ZONING BOARD OF APPEALS

MEETING – FEBRUARY 26, 2015

(Time Noted – 7:00 PM)

CHAIRPERSON CARDONE: I’d like to call the meeting of the ZBA to order. The first order of business is the Public Hearing scheduled for today. The procedure of the Board is that the applicant will be called upon to step forward, state their request and explain why it should be granted. The Board will then ask the applicant any questions it may have and then any questions or comments from the public will be entertained. After all of the Public Hearings have been completed the Board may adjourn to confer with Counsel regarding any legal questions it may have. The Board will then consider the applications in the order heard. The Board will try to render a decision on all applications this evening; but may take up to 62 days to reach a determination. And I would ask if you has a cell phone to please put it on quiet or turn it off so that it does not interrupt what we’re doing. And also when speaking, speak directly into the microphone because it is being recorded. Roll call please.

PRESENT ARE:

 GRACE CARDONE

 RICHARD LEVIN

 MICHAEL MAHER

 JAMES MANLEY

 JOHN MASTEN

JOHN MC KELVEY

 DARRIN SCALZO

ALSO PRESENT:

 DAVID A. DONOVAN, ESQ.

 BETTY GENNARELLI, ZBA SECRETARY

 GERALD CANFIELD, CODE COMPLIANCE

Pledge of Allegiance to the Flag led by James Manley

(Time Noted – 7:02 PM)

ZBA MEETING – FEBRUARY 26, 2015 (Time Noted – 7:02 PM)

BRIAN AGNEW 7 FAIRVIEW LANE, NBGH

 (83-2-10.2) R-1 ZONE

Applicant is seeking area variances for the minimum rear yard setback, the maximum lot building coverage and the maximum lot surface coverage to build a rear addition (5’6” x 11’) on the residence.

Chairperson Cardone: Our first applicant this evening Brian Agnew.

Ms. Gennarelli: The Public Hearing Notices for all the new applications being heard this evening were published in the Mid-Hudson Times on Wednesday, February 18th and in The Sentinel on Friday, February 20th. This applicant sent out forty-two letters. All the mailings, publications and postings are in order.

Mr. Agnew: I’m Brian Agnew I’m here to request three variances so that I may add a small bathroom to my master bedroom and I brought with me my architect Steve Whelan who has the plans.

Chairperson Cardone: Okay, you could put those up over there if you like.

Ms. Gennarelli: And there is another microphone over there too.

Mr. McKelvey: You can take it off.

Ms. Gennarelli: You can take it off if it’s not tall enough or we could make it taller.

Mr. Manley: The property is currently on septic or Town sewer?

Mr. Agnew: Septic.

Mr. Manley: And how many bedrooms are presently in the residence?

Mr. Agnew: Two.

Mr. Manley: And what size is the septic tank?

Mr. Agnew: I don’t know.

Mr. Whelan: Okay, I believe it’s sized, it’s existing for a two bedrooms.

Mr. Manley: Okay, do you have something that shows exactly what size the septic is and that it’s sized properly for the house?

Mr. Whelan: I could do a little research with the Town, I can look through my files just to see what was on record for the existing tank a…I believe it was replaced a…several years ago so it’s…I’ll see what information I can find it but I believe it’s two…it’s for two bedrooms.

Mr. Agnew: Would an invoice from the company that pumps it have that information on it?

Mr. Manley: I’m not sure about that.

Mr. Agnew: Because I do have something like that.

Mr. Manley: Do…do you a…where’s the leech field for the property?

Mr. Whelan: On the site plan I believe it’s on the north west side.

Mr. Manley: Near the new addition for the a…the porch? That would be on the…is it on the porch side or the opposite side?

Mr. Whelan: It’s on the opposite side because this would be the existing screened in porch…

Mr. Manley: Okay.

Mr. Agnew: That’s where my lawn is.

Mr. Whelan: The shaded area is where the addition is going and then this I believe, is where the leech fields are.

Mr. Manley: Okay.

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

No response.

Mr. Agnew: The occupancy of the house is not going to change it’s just going to be where waste is generated so I’m not sure if it either matters whether a…I mean I don’t think I’d be taxing the septic in a new way, that’s my point.

Mr. Scalzo: The home is two bedroom existing correct?

Mr. Agnew: That’s right.

Mr. Scalzo: Do you also have a study?

Mr. Agnew: No, my bedroom had been a study.

Mr. Scalzo: Okay.

Mr. Scalzo: So originally it was a single…a single bedroom?

Mr. Agnew: No it was built as a two bedroom; the woman I bought it from used it as a study because she did not need a second bedroom.

Mr. Scalzo: I understand. Thank you.

Mr. Agnew: There a closets in each of the two rooms suggesting they were built to be bedrooms, yes.

Mr. Manley: Is there still an outstanding electrical inspection from the last a…Building Permit that you had open?

Mr. Agnew: It was completed and I’m going to bring that tomorrow. I did not realize that my contractor had not gotten a Permit for the electrical sub-contractor so I did have the final inspection which passed using one of your approved inspectors and I’ve had the electrical sub-contractor fill out the request for a Permit retroactively so I have both those things.

Mr. Scalzo: Is your intent…your plumbing…is the connection in the basement or actually running in a new line out to the tank with a Y split?

Mr. Agnew: Basement. Through that part of the house it’s actually a crawl space but…

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

No response.

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

No response.

Mr. Donovan: If I may? How far behind your house or where the proposed addition is going to be…how close is the nearest house?

Mr. Agnew: The property line I think may be…

Mr. Whelan: Yeah, we’re going to be about twelve feet from the new addition to the property line.

Mr. Donovan: Right, so I’m interested in from there…

Mr. Agnew: The house is about twenty feet beyond that, the apartment house is like twenty feet beyond that and I’ve already started to put in…if you drove by you might have seen evergreens between a…that side of my house and the apartment house.

Chairperson Cardone: If there are no further questions do we have a motion to close the Public Hearing?

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

Mr. McKelvey: I’ll second it.

Mr. Agnew: Does that mean it’s done?

Ms. Gennarelli: Roll call.

 Richard Levin: Yes

 Michael Maher: Yes

 James Manley: Yes

 John Masten: Yes

John McKelvey: Yes

 Darrin Scalzo: Yes

 Grace Cardone: Yes

Chairperson Cardone: Thank you.

Ms. Gennarelli: That means that the Public Hearing is closed. They didn’t vote on the variance yet.

 (Time Noted - 7:11 PM)

ZBA MEETING – FEBRUARY 26, 2015 (Resumption for decision: 7:49 PM)

BRIAN AGNEW 7 FAIRVIEW LANE, NBGH

 (83-2-10.2) R-1 ZONE

Applicant is seeking area variances for the minimum rear yard setback, the maximum lot building coverage and the maximum lot surface coverage to build a rear addition (5’6” x 11’) on the residence.

Chairperson Cardone: Okay, let’s go to our first application. Brian Agnew, 7 Fairview Lane, this is a Type II Action under SEQRA. Do we have discussion on this application?

Mr. Manley: The only thing I would like to see is before a…the applicant be allowed to move forward on his next project that the other project gets closed out with all the inspections. I think that a…they’re just waiting for the Electrical Inspection and the C.O. for the prior variance and the prior building permits. We could condition that Dave?

Mr. Donovan: Yeah, it wasn’t clear from the testimony before, did he indicate that he had done that. Are you aware of that Jerry or…?

Mr. Agnew (Mr. Canfield): He did indicate that it had been taken care of although I’m not prepared to comment on that. I don’t know if that’s factual.

Ms. Gennarelli: I am he had the electrical inspection by the electrical inspector but not a final by Mr. Campbell.

Mr. Canfield: Okay.

Mr. Donovan: My suggestion then, if the Board is inclined, is that the…not that he necessarily has to…we wouldn’t word it he has to complete one before he gets the variance but the variance is conditioned upon resolution of any outstanding issues regarding the property, any open permits need to be closed out.

Mr. Canfield: That’s acceptable, yes and that could easily be done.

Mr. Manley: With that I would be willing to make a motion that the applicant be granted the variance with the condition that any current open issues with the Code Compliance Department being closed.

Mr. Scalzo: I'd second that.

Ms. Gennarelli: Roll call.

 Richard Levin: Yes

 Michael Maher: Yes

 James Manley: Yes

 John Masten: Yes

John McKelvey: Yes

 Darrin Scalzo: Yes

 Grace Cardone: Yes

Chairperson Cardone: The motion is carried.

PRESENT ARE:

 GRACE CARDONE

 RICHARD LEVIN

 MICHAEL MAHER

 JAMES MANLEY

 JOHN MASTEN

JOHN MC KELVEY

 DARRIN SCALZO

ALSO PRESENT:

 DAVID A. DONOVAN, ESQ.

 BETTY GENNARELLI, ZBA SECRETARY

 GERALD CANFIELD, CODE COMPLIANCE

 (Time Noted – 7:52 PM)

ZBA MEETING – FEBRUARY 26, 2015 (Time Noted – 7:11 PM)

ROBERT & FRANCES REID 236 LAKESIDE ROAD, NBGH

 (52-9-5) R-1 ZONE

Applicant is seeking area variances for increasing the degree of non-conformity of one side yard setback and the combined side yards setback to keep the prior built rear addition.

Chairperson Cardone: Our next applicant Robert and Frances Reid.

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

Ms. Reid: Hi, I’m Frances Reid, it’s an area variance that we’re seeking and we’re looking for relief from increasing the side yard non-conformity due to raising the roof approximately a foot.

Chairperson Cardone: And I have the report from the Orange County Department of Planning which is Local Determination. There’s no other change other than raising the roof one foot, correct?

Ms. Reid: Right.

Chairperson Cardone: And the construction was already started or it looked like it was under construction?

Ms. Reid: It was a repair that snowballed, yes.

Mr. Scalzo: Is there anyone currently living in the residence?

Ms. Reid: No.

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

No response.

Chairperson Cardone: Any other questions from the Board?

No response.

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

Mr. Scalzo: I’ll second the motion.

Ms. Gennarelli: Roll call.

 Richard Levin: Yes

 Michael Maher: Yes

 James Manley: Yes

 John Masten: Yes

John McKelvey: Yes

 Darrin Scalzo: Yes

 Grace Cardone: Yes

Chairperson Cardone: Thank you.

 (Time Noted - 7:15 PM)

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ZBA MEETING – FEBRUARY 26, 2015 (Resumption for decision: 7:52 PM)

ROBERT & FRANCES REID 236 LAKESIDE ROAD, NBGH

 (52-9-5) R-1 ZONE

Applicant is seeking area variances for increasing the degree of non-conformity of one side yard setback and the combined side yards setback to keep the prior built rear addition.

Chairperson Cardone: On the application of Robert and Frances Reid, 236 Lakeside Road, this is for an area variance for increasing the degree of non-conformity of one side yard setback and the combined side yards setback to keep a prior built rear addition. This is a Type II Action under SEQRA. Do we have discussion on this application?

Mr. Scalzo: I think when it is completed it’s probably going to look better than what was there originally. I would make a motion for approval if no one else has any other comments.

Mr. McKelvey: I'll second that.

Ms. Gennarelli: Roll call.

 Richard Levin: Yes

 Michael Maher: Yes

 James Manley: Yes

 John Masten: Yes

John McKelvey: Yes

 Darrin Scalzo: Yes

 Grace Cardone: Yes

Chairperson Cardone: The motion is carried.

PRESENT ARE:

 GRACE CARDONE

 RICHARD LEVIN

 MICHAEL MAHER

 JAMES MANLEY

 JOHN MASTEN

JOHN MC KELVEY

 DARRIN SCALZO

ALSO PRESENT:

 DAVID A. DONOVAN, ESQ.

 BETTY GENNARELLI, ZBA SECRETARY

 GERALD CANFIELD, CODE COMPLIANCE

 (Time Noted – 7:53 PM)

ZBA MEETING – FEBRUARY 26, 2015 (Time Noted – 7:15 PM)

MICHAEL & JOANNE WRIGHT 16 ACORN DRIVE, WALLKILL

 (4-1-56.3) R / R ZONE

Applicant is seeking an area variance for an accessory structure closer to the fronting street than the main dwelling to build an accessory building (12 x 20 shed).

Chairperson Cardone: Our next applicant Michael and Joanne Wright.

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

Chairperson Cardone: You can take that off. You can take the microphone off.

Ms. Wright: I’m going to speak, it’s Joanne Wright.

Chairperson Cardone: Okay.

Ms. Wright: We’re looking for a front yard area variance for a 12 x 20 accessory building.

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

Mr. Levin: Ms. Wright is there any reason you’re putting that in front of your house.

Ms. Wright: Due to the layout of our property, we’re at the end of a private road so we’re at the top of the hill so I don’t know if someone came out.

Chairperson Cardone: I should have mentioned we do visit all of the properties and yes, I was there.

Ms. Wright: So, the layout of our property we can’t put it anywhere else we have our septic tank, the leech field and at the top of the property there is no room to even put a shed up there so it’s down on the lower part of the woods.

Mr. Levin: What do you tend to use it for?

Ms. Wright: We’re going to store our boat in it.

Mr. Manley: Will there be any electric in the shed?

Ms. Wright: No, there won’t.

Chairperson Cardone: Do we have any questions or comments from the public? Could you please step up to the microphone?

Mr. Dovikin: Which microphone?

Chairperson Cardone: Either one it doesn’t matter and identify yourself for the record.

Mr. Dovikin: Yes maam, good evening my name is Robert Dovikin. My wife Maria is seated in the rear. I am the resident and we are the residents and owners of 10 Acorn Drive. I’ve lived at 10 Acorn Drive for the last twenty-five years. Regarding Michael and Joanne Wright application for an area variance to erect the accessory structure, my wife and I have worked very hard to landscape our property and create a park like setting. My concern with their application is that I believe they have planned the structure back approximately twenty feet from the edge of their driveway which would result in an eyesore as we view the accessory structure both from our picture window and also from our front patio. While I would prefer no accessory structure at all next to my home, a compromise would be to set the structure back so it does not extend past the frontage of our home. This compromise would allow the Wrights to erect a structure while preserving the view we…I’ve enjoyed for the past twenty-five years. And if it pleases the Board I have a series of pictures that will a…illustrate my words.

Chairperson Cardone: I’d like to see that.

Mr. Dovikin: Yes maam, I have two sets right there and they are labeled on the rear and on the front is an index.

Mr. Dovikin approached the Board

Mr. Dovikin: The first picture number one is Acorn Drive, that’s a southeast view and that’s actually coming up the private road.

Chairperson Cardone: Right. Where the garbage pail is there…that’s the area that…that looked like it was…had been plowed?

Mr. Dovikin: Yes maam.

Chairperson Cardone: It’s kind of like a turnaround?

Mr. Dovikin: Yes maam.

Chairperson Cardone: Okay.

Mr. Dovikin: That it…I believe they want to erect the accessory structure…it’s going to be directly behind that setback as I said approximately twenty feet from the plans I took a look at over at the a…Building Department. Picture number two a…is a view from the…our front window and it is a view across the frontage of our home directly into the a…over the fence and into the area where you would a…where they would erecting the accessory structure. View number three, picture number three, is a view directly out our…we have a picture window approximately I’d say about five by five feet maybe a bit larger with two Anderson side windows on it. View number three is out the east window, it’s an east view and that’s primarily the view I’m concerned about. Picture number…picture number four is actually a north view out of our picture window. Picture number five is a west view out of the side window also from our picture the two windows on either side that’s the west view. Picture number six is the location I believe that they are applying for to erect the accessory structure. Picture number seven is the proposal I am making that the…that is looking over our fence to an area where they could erect the accessory structure. Picture number eight is a southeast view of that and then I could stand here all day long and tell you I’ve done landscaping but pictures nine, ten and eleven really illustrate the amount of work I’ve put into our property. We’ve a…erected a fence, we’ve laid down approximately at least twenty, twenty-five yards of three quarter inch blue stone to landscape and manicure around so a…you know, the weeds and brush don’t grow right up to the road. You might notice a small bench, just various landscaping my wife and I have tried to get our property squared away. As I said, I’m not looking to deny the Wrights permission to erect the structure. I’m simply asking that it be to the rear of the frontage so that they can have their structure and I can still have the view that I’ve enjoyed for twenty-five years.

Mr. McKelvey: Is that possible?

Ms. Wright: Yes.

Mr. Wright: Yeah. (Inaudible)

Chairperson Cardone: Look…looking at this…

Ms. Wright: Well…

Chairperson Cardone: …excuse me, could you just come up and look at this picture here?

Ms. Wright and Mr. Wright approached the Board

Chairperson Cardone: Is this your house?

Ms. Wright: Yes.

Chairperson Cardone: And, you’re going to…

Ms. Wright: You have these photos that I submitted correct? (Inaudible) In here it would be setting back here and you have the other photos that I submitted to you.

Chairperson Cardone: Right. These are the ones that we have.

Ms. Wright: Right I gave a packet of photos for the set…looking down our property…

Mr. Donovan: Maam, you need to use the microphone because it’s being recorded and show…show the Board Members. I’m the least important person up here.

Ms. Wright: So, looking down our property and I know this is in the packet I submitted basically the shed is…the shed is sittin’ back in here. So if you see during the spring, summer and fall their house is sittin’ here. They’re not gonna see that shed. In the wintertime you would see it but it’s a very nice building. It’s not something someone is just throwing up and I also a…put a photo in of the building. So now in the spring and summer and fall basically it’s hidden back here in the wood. Their house is here, it’s sittin’ back.

Chairperson Cardone: This picture right here…approximately where is it?

Ms. Wright: See that stake back there, it’s right there. That’s the front of the shed. There’s probably in here…so it’s sittin’ right back here and if you get a better look at this one...okay here you would see it’s sittin’ back here that’s the front but in like I said in the spring, summer and fall you’re not gonna see that shed there.

Mr. Dovikin: Then if I may address that?

Chairperson Cardone: Yes.

Mr. Dovikin: While of course there is the blooming of foliage throughout the spring, summer and fall still and all I mean I’m looking at May, June, July, August, September by October the leaves are coming down so anywhere from five to six months if the shed is put up that once again I believe that would be an eyesore to my view. So basically I…I understand that would be foliage masking it for a period of the year. However for the approximately other half of the year it wouldn’t be masked and quite honestly we enjoy the winter view. We…we enjoy the deer in our…in our area, we enjoy seeing a blanket of snow even though it’s a headache to move around off the driveway and street. You know, I…I still…I would prefer not to view that and as I said a compromise would be to set the shed back so that the front of the shed would not extend past the frontage of our home. Then the only thing I would view is the roof over my top of my fence and a view from a bathroom window which is miniscule. That’s trifling, I don’t care about that. What I do care about is the view from our front picture window and I would simply ask the Board to strongly consider a compromise in this matter.

Mr. McKelvey: That’s why I asked if it was possible.

Mr. Wright: Yes, sir.

Mr. Maher: What…what…the pad that is there…the gravel pad that’s there now…

Ms. Wright: Yes.

Mr. Maher: …you currently put your boat there?

Ms. Wright: And we do have to add stone just to bring that pad back a little more so.

Mr. Scalzo: What your neighbor is asking for as far as pushing it back goes…how much further beyond the stone that’s in place now are we talking about?

Ms. Wright: I’m trying to think. I’m trying to picture it right now; I don’t…maybe fifteen, twenty feet more…

Mr. Scalzo: Do you agree with that sir?

Mr. Dovikin: Sir, as long as it does not pass…this is the front of my home, as long as the front of that shed does not pass the front of my home I have no issue whatsoever.

Mr. Donovan: So…so, I think we’re going to need to have some sort of objective standard in front of the Board. We have, in front of us tonight a survey that’s been a…hand drawn, I presume by the applicant, showing the distance from the…top of the private road. I think we need to…if it’s going to be moved, we need to identify exactly where it is, because pointing at a picture to say I’ll put it here is okay I…I…you know…

Mr. Maher: Well looking at the…looking at the…picture number two I think it would be considerably further back than you think there because…

Ms. Wright: That’s what I’m thinking now too.

Mr. Maher: I’m looking at probably, I would say probably thirty or forty feet just in front of the house plus twenty foot of shed so you’re probably in the fifty or sixty foot range to move it back to the back of the shed to make it work if in fact that’s what you decide to do.

Mr. Wright: So if we agree to move the front of the shed parallel with the front of his front yard it would be applicable?

Mr. Maher: Well I think our attorney has obviously identified the fact that you’d have to have something on paper as far as a…a…an actual distance that you’re going to move back or…

Mr. Donovan: Because what’s going to happen is you’re going to apply for a permit, Code Compliance is going to go out, they’re going to look at our decision, they’re going to want to know where exactly the shed can be placed. And I think you are going to want to have dimensions Jerry, as opposed to you know, some…some kind of more ambiguous…

Mr. Canfield: Yes, I agree with you whole heartedly. I would prefer to see an exact location on a plot similar to what you’ve done but whatever the Board should choose to approve I think in all fairness and for ease of enforcement we have a map where this is going to be and there is no guesswork for anyone and it’s depicted as it’s to be constructed on.

Mr. Scalzo: A…looking at the survey map that was a…produced as part of the package, you know it’s possible that the iron pin that is set at the a…property corner that’s at the end of the radius for…for the cul-de-sac, do you know where that relates to the front of your house? Because if we could just say that we’re going to…

(Inaudible)

Mr. Scalzo: This pin here.

Mr. Dovikin: Inaudible

Chairperson Cardone: Please use the microphone.

Mr. Dovikin: Yes sir, I…I know where that pin is set. That is the termination of the radius against…against my fence. I would a…that…that would be acceptable to both my wife and myself, sir.

Mr. Scalzo: So, okay, you just helped me out tremendously. That pin is very near the end of the a…PVC fence you have up?

Mr. Dovikin: It’s about twenty-five feet down but that pin is there, that…that…that is a definitive marker. In fact I think the Wrights have it clearly marked out.

Mr. Scalzo: Okay and since you’re here I have to ask a…the above ground pool that’s shown on this to be six tenths over into they’re lot as well as the…your landscaping ten feet into their lot but this is a survey from 2012. Is that still there?

Mr. Dovikin: Negative. That was completely adjusted. The pool was moved back fifteen feet off the property line; the fence is in total compliance. It’s been inspected. In fact there was a complaint issued which was answered out. Everything is copacetic in a…in regards to a…to the applicable New York State laws.

Mr. Scalzo: Thank you.

Mr. Dovikin: All squared away.

Mr. McKelvey: I think as Jerry says, you’re going to have to have some kind of a plan because when they inspect it they’re going to have to meet that plan.

Mr. Donovan: South of the iron pin is probably not good enough, right Jerry?

Chairperson Cardone: Right.

Mr. Maher: I mean…I mean obviously…

Mr. Donovan: As the stake goes…or…

Mr. Maher: …you know…

Mr. Scalzo: If he had a…Mr. Dovikin, if he had…his survey, his house would be shown in relation to that pin as well so if…if he could produce his, you may have…we may save these folks a trip is where I’m going…a…

Mr. Maher: Inaudible

Mr. Scalzo: Oh, I understand.

Mr. Dovikin: I’m not exactly privy and in tune to like various architectural designs and code enforcement. That pin, I know where it is, if…if you shot straight off that pin ninety degrees and that was the frontage of their accessory structure that would be acceptable to myself and my wife.

Mr. Maher: Right but…but part of the problem is ninety degrees to what?

Mr. Dovikin: Right, ninety degrees…

Mr. Maher: Obviously, obviously you’re perpendicular to the property line. The only thing really that’s…that can be taken, you know, would be the edge of the driveway obviously so…if you had a measurement that was off the edge of the driveway that’s paved obviously currently now that you could agree with that you could actually provide the Board with that would be the…you know, the distance that you’re both looking for to make it work for both of you that’s really what you’re going to need to have so that Jerry can obviously measure off to make sure that it’s in the right location and it’s not an issue in the future.

Chairperson Cardone: Was there a reason you chose that particular location?

Ms. Wright: With the layout of our property that’s the only choice we have.

Chairperson Cardone: I don’t…I don’t mean as far as I can see the back of your property you wouldn’t be able to a…but I’m saying at that particular…rather than move…rather than having moved it back further?

Mr. Wright: We…if we have to we will move it back, the further back you go the more…

Ms. Wright: The more trees.

Mr. Wright: …you have tree that have to come down.

Ms. Wright: (Inaudible) disrupt that.

Mr. Wright: Cost.

Chairperson Cardone: Right.

Ms. Wright: The stone and stuff.

Mr. Wright: If it’s an issue we’ll…we’ll put it where, you know, it…it’s being feasible for both of us.

Chairperson Cardone: So Darrin according…you’re saying that it should be flipped but what is the…as I look at it the…the back would be where the front of the shed would be?

Mr. Scalzo: You know it could be close Grace. It’s a…it’s very difficult if you were to lay a ninety degree angle on the property line between the two properties and…and come perpendicular from that iron pin set but it’s very difficult to…without a surveyor laying it out…

Chairperson Cardone: Right.

Mr. Scalzo: …it’s very difficult for these folks to actually do it as well.

Mr. Donovan: If I could just point out another issue I mean, they’ve done in terms of the application the best they can but we have photocopy of a survey with hand drawn notations so when you photocopy a survey you don’t know that the scale is exactly the same anymore. I’m sure you’ve done your best to calculate it based upon the fifty scale but that may or may not be accurate.

Mr. Scalzo: And if we were to be consistent with what we a…encountered last month we’d a…almost need a professional to sketch it on there and the…

Mr. Donovan: Well I…I mean relative to that issue you’re trying to figure out what’s east and what’s north, right or what was nearest to the street, I mean I think that the issue is a little bit different. I think you do have a little leeway because historically we…we have taken surveys like this so if you say, you know, plus or minus twenty-three feet from a certain point and twelve from another but I...I do think if the Board is inclined to see it a new modification to the location you’re better off seeing it re-drawn on the survey even if it’s drawn by hand.

Mr. Maher: Well, I…I mean if…if the applicant and Mr. Dovikin can come to an agreement as to where the stakes should be and then measure off the edge of the paved driveway that should be enough to warrant where the shed goes, I mean without the expense of going through a survey to plot a…a shed. I mean there’s no side yard setback issues obviously, the only issue is how far off the driveway it is so it doesn’t damage his view and they’re in agreement that it can go there. I think that should be, in my opinion, more than enough to…to set the location off the driveway. If it’s fifty feet, sixty feet whatever the distance is to the front of the shed I…the side doesn’t make a difference because there’s no…there’s no issues as far as setbacks go.

Mr. Dovikin: I’m amenable to that you know, if it’s just a simple matter of pacing off back down what they’ve already have…have laid out and then just simply looking probably ninety degrees looking at my home. I mean it doesn’t have to be exactly. I…I was looking at my frontage as it just being a good guide point for someone to see but obviously one does not look out a window by putting their body on looking ninety degrees. If I just don’t have it in my general field of vision I have no issue with that. I would just prefer it not to be in my field of vision where I look out and I would glance at it constantly. If it’s off to the side ninety degrees whatever even closer that’s no problem. I don’t…I don’t want to see people have to spend extra money for professional services when we can sit and we just pace it off. You know, if it was set back and we can stand there and just look right over I can see my windows and I can see my view a reverse angle that’s fine with me.

Chairperson Cardone: In that case, it would probably be best to leave the Hearing open and a…during…and then you can work it out and bring back a drawing that would you know reflect exactly…

Inaudible

Chairperson Cardone: …right.

Mr. Scalzo: Just off the edge of the paved driveway which…that you both can agree upon then that would be fantastic.

Ms. Wright: We could probably do that on that paper.

Mr. Maher: Yeah, I mean it’s just a question of pacing off the a…you know, if it’s again, forty, fifty, sixty feet off the driveway to the front of the shed and you’re in agreement to that, that’s basically all we need. Something to put in the record that you know, that the Building Department is able to…to review and… and a…insure it’s in the right location.

Inaudible

Ms. Gennarelli: Can you just talk into the microphone?

Mr. Wright: Sorry, I could do it on to scale like I did on that one or will I need it to be like engineered or be done professionally?

Mr. Maher: I mean hand drawn on the…on the…you know I mean you’ve got an actual survey here so I don’t see and issue…hand drawn…

Mr. Donovan: Yeah, I think you’d hand draw it with an indication plus or minus.

Mr. Wright: Yes sir.

Mr. Manley: And how many feet you’re going back from the paved driveway.

Mr. Wright: Well…

Ms. Wright: We measured from the stakes.

Mr. Manley: Okay.

Ms. Wright: That one has…was measured from the actual pins in the ground because we had that property surveyed so they’re…the pins our surveyor put in the ground.

Mr. Manley: Okay, so just go back from that pin there how many feet you’re going back you all agree on and then this way if you know…if it’s thirty-five, forty feet then just put that on there and we’ll be able to rule on it.

Mr. Scalzo: You may be able to pull a perpendicular offset from your neighbors fence then you know it’s probably near the property line a…plus or minus a foot so that would, you know and you could put a plus or minus distance.

Mr. Dovikin: The only issue with a perpendicular offset is the fact that the fence curves there so the offset would actually be an angle it wouldn’t…it wouldn’t be like a real good angle there.

Mr. Maher: But you’re going plus or minus a couple of feet.

Mr. Dovikin: Oh, that’s true, that’s true too.

Mr. Maher: I mean you got again; you’re not that close to the side yard so there’s no issue as far as setbacks go.

Mr. Scalzo: It’s just for placement.

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

Ms. Gennarelli: I’m sorry, who was the second?

Mr. Maher: Second.

Ms. Gennarelli: Thank you Mike. Roll call.

 Richard Levin: Yes

 Michael Maher: Yes

 James Manley: Yes

 John Masten: Yes

John McKelvey: Yes

 Darrin Scalzo: Yes

 Grace Cardone: Yes

Mr. McKelvey: You won’t have to re-notify anybody.

Mr. Donovan: So…so the Hearing is held open to March, so there’s no notifications but you should submit something that hopefully you have agreed to with your neighbor and then the Board can take action at the March meeting, the fourth Thursday of March.

Ms. Gennarelli: March 26th.

Mr. Donovan: And it’s going to be sixty-five degrees that night.

Mr. Dovikin: Yes maam, that’s entirely acceptable and I’ll contact them and we’ll work it out prior to that. Thank you.

Chairperson Cardone: Thank you.

Mr. Wright: Thank you.

PRESENT ARE:

 GRACE CARDONE

 RICHARD LEVIN

 MICHAEL MAHER

 JAMES MANLEY

 JOHN MASTEN

JOHN MC KELVEY

 DARRIN SCALZO

ALSO PRESENT:

 DAVID A. DONOVAN, ESQ.

 BETTY GENNARELLI, ZBA SECRETARY

 GERALD CANFIELD, CODE COMPLIANCE

 (Time Noted - 7:40 PM)

ZBA MEETING – FEBRUARY 26, 2015 (Time Noted – 7:40 PM)

ANTHONY VELITA 10 BROOKSIDE AVENUE, NBGH

 (71-5-23) R-3 ZONE

Applicant is seeking an area variance for increasing the degree of non-conformity of one side yard setback and the combined side yards setback to keep the Prior Built side deck (6’ 8” x 12’) on the residence.

Chairperson Cardone: Our next applicant Anthony Velita.

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

Mr. Velita: Good evening guys, ladies and gentlemen, I’m here today because I have a variance to just increase the deck.

Ms. Gennarelli: Could you just bend it (the mic) down a little bit or get closer. Thanks.

Mr. Velita: All right, I just want to increase the deck, the degree, we have a just as there built before.

Chairperson Cardone: Was this replacing an existing deck or was it a new construction.

Mr. Velita: No, it’s the same deck, it’s just increase a little like five feet from the…just the regular deck right there.

Chairperson Cardone: And when was this deck constructed?

Mr. Velita: It was a like last…two years ago that’s all. The really…the reason why I do the deck is for my mom cause she was a handicap so that’s the reason we had to do the…you know, the railing…

Chairperson Cardone: Right, I noticed.

Mr. Velita: …it went around to the scooter so that’s the reason why.

Chairperson Cardone: Do we have any questions or comments from the public? And also the report from the Orange County Department of Planning is Local Determination.

Mr. Knapp: My name is Roe Knapp and I live at 8 Brookside Avenue which is adjacent to Anthony’s house and I keep hearing the word additional in there and it was in the plot plan and I just want to make certain that there’s no new construction going on here, this is just to get the C.O. for the deck as it exists right now.

Chairperson Cardone: Yes, this was a prior built but it was a…

Mr. Velita: (Inaudible)

Mr. Knapp: So there is no new construction going on?

Mr. Velita: No.

Mr. Knapp: Okay, bye now, then I’m happy, thank you very much.

Chairperson Cardone: Okay.

Mr. Velita: Just one thing, a…neighbor…neighbor…just one thing, I just want to let you know something. The ramp…the ramp, okay, the deck and the ramp is the same thing it’s just the wood, we have to replace it because…since with the a…with the rain, you know, all the wood it getting older, you have to replace. I mean, it’s nothing else. That is part the worse come for my mom, she happy for it and that’s a…the permit (Inaudible) what I do right now, I’m here. So it’s not that…nothing you know, is going to be changed it’s just the same, it’s just replace the wood for safe for my mom. That’s about it; I just want to let you know.

Mr. Knapp: That’s fine, that’s my concern that it was not going to be expanding over…

Mr. Velita: Oh, no.

Mr. Knapp: …into or anything like that.

Mr. Velita: No.

Mr. Knapp: No roof or anything.

Mr. Velita: No.

Chairperson Cardone: Facing the house, you’re on the left?

Ms. Gennarelli: Jerry, could you just give him the microphone? Thanks.

Mr. Knapp: Yes, facing his house I’m on the left. My backyard is in his side yard correct.

Chairperson Cardone: Okay. Mr. Canfield?

Mr. Canfield: If I may, just to clarify. There’s an existing ramp that’s there which there was a permit given for.

Mr. Velita: Yes.

Mr. Canfield: And there’s an exception in the Code 185-18 that exempts handicap ramps from side yard setbacks. It was during a inspection of that ramp that it was discovered that there was the additional portion of the deck that was put on which does not allow for that credit of that exemption. The exemption only applies to the handicap ramp, the landing and the entranceway into the structure so the applicant has extended that and that’s what’s before you. But also I’d like to clarify though that that existing ramp do to the construction and the quality of materials used is being rebuilt in its exact same footprint. Correct?

Mr. Velita: Yes.

Mr. Canfield: Okay. Just so we’re clear on what…what the variance is for.

Chairperson Cardone: Thank you.

Mr. Velita: Just you know I mean the variance for the replace the deck I don’t know maybe it’s a want to be maybe iron or metal because regard the about the snow, you know, weather is you need a like a you know something strong because you know right now it’s wood and all the woods you go coming up, lifting up, I mean that that’s why.

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

Mr. Levin: How much larger is the deck than it was originally?

Mr. Canfield: The back portion of it along the house is…

Mr. Maher: Six foot eight was the increase.

Mr. Velita: Yes, it’s fine.

Mr. Canfield: By twelve.

Mr. Velita: By twelve.

Mr. Maher: Right by twelve. The six foot eight side would come out which caused the issue with this.

Chairperson Cardone: Is there any other questions from the Board? Do we have a motion to close the Public Hearing?

Mr. Masten: I’ll make a motion.

Mr. Maher: Second.

Ms. Gennarelli: Is that Mike again?

Mr. Maher: Yes.

Ms. Gennarelli: Thank you. Roll call.

 Richard Levin: Yes

 Michael Maher: Yes

 James Manley: Yes

 John Masten: Yes

John McKelvey: Yes

 Darrin Scalzo: Yes

 Grace Cardone: Yes

Chairperson Cardone: Thank you.

Mr. Velita: Thank you.

 (Time Noted - 7:47 PM)

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ZBA MEETING – FEBRUARY 26, 2015 (Resumption for decision: 7:53 PM)

ANTHONY VELITA 10 BROOKSIDE AVENUE, NBGH

 (71-5-23) R-3 ZONE

Applicant is seeking an area variance for increasing the degree of non-conformity of one side yard setback and the combined side yards setback to keep the Prior Built side deck (6’ 8” x 12’) on the residence.

Chairperson Cardone: Okay, the Wright application was held open so we’ll go on to Anthony Velita, 10 Brookside Avenue, seeking an area variance for increasing the degree of non-conformity of one side yard setback and the combined side yards setback to keep the Prior Built side deck (6’ 8” x 12’) on the residence. This is a Type II Action under SEQRA. Do we have discussion on this application?

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

Mr. Levin: Second it.

Ms. Gennarelli: Roll call.

 Richard Levin: Yes

 Michael Maher: Yes

 James Manley: Yes

 John Masten: Yes

John McKelvey: Yes

 Darrin Scalzo: Yes

 Grace Cardone: Yes

Chairperson Cardone: The motion is carried.

PRESENT ARE:

 GRACE CARDONE

 RICHARD LEVIN

 MICHAEL MAHER

 JAMES MANLEY

 JOHN MASTEN

JOHN MC KELVEY

 DARRIN SCALZO

ALSO PRESENT:

 DAVID A. DONOVAN, ESQ.

 BETTY GENNARELLI, ZBA SECRETARY

 GERALD CANFIELD, CODE COMPLIANCE

 (Time Noted – 7:54 PM)

ZBA MEETING – FEBRUARY 26, 2015 (Time Noted – 7:47 PM)

JOHN & CAROL HUDELSON 200 OAK STREET, NBGH

 (9-3-50.11) R-3 ZONE

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

Chairperson Cardone: The next item on the agenda was John and Carol Hudelson and I have a letter here.

At your January meeting, several Board members indicated that they would find it helpful to see a survey of our land, where we are requesting a height variance for a stone accessory building. Since that meeting, we have made repeated phone calls to several local surveyors, leaving messages and sending emails, but we not yet had a conversation; therefore, we have not been able to learn when we can schedule a survey or how long the process is likely to take. No doubt the heavy snowfall of recent weeks has been a factor in delaying surveyor responses. We ask that the Board hold our hearing open and allow us to request an available time on a future agenda when we are ready to return. Thank you again for your time and attention. Sincerely yours, Carol Pauli Hudelson

Chairperson Cardone: Do we have a motion to hold that Hearing open until next month?

Mr. McKelvey: So moved.

Mr. Levin: I’ll second it.

Ms. Gennarelli: Roll call.

 Richard Levin: Yes

 Michael Maher: Yes

 James Manley: Yes

 John Masten: Yes

John McKelvey: Yes

 Darrin Scalzo: Yes

 Grace Cardone: Yes

Mr. Donovan: And if could just to be clear? It seems like their letter indicates they want it held open indefinitely…

Chairperson Cardone: No.

Mr. Donovan: …and in fact the Board has determined it’s held open until March so…

Chairperson Cardone: Right.

Mr. Donovan: …they need to communicate or be here in March.

Chairperson Cardone: Right. If anyone else is interested in that application the date is March…

Ms. Gennarelli: 26th.

Chairperson Cardone: 26th. If anyone has any legal question for our attorney we can take an adjournment otherwise we can just continue on.

No Response.

PRESENT ARE:

 GRACE CARDONE

 RICHARD LEVIN

 MICHAEL MAHER

 JAMES MANLEY

 JOHN MASTEN

JOHN MC KELVEY

 DARRIN SCALZO

ALSO PRESENT:

 DAVID A. DONOVAN, ESQ.

 BETTY GENNARELLI, ZBA SECRETARY

 GERALD CANFIELD, CODE COMPLIANCE

 (Time Noted – 7:49 PM)

ZBA MEETING – FEBRUARY 26, 2015

END OF MEETING (Time Noted – 7:54 PM)

Chairperson Cardone: Everyone has the minutes or all those that do have the minutes from last month? Do we have any additions, deletions? Do we have a motion to accept the minutes?

Mr. McKelvey: I'll make a motion we accept the minutes.

Mr. Masten: I’ll second it.

Chairperson Cardone: All those in favor say Aye?

Aye - All

Chairperson Cardone: Opposed?

Mr. Manley: I abstain.

Chairperson Cardone: Is there any other business to come before the Board? I’d like to mention the conference, if anyone is interested in going all of the information is at the website for the New York Planning Federation. The dates are April the 12th through the 14th. And also everyone should have received a flyer from the Orange County Municipal Planning Community. There are several workshops that are being offered that would be of value to us.

Ms. Gennarelli: And there is a cutoff on the April one (NYPF) is March 13th is the cutoff on that.

Chairperson Cardone: And was there a cutoff date on the County?

Ms. Gennarelli: On the County one, a…from April 12th, 13th, 14th that’s the 13th of March. No more reservations after that.

Chairperson Cardone: That’s for the State.

Ms. Gennarelli: The New York Planning Federation.

Chairperson Cardone: I’m talking about the County.

Ms. Gennarelli: Okay, which county one?

Chairperson Cardone: We had a flyer.

Ms. Gennarelli: Oh, the flyer, no, no.

Chairperson Cardone: Okay. Is there any other business to come before the Board? Do we have a motion to adjourn?

Mr. Manley: So moved.

Mr. Masten: I’ll second it.

Chairperson Cardone: All in favor say Aye?

Aye All

Chairperson Cardone: Opposed?

No response.

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

PRESENT ARE:

 GRACE CARDONE

 RICHARD LEVIN

 MICHAEL MAHER

 JAMES MANLEY

 JOHN MASTEN

JOHN MC KELVEY

 DARRIN SCALZO

ALSO PRESENT:

 DAVID A. DONOVAN, ESQ.

 BETTY GENNARELLI, ZBA SECRETARY

 GERALD CANFIELD, CODE COMPLIANCE

 (Time Noted – 7:57 PM)