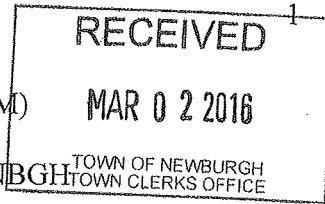


ZBA MEETING – FEBRUARY 25, 2016

(Time Noted – 8:23 PM)



SARA (EGAN) DAVIS

25 HOPEVIEW COURT, NBGH
(23-2-44.2) R-3 ZONE

Applicant is requesting area variances for the maximum height, the maximum allowed square footage of accessory structures, the maximum allowed four vehicle storage and shall not be closer to fronting street than the main building to build a three-car detached garage and pool house (36'6" x 52 x 21'6") on the premises.

Mr. Manley: The next applicant before the Board this evening is Sara Egan Davis, 25 Hopeview Court in Newburgh requesting area variances for the maximum height, the maximum allowed square footage of accessory structures, the maximum allowed four vehicle storage and shall not be closer to fronting street than the main building to build a three-car detached garage and pool house (36'6" x 52 x 21'6") on the premises. Ms. Gennarelli...

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

Mr. Manley: Thank you. Good evening. Okay could you share with the Board your...

Ms. Gennarelli: If you could just introduce yourselves for the record?

Ms. Davis: Sure, Sara Davis and my husband Muraah Davis.

Mr. Davis: Did you have a question first?

Ms. Gennarelli: Just to introduce yourselves and you did.

Mr. Davis: And we did, yes.

Ms. Davis: We did. I think you have the plans there. We're proposing to build a garage/pool house. The pool house portion would face our existing pool which was constructed last summer and then the garage would obviously be facing the street. We had originally bought our house on the existing lot; we bought the lot next door to us which is effectively the lot where the pool is. Before constructing the pool we did work with the Town to merge the two lots together and effectively this is the lot where the pool house or garage will be constructed.

Mr. Davis: The larger of the two lots.

Mr. Manley: Could you share for the record the amount of acreage that you have?

Ms. Davis: Sure, each lot...I don't know the exact but they're both about three quarters of an acre.

Mr. Davis: The existing one with our house on it that's I want to say point seven nine of an acre and then the other lot I believe it is point eight five something like that it's closer to an acre.

Mr. Manley: Okay.

Mr. Davis: But it is bigger than what the original site plan that we had.

Ms. Davis: And...and that lot where we're putting both the garage and pool house was already, part of it was already cut out for a house a...that was originally going to be built there.

Mr. Davis: We gave...I wanted to be thorough and what Mr. Fiola, the architect, so I had do duplicates of everything that...that we have so that the picture would be painted more clearer for everyone. It's already...it's a BOHA certified lot the...the lot that we merged together. It's got already an existing driveway cut through it so it is certified to be building on a...we just didn't want a house there. The a...it's already cut in also for a foundation hence the elevation changes. It's lower in the front on the street level and as you progress to the rear of it right before the swimming pool it goes up another, I want to say, four feet...four and a half feet. We haven't altered it at all before the swimming pool we just maintained it as far as with the grass cutting and weeds, pulling and everything else and garbage and whatnot.

Mr. Levin: The new building will have a three-car garage?

Mr. Davis: It's...it's going to be an open area inside. It's going to be basically like a barn you can fit up to about three cars in there, yes. If anybody came by our...our house, Ms. Betty told us that you guys would just to check the site out; there would be three cars on the driveway. I consider that an eyesore because it's out. I'm the only resident that has cars that are always fixtured on the...on the driveway so I wanted to just put those indoors so they wouldn't be an eyesore. They are not rust buckets they're all a...they're all registered and insured.

Mr. Scalzo: We were there. We're obligated to go and visit the properties.

Mr. Davis: Yeah, I'm glad you did, I'm glad.

Mr. Levin: How many cars do you have in the main home?

Mr. Davis: In the main home we have her vehicle and then I have two vintage BMW's which if I put them outside they would succumb to the moisture and everything. I've invested a lot of money and time through the years and I hope to pass them to my sons. So they stay in the two-car. We have an attached garage to the house. It's a one-car which is my wife's, to keep her happy closest to the house and then the double door has my two vintage BMW's there.

Mr. Donovan: But how many vehicles to propose to have all together?

Mr. Davis: As far as in the new space?

Mr. Donovan: Yeah, how many would you have all together on the property?

Mr. Davis: I would have that would be seen that would be three that would be inside the garage and the other two would just stay where they are inside the other garage.

Mr. Donovan: So there would be five in total then?

Mr. Davis: Yes, yes. The exterior of the new structure proposed would be conducive to the...the character of the neighborhood too. It's going to mimic my house or our house.

Mr. Manley: The one thing that this Board has to look at and that we have to weigh, the balancing test, you know this Board has an obligation to look at is the amount of square foot that the Town allows by Code which is a thousand square feet for any accessory structure and you're looking to put in a...one thousand eight hundred and ninety eight which is the size of a fairly large one family home. So basically it's pretty much the size of two one-family homes on that...on that property. So the variance that is looking to be granted is eighty-nine percent above what the Town allows. So we have to make sure that we balance out your needs versus what, you know, we can...what we can approve.

Mr. Davis: Mr. Manley, I totally understand where you are coming from. The reason why it is that size is also can bring everything out of that's not...that are not vehicles out of our garage...

Mr. Manley: Right.

Mr. Davis: ...to put inside there so that she has more space for the boys as well. Also on a personal level when we got this house we didn't have any children. She swindled me into occupying it and I've been moved to every a...they say man cave, they say my own space and everything else so I have been moved all over the residence and I was looking to have my own fixtured spot where I can just kind of destress from work and a...just hide away for a little while and everything else.

Ms. Davis: And additionally because it was a separate lot the size of the house, if you've been to the neighborhood, all...all of the houses are close to four thousand square feet...

Mr. Davis: Yeah, we actually have a smaller one.

Ms. Davis: ...so this structure is by far significantly a fraction of that a...so while when you're looking at it for purposes of the Code here if you think about it as what it was originally meant to be it's significantly smaller than that.

Mr. McKelvey: What's the square footage of your house?

Mr. Davis: My...our house is...

Ms. Davis: It's about thirty-eight hundred square feet and it's one of the...one of the smaller ones in the neighborhood.

Mr. Davis: Right, the residences that have the better river view those are five thousand square feet then they have the smaller estate homes which is on the top of the hill which have the vantage point those are, I want to say, probably twenty-two to twenty-five hundred square feet. Also for privacy as well because that's going to be shielding the a...the swimming pool from the road and when we had the swimming pool this year, this past summer, when we used that everyone that comes driving through on a Sunday afternoon they stop and watch us swim. It's kind of a...

Mr. Manley: Now it is going to be a two-story structure is there a way to bring the height down to minimize the variance of the...of the height itself? The Town allows for fifteen feet for...for height of an accessory structure...

Mr. Davis: Right.

Mr. Manley: ...and this is almost seven feet above that. Can you bring that down some so that...?

Mr. Davis: But Mr. Manley, it's only going to be a one...a one level structure if you look at the...

Mr. Manley: The back.

Mr. Davis: ...right at the back that's just for...for storage that's going to be on the top so I'm going to say that's probably going to be I think it's a hundred square feet if I'm correct. I don't remember off the top of my head and again there's...I do have to make a note of the...remind you of the elevation changes that's already there. They...Lennar Homes already dug that out for a...for a foundation and it's...goes up to, I want to say, probably about four feet. The level part that's the ground level that's actually hilly and I'd have to excavate that anyway to get it level so that would drop it down a little more as well. On the A-1 diagram it would show it better on the lower left hand it's a side view of the structure proposed.

Mr. Manley: Do any of the other Board Members have questions for the applicant?

Mr. Scalzo: We're also looking at a variance here for front yard?

Mr. Davis: It says that...

Mr. Scalzo: Yeah, it requires fifty a...well...

Mr. Davis: I thought it was forty, forty feet was the setback, sir.

Mr. Scalzo: A...it would be fifty to the main residence now this is...because this is an accessory building a...is that still applicable? I...I'm...

Mr. Donovan: Did you see a front yard Darrin? I did not see a front yard.

Ms. Gennarelli: It's a corner kind of it goes in front of the...

Mr. Scalzo: Corner doesn't.

Ms. Gennarelli: It's in the front of...the fronting the house remember...

Mr. Donovan: Oh, closer to the fronting street than the main building.

Ms. Gennarelli: ...fronting street than...it's not a front yard.

Mr. Davis: That be it Mr. Scalzo I understand your concern because I was made aware of that from the architect. Our house the furthest point or the point closest to the curb or to the setback would be fifty one feet and...

Mr. Scalzo: Fifty one feet, yes.

Mr. Davis: ...fifty one three feet and I believe that what you gentlemen or the Board allows is forty. Is it forty feet...for a structure?

Mr. Donovan: Well I think we have a situation given the...the way the house sits...

Mr. Davis: Right it can't...

Mr. Donovan: ...that...that...correct so you're going to have this proposed accessory structure can't be forward of the main house. So it's not a matter of how many feet it's a matter of where the garage is proposed to be located in relation to the house. Right?

Ms. Gennarelli: Because the road goes...

Mr. Donovan: Yeah, yeah.

Mr. Davis: Even then because of that it wouldn't...it would be by feet it would be like you said closer but it would be an optical illusion it wouldn't be pressed out farther because of the...the house is...the house we stay in is going to be further to the left hand side. It's going to be well over forty feet and I couldn't go back any more, any further because the swimming pool is there.

Ms. Davis: And again I think we're already using what was already cut out for a home that was going to be put there.

Mr. Manley: What resulted in the home not being placed there? Is there...?

Mr. Davis: Basically the market with the banks giving all the money and people spending before the...you know, more than their means...

Mr. Manley: Right.

Mr. Davis: Lennar actually chose to pull out. They didn't finish construction over there. They sold all the properties that weren't built...that were buildable that didn't have any structures on them to local realtors. I tried to get the lot next door to us from NY Estate.net and he inflated the price a lot so I couldn't afford it. Some gentleman bought it from him a local home builder and I was able to just wait and he brought his price down and that's how we were...I worked a lot of overtime and so did she to get it.

Mr. Manley: Okay.

Mr. Davis: There's only, I believe there's only three...three or four lots that are not built on they're...right, within the community, I'm sorry, there are...they are held by the...I believe the Filiberti's...

Mr. Manley: Okay.

Mr. Davis: ...and their children and then a...what's the restaurateur...what's his name...across the street from us he has a...Bonura, I'm sorry and he has a lot as well.

Mr. Manley: Okay. Are there any other questions from the Board?

No response.

Mr. Manley: At this point, we'll open it up for any questions from the public. Is there anybody here from the public that has questions regarding this application? If you could please come forward and state name and address for the record?

Mr. Feder: I'm Bill Feder from Rockwood Drive. A...nothing against the project but I noticed it's thirty-six feet deep and cars are not near that long. Perhaps the depth of the building could be reduced to move the front of the building back a...just food for thought.

Mr. Davis: That's also going to be sir, where the a...the swimming pool area is going to be as far as for the outdoor...we have an overhang in the back which would face the swimming pool. That would be, I want to say, probably twelve feet, it will be covered...a patio floor and then we'll have a closing, if you want to say, French doors or sliding doors inside there will be where the changing area would be at. And then that's going to be another...oh, I just folded everything up, I'm sorry...that's going to be another I want to say another ten feet? And then it will start the garage area.

Mr. Feder: Yeah, the dimensions are up to you.

Mr. Davis: Thank you. Thank you sir.

Ms. Davis: Can I just say...? The reason for the extended overhang area there is...where our home is it is extremely windy and when they developed the neighborhood they literally leveled the entire neighborhood. There's not a single tree until we planted all the trees that you see in our yard.

Mr. Davis: Yes, she needs the shade, I'm sorry.

Ms. Davis: But we wanted a permanent shade there so that we can just have comfort out by the...by the pool area.

Mr. Manley: Now will the garage have heat in it?

Mr. Davis: Yes, it will.

Mr. Manley: Will the upstairs...there...is there a...there's a second level to it?

Mr. Davis: It's not going to run the whole level or the whole length of the structure. It's going to be floor to ceiling with lights when you walk in and I'm going to say probably twenty feet back will be the eight foot ceiling with the...where I have stairs to go up to store things.

Mr. Manley: Okay, the...the...the concern also...the Board...the reason why the Town has limited the size of accessory structures for that purpose is a lot of times unfortunately they morph into other things. So the fact that the building is going to be heated, the fact that it from the plans there's going to be a bathroom there a...it...it, the concern of the Zoning Board would be that it's going to become a...a second residence or even utilized as a guest...you know as a guest property a...and that's where the concern of the Board...

Mr. Davis: Right I totally understand that and that's why I tried my best when I was speaking with Mr. Fiola that I didn't want it a two level or an apartment or anything else like that. All my family is down in New York City, they come up, they get scared of the country and they go back home. No one is staying with us or anything like that.

Mr. Manley: Mosquitos.

Mr. Davis: Yeah, no they don't like the quiet to be honest with you.

Ms. Davis: And the reason for the bathroom is...you don't have the floor plans of your house but when you go in to our house the bathroom...you go in through the back door and you literally have to walk across the entire house to get to the bathroom and I just don't want with the pool our kids running through my entire house soaking wet to run to the bathroom. So it's one of the reasons for that.

Mr. Scalzo: A bathroom in a pool house is fine; it's the heat that becomes the issue.

Mr. Davis: I mean I'm not going to have a heat source, I'm going to have it insulated just I'm not going to have a heat source.

Mr. Scalzo: So no radiant heat no...?

Mr. Davis: No it's going to be...whatever windows are going to be there they'll be the a...what would be for houses, double pane insulated and the reason for that is because a...from Carter Avenue and from across the river that wind comes down I want to say almost hurricane force. I...I looked into wind power but I couldn't a...you need about a hundred foot tower and then you have to be a hundred feet from the nearest residence and then the blades are fifty foot long. It's just...it was just a lot...it's just a lot of wind.

Mr. Manley: If...if the Board conditioned if the Board was inclined to approve the project and they put some conditions on it with respect to it could not be used for, you know, any type of habitational purposes...

Mr. Davis: That's fine.

Mr. Manley: If they put a condition on it no heat you know, so far as heating the area so that it kind of prevents...would there be any issue with that?

Ms. Davis: Could you make it so it's not habitational but if we did at some point want to have heat in there? He does like to work on his cars a lot in the wintertime in fairness...

Mr. Davis: I'm not a mechanic, I just clean my cars, I am not a mechanic...

Ms. Davis: Yeah.

Mr. Davis: ...by any stretch of the imagination. I don't want the Board to think that I'm going to be trying to set up a shop there. I work for the City of Newburgh Police Department. I work about eighty hours a week. This is just my de-stress. She likes to clean the house; I'd rather vacuum the cars out. That's all.

Ms. Davis: All I was asking for was just optionality on that but you could make it absolutely not inhabitable no issues whatsoever.

Mr. Manley: Any other...

Mr. McKelvey: Sounds good.

Mr. Manley: ...questions from the Board?

No response.

Mr. Manley: At this point I'd look for a motion to close the Public Hearing.

Mr. Masten: I'll make a motion.

Mr. McKelvey: I'll second.

Ms. Gennarelli: Roll call.

Richard Levin: Yes

John Masten: Yes

John McKelvey: Yes

Darrin Scalzo: Yes

James Manley: Yes

Ms. Davis: Thank you very much for your time.

Mr. Davis: Thank you.

Mr. Manley: You're very welcome.

(Time Noted - 8:42 PM)

ZBA MEETING – FEBRUARY 25, 2016 (Resumption for decision: 10:00 PM)

SARA (EGAN) DAVIS

25 HOPEVIEW COURT, NBGH
(23-2-44.2) R-3 ZONE

Applicant is requesting area variances for the maximum height, the maximum allowed square footage of accessory structures, the maximum allowed four vehicle storage and shall not be closer to fronting street than the main building to build a three-car detached garage and pool house (36'6" x 52 x 21'6") on the premises.

Mr. Manley: The next item before the Board tonight is Sara Egan Davis, 25 Hopeview Court in Newburgh, it's a Type II Action under SEQR and they are seeking area variances for height, the maximum allowed square footage of accessory structures, the maximum allowed four vehicle storage and shall not be closer to the fronting street than the main building to build a three-car detached garage and pool house (36'6" x 52 x 21'6") on the premises. As we go through the balancing test before we do I just want to clarify with the applicant a... you had testified earlier that the number of vehicles that would be stored on the premises was five is that correct?

Mr. Davis: Yes, a total of five, there's two that's in the one that's attached the house and there would be the three that the gentlemen saw when you went by the house that would be in, and then they'd be the eyesore they would be inside the other garage that's going to double as a pool house.

Mr. Manley: Okay and the reason why we had to verify that is this Board in considering our determination in the Town of Newburgh you are only allowed four vehicles so we would then have to provide a variance for that fifth vehicle. So if we were to make a motion to approve it has to include five vehicles which means you could have no more than five vehicles on the property (stored)...

Mr. Davis: Okay.

Mr. Manley: ...at any one time.

Mr. Davis: Well there are two actually are going to be for sale soon anyway. So...

Mr. Manley: Okay. Thank you.

Mr. Davis: Thank you.

Mr. Manley: In going through the balancing tests for the area variance criteria a...does the Board feel that the benefit can be achieved by other means feasible to the applicant?

Mr. Levin: I would say no because of the placement of the house. It's a...limited to move it any place else.

Mr. McKelvey: I'd like to say that...

Mr. Scalzo: I struggle with the height and this is a unique situation to me because it used to be two lots however it was consolidated. I still need to view it as one lot because that's what it is. We have in the past a...granted you know, a height variance I...I think twenty-one six is just about as high as I've...I've seen a...I...I...the plans look fantastic. It would probably be in character with the neighborhood. Are you married to these plans? Can you...can you talk to Mr. Fiola to perhaps drop it a foot or two or three?

Mr. Davis: I could and I had asked him about that. He was just telling me because it's...it...right where the curb level is the street level. It's actually hilly and I have to make that excavated to make that flat and then as you look back even the pictures that I provided it goes up another four feet. So his theory was that even if it was twenty-one it technically wouldn't be a...higher than the other buildings because it's already lower.

Mr. Scalzo: Right. We would measure building height from the ground surface right in front of the building.

Mr. Davis: Right.

Mr. Donovan: Correct.

Mr. Davis: It's...it's lower than my house the a...where it sits at right now because my house is up on the small...over the knoll or the...

Mr. Scalzo: Yeah and...and it's beautiful it's just as it applies to accessory structures a...it...it again if...if you're willing to a...

Mr. Manley: If it was a primary structure you could...you could go up higher.

Mr. Scalzo: Yeah, you could go to thirty-five...

Mr. Davis: Oh, yeah...

Mr. Manley: It's just what the...with...with an accessory structure they're limited...you know, the Town limits the height and there's...there's lots of reasons why they limit it but it's...for years it's been the fifteen foot rule.

Mr. Davis: Okay.

Mr. Manley: So I...I think what Mr. Scalzo is...is looking at is in our balancing tests, you know, does the applicant really need twenty-one feet or you know, does it start to become where it...it...it's the variance is growing too big. So that...that's I think what he's...

Mr. Davis: Okay, yeah I'm definitely, I'm sorry, I'm definitely open to going back to the drawing board with Mr. Fiola that was all...all on him I didn't...

Mr. Scalzo: And that's fine. Keep in mind when you...should you get positive votes we can a...allow up to a...right now you're asking for twenty-one six high if you were to say to us a...I will go eighteen six high then we can grant you the variance for eighteen six and that way Mr. Fiola would have...and I'm only...these are arbitrary numbers...

Mr. Davis: I understand what you're saying.

Mr. Scalzo: I...a...you know, so you can go back to Mr. Fiola and say this is the limits that I have.

Mr. Davis: Okay.

Mr. Scalzo: So...

Mr. Davis: I...I'm open to that, I mean I don't, again this is all new to me, that's why I hired him so he can help me with the planning and everything. I think his...his a...his justification was just so that it was all like the same kind of height with everything else not up down, up down...

Mr. Scalzo: Sure.

Mr. Davis: And then with the...the size of all the homes, again I have the smallest one in that little area so I think that's what he was going...but I'm not opposed to going back and speaking to him and saying do we really need it to be that high.

Mr. Scalzo: Okay.

Mr. Davis: Not at all.

Mr. Scalzo: So and again you're looking for twenty-one six...what do you think nineteen six, eighteen six a...?

Mr. Davis: I have no...I have no clue it's...it was all based everything off of basically we sat down with him and said this is what we have to work with a...what's the best that you can do basically and that's what he provided us. I wasn't...I didn't have any specific numbers in...in my head I just needed to know...I told him I needed to put a couple cars, three cars in there and that I wanted to appease my wife with back to the for...the pool house aspect of it.

Mr. Manley: Now keep in mind the Board where we are limited is the law allows us to grant a variance for the minimum amount that's needed in order for the applicant to...to do what they need to do. So, you know, a lot of times we'll have people come to us I mean we've had before the Board people come to us with twenty-six feet high and you know, when we ask them what do you need that...well I want all sorts of storage up there in the second floor...not that you're doing that but...

Mr. Davis: No, I know.

Mr. Manley: ...in that particular case and we can't grant that because that's...that's way to over what we can allow...

Mr. Davis: Sure I understand.

Mr. Manley: ...you know that's why I think what we're trying to come up with is something that will...that will work.

Mr. Davis: I don't...he was very reasonable and very a...he wasn't set in his ways or anything else like that. I'm pretty sure if I went back and told him or just you need a better suggestion he would keep it...bring that roof level down.

Mr. McKelvey: Yeah, we can't tell you what height really...we can't tell you.

Mr. Davis: And I wouldn't know I would have to base off of what he...

Mr. Scalzo: We're...we're trying to prevent you from having to come back here.

Mr. Davis: Okay, thank you.

Mr. Scalzo: And that...but that's why I think we...we need a number from you. I...I...a...

Mr. Donovan: But what kind of...he's kind of pulling it out of the air though, right Darrin?

Mr. Scalzo: Yeah, yeah I understand.

Mr. Manley: If the applicant wishes we can do what is called a Reserve Decision. Okay? What that means is that we have up to sixty-two days to make a decision. If you go back to your architect and say, listen I need to bring that thing down three, four feet, whatever, he can re-work it up and submit something to us. If we get close to the sixty-two days you can turn around and say that you waive those sixty-two days which allows it to go longer but if you don't we have to make a decision. Okay? So, the Board has that as an option if you want us to take that option or you have the option of allowing us to move forward and continue our deliberations.

Mr. Davis: Well, I don't want to hold anything up but again I don't want to get denied flat on my face either.

Mr. Manley: Right.

Mr. Davis: So...and I understand...

Mr. Donovan: You should have made your wife stay because if you go home with bad news it's not going to be good for you.

Mr. Davis: I know she is very tough too. I would...I would like to confer with...with Mr. Fiola if that's okay and not get...I mean I know it's a vote but not get...not get right now slammed down but I am very flexible with...with the roof height. I didn't even think that that would...that wasn't my numbers, that was...that was him proportioning everything else.

Mr. Scalzo: Right, sure.

Mr. McKelvey: Do you think you can have a figure...?

Mr. Davis: I'm just a Police Officer that's it.

Mr. McKelvey: Do you think you can have a figure by next month?

Mr. Davis: I mean I could have a figure within like three days. I can just call him up and go down to his home office and crunch with him. I mean I'm off so...

Mr. Manley: Okay, well why don't...why don't we do this at this point why don't we look for a motion to Reserve...I look for a motion to Reserve Decision which would allow Mr. Davis the opportunity to confer with his architect or make whatever changes to the height so that perhaps he can bring that back to this Board with something more palatable.

Mr. Scalzo: Okay.

Mr. McKelvey: That gives him sixty-two days.

Mr. Scalzo: I think I will get to that I...but there are other variances that we were looking at here as well.

Mr. Manley: Correct which we probably should go through the rest of them to insure that...

Mr. Scalzo: Correct.

Mr. Manley: ...that's the only thing that's left.

Mr. Scalzo: The square footage sir, the variance percentage you're almost ninety percent over what is typically allowed and that's not to say a...well it's ninety percent that's quite a bit a...maximum is a thousand square feet you're looking at...at eighteen hundred and ninety-eight so you're eight hundred and ninety eight square feet over what Code allows and since you're going to be visiting with Mr. Fiola perhaps you may want to consider the forty-two foot distance from the front to the back and that's not including the covered patio because I mean there's...you just...you need ten feet it's just how...you know...but perhaps you could shrink that forty-two foot distance a...a...

Mr. Davis: Are you saying for the a...for the fifteen hundred square footage or...

Mr. Scalzo: Yeah, a...currently a...I don't know if you have seen this or not but currently you are eight hundred and ninety-eight square feet over what's allowed so perhaps and I'm not...again I'm...it...it's your garage and pool house it's wonderful but perhaps you could look for some savings in the square feet by reducing one of the dimensions. But I suppose if you were looking for access with the doors and I saw the a...the renderings it may not be appropriate to do it in the front. You may want to lose some of your depth. And again just take it back to your architect and...and perhaps he can...I mean that's...that's what they're professionals at...at doing and figure out.

Mr. Davis: I just...the only thing I worry about and I'm not trying to be argumentative or anything like that it's just that...again that's the size of where it was at and you guys went by the house you saw the chain link fence that's only temporary. It's actually going to be on both sides of that it's not going to be just strictly in the front and I just didn't want it to be dwarfed by my house and then the neighbor's home as well. I also do a lot of exercise too so I wanted to have my...move my stuff from out of the basement that the kids can have that and I would you know, work out in there too. So I kind of just wanted room to do what I had to do but not in the house and disrupting the house and everything.

Mr. Scalzo: Okay and just to confirm there is no heat planned for this, correct?

Mr. Davis: I did not have any heat planned for right away. In the wintertime I'd like to just clean my cars and get the salt off of it when it's subzero degrees outside and stuff like that. We don't have heat in the garage that's attached to the house and it is kind of chilly in there but that was my only reasoning to put heat in there. It would just be for that.

Mr. Donovan: I'm only...I'm only a lawyer but what do you do with the bathroom if there is no heat? What do you do with the water in the bathroom?

Mr. Levin: Well...

Mr. Scalzo: Bleed your pipes every winter I suppose.

Mr. Levin: Bleed the pipes in the winter.

Mr. Donovan: Well but does he know that that's...I assume he's got to the bathroom there in the wintertime.

Mr. Davis: I didn't even think...

Mr. Scalzo: In the pool...in the pool house?

Mr. Donovan: Well maybe he's out...in all seriousness if he is in there working out or he's working on his cars? I...I just...did you plan to have heat there?

Mr. Davis: I didn't have but there's floor heat in there. He just like I said he put everything together.

Mr. Donovan: Okay.

Mr. Davis: That's what she came with, she had a list of...a list of items she wanted to have be fulfilled and she gave it to him and then I just said I wanted to have a...a just an area where I could put the three cars in there, exercise, maybe sing...I don't just whatever my own little distress area.

Mr. Scalzo: Okay, I mean, you know as I was mentioning dimensionally front to back I...I don't know that you are going to see that from the neighborhood so I...I...I would be willing to accept the dimensions of...of the structure. Height obviously is something that is going to be worked on.

Mr. Davis: Right and I didn't have a problem with that.

Mr. Manley: So at this point we can Reserve Decision if...if that's the Board's pleasure we would need a motion to Reserve Decision and this would give the applicant sixty-two days. If we got close to that sixty-two days and you weren't yet ready with your plans you'd have to let the Board know you weren't ready and you'd have to waive that requirement because if you waive the requirement we can go beyond the sixty-two days.

Mr. Davis: Right.

Mr. Manley: If you don't waive the requirement we have to vote...

Mr. Davis: Right, I understand.

Mr. Manley: ...because we have only sixty-two days to make a decision.

Ms. Gennarelli: Excuse me, Jim, if you are going to Reserve Decision wouldn't you be doing it until the next meeting?

Mr. Manley: We would.

Ms. Gennarelli: So he would have to let us know by the next meeting whether he was going to be here or not.

Mr. Manley: That would be correct.

Ms. Gennarelli: Yes.

Mr. Donovan: Thank you Betty.

Ms. Gennarelli: Okay.

Mr. Davis: Thank you, you are very good. Thank you. I love her. She's helped me out immensely.

Mr. Manley: Betty keeps us all straight here.

Mr. Davis: Well she is very, very good at what she does.

Ms. Gennarelli: Thank you.

Mr. Davis: Very good.

Ms. Gennarelli: Thank you.

Mr. Davis: Just to be clear so I don't mess it up when I go tell my wife and everything. Basically I just have to go back to the a...Mr. Fiola and just have him crunch it down a little bit more and then come back and do the process all over again as far as...?

Mr. McKelvey: Try and get the...

Ms. Gennarelli: Plans.

Mr. Davis: No I understand the roofline to get that a...

Ms. Gennarelli: To get the plans in.

Mr. McKelvey: Yeah, yeah but I say to we have to have them ten days before.

Mr. Donovan: But you don't need to do another Public Notice or...

Ms. Gennarelli: No.

Mr. Davis: Oh, okay.

Ms. Gennarelli: None of that again.

Mr. Manley: That's all; we're avoiding all that for you.

Mr. Davis: Oh, thank you, thank you.

Mr. Manley: So that's why we're Reserving Decision to give you time to get those plans and then you'll submit them to Betty and she'll...

Ms. Gennarelli: And Joe will look at them, do up the figures...

Mr. Davis: Okay, okay.

Ms. Gennarelli: ...and then we'll have them...

Mr. Davis: Okay.

Ms. Gennarelli: ...before the next meeting for them.

Mr. Davis: Alright.

Mr. Manley: And then the next meeting we can then review it and then make a decision you know from there and hopefully everything will be where it needs to be.

Mr. Davis: Sure, okay.

Ms. Gennarelli: If you need to call me tomorrow you can.

Mr. Davis: Okay, I will.

Mr. McKelvey: I'll make a motion.

Mr. Manley: This is...this is Betty's last meeting tonight. We've got Mary who is going to be here next month so...

Ms. Gennarelli: Oh, really, she's coming back?

Mr. Manley: She is coming back.

Mr. McKelvey: I'll make a motion to Reserve Decision till next month.

Mr. Manley: We have a motion, do we have a second?

Mr. Levin: I'll second it.

Ms. Gennarelli: Roll call.

Richard Levin: Yes

John Masten: Yes

John McKelvey: Yes

Darrin Scalzo: Yes

James Manley: Yes

Mr. Manley: Reserved Decision so at this point you're all set and Betty will see you with those new plans hopefully in the next couple of weeks.

Mr. Davis: Couple of weeks.

Mr. Manley: Alright, thank you.

Mr. Levin: Thank you very much.

Mr. Davis: Thank you.

PRESENT ARE:

RICHARD LEVIN
JAMES MANLEY
JOHN MASTEN
JOHN MC KELVEY
DARRIN SCALZO

ABSENT:

MICHAEL MAHER

ALSO PRESENT:

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

(Time Noted - 10:16 PM)

3/2/16
BJ

ZBA MEETING – MARCH 24, 2016 (Time Noted: 8:27 PM)

SARA (EGAN) DAVIS

25 HOPEVIEW COURT, NBGH
(23-2-44.2) R-3 ZONE

Applicant is requesting area variances for the maximum height, the maximum allowed square footage of accessory structures, the maximum allowed four vehicle storage and shall not be closer to fronting street than the main building to build a three-car detached garage and pool house (36'6" x 52 x 21'6") on the premises.

Mr. Manley: The next item before the Board this evening is the Reserved Decision from February 25, 2016 meeting for Sara Egan Davis, 25 Hopeview Court. We do have a Reserved Decision but there were some updates just wanted the architect or someone to update us on what you actually did and this way the Board could consider it.

Mr. Fiola: My name is Tom Fiola I was the architect and we looked at changing it around and trying to lower the height because that seemed to be the concern but there's just with the roof pitches that are there and to get it aesthetically pleasing there's not much I can do with that height. The height is already down to a six on twelve roof pitch so to lower it any more aesthetically it's not going to look right. And again, it's...it's the whole theory behind this was it's sitting on a lot basically even though the lots were combined it's sitting right in front of the curb cut of the lot before he purchased it was going to be putting a house on it. So we...trying to maximize the space for my client and also have it kind of blend in to the neighborhood thought this is the best way to go because a...lowering it I think it's going to get lost to be honest with you and we have a four foot difference from the pool to the driveway so the pool house has to be four feet higher. So there's not again with them butting up against each other there's not much we can do and that's why we're before the Zoning Board. And again, we're...we're fifty feet from the property line to the neighbor and the neighbor's house is at least another twenty feet. I don't know what the setback is but it's got to be at least twenty feet there so there's still quite a bit of distance to the neighbor's house and there is seventy-eight feet to the existing house of the Davis's.

Mr. Manley: Now the other thing that there just was an issue on there was the square footage...question.

Mr. Fiola: The square foot I didn't take into consideration the covered pool area in the back the open porch...

Mr. Manley: Right which...

Mr. Fiola: ...which should be included.

Mr. Manley: Correct, that was the one thing I was going to let you know is that that does get included because it's covered and as long as it's covered it gets included in...in your square footage.

Mr. Fiola: Right and that wasn't on the initial what we submitted that was not included that's why there was a discrepancy in the square feet.

Mr. McKelvey: What's your square footage now then?

Mr. Scalzo: 1508 is that what I'm looking at?

Mr. Fiola: It's an additional two hundred and eight square feet.

Mr. McKelvey: Okay.

Mr. Dickover: And it was eighteen ninety-eight, is that right so we're adding two hundred and fifty to that or two hundred point eighty?

Mr. Davis: No sir. The eighteen ninety-eight was with the...the enclosed back porch area.

Mr. Fiola: I had it at 1508.

Mr. Manley: Okay.

Mr. Fiola: So add two hundred and eight to that 1508.

Mr. Manley: Okay. In his...one of his documents had that backed out of that. Do any of the Board Members have any questions at all?

Mr. Scalzo: Just so I'm clear Mr. Fiola this is...it's really an aesthetic issue?

Mr. Fiola: Yes, I mean I...to be honest with you I could get this down to fifteen feet but is that really what you know, it's a nice neighborhood and I want...

Mr. Scalzo: Yeah, it's beautiful.

Mr. Fiola: ...and I'm trying to keep that look throughout and accomplish getting them what they are asking.

Mr. Manley: So if there is nothing further and nobody has anything further this is a Reserved Decision we'll hash it out when we come back from our...we're going to enter into an adjournment so that we can confer with Counsel and a...regarding any of the legal questions raised this evening. If I could ask that in the interest of time if the people could wait in the hallway and what we'll do is we'll call you back in shortly after we've had an opportunity to meet with Counsel.

(Time Noted – 8:31 PM)

ZBA MEETING – MARCH 24, 2016 (Resumption for decision: 8:57 PM)

SARA (EGAN) DAVIS

25 HOPEVIEW COURT, NBGH
(23-2-44.2) R-3 ZONE

Applicant is requesting area variances for the maximum height, the maximum allowed square footage of accessory structures, the maximum allowed four vehicle storage and shall not be closer to fronting street than the main building to build a three-car detached garage and pool house (36'6" x 52 x 21'6") on the premises.

Mr. Manley: The next item before the Board this evening is a Reserved Decision from our February 25, 2016 meeting. Sara Egan Davis, 25 Hopeview Court in Newburgh, seeking an area variance for the maximum height, the maximum allowed square footage of accessory structures, the maximum allowed four vehicle storage and shall not be closer to fronting street than the main building to build a three-car detached garage and pool house (36'6" x 52 x 21'6") on the premises. This is a Type II Action under SEQR. We'll go through the balancing tests for the area variance criteria. The first being whether the benefit can be achieved by other means feasible to the applicant. The applicant this evening did testify that...the architect testified on behalf of the applicant that a...they could bring the height down however it would create a view issue with respect to the house and the other neighboring houses so that's one of the reasons why he has kept the height above that of the fifteen feet.

Mr. McKelvey: I have to say they are all big houses there.

Mr. Scalzo: Yeah, you don't want to drive through a lovely neighborhood and identify the shed as opposed to the pool house so I...I have to...I understand the aesthetic value of leaving it at the height that was proposed.

Mr. Manley: The next would be whether or not there would be an undesirable change in the neighborhood character or detriment to nearby properties.

Mr. Maher: Based on the size of the residences in the area I don't...I don't think it's going to be or any...any a...negative change in the neighborhood. It'll improve the area as far as the a...with the looks of the building.

Mr. Scalzo: Well that and we've had no testimony from any of the adjoining neighbors to...to the contrary.

Mr. Levin: Both times, yeah.

Mr. Manley: The only detriment that could be created and we can handle that perhaps in...in a motion if the Board is inclined would be to insure that there'd be no residential habitation of it. You know, the concern would be obviously that it would be turned into a secondary residence on the premises. The applicant has testified that that's not their intent but at the same token if the

applicant does move and there are new people that come into the home we can't control that unless we have something memorialized here that it's not going to be used for that.

Mr. Levin: Not to be used as a guest house.

Mr. Manley: No...

Mr. Levin: Any habitat...

Mr. Manley: ...living.

Mr. Levin: ...yes.

Mr. Manley: The next is whether or not the request is substantial in nature.

Mr. Levin: I think it is but based on the testimony from the architect I believe it's not going to look bad in that neighborhood. It's substantial for...for what currently what meets what regulations are.

Mr. Manley: Well to kind of keep thing I guess in comparison is with the amount of property that's there, you know, if he had a much smaller property half an acre then you're looking at more substantial request.

Mr. Levin: Yeah.

Mr. Manley: The last is...the other is whether or not will have adverse physical or environmental effects.

Mr. Maher: I don't believe so.

Mr. Scalzo: I don't believe so either.

Mr. Manley: And the last being whether or not the alleged difficulty is self-created. And again...

Mr. McKelvey: And again...

Mr. Manley: ...it is self-created there's no way to get around that. And that's why it's a balancing test weighing the items.

Mr. McKelvey: I understand they sold one of the cars?

Mr. Davis: Yes I did.

Mr. McKelvey: Can we get it back to only four cars on the property?

Mr. Manley: You could...we could set that as a condition.

Mr. McKelvey: Yes, like to do that.

Mr. Maher: I...I'd have to ask the reason why actually if we were to grant a variance for a larger garage area why would we restrict the cars? I mean if the individual has...

Mr. McKelvey: Normally you're only allowed four on the property...

Mr. Maher: But that there's a request for a variance.

Ms. Gennarelli: What you usually do is just not grant a variance for more than four...that's what Dave usually says. Right, if he doesn't need it anymore?

Mr. Manley: He had five cars which would require a variance.

Mr. Maher: No, I understand that.

Mr. Manley: Now that he only has four he doesn't need that fifth...that variance for that fifth car.

Mr. Dickover: So the question is the storage itself the structure...is it still going to be designed to hold more than four?

Mr. Scalzo: The structure I don't believe is holding more than four, the combination of the structure plus the home...

Mr. Dickover: Yeah, the home holds...my understanding is the home holds two and the...

Mr. Maher: Three.

Mr. McKelvey: Three.

Mr. Dickover: Alright three and the accessory structure is going to hold...

Mr. Maher: Three.

Mr. Scalzo: Two. It was going to be...I thought...

Mr. Davis: It's three now sir.

Mr. Dickover: It was three and three?

Mr. Davis: It was basically to move the cars off the driveway so that the cars are not an eyesore to the neighbors. I'm the only house that has like cars on the driveway.

Mr. McKelvey: He doesn't use the garage for his cars in the house. He uses it for other things right?

Mr. Davis: Yes, I have two cars in there, the kids bikes, the kids have a lot of electric (Inaudible), big stuff that's usually spread out.

Mr. Dickover: Do you need the variance for more than four vehicles any longer? You're down to four anyway.

Mr. Davis: Oh so, no, I don't need it anymore.

Mr. McKelvey: So we make that a stipu...

Mr. Dickover: Are you willing to withdraw that requested variance at this time?

Mr. Davis: Sure I will withdraw it.

Mr. McKelvey: Okay.

Mr. Manley: So let the record note that the applicant withdraws the request for the fifth car for the variance. And if the Board's pleasure is to approve I would suggest that we approve with the...with the questions.

Mr. Maher: But one question before you do that. The...the variance on the square footage so the eight ninety eight is the final number as far as the square footage goes?

Mr. Mattina: Yes it is because of the overhang, yes.

Mr. Maher: I'll make a motion to approve with the a...with the a...four vehicle variance withdrawn.

Mr. Scalzo: I'll second that.

Mr. Manley: Are there any conditions?

Mr. Levin: Can I? Only it will be used as a pool house and there will be no dwelling there.

Mr. Davis: No, it will only be the (Inaudible) just so you know too work in Newburgh City I also had a house there it was (Inaudible) Terrace eleven hundred square foot townhouse...

Ms. Gennarelli: If you're going to talk you're going to have to come up the microphone. Thank you Mr. Davis.

Mr. Davis: Just to clear it just so you guys know that's why I don't even want...so basically when we moved over to a Bridgeview (Hopeview) I was having problems selling that. I had three very good tenants that were in there and that was still a pain in the butt. I do not want to be a landlord. I don't want anybody living on my property or nothing. I don't want to have anything like that, none at all; I don't have the capacity for it or the patience.

Mr. Levin: I understand what you are saying but down the road we're protecting a...

Mr. Davis: Sure, I'll sign whatever you need to. I'm just being honest with you. I don't plan on selling the place I don't plan on leaving there at all. I'm just trying to make that my own little special haven so I don't have to go anywhere to save money for a...vacations and stuff like that.

Mr. McKelvey: Well I'll make a motion we approve under those stipulations.

Mr. Masten: I'll second it.

Ms. Gennarelli: Okay, roll call.

Richard Levin: Yes

Michael Maher: Yes

John Masten: Yes

John McKelvey: Yes

Darrin Scalzo: Yes

James Manley: Yes

Mr. Manley: The variance is approved with conditions.

PRESENT ARE:

RICHARD LEVIN
MICHAEL MAHER
JAMES MANLEY
JOHN MASTEN
JOHN MC KELVEY
DARRIN SCALZO

ALSO PRESENT:

ROBERT DICKOVER, ESQ.
BETTY GENNARELLI, ZBA SECRETARY
JOSEPH MATTINA, CODE COMPLIANCE

(Time Noted – 9:07 PM)

TOWN OF NEWBURGH: COUNTY OF ORANGE
ZONING BOARD OF APPEALS

-----X

In the Matter of the Application¹ of

SARA EGAN DAVIS

DECISION

For area variances as follows:

- *Grant of a variance allowing the accessory structures on the premises to have a total area of 1,898 square feet where 1,000 square feet is the maximum allowable area;*
- *Grant of a variance allowing an accessory structure to have a height of 21.5 feet where 15 feet is the maximum height allowed;*
- *Grant of a variance allowing an accessory structure to be located closer to the fronting street than the main dwelling.*

-----X

Introduction

Sara Egan Davis, hereinafter referred to as "Ms. Davis" and/or the "applicant," seeks area variances as follows: (1) Grant of a variance allowing accessory structures on the premises to have a total area of 1,898 square feet where 1,000 square feet is the maximum allowable area; (2) Grant of a variance allowing an accessory structure to have a height of 21.5 feet where 15 feet is the maximum height allowed; and (3) Grant of a variance allowing an accessory structure

¹ During the course of the hearing the applicant withdrew her request for a variance that would have allowed her to store more than 4 vehicles on the premises.

to be located closer to the fronting street than the main dwelling.

The property is located at 25 Hopeview Court in the R-3 Zoning District and is identified on the Town of Newburgh tax map as Section 23, Block 2, Lot 44.2. The premises were at one time two separate building lots, designated as Tax Lots 44 and 50. Tax Lot 44 was acquired pursuant to a certain deed dated January 24, 2007 and recorded in the Office of the Orange County Clerk on April 26, 2007. Thereafter, Tax Lot 50 was acquired pursuant to deed dated April 30, 2010 and recorded in the Office of the Orange County Clerk on May 5, 2010. Subsequently, the two lots were combined into one lot carrying the tax designation set forth hereinabove, i.e, Tax Lot 44.2. Presently, the applicant's single family residential dwelling is located on former Tax Parcel 44. Former Tax Lot 50 is improved by an in-ground swimming pool with a patio. The accessory structure currently proposed is both a garage and a pool house to serve the existing pool.

A public hearing was held on February 25, 2016, notice of which was published in The Mid-Hudson Times and The Sentinel and mailed to adjoining property owners as required by Code.

Law

Accessory Building

Section 185-11 of the Code of Ordinances of the Town of Newburgh [Zoning], entitled "Utilization of Bulk Table," requires compliance with the bulk regulations set forth in the bulk and use schedules set forth within the zoning ordinance.

These schedules limit the height of accessory structures to 15 feet.

Section 185-15(A)(4) of the Code of Ordinances of the Town of Newburgh [Zoning], entitled "Accessory buildings," provides that an accessory use to a prin-

cipal residential use, as listed in Article IV, Schedules of District Regulations, Use Table, Column A, that is housed within an accessory building shall be limited to a maximum of 1,000 square feet or to a lower number as may be determined pursuant to the formula set forth in the code.

Section 185-15 [Accessory buildings] of the Code of Ordinances of the Town of Newburgh provides that a permitted accessory building may be located in any required side or rear yard, provided that (1) an accessory structure shall not be located closer to the fronting street than the main dwelling.

Background

After receiving all the materials presented by the applicant hearing the testimony of the applicant, Sara Egan Davis and her husband, Muraah Davis together with the testimony of their architect, Tom Fiola at the public hearing held before the Zoning Board of Appeals on February 25, 2016, and hearing further testimony during the course of the meeting held on March 24, 2016 and after considering all of the materials submitted by the applicant in support of her application, the Board makes the following findings of fact:

1. The applicant is the owner of a 66,075 square foot tax parcel (tax parcel 23-2-44.2) located at 25 Hopeview Court.
2. The lot is improved by a single family dwelling with an accessory in ground swimming pool and patio.
3. The applicant now proposes to construct an accessory structure that will consist of a garage and a pool house. Combined with the existing accessory structures, the garage/pool house will result in a total square footage of accessory structure of 1,898 square feet and is in excess of the 1,000 square feet allowed in the Town Code.

4. The accessory structure is also proposed to be located closer to the fronting street than the main dwelling, contrary to the Town Code.
5. The accessory structure is proposed to have a height of 21.5 feet which is in excess of the maximum of 15 feet allowed in the Town Code.
6. The applicant's proposal is set forth on a series of photographs and architectural drawings prepared by Thomas J. Fiola. The applicant's proposal is further amplified by written correspondence submitted by the applicant dated March 13, 2016. Those photos and plans are hereby incorporated into this decision and a set shall remain in the zoning board's file in this matter.
7. No members of the public spoke during the hearing.
8. The Building Inspector denied a building permit application by letter dated December 22, 2015.
9. The required, existing and proposed dimensions (in feet) and the extent of the variances requested are as follows:

Bulk Requirement	Allowance	Existing	Proposed	Variance	Percentage
Accessory Building Area	1,000 S.F.		1,898 S.F.	898 S.F.	89.8%
Building Height	15		21.6	6.5	43.33%

The applicant has appealed the Building Inspector's determination seeking variances to construct the accessory structure.

After hearing the testimony at the public hearing and considering the materials received by the Board and after viewing the subject site, the Board decides as follows:

SEQRA

This matter constitutes a Type II action under the State Environmental Quality Review Act inasmuch as it involves the granting of an area variance(s) for a single-family, two-family or three-family residence [6 NYCRR §617.5(c)(13)]. As such, this project is not subject to review under the State Environmental Quality Review Act.

GML 239 Referral

This application is not required to be referred to the Orange County Planning Department for review and report.

Findings

In reviewing the facts presented for the requested area variances, the Board considered the five standards for determining whether the applicant has sustained its burden of proof as required by Town Law Section 267-b (3). Each factor has been considered relevant to the decision of the board of appeals, but no single one is viewed as precluding the granting of the variances.

(1) Undesirable Change—Detriment to Nearby Properties

The property is located in the R-3 Zoning District and single family homes with accessory structures are uses that are specifically permitted in this Zoning District. The applicant and the applicant's representative have testified that the accessory structure as proposed would be in be in harmony with this existing,

mature, residential neighborhood. The Board further notes that at one time, before the lots were combined, an additional single family structure could have been built on the property and could have had a height of up to 35 feet as permitted by the Town Code for a principal structure. The Board further notes that upon viewing the topography of the lot together with the irregular configuration of the lot combined with the fact that it was originally two separate building lots are all conditions that mitigate any potential adverse impact on the neighborhood. On balance, therefore, the Board finds that the issuance of the requested variances would not result in any undesirable change to the character of this mature neighborhood.

No contrary evidence or testimony was submitted at public hearing.

Absent any testimony or evidence indicating such, the Board cannot conclude that any undesirable change in the character of the neighborhood or detriment to the neighbors in that neighborhood will result from allowing the applicant to construct the proposed accessory structure.

Accordingly, based upon the evidence and testimony submitted to the Board, the Board finds that the request of the variances will not result in any serious, undesirable, detriment to surrounding property owners. Moreover, the applicant has assured the Board that the premises will not be used for habitation of any type at all and are limited to being used as a garage and pool house.

(2) Need for Variance

The applicant's request is generated by her desire to have an accessory structure located on her premises. It is difficult for the Board to evaluate the applicant's *subjective* desire to have this structure. However, the Board also notes that the focus of our inquiry is on the *character of the surrounding neighborhood*.

We have heretofore determined that the new accessory structure will not adversely impact the character of the neighborhood.

Thus, on balance, and based upon the particular facts of this application and further based upon the testimony and evidence submitted at the Hearing, the Board finds that it is not feasible for the applicant to construct an accessory structure that would have any meaningful use and benefit to the applicant without the requested area variances. The Board further takes note of the fact that the applicant's architect has offered the opinion that to keep the structure in proportion with the other structures nearby in the neighborhood requires construction of a slightly taller accessory structure than would ordinarily be appropriate given that it is being constructed in an area that was previously proposed to be a stand-alone building lot and, under the unique circumstances here, the structure would look more out of character if it were only 15 feet tall and it in fact conforms more to the character of the neighborhood by being 21 feet high.

Accordingly, the Board finds that the benefit sought to be achieved by the applicant cannot be achieved by any other method other than the issuance of the requested variances.

(3) Substantial Nature of Variances Requested

The variances requested are substantial. However, because the focus of the inquiry by the Zoning Board of Appeals is upon the character of the neighborhood in question, we believe, under the circumstances presented here, that the moderately substantial nature of the variances requested does not prohibit us from granting the application.

(4) Adverse Physical & Environmental Effects

No testimony was given, nor was any evidence provided, that would indicate that issuance of the requested variances would result in any adverse physical and/or environmental effects. The applicant testified that no such effects would occur.

Absent any testimony or evidence indicating such, the Board cannot conclude that any adverse physical or environmental effects will result from allowing the applicant to construct the accessory structure.

(5) Self-Created Difficulty

The need for this variance is clearly self-created in the sense that the applicant purchased this property charged with the knowledge of the need to obtain variances in order to construct an accessory structure of this size and location.

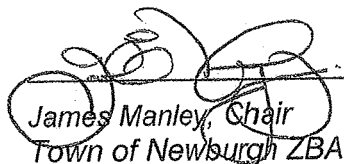
However, the board believes, under the circumstances presented, that the self-created nature of the need for the variances requested does not preclude granting the application. Moreover, as noted earlier, no undesirable change in the character of the neighborhood will occur as the result of the granting of the variances.

Decision

In employing the balancing tests set forth in Town Law Section 267-b (3), the Board hereby determines that the applicant has satisfied the requisites of Section 267-b and grants the variances as requested.

1. The variance hereby granted is granted for the purpose of authorizing construction of what is shown on the plans or described within the application materials only. No construction other than as shown or described (architectural refinements aside) is authorized by this decision.
2. Section 185-55 [Procedure; construal of provisions; conflict with state law] of the Code of Ordinances of the Town of Newburgh provides, in subdivision "D," that this grant of variance shall become null and void at the expiration of six months from issuance, unless extended by this board for one additional six-month period.
3. At no time shall the accessory structure be used for the purpose of habitation of any kind or nature.

Dated: March 24, 2016


James Manley, Chair
Town of Newburgh ZBA

By roll call a motion to adopt the decision was voted as follows:

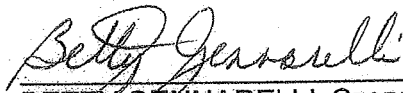
AYES: Chair James Manley
Member John Masten
Member Michael Maher
Member John McKelvey
Member Darrin Scalzo
Member Richard Levin

NAYS: None

ABSENT: None

STATE OF NEW YORK)
)ss:
COUNTY OF ORANGE)


I, BETTY GENNARELLI, Secretary to the Zoning Board of Appeals of the Town of Newburgh, do hereby certify that the foregoing is a true and exact copy of a Decision maintained in the office of the Town of Newburgh Zoning Board of Appeals, said resulting from a vote having been taken by the Zoning Board at a meeting of said Board held on March 24, 2016



BETTY GENNARELLI, SECRETARY

TOWN OF NEWBURGH ZONING BOARD OF APPEALS

I, ANDREW J. ZARUTSKIE, Clerk of the Town of Newburgh, do hereby certify that the foregoing Decision was filed in the Office of the Town Clerk on MAY - 2 2016.



ANDREW J. ZARUTSKIE, CLERK

TOWN OF NEWBURGH