

ZBA MEETING – OCTOBER 23, 2014

(Time Noted – 8:32 PM)

DAVID MARUCO

280 FOSTERTOWN ROAD, NBGH  
(20-1-21) R-2 ZONE

Applicant is seeking area variances for the maximum allowed square footage of accessory structures, the maximum height of accessory structures and the maximum allowed storage for not more than (4) four vehicles to build an accessory structure (50' x 33' x 28'6" two-story detached garage).

Chairperson Cardone: Our next applicant David Maruco.

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

Mr. Maruco: Hi, my name is David Maruco; I reside at 280 Fostertown Road, Town of Newburgh. I'm proposing to build a three-car garage a...on my property a...the main reason is for storage. A...I'm building it with the...a variance for the height because what I'm doing is I want to utilize a...every square foot of the garage I'm building a...this way here I can have a storage space. I'm trying to have everything a...combined into the one building instead of having like different sheds all over the property or whatnot and...and a...you know portable garages or whatnot. I'm trying to get everything contained into one building. As you see I...I gave you all pictures a...in your packet. The first picture is actually the...the face of my house that I reside in a...which as you see the garage over there, the three car garage, the front of the house is what the garage is going to look like a...with the stone and stucco on the front so...accessory for aesthetics a...as you see the second...the second picture shows the actual area where it's going to be. A...and due to the height that I'm trying to get the variance for you see all the trees and the woods behind it a...to where it's actually hidden, that's straight back and it's actually two hundred and fifty feet back from the house. The third picture is actually looking at the right side of the property a...which you should see all the trees in the area there blocking the right side and as see the fourth...fourth picture is the actual left side. So the building is basically surrounded all by all trees and a...a fence that I have there. A...the fifth picture is actually, if you see the stakes in the ground, is actually where the garage is going to be from the distance of the house. So it's...its way up in the back, it's two hundred and fifty feet like say from the house, it's actually three hundred and fifty feet from the roadway, from Fostertown Road. If you see picture number six that is one of the reasons why I need the garage a...all those items there that you see on...on tarps is expensive a...equipment a...material that I have and I have no room for storage and due to the weather and the rain and snow it...it all gets ruined and either rusts and I have to replace it so its...its actually costing me money. As well as I've had things stolen from my property a...so I...I could eliminate that by putting it in storage and locked up that would save me some money as well. A...and as you see the garage is actually, it's a three car garage off to the left there's actually...it's just an overhang, it's all open, all three sides are open, there's not an actual garage. There's going to be no walls on it, no door or nothing. Basically its...its you put the items that you see on picture number six that are...are all tarped which would be like the lawn tractor, my log splitter things like that and protect them from the...from the rain and snow in the...during the winter. I would put that underneath that overhang and it would actually protect it so that is

all...that is actually is going to be opening so it's really not part of the garage per say as far as space, storage. A... and the rest of the pictures actually as you can see is all tools and equipment a...I have a lot of new...new equipment, new tools a...I'm a hobbyist. I have two classic cars. One car is in Massachusetts it's been there for twenty years I'd like to get it down here a...and put it in the garage so I could actually use it and I have another one that's in my yard. It's in my a...a...driveway right now. It's under a car cover and the car cover is soft and I got this...an eight foot cat that like to scratch all the covers so it's ripping the cover off which his nails are going through and it's going to start scratching the car which means the car is going to be need be repainted so I'd like to get that in storage and get that protected. So basically a...a...the reason that I need the height requirement is for storage to get all the stuff out of my garage and in my house and into storage a...upstairs so I could actually use it. A...it's not an...an ugly building, it's going to be nice looking. I'm not using it as living space. It's just mainly for storage. As you see here as far as the variance I believe the garage actually in nine hundred and sixty eight square feet and I believe which a...is less than a thousand which is...which is the requirement so the overhang I...I don't consider it as...as a garage because it's not an enclosure, it's open on three sides it's just a roof. And like I say that roof is just mainly to protect a...from the snow and rain items that I put under it. A...pret...pretty much that's all I have to add. That's my...

Mr. McKelvey: These overhangs count.

Mr. Maruco: I'm sorry?

Mr. McKelvey: Right, Jerry? The overhangs count?

Mr. Canfield: Yes, they do.

Mr. Maruco: Okay.

Mr. McKelvey: So you're way over.

Mr. Maruco: I think I'm over a...three hundred and fifty-six square feet.

Chairperson Cardone: Do we have questions from the Board?

Mr. Manley: Just so you're aware you over...you're more than three hundred, it's five hundred and twenty...

Mr. McKelvey: Seven.

Mr. Manley: ...seven point four...

Mr. McKelvey: Yeah.

Mr. Manley: ...square feet over.

Mr. Maruco: I don't see that...under my floor plan. I got thirteen fifty-six.

Ms. Gennarelli: Was that the calculations that you got from Mr. Mattina?

Mr. Maruco: I'm sorry?

Ms. Gennarelli: Was that the calculations that you got from Mr. Mattina?

Mr. Maruco: From where?

Ms. Gennarelli: Mr. Mattina.

Chairperson Cardone: Mr. Mattina.

Mr. Maruco: I don't know who...

Ms. Gennarelli: From the Building Department.

Chairperson Cardone: The Building Department.

Mr. Donovan: Don't say anything bad about him because he is sitting at that table over there.

Mr. Maruco approached Mr. Mattina and Mr. Canfield at the side table.

Chairperson Cardone: I think you were subtracting from the one thousand but you are actually allotted eight twenty-eight point six.

Mr. Maruco: Yes, that's what it is, yeah, that's what it is. That's my...that's my proposal.

Chairperson Cardone: And the height is considerably over. That's on a percentage basis that's ninety percent over.

Mr. McKelvey: This building is bigger than the house.

Mr. Manley: What is the square footage of the house, roughly?

Mr. Maruco: Its fifteen hundred square feet.

Mr. Manley: And if this two-story looking almost twenty-six hundred square feet for the garage.

Mr. Maruco: It's...it's I wouldn't consider it two stories. It's the space you're getting upstairs is the A frame of the...of the structure, the roof. There's no...there's no a...walls on the second floor it's just what you're utilizing under the roof.

Mr. Manley: Let's say it's seven hundred or so that's like two thousand roughly.

Chairperson Cardone: Is there any way you can bring down the height of the building.

Mr. Maruco: I could do...I could do a ten twelve pitch which would drop it three feet cause the...the...it would actually be twenty-four feet which is only fourteen feet of the roof would nine feet above and the rest of the...the twenty-four feet would be seven feet above the required height which would still allow me a...substantial amount of storage.

Mr. Manley: Is there going to be electric in the...?

Mr. Maruco: There's going to be electric that's it, yeah.

Mr. Manley: Any heat at all?

Mr. Maruco: No, no heat, no water.

Mr. Maher: Dave, what's the reason for twelve foot on the first floor?

Mr. Maruco: Well a...because I have the cars a...I have a upper Jeep with tops and I can store the Jeeps in the overhead the tops with...with a pull up thing. As well as a...I wanted to get a four post car lift I could put...I could lift one car and put another car under it for my classic cars that I don't drive to put them away in storage.

Mr. Manley: How many cars are you looking to store?

Mr. Maruco: A...basically just two a...I have a...a truck also a, you know if I need to work on them or clean something during the winter I can have room to do that.

Chairperson Cardone: Just for the record, the report from the Orange County Department of Planning is Local Determination. Can this garage be seen from any of the a...I have been to the site, it did not appear to me that it could be seen by the neighbors but I'm wondering if it can be seen by the neighbors. Are there any neighbors that are here at this time that...?

Ms. Davis: Diane Davis, 270 Fostertown, I'm right next door. He's right over the wall from me and I would have no problem with it.

Chairperson Cardone: Okay.

Ms. Davis: Actually having the building there the lot would be a lot neater because then he would have a place to put all his stuff.

Chairperson Cardone: Thank you. The gentleman in the back.

Mr. Bennett: My name is Ron Bennett, I own the property on the northern border of Dave and a...I think this is just too huge this building.

Chairperson Cardone: You're at the property in back, in back of the back wall.

Mr. Bennett: The picture of those trees that's my property.

Chairperson Cardone: Okay.

Mr. Bennett: So in the winter you would see my house when the leaves fall off. A...I'm sure I'd be able to see this building a...I request that you oppose any variances to the Ordinances and a...like I said I think it is just way too big.

Chairperson Cardone: Okay. Thank you. Erv.

Mr. Hamilton: I'm Erv Hamilton, 268 Fostertown Road; like he says you've heard there are quite a few trees all the way around. I wouldn't have a problem with it. I can understand wanting to store a...tools and things that are not able to be kept secured in a building a...so I would have no problem with that.

Chairperson Cardone: And you're to the east of him, correct?

Mr. Hamilton: I'm to the east of him, yes. Thank you.

Chairperson Cardone: Thank you.

Mr. Maher: Dave, what's the...I'm sorry.

Mr. Rehman: Good evening, my name is Amhed Rechman I live right next to a...Dave at 286 Fostertown Road a...and certainly as the lady a...here suggested it would be nice for him to have a place where he can store his all his equipment and cars and whatnot neatly. I guess no matter where anything is built it would be visible but I don't have a problem with a building being built towards the back of his a...house and it would certainly be nice to have everything organized because we do have a neighbor which was right behind me like he said they...they have a bunch of different small storage space which kind of looks odd. So one building with organized a...tools and cars and everything out of the way and a nice clean yard would be...would be nice and it would certainly make Dave's life much easier. So a...I support that. Thank you.

Chairperson Cardone: Thank you.

Mr. Bennett: Sorry a...I also wanted to say my square footage is eighteen hundred on my house and to my calculations a...fifty foot by a...thirty-three foot that's thirty-three hundred square foot. It's like...like putting another house on the property. I feel it's going to degrade the value of my property.

Mr. Maruco: I do have one thing to add to the credibility of...of a...my neighbor there. Since 2003 him and I have been going through a...a spat basically him. I have police reports right here that shows his harassing me in 2007 as well and it's an ongoing thing. So being a former police officer I feel that this is more or less a form of harassment again so he's opposing as a form of

harassment basically is what I feel and I have police reports right here to prove it's an ongoing thing and it's just I don't...it's got to stop one day.

Chairperson Cardone: Well, we're not addressing that right now. We're discussing just the height of the building and the size of the building.

Mr. Maruco: Right.

(Inaudible)

Mr. McKelvey: You can take that mic off, just pull it right off.

Ms. Owen: I just wanted to...I don't need that...I just wanted to say that one issue should have nothing to do with the other.

Chairperson Cardone: That's correct.

Ms. Bennett: Okay, enough said. One issue has nothing to do for the record.

Ms. Gennarelli: Could we have your name for the record?

Ms. Owen: Judy Owen.

Ms. Gennarelli: Thank you.

Chairperson Cardone: Any comments from the Board Members?

Mr. Maher: Dave, what's the back...the back five by twenty overhang used for?

Mr. Maruco: It's just an overhang for a...like extra...extra wood, I cut wood, I burn wood so I could put it under, keep it from the rain, snow, out of sight where nobody can see, it's just something that aesthetically where it's not just you know piled all over the yard or things like that. Trying to keep things uniform and protect it.

Mr. Scalzo: I see in 2003 you actually had a permit to put a garage on the front of the house but it was never...never built.

Mr. Maruco: Yeah, I was going to do that a...but I stopped because of the aesthetics of the house I didn't want it to be a two car garage in front of the house and for resale value and for looks so I...I didn't want to do that and that's why I was leaning towards going to the back of the house.

Mr. Levin: You said you could easily bring the roof down two feet, three feet?

Mr. Maruco: Three feet. Three, I could do a ten twelve pitch which would a...bring it down (Inaudible) one section was showing fourteen feet, we'd bring it up nine feet higher and the other would be seven feet higher, on the other side. As far as the square footage if I had to the

overhang I could just eliminate that if I have to...if that becomes a problem. I'm more concerned with the inside and the storage and the garage so...just I'm trying not to resort to one of those portable ugly garages, you know, ready-made garages.

Chairperson Cardone: Well you would have to have a Permit for that also and that would also count as coverage. I think the...the main issue here is the height and I...I don't know that three feet would solve the problem.

Mr. Maher: Dave if you went down to an eight twelve (inaudible) you've still got eight foot of height above you on the one section and...and a...and eight foot a...actually nine foot four on the other section on the twenty foot wide section.

Mr. Maruco: How wide would it...would it be what?

Mr. Maher: Well you still got eight foot height in the twenty four foot wide section of the garage, the right hand side you still have eight foot of height and then on the...on the deeper section you have nine...nine foot four height. Then at eight twelve...I mean, at eight twelve then you're looking at a...an eight foot...twenty foot on the one section twenty foot high on the...on the a...twenty-four foot wide section it would be twenty foot high then obviously it would be twenty-one four on the a twenty eight foot section.

Mr. Maruco: What...what would the a...the width of the space be? That...that's doable but would the width a...got (Inaudible) high?

Mr. Maher: Well you're looking at going a... (Inaudible) a... (Inaudible) You're still going to have roughly, I mean you still have a ... if you want five foot knee walls or whatever you're still going have roughly a...a ten...what...ten foot wide...ten by twenty-four in one section, and then probably like a...a...fourteen by...fourteen section (Inaudible). I'm just throwing that out to you as another option to get you know some of the...some of the height reduced there if at all possible. I mean, the house...your house, I mean your house like...if it's consistent with the house I can understand that but the house only is on a four twelve on it to begin with so...

Mr. Maruco: Right, yeah.

Mr. Maher: ...it's not really consistent you know where as an issue there as far as aesthetics go.

Mr. Maruco: So the eight...eight twelve is, I mean it's doable.

Mr. Maher: I mean just...it's an option. Again it's up to you.

Mr. Maruco: Yeah a...well I'm not looking to live up there. I just want storage to be able to stand up and you know, put shelving up there and whatnot. So that's acceptable I can...I can do that.

Chairperson Cardone: And for the record you are not running a business from your house?

Mr. Maruco: No, not at all. No. So all personal use is what it is.

Inaudible.

Ms. Gennarelli: Okay, you have to go to the microphone.

Chairperson Cardone: Okay, the Board Members have made site visits. I did see equipment there. My understanding was that some of that equipment you'd be getting rid of?

Mr. Maruco: Yeah, when after the garage I have the equipment and a...it helps to build the garage and once I'm done with...with that I have no reason to keep it.

Chairperson Cardone: And in the picture a...in the one picture number three I think it was...three...no, there were a lot of...picture six, that stone is going to be used in the building or...?

Mr. Maruco: No, once that...once that's built and the grading is done then that stone...that stone is going to be used to build a wall and then I'm getting rid of the rest of the stone.

Chairperson Cardone: Okay.

Mr. Maruco: But you need a bunch in order to you know...

Chairperson Cardone: Right.

Mr. Maruco: ...piece like a puzzle, piece it together then just get rid of the rest.

Chairperson Cardone: Mike, what would that bring the height down to?

Mr. Maher: (Inaudible)

Chairperson Cardone: Okay.

Mr. Maher: Well I think you forgot to take into account the floor, the depth of the floor for the...the garage there. I'm looking at the count now.

Mr. Maruco: Right, yeah from thirteen feet would be the top of...of the floor and then...from there up so eight twelve whatever you got. (Inaudible)

Mr. Maher: Yeah, you're basically is one twenty which is ten foot eight so you're at twenty-three, twenty-three eight will be the highest section of the twenty-eight foot wide section and then it would be roughly twenty...two four for the lower section give or take (Inaudible). So the math, wait I'm sorry, twenty-three eight would be the highest point based on the numbers here and the discussion as far as twelve foot first floor allowing twelve inches for the a...for the floor area and an eight twelve pitch thereabouts gives you twenty-three foot eight overall height.



Mr. Scalzo: It's still over fifty percent.

Chairperson Cardone: Right.

Mr. Maruco: The other option I...I was thinking is a...if I did come down to a...to acceptable level then I couldn't utilize storage. I'd just have to attach to the back a ten foot...ten foot wide and the length of the garage and that would just give me a storage right in the back like a shed and that would be hidden, you would even see that...that would be behind the garage and that would be below my fence level, you wouldn't see it.

Mr. McKelvey: That would make the building much bigger though.

Mr. Maruco: Sorry?

Mr. McKelvey: That would make the building bigger.

Mr. Maruco: Yes, but I could a...get rid of that overhang to the left and just attach the shed to the back.

Mr. Maher: So you're saying get rid of the carport?

Mr. Maruco: Sorry?

Mr. Maher: Get rid of the carport?

Mr. Maruco: Yeah, get rid of yeah...yeah the overhang on the left and a...just put a...a...shed like the length of the garage ten feet out, just do that.

Mr. McKelvey: How big is the overhang?

Mr. Maher: Well it's...it's a wash because in essence you're eliminating three hundred and eighty square feet and adding (Inaudible)...

Mr. McKelvey: Yeah.

Mr. Maher: ...so it's...it's really a wash it the same stuff nothing really changed as far as size goes.

Chairperson Cardone: Couldn't the storage be accomplished by shelving throughout the a...the structure? Even allowing for it when you bring the cars in you can still have shelving on the walls.

Mr. Maruco: It'd be really tight. It'd be really tight and that's...trying to limit anything around the cars because you damage a classic car it costs a lot of money, the car.

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

No response.

Chairperson Cardone: Any other comments from the public?

No response.

Mr. Maher: Dave, any chance going down to ten foot on the first floor?

Mr. Maruco: I'm sorry?

Mr. Maher: Any chance going down to ten foot on the first floor?

Mr. Maruco: On only one side but that would be...

Mr. Maher: I'm just...a...throwing it out there...

Mr. Maruco: Yeah.

Mr. Scalzo: A...help me out here I'm looking...maximum of four vehicle storage, you're claiming that you only going to store two in there? Possibly three?

Mr. Maruco: Yeah. Well I have...I have the two classic cars and also have a truck...

Mr. Scalzo: Okay.

Mr. Maruco: (Inaudible)

Mr. Donovan: Well I...I guess I should ask, are you requesting a variance to store more than four cars (vehicles)?

Mr. Maruco: No, no because I...I...there's three there and I have a garage under my house but its tiny so it's just...I don't even use it for a car.

Mr. Donovan: So what typically happens if the structure can accommodate more than four cars (vehicles) or could accommodate more than four cars (vehicles) I think what Code Compliance refers the matter to us and issues their disapproval they indicate if he is going to need more than four he is going to need a variance or the applicant will need a variance. What we typically do is I would ask the question, if he says no that application (variance) is withdrawn, he can't have more than four. We don't deny the variance; we just consider the request withdrawn.

Chairperson Cardone: Anything else from the Board?

No response.

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

Mr. Manley: Second.

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: Okay, thank you.

Mr. Maruco: Thank you.

(Time Noted - 9:03 PM)

ZBA MEETING – OCTOBER 23, 2014 (Resumption for decision: 10:02 PM)

DAVID MARUCO

280 FOSTERTOWN ROAD, NBGH  
(20-1-21) R-2 ZONE

Applicant is seeking area variances for the maximum allowed square footage of accessory structures, the maximum height of accessory structures and the maximum allowed storage for not more than (4) four vehicles to build an accessory structure (50' x 33' x 28'6" two-story detached garage).

Chairperson Cardone: On the application of David Maruco, 280 Fostertown Road, seeking area variances for the maximum allowed square footage of accessory structures, the maximum height of accessory structures and the maximum allowed storage of not more than (4) four vehicles to build an accessory structure 50' x 33' x 28'6" which is a two-story detached garage. This is a Type II Action under SEQRA. Do we have discussion on this application?

Mr. Scalzo: What was the final height we were looking at here?

Chairperson Cardone: The height that's proposed is (28'6) twenty-eight six.

Mr. Donovan: My recollection was there was discussion but no reduction indicated.

Mr. Levin: No, he said he would bring it down three feet.

Chairperson Cardone: Well that would only bring it to twenty-five which is still...

Mr. Levin: Still over...really over.

Chairperson Cardone: Right at this point it's ninety percent over.

Mr. Maher: Are we willing to ask the applicant what he make...what concessions he may give?

Mr. Maruco: I'm sorry what?

Mr. Maher: Dave are you...we...we discussed different heights here, dropping some areas from ten foot to...from twelve foot to ten foot as far as (inaudible) goes, I mean what are you...?

Mr. Maruco: If we could like you...like you were saying a...like the eight twelve...?

Mr. Maher: Okay.

Mr. Maruco: ...which was a...a it could certainly dropped it a...and it allowed me enough space upstairs, you know, head space and you know the width and I'm fine with that with going with a eight twelve pitch.

Mr. Maher: So that would...that would drop the height to...again...twenty three foot eight based on my calculations.

Mr. Manley: That's still pretty...that's still pretty high.

Chairperson Cardone: That's still pretty high.

Mr. McKelvey: Yeah, that's high.

Mr. Scalzo: If...if we were to remain consistent on the other applicants we heard this evening its way too high. It's a...I don't know how we can accept that at this point.

Mr. Manley: I mean in the past to the Board has generally in the past with most accessory structures like this never...never gone that high, there's been very, very remote cases.

Mr. Scalzo: Maybe for a cupola but not for...the support seemed to outweigh the non-support as far as the adjoining neighborhood went.

Mr. Manley: That's you know obviously just one test of the...one hurdle to overcome.

Mr. Scalzo: Correct.

Mr. Manley: The structure would actually be bigger than the house.

Mr. McKelvey: Yeah, that's what I said to him.

Chairperson Cardone: And a...taking off the overhangs how much Joe...how much would that take off of the square footage because also very high on that sixty-three percent.

(Inaudible)

Ms. Gennarelli: I'm sorry, can you get the microphone?

Mr. Mattina: Yeah, the carport was two eighty-eight and the rear overhang was a hundred so three-eighty eight. It would be a variance of (139.4) one thirty-nine point four.

Chairperson Cardone: One thirty-nine point four and what's the percentage on that? So it would be nine hundred and sixty-eight square feet would be the total, correct?

Mr. Maher: About sixteen percent or so? Joe?

Chairperson Cardone: No because his...he doesn't get a thousand, he gets eight twenty-eight point six.

Mr. Maher: No I meant sixteen percent variance (inaudible)...(inaudible) A...is that what it is?

Chairperson Cardone: So it would be reducing the variance percentage on the square feet to fourteen percent?

Mr. Maher: If the applicant was agreed to it.

Mr. Donovan: Yeah, because it's his...his application. He can agree to that or not.

Chairperson Cardone: Right.

Mr. Donovan: Or he can ask the Board to...to...to that is his proposal to reduce the total square feet...the footage to nine sixty-eight which would be a fourteen percent variance.

Mr. Maruco: Yeah, yup that's fine.

Mr. Donovan: Is that your request to the Board?

Mr. Maruco: Yeah, I can eliminate the overhangs and just focus on the a...the actual garage itself.

Mr. Scalzo: And that leaves still outstanding the height.

Chairperson Cardone: What would the percentage be a...?

Mr. Canfield: Less than fifteen.

Chairperson Cardone: Less than fifty?

Mr. Canfield: Fifteen...percent.

Ms. Gennarelli: That's the overhang.

Mr. Canfield: On square footage.

Chairperson Cardone: Right. I'm talking about the percentage on the building height.

Mr. Maher: The height well again I don't want to speak for the applicant obviously. A...you know I mean you can...what was discussed was...twenty-three foot eight...you still over fifty percent.

Chairperson Cardone: You're still over fifty, yeah.

Mr. Maher: Inaudible.

Chairperson Cardone: I don't think there's as big an issue with the...with the neighbors seeing it. There's probably only one neighbor that could even...even see it but...

Mr. Maruco: And actually when the...when the leaves are down you really can't see it. You've been to my property it's...even trying to look through...he's...he's a hundred and fifty feet through the trees you...you can't see. You can barely see at night when he has the light on.

Mr. Manley: It is large, the concern even at twenty-three it's still too...it's still two stories.

Chairperson Cardone: Yeah.

Mr. McKelvey: Right.

Chairperson Cardone: Would it be possible to bring it down to twenty feet? Or eighteen...what would that leave as far as the percentage?

Mr. Maher: Twenty foot would be thirty-three percent.

Mr. Levin: That's still high.

Mr. Donovan: Well may I suggest that it may be difficult to just pick a height. He's got to design the building.

Chairperson Cardone: Right.

Mr. Maher: Possibly hold the Hearing open if...if...

Mr. Donovan: Well we closed the Hearing.

Chairperson Cardone: We closed the Hearing.

Mr. Donovan: We have sixty-two days but and...and...you know, I'm only a lawyer but I assume when you design a building you don't pick a height and back into it. Right, generally speaking? I...I guess you could but...a...

Mr. Manley: If we Reserved Decision till next month...

Chairperson Cardone: The building is really too large and too tall based on what we've seen in the past and on other things that we've ruled on in the past and a...certainly bringing down the square footage helps because it brings down to only a fifteen percent from a sixty-three percent percentage but I...I think that the building height also needs to be worked on.

Mr. Maruco: But the...the actual square footage should be fine. I mean, it's just a...it's actually just a three-car garage...

Chairperson Cardone: Right.

Mr. Maruco: ...the square footage should be fine.

Chairperson Cardone: But I also think...

Mr. Donovan: It's not fine, I'm sorry to interrupt...

Chairperson Cardone: Okay.

Mr. Donovan: ... it's not...it's not fine, it's in excess but it's not dramatically in excess.

Mr. Maruco: Right.

Mr. McKelvey: You've got to get the roof down.

Mr. Maher: I mean a...

Mr. Maruco: The only...the only other option that I think would be possible to work is if I come down to like my house four twelve pitch and add the shed to the back but it's going to bring up the square footage but it's going to...it's going to eliminate it from being a two-story and...and the square footage upstairs. Right, because you're eliminating the height from being seen but the shed style basically what you build off the back side won't even be seen by anybody.

Mr. McKelvey: You're still going to go up in the square footage though.

Mr. Maruco: It's going to bring up the square footage that's correct.

Mr. McKelvey: Well you've got to bring it down.

Chairperson Cardone: It becomes a tradeoff if you bring down the height enough to make that a lower, much lower percentage.

Mr. Maruco: But it's also...I mean it's also...in a sense, I mean you've seen the pictures and stuff in the...in the area it's also we're building...it really can't be seen by people a...do you know what I'm saying? So I mean to give me an acceptance would be appreciated but I mean you know, it's in an area that's not really visual and my neighbors don't...those neighbors that were here are the neighbors that are close to me. They're my next door neighbors right next to me.

Mr. McKelvey: They don't write the Code.

Mr. Maruco: Sorry?

Mr. McKelvey: They don't write the Code though.

Mr. Maruco: No, I understand that. That's why we're here. That's...that's...I'd be happy with that I mean if the Board would be...accept the a...extra square footage and come down on the height where it's...



Mr. Scalzo: Personally I think I'd need to see this again. I...I...

Mr. Donovan: Because we're not dealing with real numbers.

Chairperson Cardone: Right.

Mr. Scalzo: Yeah.

Chairperson Cardone: Well we could reopen.

Mr. Donovan: It depends on the...it depends on the extent of the changes. At the present time, it seems to me, you still have...you have...you have time to make your decision a...now the people who left tonight though think the Hearing is closed so...

Chairperson Cardone: Right.

Mr. Donovan: ...so the only way we could reopen is we re-notice.

Chairperson Cardone: Is to re-noticing.

Mr. McKelvey: Can we hold it over?

Mr. Donovan: We have sixty-two days to make the decision.

Chairperson Cardone: We have sixty-two days but we would need more information.

Mr. McKelvey: Yeah.

Mr. Scalzo: I...I agree but I...I don't know that hold or re-noticing would a...I believe we've heard the testimony from the neighbors. I don't believe it's going to change much you know with a different design.

Chairperson Cardone: But legally speaking we would have to.

Mr. Donovan: I think the only issue is if he comes back with a dramatically changed design the folks who were here in favor and opposed are not going to come back because we closed the Public Hearing. Now if he comes back with a mod...you know, if he eliminates or diminishes the variances then I don't think there's a problem. If it's a different structure then I think it's a problem.

Chairperson Cardone: Right.

Mr. Donovan: So if he came back with a fifteen foot high building and a fourteen percent square footage then I...I don't have an issue because it's less than what he asked for.

Mr. Manley: It might be best for us to Reserve Decision, give the applicant an opportunity to kind of re-tool things a little bit now that he's heard the concerns of the Board. And then come back and if it's relatively the same design with less in height and...

Mr. Maruco: Well that's why...it actually... the purpose...this whole purpose of this is because I need the space that I need that I'm putting in for. If I come...if I were to come back smaller and whatnot it wouldn't serve the purpose that I have. It's like I might as well just put a shed up and throw everything in the shed. Do you understand what I'm saying?

Chairperson Cardone: But...but you can't just put a shed up because...

Mr. Maruco: No, I...I understand...I...

Chairperson Cardone: ...if you put a shed up you're going to be adding square footage.

Mr. Maruco: No, yeah right, right...I'm just saying...implying that...you know I need the footage, square footage that I have I...can eliminate the overhangs and the...the side of the garage I could come down on the height on the roof if I eliminate storage upstairs which is fine but I would need the storage in the back cause I need storage.

Mr. McKelvey: That's just a tradeoff on the overhang.

Mr. Maruco: I'm sorry?

Mr. McKelvey: That would be just a tradeoff to the overhang.

Mr. Donovan: Well the alternative is to vote on the application submitted to you.

Mr. Manley: Right and I think that where we're at at this point because if we can't come to some sort of...decision, then we have to vote.

Mr. Maruco: Well I could...if I come down to like the four twelve pitch it will eliminate any storage upstairs that would definitely drop the height tremendously and as far as storage in the back I wanted to go to the length of the...of the garage, there's twenty eight feet, I can...I can shrink that down a little too. I could probably do maybe like a...like a ten by twenty which is so...you know, I mean I know it's three hundred square feet more but I need to put things. I need a place to put things, I mean you saw the pictures it's...I have nowhere to put anything. Right now I don't...I don't even have a shed only I need to get that out of my house so I can finish my house and start living.

Chairperson Cardone: Well you know I think at this...

Mr. Maruco: You know it's tough.

Chairperson Cardone: ...at this point we're talking about the...the height that has to come down. You know I think by eliminating the two overhangs you certainly decrease the percentage of the...

Mr. Maruco: Right.

Chairperson Cardone: ...variance for...

Mr. Maruco: Right.

Chairperson Cardone: ...the square foot down to under fifteen percent. But the height you know still over fifty percent is still a very high percentage.

Mr. Maher: Maybe there's a different roof configuration that you can think of that might accommodate...

Mr. Maruco: Nah...it's either barn gable style or that's not gonna...it's still gonna...

Mr. Levin: How about lowering the walls?

Mr. Maruco: Sorry?

Mr. Levin: How about lowering the walls? Come down.

Mr. Maruco: Well that's...I don't think I'd be able to do that. I've been thinking out there how I could do it to get a...

Mr. Levin: Well you're twelve feet now.

Mr. Maruco: Twelve feet yeah (inaudible).

Mr. Levin: Two feet off.

Mr. Maruco: What was it...Mike what was it you said Mike you said eight twelve what was the...the height on that, on the eight twelve?

Mr. Maher: At eight twelve you are going to be eight foot above the floor on the twenty four foot wide section. It'd be nine foot.

Mr. Maruco: So I'm six...it'd be six feet over the variance, right?

Mr. Maher: Well no the fifteen foot is the maximum requirement so if you had a ten foot sidewall, ten foot, nine, eleven foot...you...you're still four feet over on that end of the...the...I'm sorry, ten and one is you know eleven and nine and eight is going to be nineteen so you're four foot over there so...I mean that gives you...it's closer yet like (inaudible) suggested there I mean a ten foot sidewall, one foot of floor space and then eight foot of...eight

foot of rafter. But yet you 've got to remember you have a twenty foot wide section to that will add to that again so...again it's got to be something you bring back to the Board that you know, whatever you think is going to be reasonable.

Mr. Maruco: Well what's...I mean I know it's hard to say but what's acceptable that I can...?

Mr. Donovan: Well the way it...

Mr. Maruco: ...try to configure something to...

Mr. Donovan: ...the way this is supposed to work is there's an application to the Board, the Board rules on the application. Everyone is trying to be helpful...

Mr. Maruco: Sure, I understand.

Mr. Donovan: But, but it's not...it's not the Board's job to tell you what they'll accept. You make a proposal the Board votes. Sometimes, we have attorneys have an expression, it's easier to try a case then to try and settle a case. So, you know...

Mr. McKelvey: You've got to bring it down.

Chairperson Cardone: What would the percentage be? You're talking about nineteen feet?

Mr. Maher: Nineteen feet would be four foot over, that's roughly what twenty percent or so...a ballpark there? At nineteen feet.

Chairperson Cardone: Well if you can come back with...I don't know how the rest of the Board feels...

Mr. Maher: I think...I think you have some...I think you now have a overall picture and from that point you know, you've got to make a decision what you, like Mr. Donovan said, you've got to come up with your plan you know, preferably with some drawing to illustrate what you...what you would like to do to you know what...

Mr. Maruco: Right, what would work and according to the Code.

Mr. Maher: ...then come before the Board that they would approve basically on the information that you have tonight.

Mr. Manley: There's probably a good chance that if we vote on what we have that there won't be enough votes to get it to pass, that would be my guess. But...I mean I'd be willing to Reserve Decision and allow the applicant to you know, come back but you only have one bite at the apple next month because we have to make a decision by next month.

Mr. Maruco: Okay I can...I can work with that. I could...I can if I have to come back to...to get a decision, I will have to figure something out.

Mr. Maher: So would we want something back before the meeting or...or...what would the time frame be?

Chairperson Cardone: Preferably before the meeting.

Mr. Manley: At least ten days before the meeting.

Mr. McKelvey: You have to get something in ten days before the meeting to...to our secretary.

Mr. Maruco: I'm sorry what time?

Mr. McKelvey: You have to get something in to the secretary before the meeting.

Mr. Maher: So whatever...whatever we...

Mr. McKelvey: So we can see it.

Mr. Maher: ...whatever drawings, you prepared some drawings here if you do something similar.

Mr. Maruco: Okay, ten days before the meeting.

Mr. Maher: What date? Betty what date is the meeting?

Ms. Gennarelli: The 25<sup>th</sup>. Tuesday the 25<sup>th</sup>.

Mr. Maher: So by the 15<sup>th</sup> of November.

Mr. Maruco: Okay.

Mr. Manley: Keeping in mind the two things we identified is the height and the square footage as the two areas we are going to be looking at.

Mr. McKelvey: I'll make a motion we Reserve Decision.

Chairperson Cardone: Do we have a second?

Mr. Levin: I second.

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: So we will Reserve Decision until next month. If you could get those drawings in then we can get the figures from Mr. Mattina on what the percentages would be.

Mr. Maruco: Okay, very good.

Chairperson Cardone: Thank you.

Mr. Maruco: 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  
JOSEPH MATTINA, CODE COMPLIANCE

(Time Noted – 10:23 PM)

ZBA MEETING – NOVEMBER 25, 2014 (Resumption for decision: 9:23 PM)

DAVID MARUCA

280 FOSTERTOWN ROAD, NBGH  
(20-1-21) R-2 ZONE

Applicant is seeking area variances for the maximum allowed square footage of accessory structures, the maximum height of accessory structures and the maximum allowed storage for not more than (4) four vehicles to build an accessory structure (50' x 33' x 28'6" two-story detached garage). (Reduced to 1108 sq. ft. x 20' H)

Chairperson Cardone: Next we have a Reserved Decision from October 23<sup>rd</sup> David Maruco and what we were asking for was...we were asking for drawings. And I do have the revised, the drawings were...were given to the Building Department and the building height was reduced to twenty feet and the building height had been twenty-eight feet was reduced to twenty feet. And it was ninety per cent over which was reduced to thirty-three point three percent and the square footage was thirteen fifty-six reduced to (1108) one thousand one hundred and eight and that from sixty-three point six percent to thirty-three point seven percent. And I believe a...someone had requested to give me some additional information and would you at that time state your name and give me the information you have.

Mr. Bennett: Hello my name is Rob Bennett and I live on the property behind David so a...I didn't realize that you know...

Chairperson Cardone: That the Public Hearing was closed.

Mr. Bennett: Yeah and I wanted to make an additional statement a...David likes buy cars and fix them and sell them which I don't know how many cars it takes to be a business but I'm a little concerned about like air ratchets and sounds constantly. It's going to be close to my property.

Chairperson Cardone: Okay.

Mr. Bennett: I just wanted to voice that concern.

Chairperson Cardone: Okay.

Mr. Bennett: Maybe the yard he could...I mean I still oppose any variances but he did come down a lot from the size. If I could request that he put some kind of acoustic a...a...matting in this building or I...I'd imagine he's probably going to insulate it anyway...you know it would have some kind of acoustic value I think that would help.

Chairperson Cardone: Okay.

Mr. Bennett: That's all I have to say.

Chairperson Cardone: Okay, thank you.

Mr. Bennett: Inaudible.

Chairperson Cardone: This is a Type II Action under SEQR. Do we have discussion on this application?

Mr. Manley: I just had a quick question maybe Mr. Maruco could just...just so I could get a little clarification. A hundred and forty square foot little bump out in the back there...

Mr. Maruco: Yes?

Mr. Manley: Is there going to be a doorway to get in? I don't see it on here.

Mr. Maruco: Yeah, there's an opening from inside the garage going to be going out say it's just a storage so in order to be able to access that storage area there will be a doorway going into it.

Mr. Manley: From the garage?

Mr. Maruco: Yes.

Mr. Manley: Going into that little area.

Mr. Maruco: That's correct.

Mr. Manley: And then will there be another door to go out...?

Mr. Maruco: Yes, yup.

Mr. Manley: ...so there will be two doors?

Mr. Maruco: Correct.

Mr. Manley: One goes into the storage area and then one goes into the main garage?

Mr. Maruco: Yes.

Mr. Manley: And there will also be a door in the front?

Mr. Maruco: Yes.

Mr. Manley: A doorway not a garage door but a doorway to go into the...the garage?

Mr. Maruco: Actually there will be a total of four doors.

Mr. Manley: Four doors?

Mr. Maruco: One on each side and in the front and one in the back.



Mr. Manley: And what exactly was that hundred and forty square foot used for?

Mr. Maruco: Just for a storage...

Mr. Manley: Of what?

Mr. Maruco: Just...a...equipment that I have like a lawnmower in there and I had no shed or no storage at all so a...just for storage of equipment.

Mr. Manley: Okay.

Mr. Maruco: A back pack blower and a...

Mr. Manley: That won't fit in the main part?

Mr. Maruco: No because I have...I have two classic cars so I...I really hate to put storage around it in case something happens to it it's an expense to fix it...to fix the cars the paint or whatnot.

Mr. Manley: Okay. Okay, thank you.

Mr. Maruco: You're welcome.

Mr. Scalzo: I have another question if you don't mind. So we'll call the area the bump out that Jim was mentioning. That's the north side of the building, correct?

Mr. Maruco: Yes.

Mr. Scalzo: Are there...are you proposing any windows on the back side?

Mr. Maruco: No.

Mr. Scalzo: The door that's going to lead out into the backyard towards the back property line is that going to be a solid door?

Mr. Maruco: Yes, yes actually I want a solid steel door so you know, break ins...if someone were to try to break in it would be much difficult. And actually the side doors too would be a...steel because from my house looking out I can't see it so I want to make sure that I got it pretty solid so nowhere there's a chance of breaking in.

Chairperson Cardone: And do you have any comment concerning the noise?

Mr. Maruco: A...it's a garage to park cars and I mean...as far as noise what...?

Mr. Maher: There's no excessive body work going on, there's no air ratchets constantly day and night? There's no...

Mr. Maruco: You know I mean I will...I want to change my oil and you know things like that.

Mr. Maher: No, I understand.

Mr. Maruco: But no...

Mr. Maher: But not excessive to bother the neighbors obviously that is the concern.

Mr. Maruco: No, not at all and it will be insulated. I'm not running a business out of it. It's my hobby, personal hobby. I work a lot of hours at...at my job so the amount of time I would be spending in there will be very, very minimal.

Chairperson Cardone: And you are planning to put insulation, you said?

Mr. Maruco: Yes.

Mr. Manley: Will it be sheet rocked?

Mr. Maruco: Yes.

Mr. Manley: So the entire inside will be sheet rocked?

Mr. Manley: Right. Okay. Are you going to have any lifts at all in the...in the garage?

Mr. Maruco: As of now, no.

Mr. Manley: Okay. Do you plan on having any lifts in the future?

Mr. Maruco: No I don't...I don't plan on it but I...the reason I have the height I have jeeps so you pull...pull the jeep in there and I can take the top off it for the storage that hangs from the ceiling. This way I don't have to take it out and put it in the yard and just have it sitting in the yard because it would...it gets ruined when it's sitting out there on...on the ground like that.

Mr. McKelvey: Are you going to have heat?

Mr. Maruco: No heat.

Mr. McKelvey: Electric you'll probably have?

Mr. Maruco: That's why I'm insulating to try to keep it from the cold you know, from the frigid cold to get on it.

Mr. Scalzo: But if you're going to finish with sheet rock are you going to tape and spackle and if there is no heat in there then you're going to...it's going end up you know, peeling, ruining...

Mr. Maher: It's not conducive to having taped joints but it's not prohibitive either.

Mr. Manley: Guess it depends who you get, huh?

Mr. Maher: Well I mean, it's...it's not the best application but...it is...it is a potential...depends...you know doable.

Chairperson Cardone: Okay, do we have a motion for approval on this application?

Mr. Masten: I'll make a motion.

Chairperson Cardone: Do we have a second?

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.

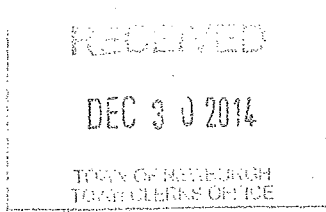
Mr. Maruco: Thank you.

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 (Time Noted – 9:32 PM)



Section 20, Block 1, Lot 21

TOWN OF NEWBURGH: COUNTY OF ORANGE  
ZONING BOARD OF APPEALS

-----X

*In the Matter of the Application<sup>1</sup> of*

DAVID MARUCO

**DECISION**

*For area variances as follows:*

- *Grant of a variance allowing an accessory structure to have a total area of 1,108 square feet where 828.60 square feet is the maximum allowable area;*
- *Grant of a variance allowing an accessory structure to have a height of 20 feet where 15 feet is the maximum height allowed.*

-----X

**Introduction**

David Maruco seeks area variances as follows: (1) Grant of a variance allowing an accessory structure to have a total area of 1,108 square feet where 828.60 square feet is the maximum allowable area; and (2) Grant of a variance allowing an accessory structure to have a height of 20 feet where 15 feet is the maximum height allowed.

The property is located at 280 Fostertown Road in the R-2 Zoning District and is identified on the Town of Newburgh tax maps as Section 20, Block 1, Lot

<sup>1</sup> This application was amended during the course of the public hearing. Specifically, the size and height of the structure were reduced as reflected herein. Additionally, the applicant advised the Board that he would not be storing more than four vehicles in the proposed accessory structure and this component of the variance request was therefore withdrawn.

21.

A public hearing was held on October 23, 2014, notice of which was published in The Mid-Hudson Times and The Sentinel and mailed to adjoining property owners as required by Code. The hearing was continued until November 25, 2014 at which time it was closed.

### Law

#### *Accessory Building*

Section 185-15(1) of the Code of Ordinances of the Town of Newburgh [Zoning] entitled "Accessory buildings," limits the height of accessory structures to 15 feet.

Section 185-15(A)(4) of the Code of Ordinances of the Town of Newburgh [Zoning] further provides that an accessory use to a principal 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.

### Background

After receiving all the materials presented by the applicant hearing the testimony of Mr. Maruco, at the public hearing held before the Zoning Board of Appeals on October 23, 2014, the Board makes the following findings of fact:

1. The applicant is the owner of a 32,750+/- square foot lot (tax parcel 20-1-21) located at 280 Fostertown Road.
2. The lot is improved by a single family dwelling. The applicant proposes to construct a detached garage that will be 1,108 square feet in ar-

ea and have a height of 20 feet. These dimensions exceed the maximum allowed by the Town Code.

3. The applicant's proposal is set forth on a series of photographs and drawings and plans. Those photos and plans are hereby incorporated into this decision and a set shall remain in the zoning board's file in this matter.
4. The Building Inspector denied a building permit application by letter dated September 18, 2014.
5. 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	828.6 S.F.		1,108 S.F.	279.40 S.F.	33.7%
Building Height	15'		20'	5'	33.3%

The applicant has appealed the Building Inspector's determination.

At the public hearing neighbors spoke both in opposition and in favor of the application. Those in favor expressed the opinion that the structure would provide a location that could house the applicant's cars and tools thereby giving the property a neater and cleaner appearance. Those in opposition felt the proposed structure was too large and had the potential for excessive noise given that the applicant advised he would be working on the cars that were to be stored in the 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 de-

cides 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 has been referred to the Orange County Planning Department for review and report. The Planning Department has reported that this matter is one for local determination, there being no significant inter-municipal or countywide considerations found to exist.

### 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 applicant testified at the hearing that the proposed accessory structure would be in harmony with this existing, mature, neighborhood and would not in any way result in any undesirable changes to the neighborhood nor cause any detriment to any nearby properties.

Conflicting testimony was received from neighbors who were opposed to the application.

After visiting the surrounding neighborhood and weighing the conflicting statements before the Board, it is the Board's considered opinion that the proposed accessory structure will not cause an adverse change to the neighborhood nor would its construction result in any undesirable change to the surrounding neighborhood.

***(2) Need for Variance***

Based upon the testimony and evidence submitted at the Hearing, it appears that the applicant requires an accessory structure of the size and height proposed in order to accommodate the vintage cars he owns and works on and to provide needed storage.

Based upon the applicant's testimony, the Board finds that it is not feasible for the applicant to construct an accessory structure in a way that would have any meaningful use and benefit to the applicant without the requested area variances.

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 the construction of the proposed garage.

***(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 Zoning Ordinance and while aware of the need to obtain variances in order to construct a garage of the size and height proposed.

However, the Board finds, 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 upon the following conditions:

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.

Dated: November 25, 2014



Grace Cardone, Chair  
Town of Newburgh ZBA

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

AYES: Chair Grace Cardone  
Member John McKelvey  
Member Darrin Scalzo  
Member James Manley  
Member Michal Maher  
Member John Masten  
Member Richard Levin

NAYS: None

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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 November 25, 2014

  
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 DEC 30 2014.

  
ANDREW J. ZARUTSKIE, CLERK

TOWN OF NEWBURGH