

Mr. Donovan: …over there.

Mr. McKelvey: You can use that mic there, yeah.

Mr. McQuire: Okay, so the applicant owns and resides in this dwelling part time. They are related to and are also partial owners of the adjoining lot which is listed as Albert and Rudie. They’re proposing a lot line change of the current lot line between their two parcels shown here as the dash line, about thirty-five feet to the north to eliminate an existing encroachment of the existing driveway. And by doing that we are eliminating the pre-existing lot width non-conformity from one forty-four to one seventy-eight point nine. The applicant’s pre-existing non-conforming conditions we’re requesting a variance for tonight is the existing side yard on Lot two which is 411 Lakeside Road, which is about two feet off the southerly property boundary. Also requesting a variance for the front yard on 417, listed here as Lot One and currently it’s at forty-nine feet where fifty is required. Both dwellings are under the minimum fifteen hundred square foot habitable area and those values are twelve hundred and seventy-two for the Albert and Rudie parcel and at thirteen, thirty-one for the Rudie parcel.

Mr. McKelvey: Well the two houses are existing.

Mr. McQuire: That’s correct, pre-existing there’s no changes to the houses proposed.

Mr. Levin: How long have they been existing? They’re old houses, aren’t they?

Mr. McQuire: I believe early 1900’s but Mr. Rudie might know…

Mr. Rudie: Inaudible.

Ms. Gennarelli: I’m sorry.

Mr. McKelvey: You have to come to the microphone, please.

Mr. Rudie: I’m sorry.

Mr. McKelvey: State your name.

Mr. Rudie: Don Rudie, the first house on the 411 was built in 1912. The second house up at 417 was built in 1948. I presume Zoning Board conditions at least they didn’t exist at that time.

Mr. Levin: No.

Mr. Rudie: Any other questions?

No response.

Mr. Rudie: We’re not going to do anything to any of the houses at all, going to move a lot line, physical changes to the property except the property corners.

Mr. McKelvey: You’re making it so the edge of the driveway is not the property line. Any questions from the Board?

No response.

Mr. McKelvey: Any…anyone from the public?

No response.

Mr. McKelvey: I guess we can look for a motion to close the Hearing.

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

Mr. Bell: I’ll second the motion.

Ms. Gennarelli: Roll call.

 Darrell Bell: Yes

 Richard Levin: Yes

 Michael Maher: Yes

 John Masten: Yes

 Darrin Scalzo: Yes

John McKelvey: Yes

Mr. McQuire: Thank you.

 (Time Noted - 7:17 PM)

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ZBA MEETING – OCTOBER 27, 2016 (Resumption for decision: 8:58 PM)

DONALD & JUNE RUDIE 411 LAKESIDE ROAD, NBGH

 (28-1-15) R-1 ZONE

Applicant is seeking area variances for the minimum side yard setback and the minimum habitable floor area for an existing dwelling for a lot line change application before the planning board.

(Lot Line change between 411 & 417 Lakeside-Minutes of Hearing and voting together)

Mr. Levin: Our next applicant tonight is Donald and June Rudie they’re seeking variances for the minimum side yard setback and the minimum habitable floor area for an existing dwelling for a lot line change application before the planning board.

Mr. Donovan: And this application and the next application are each Type II Actions under SEQR.

(Mr. Levin: Our next applicant is Donald and June Rudie, on 411 Lakeside Road. They’re asking for a variance…area variance for the minimum side yard setback and the minimum habitable floor area for an existing dwelling for a lot line change application before the planning board. Also…

Mr. McKelvey: Yeah, we’re going to do them together.

Mr. Levin: …together, Billie June Rudie and Milford (Mildred) Albert, 417 Lakeside Road. They’re asking for area variances for the front yard setback and the minimum allowed habitable floor area for an existing dwelling for a lot line change application before the planning board.)

Ms. Gennarelli: Okay, thank you. We’ll go through the balancing tests.

Mr. McKelvey: Hold it, hold it, can we vote on both of them…the two together?

Mr. Donovan: Well they are interrelated so my suggestion…

Mr. Levin: They’re interrelated.

Mr. Donovan: …is you vote on them together…if that’s okay with Betty.

Ms. Gennarelli: That’s alright.

Mr. Donovan: Okay.

Ms. Gennarelli: They had separate applications but that’s okay. We could do that.

Mr. McKelvey: Okay.

Mr. Donovan: Well they couldn’t approve one and disapprove the other, right?

Ms. Gennarelli: That’s true, that’s true. Okay, alright we’ll go through the balancing act (test) then. Whether the benefit sought can be achieved by other means feasible to the applicant?

Mr. Bell: No.

Mr. Masten: No.

Mr. Maher: No.

Mr. Scalzo: No.

Mr. McKelvey: No.

Ms. Gennarelli: Will it cause an undesirable change in the neighborhood character or detriment to nearby properties?

Mr. McKelvey: No.

Mr. Levin: No.

Ms. Gennarelli: Whether the request is substantial?

Mr. Levin: No it’s not.

Mr. Maher: No.

Ms. Gennarelli: Whether the request will have adverse physical or environmental effects?

Mr. Maher: Have none at all.

Mr. Levin: None.

Ms. Gennarelli: And whether the alleged difficulty is self-created?

Mr. Maher: Actually the Code created the issue and there just fixing the problem.

Mr. Donovan: That’s one way to look at it Mike.

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

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

Mr. Masten: I'll second it.

Ms. Gennarelli: Roll call.

 Darrell Bell: Yes

 Richard Levin: Yes

 Michael Maher: Yes

 John Masten: Yes

 Darrin Scalzo: Yes

John McKelvey: Yes

Mr. McKelvey: That was a Type II under SEQR.

Ms. Gennarelli: The motion is carried.

PRESENT ARE:

 DARRELL BELL

 RICHARD LEVIN

 MICHAEL MAHER

 JOHN MASTEN

JOHN MC KELVEY

 DARRIN SCALZO

ABSENT:

 JAMES MANLEY

ALSO PRESENT:

 DAVID A. DONOVAN, ESQ.

 BETTY GENNARELLI, ZBA SECRETARY

 (Time Noted – 9:00 PM)

ZBA MEETING – OCTOBER 27, 2016 (Time Noted – 7:12 PM)

BILLIE JUNE RUDIE & MILDRED ALBERT 417 LAKESIDE ROAD, NBGH

 (28-1-36 AKA 28-1-14.11) R-1 ZONE

(Lot Line change between 411 & 417 Lakeside-Minutes of Hearing and presenting together)

Applicant is seeking area variances for the front yard setback and the minimum allowed habitable floor area for an existing dwelling for a lot line change application before the planning board.

Mr. Levin: Our next applicant is Donald and June Rudi, on 411 Lakeside Road. They’re asking for a variance…area variance for the minimum side yard setback and the minimum habitable floor area for an existing dwelling for a lot line change application before the planning board. Also…

Mr. McKelvey: Yeah, we’re going to do them together.

Mr. Levin: …together, Billie June Rudie and Milford (Mildred) Albert, 417 Lakeside Road. They’re asking for area variances for the front yard setback and the minimum allowed habitable floor area for an existing dwelling for a lot line change application before the planning board.

Ms. Gennarelli: Okay and each of these applications sent out twenty-four letters and all mailings, publications and postings are in order.

Mr. McKelvey: Good evening.

Mr. McQuire: Good evening, my name is Ryan McQuire, I’m with KC Engineering. I’m here tonight with the applicant Donald Rudie and basically I’m just here to represent what we’re discussing with the planning board as we were referred here for some pre-existing, non-conforming conditions. The applicant is proposing a lot line change between…

Mr. McKelvey: Do you want to put that up on the Board?

Mr. McQuire: …yeah, does this work over there or…

Mr. Donovan: There’s another microphone…

Ms. Gennarelli: Yes, another mic…

Mr. Donovan: …over there.

Mr. McKelvey: You can use that mic there, yeah.

Mr. McQuire: Okay, so the applicant owns and resides in this dwelling part time. They are related to and are also partial owners of the adjoining lot which is listed as Albert and Rudie. They’re proposing a lot line change of the current lot line between their two parcels shown here as the dash line, about thirty-five feet to the north to eliminate an existing encroachment of the existing driveway. And by doing that we are eliminating the pre-existing lot width non-conformity from one forty-four to one seventy-eight point nine. The applicant’s pre-existing non-conforming conditions we’re requesting a variance for tonight is the existing side yard on Lot two which is 411 Lakeside Road, which is about two feet off the southerly property boundary. Also requesting a variance for the front yard on 417, listed here as Lot One and currently it’s at forty-nine feet where fifty is required. Both dwellings are under the minimum fifteen hundred square foot habitable area and those values are twelve hundred and seventy-two for the Albert and Rudie parcel and at thirteen, thirty-one for the Rudie parcel.

Mr. McKelvey: Well the two houses are existing.

Mr. McQuire: That’s correct, pre-existing there’s no changes to the houses proposed.

Mr. Levin: How long have they been existing? They’re old houses, aren’t they?

Mr. McQuire: I believe early 1900’s but Mr. Rudie might know…

Mr. Rudie: Inaudible.

Ms. Gennarelli: I’m sorry.

Mr. McKelvey: You have to come to the microphone, please.

Mr. Rudie: I’m sorry.

Mr. McKelvey: State your name.

Mr. Rudie: Don Rudie, the first house on the 411 was built in 1912. The second house up at 417 was built in 1948. I presume Zoning Board conditions at least they didn’t exist at that time.

Mr. Levin: No.

Mr. Rudie: Any other questions?

No response.

Mr. Rudie: We’re not going to do anything to any of the houses at all, going to move a lot line, physical changes to the property except the property corners.

Mr. McKelvey: You’re making it so the edge of the driveway is not the property line. Any questions from the Board?

No response.

Mr. McKelvey: Any…anyone from the public?

No response.

Mr. McKelvey: I guess we can look for a motion to close the Hearing.

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

Mr. Bell: I’ll second the motion.

Ms. Gennarelli: Roll call.

 Darrell Bell: Yes

 Richard Levin: Yes

 Michael Maher: Yes

 John Masten: Yes

 Darrin Scalzo: Yes

John McKelvey: Yes

Mr. McQuire: Thank you.

 (Time Noted - 7:17 PM)

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ZBA MEETING – OCTOBER 27, 2016 (Resumption for decision: PM)

BILLIE JUNE RUDIE & MILDRED ALBERT 417 LAKESIDE ROAD, NBGH

 (28-1-36 AKA 28-1-14.11) R-1 ZONE

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Mr. Levin: Our next applicant tonight is Donald and June Rudie they’re seeking variances for the minimum side yard setback and the minimum habitable floor area for an existing dwelling for a lot line change application before the planning board.

Mr. Donovan: And this application and the next application are each Type II Actions under SEQR.

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Ms. Gennarelli: Okay, thank you. We’ll go through the balancing tests.

Mr. McKelvey: Hold it, hold it, can we vote on both of them…the two together?

Mr. Donovan: Well they are interrelated so my suggestion…

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Mr. Donovan: …is you vote on them together…if that’s okay with Betty.

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Ms. Gennarelli: They had separate applications but that’s okay. We could do that.

Mr. McKelvey: Okay.

Mr. Donovan: Well they couldn’t approve one and disapprove the other, right?

Ms. Gennarelli: That’s true, that’s true. Okay, alright we’ll go through the balancing act (test) then. Whether the benefit sought can be achieved by other means feasible to the applicant?

Mr. Bell: No.

Mr. Masten: No.

Mr. Maher: No.

Mr. Scalzo: No.

Mr. McKelvey: No.

Ms. Gennarelli: Will it cause an undesirable change in the neighborhood character or detriment to nearby properties?

Mr. McKelvey: No.

Mr. Levin: No.

Ms. Gennarelli: Whether the request is substantial?

Mr. Levin: No it’s not.

Mr. Maher: No.

Ms. Gennarelli: Whether the request will have adverse physical or environmental effects?

Mr. Maher: Have none at all.

Mr. Levin: None.

Ms. Gennarelli: And whether the alleged difficulty is self-created?

Mr. Maher: Actually the Code created the issue and there just fixing the problem.

Mr. Donovan: That’s one way to look at it Mike.

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

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

Mr. Masten: I'll second it.

Ms. Gennarelli: Roll call.

 Darrell Bell: Yes

 Richard Levin: Yes

 Michael Maher: Yes

 John Masten: Yes

 Darrin Scalzo: Yes

John McKelvey: Yes

Mr. McKelvey: That was a Type II under SEQR.

Ms. Gennarelli: The motion is carried.

PRESENT ARE:

 DARRELL BELL

 RICHARD LEVIN

 MICHAEL MAHER

 JOHN MASTEN

JOHN MC KELVEY

 DARRIN SCALZO

ABSENT:

 JAMES MANLEY

ALSO PRESENT:

 DAVID A. DONOVAN, ESQ.

 BETTY GENNARELLI, ZBA SECRETARY

 (Time Noted – 9:00 PM)

ZBA MEETING – OCTOBER 27, 2016 (Time Noted – 7:17 PM)

JMDH REAL ESTATE OF NEWBURGH, LLC. 1281 ROUTE 300, NBGH

 (RESTAURANT DEPOT) (95-1-8) I/B ZONE

Applicant is seeking area variances for the maximum allowed square footage of signage and the minimum 15 foot setback from the street line for a free-standing sign to erect signage for an amended site plan approval application for the Restaurant Depot before the planning board.

Mr. Levin: Our next applicant is JMDH Real Estate of Newburgh, NY (LLC), they’re asking for variances, area variances for the maximum allowed square footage of signage and the minimum 15 foot setback from the street line for a free-standing sign to erect signage for an amended site plan approval application for the Restaurant Depot before the planning board.

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

Mr. Marshall: Good evening, my name is Larry Marshall from Mercurio, Norton, Tarolli, Marshall a the applicant’s engineer. As stated in the notice we are requesting two variances for the proposed signage on the Restaurant Depot site plan. The first variance is the setback from the a…the front…the front yard setback for the proposed sign. The Code requires a fifteen foot minimum setback, we are requesting a twelve foot setback from the a…the existing right of way of Route 300. The main purpose of that is for visibility and we’ve provided that into…in the a…in the variance addendum. We’ve very crudely placed the approximate location of this signage on an existing photograph. This photograph was taken from the beginning of the left hand turn lane from the…from the south going up towards the site. The sign shown in the…in the blue and white is the proposed sign. What we wanted to make sure of is that that sign was visible from that turn lane so people could enter the turn lane a…safely and not at the last moment and then turn up into the site. As the…the…the layout of this lot is very unique in it’s basically a flag lot, it has the fifty foot right of way that goes up to the site where the site opens up to the a…to the building under construction and the parking area. So visibility of the actual structure itself is next to nothing. You really won’t be able to see that building from 300 a especially in leaf on conditions so the sign at the entrance is vital for people understanding where Restaurant Depot entrance is to safely make the…the vehicle maneuvers along 300 to make sure that they can…they can turn in to the site. So that’s the main reason why that…that location is a…the proposed sign is three feet closer than a…than what’s required by Code. The second variance that’s being requested is for the total signage area. The total sign area for the site is six hundred and five point nine square feet. Based upon the existing frontage along 300 or…or along the…the Thruway and 300 a total of five hundred and fifty-two point nine square feet is permitted so the…the applicant is asking for a fifty-three square foot variance from what is…what is permitted by Code. A…the signs in addition to the previously mentioned monument sign down on 300 a there’s a series of signs on the buildings themselves a…which are…

Mr. Donovan: Larry, can I interrupt for a second?

Mr. Marshall: Yes (Inaudible).

Mr. Donovan: So Mike Donnelly’s referral letter indicates you’re looking…you’re looking for six hundred and seventy-seven square feet. That’s not correct?

Mr. Marshall: That is not correct a…

Mr. Donovan: But Mike’s never wrong, Larry.

Mr. Marshall: I know, I know but well if you see at the time when we…when we originally presented to the a…to the planning board the…the sign company that prepared the application actually…actually called a circular sign…they put a square around the circle and called the square the area so a twelve foot diameter circle they drew a square around it and said it’s a hundred and forty-four square feet. We’ve adjusted that and then further the applicant decided that a twelve foot diameter circle on the southerly corner of the building was really unnecessary so they reduced it even further that’s how we got to the a…the five hundred and…or the…the six hundred and five point nine.

Mr. Donovan: 605 (605.9) thank you.

Mr. Marshall: Yeah, so Mike was absolutely correct….

Mr. Donovan: At the time.

Mr. Marshall: …I don’t…I don’t want to break his streak there. So a…but we have revised the application. It still is non-conforming a…but a…it’s substantially less than what was originally presented. And we…we can go over each individual sign if the…if the Board a…would like to or if there’s any specific questions a regarding the signage. The main a…the main focus of the applicant is to provide signage from a…along…for customers along 300 to get them into the site then once they drive up to the site to get them in to identify the building as being Restaurant Depot and that’s the reason for the…the signage on the southerly corner of the building. And then actually what attracted to this site is a…being located along the Thruway and the visibility from the Thruway and…and 84. But that’s really not capitalized unless people identify what that building is a…so on the northerly corner of the building that’s where additional signage is…is being proposed a…the Restaurant Depot circle a…and then where restaurants shop logo are being proposed on the northerly corner. So in…in total we’re requesting a fifty-three square foot variance.

Mr. McKelvey: On…on the Thruway side now with you sitting above the Thruway is that going to be seen?

Mr. Marshall: The…if you’re coming southbound yes, northbound you will not a…because you would have to actually look up at it a…but you’ll see it from 84, the 84 overpass a…you can see it from there and you’ll see it coming southbound.

Mr. McKelvey: You’ll see it from the exit from the Thruway that’s up on the hill…would be seen too.

Mr. Marshall: A…

Mr. McKelvey: Across…way across the way.

Mr. Marshall: Yes, yeah.

Mr. Levin: I walked over to the side and it’s not scientific but I…sign F and sign G I don’t think can be seen from the Thruway. Partially, I mean you have to look up for it to see it.

Mr. Marshall: Well the…the F & G would be visible from…I should have an over…overall view but from the entrance ramp onto the Thruway, not Thruway southbound but when you come through the tollbooth and make the right and then head south as you cross over the Thruway and…and bear left you’ll be able to see that. You’ll be able to see F & G.

Mr. Levin: I take the critical sign is the a sign on 300?

Mr. Marshall: The location on 300 is absolutely critical, yeah.

Mr. McKelvey: Seeing that the building is up now I’d…going up and down 300 I didn’t even know that building was there.

Mr. Marshall: It…it’s a…other than unless you catch the traffic and construction that’s going on you would have no idea of what’s going on up there.

Mr. McKelvey: I could see it now I mean.

Mr. Marshall: Yeah.

Mr. Levin: Are you…you’re dealing only with restaurant people, right?

Mr. Marshall: That’s correct.

Mr. Levin: So…

Mr. Marshall: Well, well I should say a…I’m sorry, I don’t mean to interrupt you. It’s restaurants and a…there’s also non-profit organizations that can get a membership cards. A…it…it’s not a Sam’s Club, you can’t walk in and get a membership card from…because I…I want to. You have to be a…you have to have a restaurant or a representative from like a a fire department or a an ambulance corp. A lot of local fire departments utilize Restaurant Depot to get their supplies for a…some of their events, you know, their big cook outs and things like that so...

Mr. McKelvey: It’s just restaurants not…not any business?

Mr. Marshall: No I don’t believe so. I believe you have to be a restaurant.

Mr. Levin: How far…how far away does your customer travel from?

Mr. Marshall: Well there’s a…there’s an existing Restaurant Depot a down about a mi…about an hour south of…of here just north of the City a…and there’s one up in Albany so if you cut those areas in half I would say you know, maybe an hour north and a half an hour south.

Mr. Levin: People from Newburgh would have driven up to Albany?

Mr. Marshall: They would likely have gone down to…to a…down to a…I think it’s in White Plains. I…I don’t know a…exactly where it is but it’s about an hour, it’s about fifty minutes to an hour south.

Mr. McKelvey: I understand it’s a nationwide chain.

Mr. Marshall: That’s correct; I believe they have a hundred and sixty stores a…nationwide. They started right in a…right in Queens.

Mr. McKelvey: Do any of the Board Members have any questions?

Mr. Scalzo: Actually Dave, help me out and I’m not sure that you can actually answer.

Ms. Gennarelli: Is it on?

Mr. Scalzo: It is now.

Ms. Gennarelli: Oh, thank you. And Richard, Richard can you pull your microphone in closer?

Mr. Scalzo: Their calculations of area is based on street frontage, having the Thruway being a limited access highway or…is the Town, does the Town still consider that to be a street because it is without access to the property.

Mr. Donovan: Darrin, I don’t remember.

Mr. Maher: You don’t remember…you don’t remember Holiday Inn?

Mr. McKelvey: Yeah, that’s what I…

Mr. Donovan: The movie? Bing Crosby?

Mr. Maher: Before my time, sorry.

Mr. McKelvey: That’s another thing I asked before…

Mr. Scalzo: Thank you for making me think of that John as we were discussing earlier.

Mr. Donovan: So what did we decide on the Holiday Inn?

Mr. Maher: Well…I remembered the applicant. I didn’t remember the outcome. That was our…your a…purview. You have a better memory than me.

Ms. Gennarelli: Was that the one on Crossroads, Mike?

Mr. McKelvey: No this was…this was…

Mr. Maher: No it was…

Mr. McKelvey: …Holiday Inn.

Mr. Maher: Holiday Inn.

Ms. Gennarelli: Because it came up in that also which I sent everybody.

Mr. Maher: Yeah, that’s what I’m looking for now.

Ms. Gennarelli: Okay.

Mr. Donovan: Well if you take a look at 185-14-B-1-(c) it just references one half of total length of street frontage of the lot in linear feet.

Mr. McKelvey: You own the land right to the Thruway.

Mr. Marshall: That’s correct. Actually the Thruway did a taking of this parcel when they redid the interchange.

Mr. Donovan: Street frontage is defined as the distance along the property line of a lot at the street line measured between adjacent lots. Lot frontage shall be measured along the same line and shall not be confused with lot width. Street line is the dividing line between a lot and the street. A street is defined as a public or private way which affords principal means of access to abutting properties. I get there eventually Darrin.

Mr. Scalzo: Yeah, the Thruway is without access. I’m aware of that.

Mr. Donovan: So it’s a larger variance…substantially.

Mr. Scalzo: Okay.

Mr. Donovan: Right because…

Mr. Scalzo: Yes.

Mr. Donovan: …really looking at the map…right Larry, you’re frontage…

Mr. Marshall: Our frontage is fifty (Inaudible)…yeah.

Mr. Donovan: On the whole it’s…

Mr. Marshall: Sixty-two feet.

Mr. Donovan: Yeah.

Mr. Marshall: So we would be afforded twenty-six square feet of…

Mr. Maher: That’s not enough...

Mr. Donovan: Enough for a very small sign.

Mr. Marshall: That doesn’t even cover our monument.

Mr. Scalzo: So that being the case, the variance requested right now in percentages is not exactly accurate. Is that…?

Mr. Donovan: Well we don’t have…we don’t have…this comes from the planning board…

Mr. Scalzo: We don’t Joe’s sheet here.

Mr. Donovan: We don’t have Joe or Jerry’s, their benefit…it comes from the planning board. Where the planning board and Mike Donnelly had written on their behalf indicating six seventy-seven which a...where five fifty-two point nine-three is the maximum allowable and I’m assuming that takes into consideration the Thruway. Larry, do you recall was there a discussion on that issue at the planning board?

Mr. Marshall: It wasn’t a…specifically at the planning, no. We had reached out to a…to Jerry prior to putting all the applications together to determine whether or not that…that could be used. We did not hear back from him. So we made the application, Jerry was at the meeting at the night of…that we presented but…

Mr. Donovan: Did you…did you come up with the calculation or did Pat Hines?

Mr. Marshall: I spoke to Pat about it a…about utilizing that frontage and he said ultimately it’s Jerry’s call. I reached out to Jerry. I did not hear back from him. And we needed to make the application to get on the planning board agenda so I obviously took what would be most beneficial to my client, the interpretation, and I utilized that frontage but I did not…we do not have a specific interpretation from Jerry.

Mr. McKelvey: Betty, on that one that you handed out tonight what was that for?

Mr. Maher: That was the Hilton Garden Inn.

Ms. Gennarelli: The Hilton Garden Inn.

Mr. McKelvey: And what was the decision on that to use the Thruway?

Ms. Gennarelli: They didn’t, no.

Mr. Maher: Right, it wasn’t used. The argument from Mr. Cordisco is obviously there was a large area on the…a large area of frontage on the highway…

Mr. McKelvey: Yeah.

Mr. Maher: …but it wasn’t being counted.

Mr. McKelvey: Yeah, I didn’t think it was.

Mr. Maher: Right, same with the Holiday Inn across the street. So you just need to get the math straightened out for the actual a…what is being requested versus what is allowable. Obviously allowable is twenty-four…twenty-six feet there.

Mr. Marshall: You say…a…the frontage a…the calculation is is a…provided within the…on the second page of the…the addendum and specifically states the total width along 300 is forty-nine point three-three feet. So that would afford us twenty-four and a half feet, four point six.

Mr. McKelvey: It’s too bad Jerry isn’t here.

Mr. Donovan: Not to belabor the issue but the minutes of that meeting of the Hilton Garden Inn from February 20, 2013 are actually kind of interesting. Dominic points out that while technically do not get credit to the fact that a parcel has frontage along a State highway as it’s my understanding the Board in past practice has at least considered in its determination as far as the fact that there is a great deal of frontage. In other words, he’s making the point that he can’t count that but you have to take it into consideration that there is extra frontage even though you’re not counting it. Mr. McKelvey very astutely said, ‘Jerry, if I think if it’s right they changed that you couldn’t use the frontage on the Thruway anymore’. Mr. Maher said, ‘right’ and Mr. Canfield said, ‘it’s been viewed both ways’.

Mr. McKelvey: That’s what I thought he said.

Mr. Maher: It’s as clear as mud.

Mr. Donovan: That’s exactly right.

Mr. Marshall: So if you rule the frontage a…along the Thruway a we would be permitted twenty-four point six square feet which we would be requesting a variance of five hundred and eighty-one point three square feet for the…the proposed signage.

Mr. McKelvey: The thing is we can’t make a decision tonight because we haven’t heard from the County yet.

Mr. Donovan: Perhaps then we can use that time to try and gain clarity on that issue.

Mr. McKelvey: Yeah, that’s what I...was going to say.

Mr. Marshall: Regardless of the clarity because the 239 wasn’t…wasn’t received…

Mr. McKelvey: Right.

Mr. Marshall: …you wouldn’t be able to…you wouldn’t be able to act.

Mr. McKelvey: Well we want to get this clarification on the Thruway too.

Ms. Gennarelli: But that’s correct.

Mr. Donovan: Yeah, we couldn’t act even if we decided we could Larry, we couldn’t.

Mr. McKelvey: Yeah. I think you said that it went to the County on the 4th…

Ms. Gennarelli: The application came in on the 14th so it didn’t go out until the 14th or 15th.

Mr. McKelvey: They have thirty days.

Ms. Gennarelli: They have thirty days.

Mr. Marshall: We’ll receive it at next month’s meeting…by then.

Mr. McKelvey: Yeah we can hear…we can have the Hearing but we can’t vote on it. Any more questions from the Board?

No response.

Mr. McKelvey: How about questions from the public?

No response.

Mr. McKelvey: So we just hold this over?

Mr. Donovan: Yeah, so because we haven’t heard from the County there should be a motion to keep the Public Hearing open, hold it over to the meeting in November. Is that the Tuesday before Thanksgiving?

Ms. Gennarelli: The Tuesday before Thanksgiving.

Mr. Donovan: How can that be?

Ms. Gennarelli: November 22nd.

Mr. McKelvey: It will be the Tuesday before Thanksgiving, because Thanksgiving is our normal fourth Thursday.

Mr. Marshall: We’ll see you then.

Mr. McKelvey: We’ll get some clarification then.

Ms. Gennarelli: Do you want to vote on that?

Mr. Marshall: If you do get clarification prior to the meeting a…would…would you be able to forward that over to us?

Mr. McKelvey: We’ll… (Inaudible) I’ll talk to Jerry tomorrow.

Ms. Gennarelli: Well…

Mr. Marshall: I just…

Mr. McKelvey: Wait…what did you say Betty?

Ms. Gennarelli: I think you…doesn’t the whole Board have to talk about it or whatever?

Mr. McKelvey: Well, yeah, the Board will have to talk about it.

Ms. Gennarelli: So the next meeting then…

Mr. Donovan: Well in any event we need a motion…to hold it open.

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

Mr. Maher: Second.

Ms. Gennarelli: Thanks Mike, roll call.

 Darrell Bell: Yes

 Richard Levin: Yes

 Michael Maher: Yes

 John Masten: Yes

 Darrin Scalzo: Yes

John McKelvey: Yes

Mr. Marshall: One more question for the Board if…if…is it…would there potentially be an issue if the Board determined that that frontage could not be used, is there an issue with the existing application? Would that require a revision?

Mr. Donovan: So the application is for assign variance and the magnitude is different a…I…I, the idea is for public notice. I don’t really have an issue with it Larry, to be honest with you…because it’s for a sign variance so...

Mr. Marshall: I just want to make sure that this could potentially be resolved if the Board felt so fit at the next meeting…

Mr. Donovan: If I…if I may, Betty did the Public Notice and the notice that goes to the neighbors does it call out the…?

Ms. Gennarelli: It doesn’t give a specific number.

Mr. Donovan: It just says for size of the sign.

Ms. Gennarelli: I’m pretty sure; I’ll just take a look. It just says the maximum amount.

Mr. Donovan: Yeah, then, then you’re fine.

Mr. Marshall: Okay, I just wanted to make sure.

Mr. Scalzo: One more question I have too Larry, these signs that are going to be facing the Thruway entry plaza as well as the Thruway are they illuminated from the inside or are they…?

Mr. Marshall: Yeah, they would be internally illuminated, yes.

Mr. Levin: Our next application…

Mr. McKelvey: We didn’t need a roll call, did we?

Mr. Donovan: We had one.

Mr. McKelvey: Did we? Oh, yeah.

Ms. Gennarelli: We did it John.

Mr. Donovan: Yeah, we did it.

PRESENT ARE:

 DARRELL BELL

 RICHARD LEVIN

 MICHAEL MAHER

 JOHN MASTEN

JOHN MC KELVEY

 DARRIN SCALZO

ABSENT:

 JAMES MANLEY

ALSO PRESENT:

 DAVID A. DONOVAN, ESQ.

 BETTY GENNARELLI, ZBA SECRETARY

 (Time Noted – 7:39 PM)

ZBA MEETING – OCTOBER 27, 2016 (Time Noted – 7:39 PM)

GRZEGORZ SIEROTA 6 LONESOME TERRACE, WALLKILL

 (1-1-77.2) A/R ZONE

Applicant is seeking area variances for the maximum height of accessory buildings, the maximum allowed square footage of accessory structures, the maximum allowed (4) four vehicle storage and no such building shall project closer to the fronting street than the main dwelling to construct an accessory building (40 x 60 x 25).

Mr. Levin: Our next application is for Grzegorz Sierota. Am I pronouncing that correctly?

Mr. Winglowitz: Good evening Ross Winglowitz with Engineering Property here (inaudible) Greg Sierota for a variance regarding for a proposed accessory building that Greg is looking to put on his property. We were here last month regarding the application a…the original applications was for a 2400 sq. ft. accessory structure. Greg has several a vehicles on-site, trailers on-site that a he’d like to get inside. There was several public comments including a letter from the neighboring property to the north based on that we asked for an adjournment to tonight so that I could talk to Greg a…since he was not available that evening to talk about amending it and what we can do to improve it. What we have done to this application again we’ve reduced it from 2400 sq. ft. to 1500 sq. ft. We’ve moved it south away from the northern property line a which was a concern of the neighbor to the north. We have committed to a…it was originally proposed as a steel building a…Greg has committed to building it with the same materials and siding and roofing as his primary structure so that it will be consistent architecturally with the primary structure. And there was I guess a question as to what…you know…kind of itemize the need a…for the structure and the size of the structure and we kind of…we gave you a list regarding what Greg has on site: a two place snowbile trailer, a four place snowbile trailer, a dump trailer, a flatbed, a mini excavator, a small dozer and a backhoe. Greg assures me he uses these all on his own property or on properties…other properties that he owns, he does not do this for a living a… I also provided a…a copy of aerial photo a showing the location of the trail…of…of the proposed garage basically right in the location where he a trailer and I believe his backhoe parked in the aerial photo from this spring to show how it would be…where it would be located. It…it’s a good idea it shows you the abutting accessory structures, one directly a…east of us, one to our north...a the garage for the neighbor to the north. It shows his trailers and what he’s trying to accomplish here by moving these inside. Be glad to listen to any comments the Board had regarding the application.

Mr. McKelvey: Still going twenty-five feet high, right?

Mr. Winglowitz: Correct a…it’s probably not going to need to be twenty-five feet high but we’re looking for enough height so we can get a larger door in there. A…twenty-two feet would be satisfactory so I would be willing to amend it to twenty-two feet high.

Mr. McKelvey: He’s not going to repair any of his other trucks in there?

Mr. Winglowitz: No, he has a facility on 17K that he just purchased this spring.

Mr. Levin: I noticed that the facility on 17K has quite a large front yard. Why couldn’t he build his building that he’s spending money on it in that front yard?

Mr. Winglowitz: A…there’s a septic system right in front of that building that services that building.

Mr. Levin: So that land is worthless? You can’t move it…

Mr. Winglowitz: Correct. Yup.

Mr. Levin: …away from that?

Mr. Winglowitz: Yup.

Mr. Levin: There’s no plumbing out there? I mean, not plumbing, no sewer…no sewer system out there?

Mr. Winglowitz: A…he’s not in the sewer district I think there is sewer that’s within a reasonable distance but he’s not in the sewer district. Yeah, Greg I…I explained to Greg the comments of…of his neighbors and he had no problem with a siding and so forth to make it match his existing structure. I think that was one of the big concerns because we talked about his neighbor to the north here and their garage being in the front yard a…and one of the comments was well yeah, it’s architecturally consistent with the house and I explained that to Greg and he had no problem modifying the building to comply with that request.

Mr. McKelvey: It’s still going to be biggest building in the area.

Mr. Winglowitz: A…well I mean, obviously much smaller than the adjacent residential structures but it’ll be the biggest accessory structure sure.

Mr. Scalzo: You’re also here because the accessory building would be front of the house as opposed to behind the house. Correct?

Mr. Winglowitz: I think the one requirement is not be in the front yard so we’re in front of the house but not in the front yard setback.

Mr. Scalzo: Okay.

Mr. McKelvey: It can’t be in the front yard.

Mr. Scalzo: It can’t be in the front yard.

Mr. Winglowitz: It can’t be in front of the house is that the (Inaudible)

Mr. McKelvey: It can’t be in front of the house.

Mr. Winglowitz: Two months ago.

Mr. Scalzo: And I recall from the last meeting that I asked you to investigate putting it behind the house and…and looking at the slopes I see it’s over a thirty percent slope and snaking through that would be a challenge I understand that but as I look at the topography here it appears that to the northwest corner of the home there is a flat area which I think that appears over here on your aerial photo, that would meet the requirements to be behind the house.

Mr. Winglowitz: We a…as part of the aerial photo we crosshatched the areas that were steep and show where the septic was in…in effort to address your comment. In order to get to the side of the house he would basically have to build an entirely new driveway up the steep slopes up to that area so it would be a significantly more you know environmental impact a…it’d be closer to his neighbor.

Mr. Scalzo: I’m having a difficult time wrapping my head around why he couldn’t utilize the existing driveway and swing around the back of the house. And it looks pretty topographically convenient to get there that way.

Mr. Winglowitz: I guess the issue would be he’d have a driveway right in his backyard would be the…probably the main issue that I could see with that.

Mr. Scalzo: Okay.

Mr. McKelvey: Any other questions from the Board? Questions from the public?

Mr. Barry: Good evening, my name is Shawn Barry; I reside at 4 High Lonesome Terrace here in the Town of Newburgh, property directly in front of the applicant’s property. Been a lifelong resident here in the Town of Newburgh, grew up in Meadow Hill, went to Meadow Hill School, painted the little red school house when I was a young boy so... In reference to this property and this a…initial proposal if we go back to the last meeting and I went in kind of in-depth into the reason why we are not in favor of this structure being there. But I’d like to bring the Board’s attention to I think some relevant facts pertaining to the applicant’s other property it’s been raised that he definitely owns that property on 17K. But if we look back at the planning board minutes from last year, respectively from October 15, 2015, November 19, 2015 and December 17, 2015 we see a kind of a repeated course of conduct of omissions of information and the downplaying of information, specifically relevant to the number of vehicles, the types of vehicles that are going to be at this property. So when it came about you know in this information a…with Mr. Winglowitz representing this Mr. Sierota…

Mr. Winglowitz: Let me interrupt you this property has never been in front of the planning board…this project is only a ZBA application…

Mr. Barry: So actually you’re out of context I’m speaking about the 17K property not this yet.

Mr. Winglowitz: You’re not talking about this project at all…

Mr. Barry: No, no, not yet.

Mr. Winglowitz: …I just wanted to be clear.

Mr. Barry: Yeah, yeah, no the 17K property. And Mr. Winglowitz has represented Mr. Sierota on every one of these occasions when Mr. Sierota hasn’t felt the need that or the importance that he be present to answer any of these questions or represent on his behalf to the Board, either the planning board or the Zoning Board of Appeals. And initially a Mr. Winglowitz advised that when they talked about the vehicles he has several FedEx trucks a and he uses at the same time. It came about a and you can refer back to the minutes without going into specifically each of the statements a they were unsure of the quantity of trucks that were going to be serviced at this location and it came down that Mr. Winglowitz professed that his client would only have two to three vehicles at this location. But at any time you can drive by this location on 17K you’ll see there’s multiple vehicles there, more than a dozen. It has also came out that when Mr. Winglowitz was asked specifically even at the last Zoning Board hearing if he has tractors to move his equipment, tractors for trailers and he stated no. But it’s quite evident when you go by there you can see the tractors there. And the reason why I raise these issues, there’s also current issues and outstanding issues on that 17K property of not being in compliance with the sprinkler system. And the reason why I raise these issues is that it shows a repeated course of conduct that Mr. Winglowitz and Mr. Sierota present to the Board kind of underplaying information so that they can get passed, get it approved and then when they get there show they have a total disregard for adhering to those Zoning Board laws. So we testified both myself and my neighbor at the last Zoning Board that those vehicles were up at the residence directly behind us at 6 High Lonesome Terrace being worked on. And so when we talked about the initial proposal of that forty by sixty building our concerns were that significant size of the building would be utilized to work on those FedEx vehicles since they were already up there already. In addition to that size of a…of a structure grants him the ability that if he wanted to put in a lift even though he says that he didn’t want to put in...opportunity to put in a lift what the building on 17K doesn’t afford. So a…and when we raised the opposition to that building being put in and as of last Thursday we had checked with the Town to see if any new relevant information had been submitted and it had not. So it comes to my attention when I returned back from a business trip today that on October 24th just three days before this meeting that a new letter of basically I will take Ross’s letter as a letter of intent of what they’re going to propose on this new building was filed in an untimely manner. There’s requirements for the providing of documentation and to support what project you’re looking to do into this Town. It’s…it’s a part of the Town Code and it’s a policy and I would attest that information filed with the Town is untimely. Additionally, it just seems to me so kind of suspicious that in that letter it talks about the length and the width of the building but it doesn’t address any issues with the height. I had to come to the meeting tonight to see and a question by the Board to ask the height of the building. And so that, again that’s…that’s also a variance that goes to the original variance but it raises my suspicions as to the use of the building. What the Board also raised last time at this meeting was the fact that there was two very large roll up garage doors, twelve by fourteen feet, two in the front, one in the rear but yet this letter doesn’t even address that issue and yet...and addition to that there’s no building blueprints. There’s nothing that talks about the structure, nothing to show what the structure is so I would say that in addition to my being opposed to the original structure I would be opposed to this structure because it still raises my suspicions as to the…what the intended use of this building is. I have outlined in a letter specifically addressing those five criteria that the Board looks at on an appeal, in my opposition, and I would say that the Board look at the repeated course of conduct of this applicant and the property that he owns on 17K and his failure to follow the Town Code with that building and if…and if the applicant was approved and he was allowed to place this building in and these issues arise that I’m talking about tonight the enforcement of that Town Code which, if you look back in the minutes, Mr. Canfield addressed that they look to adhere to some of these specific things quite closely but it puts a burden upon his office and the resources here in the Town given the location of this it would put an even further burden upon them to try to enforce those violations and it would be placed upon the homeowners and put an undue burden upon us. So with that and without really going in depth into the exact specifics I’ll submit my letter to the Board on behalf of my wife and I but we’re adamantly opposed to a structure of this size just because of one the height and what we would have to look to and look at out the back of our house, it’s our main area of where we look at. The tree line being deciduous there would be no barrier so now with all the leaves gone we’d be seeing direct view of this building and the fact that I think the underlying means and if you look at what the size of the original building was it’s the intent to use that as either an alternate source as the overflow from the building on 17K. So I’d like to submit my letter to the Board in furtherance of that objection.

Mr. McKelvey: Give it to the Secretary.

Ms. Gennarelli: Thank you.

Mr. Schrecker: My name is Todd Schrecker, I’m the northwest house. I submitted a letter last time because I was out…once I was out of town and I’m vehemently opposed to this garage first of all a for the simple reason of size. The second reason is it would have a twelve by fourteen door within ten foot of my property line, at that particular time. There is no physical way that anybody could use that door without coming on to my property. So the first round I vehemently opposed it because of those…just those two basic reasons. Now, with this particular situation a I have to go back and also bring up some conduct of this particular homeowner who has cleared land in this area with his bulldozer, backhoe, excavator and has never utilized a silt retention area a which concerns me and it’s been two years now that this land has been developed and if you allow this individual to have these I don’t know what you want to call them…recreational earth moving equipment a for his benefit. How can he not continue to do work on his property or move earth? I mean, when…when does four acres…when’s the limitation four acres exceed the need for these machinery. The area with the garage is proposed right now is a wet area and I have a diagram of my…my house that shows that there’s a swell that joins into one of his swells that comes down into this particular area right here. It concerns me that the water runoff from my house and his house would dramatically affect Shawn’s house and if it hasn’t already some of the silt runoff which has run down into this area which is increased the size and height of the land is also currently a problem. Darrin had said, why don’t you build the garage up behind his house? I don’t want to sit in my pool and look at his garage. That’s my comment to your comment. Because that garage would be directly in line with my pool in back of my house and he’s already encroached on the line with his bulldozer and has come within the feeder roots of the existing property line which concerns me maybe a year or two or three down the road that these feeder roots and these large trees between these two properties will be decimated…they’ll…they’ll be gone. He has no regard and no ability or knowledge of what he’s doing in moving the earth there and it concerns me. Originally he had told me he wanted to put a pool there, he wanted to build in a fenced in area and it still sits as raw land. Okay? It’s been excavated, he has not planted anything, he has done nothing for silt retention into that area. So it goes back to his ability to continue and make do with what he is planning to do. It also concerns me that we’re standing here between a an original twenty-four hundred square foot garage and all of a sudden it goes down to fifteen hundred and all of a sudden it stays at the same height and I don’t want to be a police officer to police his property whenever a supposing truck comes up there. What am I…you know, what am I supposed to say? I see a a big large box truck…truck up there, let’s get the police up there. They’ve got better things to. Okay? Also what concerns me is is…is if he has this amount of equipment he can’t drive it down to the local gas station and fill it up with diesel fuel so he’s got to be storing diesel fuel up there. He’s got to be a…hydraulic oils and what constitutes a garage and an accessory building? That…that’s something that I don’t understand here before this Zoning Board, an accessory building, is an accessory building something I put my tractor in? Is it something that needs a four to six inch curb around it? Is it a garage? Will it, you know, what’s the difference? And I…and I pose that to the Zoning Board to answer the difference between an accessory building and a garage and a garage in my opinion is for a car or accessories. Not twenty-six foot high that you can park a bulldozer into or a backhoe into or an excavator into and furthermore he has the ability to move this machinery in and out so if you say to him, okay, get rid of the machinery what’s to say at 3 o’clock in the morning he doesn’t go down and pull out a bulldozer and put it in his garage. I don’t know he’s going to do that so I have concerns and those are my concerns. Thank you.

Ms. Orr: Good evening, my name is Jenna Orr…

Mr. McKelvey: You can tilt that (mic) down…

Ms. Orr: Okay.

Mr. McKelvey: …or you can take it off.

Ms. Orr: Is that better?

Mr. Bell: As long as it’s good for you.

Ms. Orr: Works for me. Hi, my name is Jen Orr I live at 5 High Lonesome Terrace which is to the south, I believe, of the applicant. I spoke at the last meeting opposing the garage for many reasons which have been reiterated tonight, the aesthetics, the use, the environmental implications… One of the things we haven’t discussed however is the compromising of the integrity of our road. It’s not a paved road, it’s a gravel road and every time he drive any piece of equipment up there whether it’s a box truck or one of his trailers to come get equipment, his toys that’s compromising the integrity of the road. So that’s one concern that hasn’t been brought up a…one of my main concerns, again this is the suspicious usage that’s been suggested of said building. Mr. Sierota has said that he will not be fixing his trucks up there, he will not be storing his FedEx trucks up there but there’s no way to know that he hasn’t. His past history has not been one of honesty and integrity so that’s an issue for me I have children in my home. How do I know that on…at 7 o’clock every morning strangers are going to come driving up my road to drop off their car for the day, pick up a box truck and leave to go deliver packages? This is a concern of mine, as I say I have children, I don’t know who these people are. So again I agree with everything that has been said, that I vehemently oppose this. My husband is not able to be with us he is away on business, he was also away on business last month but he also does disagree with the putting up of this building. Thank you.

Mr. McKelvey: Thank you.

Mr. Cohen: My name is David Cohen, I’m at 4 Deer Meadow Drive, I’m a neighbor. I agree with everything that has been said so far. Professionally I am an arborist and what Mr. Schrecker said about the feeder roots of the trees is only part of the problem. He also has in playing with his bulldozer has wiped out any buffer on his side of the property line and he has gouged into the hillside behind us and I’m concerned about the integrity of the hillside. I’m also concerned about him running that bulldozer like a toy. I hear it and I’m on the other side of Mr. Schrecker’s house from him. Every time I step outside of my house I hear the noise of his bulldozer running around. So let me just say that I concur with all of my neighbors I am against this project. Thank you.

Mr. McKelvey: Anyone else? Any more questions from the Board?

Mr. Bell: I’ve got one. To the lady, yes I remember the last time you had mentioned that you had seen FedEx trucks in…on the property.

Ms. Orr: Yes.

Mr. Bell: Since the last Board meeting has there still been activity?

Ms. Orr: No. No, there has not.

Mr. McKelvey: Do you have (Inaudible)…?

Mr. Winglowitz: Just to summarize for the Board I mean I…I know that there have been complaints over the years about Greg fixing trucks up there or having trucks parked there. He’s bought this facility strictly for that purpose on 17K so that there are no issues. His business has grown significantly a…and we…and as I said at the last meeting I wanted the opportunity to go back to Greg and come up with a plan that hopefully is a compromise between what he really wanted to do and what the…the neighbors would like to see. We think we’ve minimized the…the variance to the greatest extent that he can and still be functional for what he needs a…on this property. As can see on the aerial photo there’s a number of…of trailers and vehicles and he’d like to get them out…out of sight, in the building a…to improve the aesthetics of the property a…with the building that is aesthetically pleasing and consistent with the neighborhood. We thank you for your time.

Mr. McKelvey: Yes?

Ms. Orr: Sorry, you mentioned that he…that Mr. Sierota purchased that garage on 17K to alleviate the storage of his FedEx trucks, correct?

Mr. Winglowitz: To use specifically for…for storage and maintenance of his FedEx trucks, really maintenance of his FedEx trucks.

Ms. Orr: But isn’t he not in compliance with the Zoning Board (planning board) about the number of vehicles he can have there?

Mr. Winglowitz: Not that I’m aware of.

Ms. Orr: No? Okay, I believe it was three…three vehicles that are allowed and as Mr. Barry said earlier and we do have photo documentation that there’s…

Mr. Winglowitz: I would not be aware of that unless he told me or the (Inaudible) I’m unaware.

Ms. Orr: No, no, no and I understand, okay but my point what my point is, again is, Mr. Sierota says one thing and does another.

Mr. Winglowitz: I understand your concern.

Ms. Orr: So I just want to reiterate that that by saying that he purchased a garage so that he doesn’t have to fix in this home garage that he is suggesting it just…the history of truth versus or…you know, or what is stated and what is actually done are two different things. So that’s just my concern, once again, is that he purchased the garage on 17K to do things and he’s not in compliance with that so why would he stay in compliance with another building? So…thank you.

Mr. McKelvey: He…he never came before this Board for 17K that I know of.

Ms. Orr: Okay.

Mr. McKelvey: Yes?

Ms. Orr: Okay, thank you.

Mr. Schrecker: I just wanted to reiterate one thing and that is the use of this excavating equipment. There’s only four acres there at one time can three pieces of excavating equipment be used in four acres and why is there a need to build such a large garage for this excavating equipment if you can only excavate four acres of property so many times? That’s…that’s something that befuddles me right now. Okay?

Mr. Maher: Let me…let me ask you a question, on second. What did you say your last name was?

Mr. Schrecker: Schrecker.

Mr. Maher: Schrecker, so you’re the house directly to the north of him?

Mr. Schrecker: That’s correct, 5 Deer Meadow.

Mr. Maher: The building in your front yard what is that used for?

Mr. Schrecker: That is a garage, it’s a two-car garage and it is a eight hundred and fifty plus or minus a couple square feet. I think it’s twenty-six by twenty-eight, twenty-eight by twenty-seven, it’s eight hundred and fifty square foot. And it’s my understanding when I bought the property it was a zoned in and met all the requirements of secondary accessory building.

Mr. Scalzo: Sir, you wouldn’t happen to know the heighth of that building, would you?

Mr. Schrecker: I certainly do. It’s a…eight foot, six inches on the inside and it has a four twelve a…

Mr. Maher: Pitch.

Mr. Schrecker: Pitch but it’s not…it comes into…it comes into one…

Mr. Maher: It’s a…it’s a hip roof.

Mr. Schrecker: It…it’s a…yeah, it’s a hip roof, thank you, yes.

Mr. Scalzo: Just to clarify, I know you a…commented to my comment about the availability to put a garage behind his home.

Mr. Schrecker: Yes.

Mr. Scalzo: He is seeking a variance for a garage in front of the home. We are obliged to grant the least variance possible or the least variance. If were to have it moved to the rear yard that would eliminate one of the variances…

Mr. Schrecker: That’s correct.

Mr. Scalzo: …that’s not what I was suggesting…

Mr. Schrecker: No.

Mr. Scalzo: …however…

Mr. Schrecker: No.

Mr. Scalzo: …that’s I mean…

Mr. Schrecker: And…but I want to address that is is he can put a driveway up in there. He drives his vehicle up in behind his house right now. Okay? He could do that but with this back slope of his property is preventing him from doing something back in there because it’s a thirty percent grade…?

Mr. Winglowitz: Steep.

Mr. Schrecker: …it’s pretty steep and hence...

Mr. Scalzo: Yeah, and thirty-three percent is a…what I just a scaled …

Mr. Schrecker: …and I hence I will also say is that’s probably why the guy who built my house didn’t put my little garage up behind the house was because of the…of the steepness of the…of the hillside. But I do have on my property there is swell line a…that shows where the water goes on my property and it does go down and it does go right down into this particular area and that does concern me too.

Mr. McKelvey: I don’t know how the Board feels but we received this letter and this revision three days before the meeting which we usually require ten days.

Mr. Winglowitz: I understand.

Mr. McKelvey: Some of this was repaired…was prepared and it could have been here before that.

Mr. Winglowitz: Pardon me?

Mr. McKelvey: Some of this must have been repaired…repair…

Mr. Winglowitz: Prepared.

Mr. McKelvey: …prepared before…in time they can give it to us before ten days.

Mr. Winglowitz: Yes, it could…it certainly could have been obviously getting our schedule with Mr. Sierota’s schedule together didn’t allow it but I…I understand your concern.

Mr. McKelvey: I don’t know how the other Board Members feel.

Mr. Barry: I would just like to point out one thing that this hardship that Mr. Sierota is applying for isn’t one generated from an environmental condition but one self-generated base on the equipment that he has that really shouldn’t be there in the first place. There are alternatives as Mr. Scalzo pointed out to appropriate size to fit a residential area other than the two proposals that they have before the Board.

Mr. Scalzo: I hear what you’re saying but regarding his…his excavators and his…I’ll call them toys, it’s difficult to put a price on another man’s pleasure. So he can have those as long they’re, you know, they fit what’s…

Mr. Barry: And he…and he does have an alternate location for that now on 17K a commercial property for commercial excavating equipment.

Mr. Maher: Right, but you have to understand to though if…if they’re as he says toys, it doesn’t make any sense to keep at his business if he’s going to use them at his house. So you have to understand that part of it too. It’s a fairly good parcel. It’s not a small parcel so…

Mr. Barry: If you look at the parcel there is not four acres that’s available to…

Mr. Maher: No, I understand…

Mr. Barry: …use the equipment.

Mr. Maher: No, I understand that but my point is that you know, it’s not unreasonable like…like Mr. Doce’s or Mr. Scalzo’s concerned…as I said…

Mr. Scalzo: Wow, do I talk that much?

Mr. Maher: You know, to have…toys on the property…I mean it’s not unreasonable.

Mr. Barry: Right but those…those vehicles are outlined in the Town Code as not being for residential purposes.

Mr. Cohen: I just want to be clear. I’m not against somebody having his…his toys and playing with them but I think they should be played with in a way that doesn’t impinge on your neighbors. There’s nothing to address any siltation, runoff, the…the pattern, the runoff pattern is altered considerably a…so, that’s it.

Mr. McKelvey: Any other questions?

Mr. Maher: I have a…in the most recent photograph that I have on Google Maps…

Mr. Winglowitz: Yeah.

Mr. Maher: …so there is an area that they’ve discussed that’s cleared behind the house.

Mr. Schrecker: The side of the house.

Mr. Winglowitz: To the side, the side of the house, yeah.

Mr. Maher: (Inaudible) to the (Inaudible) right it is to the rear of the house but it is right to the side so what was the purpose of clearing that area?

Mr. Winglowitz: I do not know what…what his reason for it was.

Mr. Schrecker: According to Greg it was to build a dog fence and install a pool and that was two years ago.

Mr. McKelvey: Well what’s the Board’s choice?

Mr. Levin: I think we should close the Hearing.

Mr. McKelvey: Do you want to close the Hearing?

Mr. Winglowitz: I could try to get Greg here for next month or you…I guess the option is just to close the Hearing and make a decision. It’s up to you guys.

Mr. Donovan: So, yeah your options are you can continue the Public Hearing till next meeting, you can close the Public Hearing and vote, or you can close the Public Hearing and you have sixty-two days to make a determination. Let me…let me just emphasize if you close the Public Hearing there’s no other submissions, right, we don’t take any submissions after that.

Mr. Maher: Well I think your final submission has been…is here.

Mr. Winglowitz: Yes it is, sir.

Mr. Scalzo: Well as Mr. Maher…

Audience Member Inaudible

Mr. Scalzo: …as Mr. Maher had…had just…you know, your final submission…may I ask, having heard comments from the public tonight…is this your final…I’ll say, final offer? Is this your final application, your…your client is…is pretty firm on, I know you discussed some heighth differentials however is this…if we close the Public Hearing this is what we’re voting on.

Mr. Winglowitz: I understand that and I believe that this is the minimum building size my client would a…accept on the property.

Mr. Schrecker: What are…what are you voting on? You have no plan. You have no description.

Audience Member Inaudible

Mr. Schrecker: No, no, it should be closed, I mean, he filed it three days ago.

Mr. Winglowitz: That would be…that would be a reason to keep it open if they wanted more time to review that information, I guess, that would be up to them.

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

Mr. Levin: If we closed it and voted on it, not…not necessarily will it be a positive vote.

Ms. Barry: I just have to say one thing. My name is Jeanna Barry, married to Shawn. I live in front of Greg and my concern is the drainage because it just…it runs down in to our yard, it has wrecked the road like they discussed. His…all that diesel fuel runs into probably our well water because we’re right…we’re right in front of him so it runs down and then gets into our yard. So that’s my concern. He’s digging around, like Todd said, he’s playing with the topography and I feel like it’s compromising the drainage. The road…the road is a hot mess. I’m sure you guys have driven on it. And all of that, most of that comes right off his property. It’s ruined our pillars. It’s wrecked…it takes all of our mulch. We don’t do that anymore. So that to me is a huge concern and has he done anything about the drainage? Like what’s he going to do if he puts this up? But that was my concern.

Mr. Winglowitz: It would be similar to the house it would drain to the abutting grass areas.

Ms. Barry: Well is he going to put gutters? Is he going put swales in? Is he going to put some shrubs in or any arborvitaes? So we wouldn’t have to look at it. And I don’t mean little ones. I mean tall ones…and size…

Mr. Winglowitz: That’s not…that’s not proposed as part of the application.

Ms. Barry: Okay, so he wasn’t going to put any of that in? Okay. To me the drainage is a huge issue, I mean it’s…it’s wrecked part of our property. It comes down. He’s dug around and like you’d said it’s a swamp or a wet area in the front there. It is definitely…you can see all the mud from his tractors and stuff like that sitting there and I get that he wants to protect his equipment but, you know, we live here too and so I completely understand you know, he’s entitled to have his toys but we’re entitled to clean water, you know, I don’t want my property wet because of poor drainage.

Mr. Winglowitz: I understand your concern. I have a thought I guess for the Board is a…I wasn’t born yesterday, I understand how these things are going and the issues you have to deal with as a Board. A…what I guess I would ask you only got this three days ago, absolutely true, that you table this decision till the next meeting. And either by the next meeting I’ll either amend it or…and amend it ten days prior to the meeting, or provide a letter withdrawing the applications if you can’t live with an amendment to the application.

Mr. Levin: That’s actually what happened at the last meeting. You felt it was going wrong and you said, let’s table it so, you want to table it again.

Mr. Winglowitz: Yeah, that was a…a suggestion and I think it leaves an opportunity for him to a…

Mr. Levin: Do what?

Mr. Winglowitz: …to look at it again to see if there’s any alternatives that he can come up with that he may be able to live with a…

Mr. Maher: But I…I have to ask, I mean if he…if he couldn’t, if he knew it was going south obviously that’s why you revised your proposal, why isn’t he here this evening?

Mr. Winglowitz: Greg is out of town.

Mr. Levin: He wasn’t at the last meeting.

Mr. Winglowitz: That I don’t know if he was or not to be honest with you.

Mr. McKelvey: He wasn’t here. He wasn’t here last month.

Mr. Winglowitz: He wasn’t here absolutely was not here, right. I don’t know if he was out of town or not, in town.

Mr. Maher: I…I just feel that if it was that much of importance to him he would make it a point be here, to attend the meeting.

Mr. Levin: Yes.

Mr. Masten: Yes.

Mr. McKelvey: Well as Dave said, we have a choice, we can hold it over or we can…

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

Mr. Bell: I’ll second the motion.

Mr. McKelvey: Roll call.

Ms. Gennarelli: Roll call.

 Darrell Bell: Yes

 Richard Levin: Yes

 Michael Maher: Yes

 John Masten: Yes

 Darrin Scalzo: Yes

John McKelvey: Yes

Mr. Winglowitz: Thank you very much for your time.

 (Time Noted - 8:20 PM)

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ZBA MEETING – OCTOBER 27, 2016 (Resumption for decision: 9:01 PM)

GRZEGORZ SIEROTA 6 LONESOME TERRACE, WALLKILL

 (1-1-77.2) A/R ZONE

Applicant is seeking area variances for the maximum height of accessory buildings, the maximum allowed square footage of accessory structures, the maximum allowed (4) four vehicle storage and no such building shall project closer to the fronting street than the main dwelling to construct an accessory building (40 x 60 x 25).

Mr. Levin: Our next is RMDL (JMDL) Real Estate of Newburgh they’re seeking variances for the maximum allowable square footage of signage and the minimum 15 ft. setback from street line for a free standing sign to erect signage for an amended site plan approval application for the Restaurant Depot…

Ms. Gennarelli: That was held open. That was held open.

Mr. Maher: Held open.

Ms. Gennarelli: Thank you. The Sierota is next.

Mr. Bell: Yeah, Sierota.

Mr. Levin: Sierota, seeking variances for the maximum height of accessory buildings, the maximum allowable square footage of an accessory structure, the maximum allowed (4) four vehicle storage and no such building shall project closer to the frontage street…fronting street than the main dwelling to construct an accessory building.

Mr. Donovan: And this is a Type II Action under SEQR.

Ms. Gennarelli: Okay, we’re going to go through the balancing test. The first is whether the benefit can be achieved by other means feasible to the applicant?

Mr. Scalzo: Yes.

Mr. Levin: I would hope so.

Mr. Maher: And I think we discussed that and I think the fact that the applicant has the…the tools or equipment necessary to make that change would be easily done and there happens to be a clear area behind the house currently.

Ms. Gennarelli: Okay, number two; will it cause an undesirable change in the neighborhood character or detriment to nearby properties?

Mr. Scalzo: I believe we have heard through testimony that it would.

Mr. Levin: Most definitely.

Mr. Donovan: And for clarification, the Board did also each member independently visited the…the site so you’re all familiar with the neighborhood and the neighborhood character.

Mr. McKelvey: Yes.

Ms. Gennarelli: Whether the request is substantial?

Mr. Maher: I don’t think the size is overly substantial. I think the location and the concerns that the neighbors have make it substantial.

Mr. Scalzo: Well I think the size is substantial.

Mr. Levin: I do too.

Mr. Bell: Yes, I do too.

Mr. Donovan: Well, let’s just…if we can quantify it a little bit. So as I understand that the acces…the height or the total…put my glasses on… The square footage has been reduced from…to fifteen hundred which I still think is fifty percent over…

Mr. Maher: Correct.

Mr. Donovan: …and the height is proposed to be reduced from twenty-two to fifteen which either Mike or…

Ms. Gennarelli: No.

Mr. Maher: No, twenty-five…twenty-five to twenty-two.

Mr. Donovan: Twenty-five to twenty-two. I’m sorry.

Mr. Maher: It’s almost…it’s almost fifty percent over also.

Mr. Donovan: Well you guys will have to do the math.

Mr. Maher: Forty-five percent.

Mr. Bell: About forty-seven percent, yeah.

Ms. Gennarelli: Okay? Whether the request will have adverse physical or environmental effects?

Mr. Levin: His neighbors said it did but we have no proof of that. It possibly would.

Ms. Gennarelli: Okay. Anything else?

No response.

Ms. Gennarelli: Whether alleged difficulty is self-created? Which is relevant but not determinative.

Mr. Levin: Yes.

Mr. McKelvey: Type II under SEQR. Do we have a motion…for approval?

No response.

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

Mr. Levin: I'll make the motion for disapproval.

Mr. Bell: I'll second that motion.

Mr. Donovan: Just to be clear a yes vote is to disapprove.

Ms. Gennarelli: Okay.

 Darrell Bell: Yes

 Richard Levin: Yes

 Michael Maher: Yes

 John Masten: Yes

 Darrin Scalzo: Yes

John McKelvey: Yes

Ms. Gennarelli: The motion for disapproval is passed.

PRESENT ARE:

 DARRELL BELL

 RICHARD LEVIN

 MICHAEL MAHER

 JOHN MASTEN

JOHN MC KELVEY

 DARRIN SCALZO

ABSENT:

 JAMES MANLEY

ALSO PRESENT:

 DAVID A. DONOVAN, ESQ.

 BETTY GENNARELLI, ZBA SECRETARY

 (Time Noted – 9:04 PM)

ZBA MEETING – OCTOBER 27, 2016 (Time noted - 8:20 PM)

RAM HOTELS, INC. / AUTO PARK PLACE/UNITY PLACE, NBGH

 NEWBURGH AUTO PARK LLC. (97-2-37) I/B ZONE

Applicant is seeking area variances for 185-27-C-1 - The site must have principal frontage on a State or County highway and the maximum 50 ft. building height to construct a 5-story, 112 room hotel.

Mr. Levin: Ram Hotels area variance for 185-27-C-1 - The site must have principal frontage on a State or County highway and the maximum 50 ft. height to construct a 5-story, 112 room hotel.

Mr. McKelvey: Good evening Mr. Gaba.

Mr. Gaba: Good evening Mr. McKelvey, good evening Board. I represent the…my name is Stephen Gaba and I represent Ram Hotels, Inc. they propose to build a Hilton Garden Inn at Unity Place and as per the Notice they are here for two variances height variance and principal frontage on a State or County roadway. We’ve made our submission to the Board, presented our evidence and our arguments as to why relief should be granted and at the last meeting the Board held open the Public Hearing for additional public comment. So that’s what we’re here for tonight, to hear the additional comment and answer any questions the Board may have so unless you have any questions for us we’ll leave you to open the floor.

Mr. Scalzo: Yeah, my…my, I believe it was me that…that expressed my hesitation at the last meeting just because Dave’s response letter had come the day or the day prior to the…the a meeting. So I was just waiting for additional information from the other side and I haven’t seen anything.

Mr. McKelvey: We didn’t receive anything.

Ms. Gennarelli: I haven’t received anything.

Mr. Scalzo: Okay, then…that’s ample opportunity.

Mr. Gaba: We’d ask that you close the Public Hearing.

Mr. Bazydlo: Excuse me, I’m here tonight. My understanding was I’d be able to give testimony on the application tonight.

Mr. McKelvey: That’s not what you asked for, is it Darrin?

Mr. Scalzo: No, the…what I had asked for was the Zoning Board attorney had a submitted his position, memorialized his position and we were waiting for your support information to tell us why Dave was wrong.

Mr. Donovan: And he certainly just couldn’t do that.

Mr. Bazydlo: No, no, I…my understanding of what happened at the last meeting was that I…I had turned in a position paper about whether this was a use variance. The applicant had turned in obviously an opposite position paper. Mr. Donovan was asked to be Solomon and judge which one of those was correct which he gave that. I really have nothing further on that. What I pointed out at the last month’s meeting was that I was not prepared at last month’s meeting to give testimony about considering this application as an area variance. That’s what I’m ready to do tonight a…and that’s what I’ve prepared my presentation about for tonight.

Mr. Scalzo: Have at it.

Mr. Bazydlo: Okay, very good.

Ms. Gennarelli: Just introduce yourself for the record.

Mr. Bazydlo: Sure, sure my name is Charlie Bazydlo; I’m outside counsel for two entities here, the Crossroads Court Real Estate LLC. and Route 17K Real Estate LLC. As I just said last month there was a decision that the Board was going to proceed with this application under the criteria of an area variance as opposed to a use variance. And I’d just like to go over our feelings about that in looking at those two variances. As the Board is aware and the applicant has stated we’re here for two different areas. One is for a height variance; the other is for a…I’m going to call it a location variance. This requirement of the property or the hotel happens to be on a lot that fronts on either a State or a County highway. Looking first at maybe the simpler of the two the height variance my understanding here is the applicant is looking for a variance of the fifty foot requirement. They’re looking for a sixty-nine point four feet I believe it is…or sixty-nine point nine feet. It’s almost a thirty-nine percent variance is what the applicant is looking for. Though there have been other hotels that have gotten height variances perhaps most recently a…my client, the…the Hampton Inn and Suites being constructed right now on 17K, I do believe there is a difference between these two applications. Here certainly it’s…it’s higher, our application over at the a…Hilton…excuse me…the Hampton Inn was sixty-two point four feet. The majority of the hotel itself was at the fifty foot requirement, some of it at fifty-four but the key difference there is that that site over there is down in a lower elevation. It’s not a hole but 17K is up higher than where the pad for that building is and there’s also another…what…what was a hotel structure right next to it of similar height. Here we’re talking about a structure that’s going to be nineteen…in excess of nineteen feet above the height requirements; it’s going to be on a fairly flat piece of property. I think that’s a much more substantial variance this applicant is asking for. And the fact that it’s that substantial I do think that goes into having an effect on the neighborhood character. Though…you know, I know the applicant feels that this is a site that you can site a hotel there is no other building anywhere near here that has this kind of height and looking at a building of this height from the road surface it’s going to…I think it’s going to be substantial it’ll have an effect on the character of the neighborhood. And the final criteria I bring up for the Board again concerning about the height is again similar to the location, this is a self-created hardship. I have assumed the applicant is under contract to buy the property. This requirement of the fifty foot height has been a long standing criteria in the Town of Newburgh’s Code and so they should be well aware of that restriction when they entered into a purchase agreement for this property. I think when you look at the substantial nature of a height variance, the fact of how that substantial nature effects community character and the fact that it’s self-created I would posture to the Board that that tips the scale against granting that height variance. Moving on to the location issue and the requirement there, this one’s a little more…a little more troubling. Do I know the Board’s attorney felt that it…this was not a a use variance and you want to move forward with it being an area variance. We first…I think first and foremost you have to look at that criteria whether it’s substantial. Clearly this property is not…does not have road front on a State or County highway so I don’t quite know how you go about looking at that. You could say it’s a hundred percent variance that they’re asking for or that there is zero compliance with that criteria of the Code. Whatever which way you want to color it I think the fact of the matter is that that because they’re not on that road and there’s a very specific requirement in this Town’s Zoning Code for it to be…for a hotel in the IB Zone to be on a County or a State highway I think that granting that variance raises to the level of being an amendment of the Zoning Code. And as I’m sure these Board…this Board is well aware of that’s beyond the authority of this Board to grant a variance that is so substantial, so a…derogative of the Zoning Code that it’s beyond your authority to do such. So I think the Board needs to give that very strong consideration. This is a much different situation than say a setback requirement or a lot area requirement, some sort of dimensional requirement of you know; X amount of acres, a shed can only be ten feet off the property line I want to put it five feet. This is something totally different, it’s not dimensional it’s a location requirement. The Code is very specific about it and they simply don’t meet it.

Mr. Maher: So your position is that any…any item that comes before the Board if it is prohibited it shouldn’t be allowed?

Mr. Bazydlo: Yes, yeah well the…the…you have watch what you say about prohibitions because again if you go back to a dimensional requirement someone is required to have two acres of for a lot…and they have one point eight acres that’s within the Boards prerogative to be able to grant that. But here it’s not dimensional and this is why I still have the trouble with the use versus area variance, this is not dimensional this is a location requirement where the Code says that for a hotel to go in an IB zone it has to have road frontage. Doesn’t say five feet of road frontage, doesn’t say a hundred feet of road frontage, it says they have to have road frontage on a State or County highway. So I don’t believe this Board has the authority to grant that variance because you would basically be going against the legislative a…a…prerogative of the Town Board in adopting that Zoning Ordinance.

Mr. Maher: So how would you argue that a shed or a pool in a front yard is not allowed?

Mr. Bazydlo: That a shed or a pool…?

Mr. Maher: Is not allowed.

Mr. Bazydlo: From a dimensional requirement…?

Mr. Maher: No, just period, you can’t put a pool or a shed in a front yard, it’s against the Code. So how would you argue? This Board grants those variances quite often and they’re technically prohibited from the…from the Code.

Mr. Bazydlo: There…there again you’re still talking about dimensional requirement about front yard you know, so it…I think there is a difference there. There’s a difference that…that may sound like a location requirement it really is…in my mind that’s more…that’s still a dimensional requirement that this can’t be in a certain portion of that property. It’s not…it’s not that it’s a prohibited use on that property, you could have a shed, you could have a pool on the property. It’s just the location of it is not allowed within a certain portion of the property. This is different. Here we’re talking about that the lot itself is not…is…to put a hotel on this lot is violative of the Town’s Code.

Mr. McKelvey: But on your height on your Hampton a…he came before the Board too, right?

Mr. Bazydlo: Yeah, yes, no, I totally agree that there…there was a…and these are two different parodies.

Mr. McKelvey: It’s the same thing.

Mr. Bazydlo: No, it’s not the same thing. There…there again I would say it’s not the same thing. The height is a dimensional requirement. The Code says fifty feet and I think in that case I think we had fifty-four feet, a maximum of sixty-two point four. There’s was a dimensional issue involved in that. Here it is not a dimensional issue it’s a location issue. What…what…what I believe this Code sets up basically is that you have an IB zone; hotels are allowed in IB zone but not in the entire IB zone. There only allowed in that portion of the IB zone where that property would have frontage on a State or County highway. Now to take that point…

Mr. Scalzo: Well I just a…I’m only on the Board two years, the Hilton Garden Inn which is now a privately owned building that’s on…not on a State highway. How did…how did that happen?

Mr. Donovan: I…I don’t recall Darrin. I…I don’t know that that came before our Board.

Mr. Scalzo: Well according to what I’m hearing it must have.

Mr. Donovan: It must come for a height variance.

Mr. McKelvey: It came for a height variance.

Mr. Bazydlo: That…that was the Hampton Inn. I was referring about the height variance on the Hampton Inn which is right on Route 17K.

Mr. Scalzo: That’s the one that’s currently being built.

Mr. Bazydlo: The one that is currently being built.

Mr. Scalzo: No, no, I’m talking the one that’s a…

Mr. McKelvey: But the Hilton Garden was…

Mr. Scalzo: The Hilton Garden Inn…the former Hilton Garden Inn is…is not on a State highway.

Mr. Levin: Right.

Mr. Bazydlo: I don’t know for sure. It’s something we could check into. I believe at the time that it…that it…it may be at the time that the Hilton Gardens was approved that…that lot extended out to Route 17K.

Mr. Scalzo: Oh, perhaps…

Mr. Maher: So for some reason created non-conforming lot now?

Mr. Bazydlo: I…I wasn’t…I wasn’t representing them at that time. I don’t know the details about it but I’m sure that’s something that could be found out from the records of the Town so...

So again still looking at this issue about the location requirement and the requirement to be on a County or State road so if…if you’re still saying well, okay fine it’s not, you don’t believe it’s that…that’s it’s a direct amendment or direct a…and it’s still within the Board’s power to grant this variance you still need to look at the substantial-ness of that variance and take the substantial-ness of that there’s zero compliance or a hundred percent non-compliance when you’re going to look at it that thing goes on to affect community character. If I’m a property owner of an abutting piece of property I don’t expect there to be a hotel next to me. The Code doesn’t…doesn’t allow it. So we have an effect that then that substantial-ness of that a…location requirement the goes and effects community character and I think it has a negative impact on community character. You know you…you…you though in a normal IB zone you might expect a hotel located, not here. There’s other commercial uses around this property that’s true. There’s also some residential uses around here too. A hotel is commercial use. I posture to the Board that it’s a different type of commercial use. There’s more transients in and out with a hotel location than there may be with a car dealership or an office building or one of the other allowed commercial uses in that zone. So I’d ask the Board to take that into consideration also. Third issue as you, you know, roll those two things together there’s also the issue about a self-created hardship similar to the height issue. The applicant was well aware, I think they even admit in their materials they’re well aware of the fact that this requirement is there when they entered into it. Again that…that tips the scale I think against granting this variance even if the Board believes they have the authority to…to do so. And the last thing I’d ask the Board to consider a…well I know from appearing this Board before and looking at records of your decisions. This Board typically when it comes to SEQR compliance this Board typically arrives at an independent SEQR determination and seems to be very rarely does coordinated reviews with other Boards in the Town. I…I think it’s a known fact this application does have to go, if it was granted these variances, has to go to the planning board. And normally, in the normal situation the applicant would have went to the planning board, have gotten a referral letter over to this Board and this Board would be aware of at this point whatever concerns the planning board may have about it. That hasn’t happened in this case. They…the applicant was within their right to pursue the application this way. However, because that initial coordination hasn’t happened I’d ask this Board to consider that in arriving in a SEQR determination for this variance that you should consider the idea of coordinating your SEQR review with the planning board and deciding who would be lead agency between the two boards and perhaps getting a feeling from the planning board where they’re at with this project before you make a decision and though I…though I know that’s different than how this Board may normally act a…considering the you know, the particular aspects of this application, I think it may be a wise decision to do. That’s…that’s what I have to say so…thank you.

Mr. McKelvey: Steve…

Mr. Gaba: (Inaudible)

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

Mr. Barton: I just want to, Ron Barton, property owner. I just want to point out that the comment about the surrounding area and this diminishing the value we sent out the mailers to all the property owners in the area and no one has objected. The only objection has been from a competitor with another motel so none of the current property owners have a problem with this. The other thing I’ll point out is that prior to 2000 this property was part…was fronted on 17K. When a…when the road was put in it was turned over to the Town of Newburgh and that…it was built for the development of the area and that’s what broke this parcel off from actually having contact with 17K so I can just tell you that it’s…it was a…it’s in an area that we believe is well suited for the use that we’re looking for.

Mr. Levin: Was Honda your property at one time?

Mr. Barton: Yes, when we did the movement and then we sold off six acres to the Moreheads and back then it was still a private road which connected this parcel to 17K. It was when the road went through to Little Britain that it was recommended that it be built to the Town specs and that it be turned over to the…

Mr. Maher: Who recommended the turn over to…to the Town?

Mr. Barton: …I think it was part of the planning board process when we were doing the a…the educational center on the top of the hill and they were building the road. The Town wanted it built to the specs that could substantiate the additional growth in that area for a commercial use.

Mr. McKelvey: I think they were looking at all the traffic that that educational building gets.

Mr. Barton: Yeah, I think you’re right, John.

Mr. Maher: Would you say that educational building gets more traffic than the hotel? Would or would not?

Mr. Barton: On three days, so that building does Friday, Saturday, Sunday. I was actually surprised at the limited traffic volume that motels generate. It’s…it has virtually much less impact than a little restaurant or a small one acre site like a Dunkin Donuts and stuff, the way the traffic comes in and out. I was surprised at what Larry had…had brought to the Board the last time.

Mr. Levin: I would think just a rush at night and a rush in the morning.

Mr. Barton: Yeah, and even that is spread out I guess cause some people are leaving at 7 or 8 to 11 o’clock. As people check out it’s spread out and then as they come...come in at night. I just wanted to make sure that everybody was clear that that there was no opposition from anyone else. Thank you.

Mr. McKelvey: Thank you.

Mr. Gaba: Stephen Gaba again, the attorney for the applicant. Like I said we already made our presentation so I’m not going to spend a lot of time going over the facts of the variances or anything. Just a couple of quick points, this is the first I’ve heard any discussion regarding SEQR review. This is an Unlisted Action, the Board is absolutely within its right to conduct in its own uncoordinated review and what’s more as I understand it Mr. Bazydlo’s client is the Hampton Inn which is over a half a mile away from this site, really doesn’t have any standing to raise any SEQR objections as far as I can see it. They’re going to be wholly unimpacted by it and they’re just too far away. Frankly I don’t know what the problem with the application is since they’re so distant but it is what it is. I…I don’t think SEQR is something this Board needs to concern itself with. And the only other two…two points, first there was discussion regarding the substantiality of the height variance. We’ve gone over that the great bulk of the variance is for a small portion of the building. Most of it’s going to be the marquee there in the center so it’s actually not as big a variance as…as the numbers would indicate. As far as frontage on the roadways, I…I, we’ve determined it’s an area variance. We’re moving slightly away from a County roadway. We’re about three hundred yards away from 17K. We’re in very close proximity to it so the variance you’re granting is either a variance of being directly on the roadway or being in close proximity to the roadway. We’re in close proximity. It’s just not that substantial a variance. And in regard to being self-created, I think the Board raised it itself, Mr. Bazydlo’s client is listed as Martin Milano but it’s the Hampton Inn. This is the decision that the Board rendered on them. If you turn down to page 7 of your decision and it reads, ‘self-created difficulty, the need for these variances is clearly self-created in the sense that the applicant purchased this property with knowledge of the existing Zoning Code and while aware of the need to obtain a variance or variances in order to build the proposed hotel on the property’ and then you turn to the next page and it says ‘employing the balancing tests set forth in Town Law 267-b-(3) the Board determines the applicant has satisfied the requisites of 267-b and grants the variances as requested’. So I mean, sauce for the goose is sauce for the gander. He bought his hotel knowing full well that he needed a height variance. We turn around and buy our hotel knowing we need a height variance, one more variance. Being self-created, it’s right in the Town Law, it doesn’t require a denial of it, it’s just one more consideration. So unless the Board has any questions…

Mr. McKelvey: Questions from the Board?

No response.

Mr. McKelvey: Do we have a motion?

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

Mr. Levin: I’ll second it.

Ms. Gennarelli: Roll call.

 Darrell Bell: Yes

 Richard Levin: Yes

 Michael Maher: Yes

 John Masten: Yes

 Darrin Scalzo: Yes

John McKelvey: Yes

Mr. McKelvey: In order for us to meet with our attorney and see if there’s any legal matters, we’d ask you to step out into the hall. We’ll call you back in.

 (Time Noted - 9:07 PM)

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ZBA MEETING – OCTOBER 27, 2016 (Resumption for decision: 9:04 PM)

RAM HOTELS, INC. / AUTO PARK PLACE/UNITY PLACE, NBGH

 NEWBURGH AUTO PARK LLC. (97-2-37) I/B ZONE

Applicant is seeking area variances for 185-27-C-1 - The site must have principal frontage on a State or County highway and the maximum 50 ft. building height to construct a 5-story, 112 room hotel.

Mr. Levin: Ram Hotels, Inc., I’m happy to say this one finally, it’s been a long time. Area variance for 185-27-C-1 - The site must have principal frontage on a State or (County) highway and the maximum 50 ft. building height to construct a 5-story, 112 room hotel.

Mr. Donovan: This is an Unlisted Action under SEQR. You’ll have to take action on SEQR before you vote.

Mr. McKelvey: You mean a Negative Dec?

Mr. Donovan: You will, correct, yeah.

Ms. Gennarelli: Okay, so we’ll start with the balancing test.

Mr. McKelvey: We need a Negative…

Mr. Donovan: You should start with the balancing test.

Ms. Gennarelli: Okay, we’ll start with the balancing test.

Mr. McKelvey: Go ahead.

Ms. Gennarelli: Alright, the first is whether the benefit can be achieved by other means feasible to the applicant?

Mr. Bell: No.

Mr. Levin: There’s no way.

Mr. Masten: No.

Ms. Gennarelli: Will it cause an undesirable change in the neighborhood character or detriment to nearby properties?

Mr. Levin: I don’t believe so.

Mr. Maher: It’s a commercial area to begin with; I don’t see an issue there.

Ms. Gennarelli: Whether the request is substantial?

Mr. Levin: To a degree it is.

Mr. Scalzo: No.

Ms. Gennarelli: Whether the request will have adverse physical or environmental effects?

Mr. Maher: I don’t believe so.

Mr. McKelvey: No, I don’t believe so either.

Ms. Gennarelli: And whether or not the alleged difficulty is self-created? Which is relevant but not determinative?

Mr. Scalzo: It is.

Mr. Maher: Well obviously it is self-created they purchased the property.

Mr. McKelvey: We need a motion for a Negative Dec.

Mr. Levin: I make motion for a Negative (Dec).

Mr. Maher: I’ll second.

Ms. Gennarelli: Roll call.

 Darrell Bell: Yes

 Richard Levin: Yes

 Michael Maher: Yes

 John Masten: Yes

 Darrin Scalzo: Yes

John McKelvey: Yes

Ms. Gennarelli: Do we have a motion on the variance?

Mr. McKelvey: We had…do we have a motion…for approval?

Mr. Levin: Motion for approval, yeah.

Mr. Bell: I’ll second the motion.

Ms. Gennarelli: Okay, roll call.

 Darrell Bell: Yes

 Richard Levin: Yes

 Michael Maher: Yes

 John Masten: Yes

 Darrin Scalzo: Yes

John McKelvey: Yes

Ms. Gennarelli: Okay, the motion is passed.

Mr. Levin: We’ll see you gentlemen in about a year or six months for the a…the signage.

Audience Members: Thank you.

PRESENT ARE:

 DARRELL BELL

 RICHARD LEVIN

 MICHAEL MAHER

 JOHN MASTEN

JOHN MC KELVEY

 DARRIN SCALZO

ABSENT:

 JAMES MANLEY

ALSO PRESENT:

 DAVID A. DONOVAN, ESQ.

 BETTY GENNARELLI, ZBA SECRETARY

 (Time Noted – 9:07 PM)

ZBA MEETING – OCTOBER 27, 2016

END OF MEETING (Time Noted – 9:07 PM)

Mr. McKelvey: Everyone received a copy of the…last month’s minutes?

Ms. Gennarelli: The minutes for August and September.

Mr. McKelvey: August and September, I’m sorry. Do we have a motion for approval of the minutes of August and September?

Mr. Masten: I'll make a motion…for approval.

Ms. Gennarelli: Second?

Mr. Scalzo: I’ll second.

Mr. McKelvey: All those in favor say Aye?

Mr. Maher: I’ll vote yes for August, not for September. I wasn’t here.

Ms. Gennarelli: So you’re recusing (abstaining) for September.

Aye - All - August

Aye - All except Mr. Maher (abstain) - September

Mr. McKelvey: Opposed?

No response

Ms. Gennarelli: Any other Board Business? Anybody want to go to the classes? You have to let me know and we’ll send it in. Just call me alright, okay, everybody check your schedules and one is next week.

(Inaudible)

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

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

Ms. Gennarelli: The whole hearing…to adjourn the meeting.

Mr. McKelvey: Adjourn the meeting, yeah.

Ms. Gennarelli: Mike said yes, Darrin was the second.

Mr. McKelvey: All in favor say Aye?

Aye All

Ms. Gennarelli: Thank you. The meeting is adjourned.

PRESENT ARE:

 DARRELL BELL

 RICHARD LEVIN

 MICHAEL MAHER

 JOHN MASTEN

JOHN MC KELVEY

 DARRIN SCALZO

ABSENT:

 JAMES MANLEY

ALSO PRESENT:

 DAVID A. DONOVAN, ESQ.

 BETTY GENNARELLI, ZBA SECRETARY

 (Time Noted – 9:12 PM)