

## ZONING BOARD OF APPEALS

September 15, 2009

Present: Michael Dudick, Chairman, Dale Gleason, Robert Ritter, Christopher Lemire, Brian Telesh, James Whalen, Deborah Ferro (alternate member)

Also Present: Joel Peller, ZBA Counsel  
Steve Myers, Director, Building & Zoning

Absent: Douglas Strother

Mr. Dudick called the meeting at 7:03 p.m.

Mr. Dudick advised that alternate member, Deborah Ferro, will be voting in place of Douglas Strother.

PLEDGE OF ALLEGIANCE

### **OLD BUSINESS:**

- 1. An application from Belmonte Properties, LLC, requesting a use variance from Section 208-69(2) to construct a single family home in an LC zone of a previously approved subdivision, Oakwood Estates. (The entire proposed house was in the LC zone originally and due to a new delineation it appears that approximately half of the proposed house is now in the LC zone. (910 SF per the drawing) The size of the proposed structure is actually larger now (1829.1 SF) than was originally proposed (1800 SF))**

**If use variance is granted, two area variances will be required as follows: (1) from Section 208-70(A), which requires a minimum lot size of 100,000 sq. ft., the proposed lot is 20,504 sq. ft., variance required = 79,496 sq. ft.; and (2) from Section 208-70(D), which requires a side setback of 20 feet, 10 feet is proposed, variance required = 10 feet. The property is located at 16 Bonneau Road, Clifton Park, New York. (Permit #80730)**

Mr. Dudick asked if anyone was present for this application and no one replied. He asked if anybody knew what was happening with this application. Mr. Myers replied that he was not notified either way. Mr. Dudick asked the secretary if she knew anything about this. The secretary replied that they cancelled for September 1<sup>st</sup> and rescheduled for September 15<sup>th</sup>. She stated that she sent the applicant a letter on September 1, 2009, after they cancelled on August 31, 2009, advising that the application would be on for tonight (September 15<sup>th</sup>).

The other applications on the agenda were then heard.

There was discussion about the adjournments and tablings of this application. Mr. Myers stated that there was a hearing on July 14, 2009, that it was tabled to September 1, 2009, and postponed again to September 15<sup>th</sup>. It was originally scheduled for April, then June. Mr. Myers recalls five different times it was supposed to be on. The last Mr. Myers heard, the applicant was going to submit a drawing to move the house again to have less influence on the LC zone but he has seen nothing. Mr. Lemire asked if this was in the August 31, 2009 letter, and Mr. Myers replied yes. Mr. Lemire asked if anything has been submitted since the August 31, 2009 letter and Mr. Myers replied no.

Mr. Ritter recalled that they were supposed to resolve the issue of the map. Mr. Myers replied correct. Mr. Ritter stated that it is not an issue of whether the map existed, but rather an issue of the access at the time of the purchase of the property. Mr. Myers stated yes, and he has received nothing since the August 31<sup>st</sup> letter.

Mr. Peller stated that the applicant is not asking for this to be adjourned and therefore the board needs to make a decision as to what is in front of them.

Mr. Lemire stated to Mr. Dudick that it is his understanding that this matter has been before this board on several prior occasions; that the last correspondence from the applicant was on August 31, 2009 to Mr. Dudick asking for an adjournment to the next regular meeting, September 15, 2009; there was representation in the August 31 letter that they would be providing additional documentation for the zoning board's consideration; there were additional representations made back on July 14, 2009 regarding additional documentation that they wished to present; and that it is now 8:00 p.m. and there does not appear to be anyone present on behalf of the application.

Therefore, Mr. Lemire stated that based upon the guidelines the board needs to consider regarding a use variance, the applicant has not satisfied the requirements which would warrant the granting of a use variance to allow for the building of a single family residence in the LC zone, and Mr. Lemire made a motion to deny the application. Ms. Ferro seconded.

Mrs. Gleason asked why the board would vote on this now and what are the board's other choices. Mr. Dudick's understanding is that the choice would be to vote on the application as it has been presented and as is on the agenda for tonight, or to adjourn yet again. Mr. Dudick stated that the board keeps postponing, adjourning and giving additional time and he feels that the board has been very courteous in allowing for the postponements, adjournments and reevaluations and is ready.

Mrs. Gleason asked if there is any documentation that they have never responded to any communication. The secretary responded that when the applicant gave written notification dated August 31, 2009, she sent them new notification on September 1, 2009, that the application has been adjourned and rescheduled to September 15, 2009, and she has heard nothing. The secretary also stated that in her September 1, 2009 correspondence she let the applicant know that they are to notify their neighbors and she has not heard anything about that, either.

Mr. Dudick stated that this matter is on the agenda and there is someone from the public present regarding this application. He feels that Belmonte is familiar with the process.

Mr. Lemire advised Mr. Dudick that before the board votes, the public hearing needs to be closed as it was left open on July 14, 2009.

At this time, Ms. Penny Kienast, daughter of the neighbor of 14 Bonneau Road spoke. She did research after the last meeting regarding whether the maps were available from DEC and found that they were. She has letters dated and received from the County Clerk's office as well as the actual change that Mr. Tompkins was referring to not being on the map. She said it is there, and was received on January 1, 1999. Mr. Lemire asked if the wetland delineation was on the map that was filed in the County Clerk's office in 1999. Ms. Kienast replied yes, that they were never formally adopted and to this day never have been, but stated that if you call DEC and speak to Jed Hayden, which she has, they are known as the official maps. There is one map drawer at the County Clerk's office. You go there – one draw, hard to miss, and everything is delineated by quadrangle in the County. It shows on this map from the 1970's, updated throughout the 1980's, the portion that was originally there on Bonneau Road. Ms. Kienast stated that if you look at the newly updated maps initially sent at the end of December with all of the changes for every quadrangles (and then there are documents dated January 8, 1999) that the changes were supposed to be stapled to each map and available. She read the following from a letter from January 8, 1999: "Delivered with this letter are copies of the proposed amended maps for the specific jurisdiction. Please staple the table of wetland identifications and classifications to the upper corner of the matching quadrangle number. Please make these maps available for inspection by interested parties." Ms. Kienast stated that Mr. Belmonte purchased the property in 2001 and the change that they are referring to is the addendum change running right behind 16 Bonneau, which what created the LC zone and new wetland delineation. She added this because whether those maps were there was a big part of the last meeting. Ms. Kienast asked if anyone would like this documentation and Mr. Myers said he would like to have them.

Mr. Peller made it clear that the applicant did not supply this documentation. Mr. Dudick advised Mr. Myers that the board should give the maps a quick perusal and put the board's review on the record.

Mr. Peller stressed that it is important for the board to know that although the applicant was requested by the board to provide these maps and information, the applicant did not; that the board is receiving them from Penny Kienast; that the board is looking at it based upon what Penny has provided.

There was discussion about the map, Niskayuna quadrangle 1992. Ms. Kienast stated that the changes, additions or deletions are noted in 1999. Mr. Dudick asked if this would be available to a builder or purchaser of the land. Mrs. Kienast replied yes.

Mr. Dudick made a motion to close the public hearing. Mr. Telesh seconded. Approval unanimous.

Mr. Lemire renewed his motion to deny the application, and stated for the record that regardless of the documentation presented today, it is his position that the applicant did not produce competent financial evidence that a reasonable return could not be realized and also that the applicant has not produced substantial evidence that the alleged hardship was not self-created. Mr. Lemire feels that the hardship was self-created based on the zoning in place at the time the applicant purchased the property. Ms. Ferro seconded. Ayes: Gleason, Whalen, Dudick, Lemire, Telesh, Ferro. Noes: None. Abstentions: Ritter.

The application has been denied.

**NEW BUSINESS:**

- 1. An application from Guy S. Gardner, requesting area variances from Section 208-12A to build an accessory structure as follows: (1) accessory structures are required to be 80 feet from front property line, variance requested = 70 feet; and (2) accessory structures over 15 feet in height are required to be set back from property lines 1 foot additional for every foot over 15 feet – proposed height = 21 feet, or 6 feet over, required side setback = 5 feet, 11 feet needed – variance requested = 3 feet. The property is located at 36 Bluff Road, Rexford, New York. (Permit #80742)**

The secretary read the legal notice as it appeared in the Daily Gazette on September 10, 2009.

Mr. Guy Gardner, owner of the property, presented this application and appeared with his wife, Frances Gardner. Mr. Gardner proposes to build a 24' x 30' garage with a height of 21 feet. The septic and well is on the west side of the property. After he submitted the application he decided to tip the front of the garage (northern end) toward the west, so only the corner closest to the road will be 12 feet off the property line. He presented revised plans which he feels makes it look residential. The well prevents him from moving it more to the west. The septic is on the west side as well, as noted in the original plan. Although the septic tank is in the back of the house, there are pipes that go along the side of the house. There is also stream along the side of the house. If he has to put in a new septic drainage field he would like to keep as much land open as possible. For these reasons he does not feel he can place the garage anywhere else.

Mr. Gardner stated that he showed the plans to his neighbor, David Smith, and he signed it stating he does not have a problem with the location of the proposed garage, which is part of attachment 3 in the application.

Mr. Telesh asked where Mr. Smith's house is in proximity to the property line and Mr. Gardner stated it is right across from his, about 8 feet from the property line. Mr. Gardner stated that Mr. Smith was also granted a variance when he bought his property to build a garage in front of his house, across from where Mr. Gardner wants to construct his garage.

Ms. Ferro asked Mr. Gardner about Mr. Smith's garage and Mr. Gardner replied that he does not have a garage but has a variance to place one in front of his house. There was discussion about what that variance may be.

Mr. Dudick asked why Mr. Gardner could not attach the garage to the house on the side that faces the stream or in the front. Mr. Gardner replied that if he attached it to the front he would lose the entrance to the house as well as the windows and second story. The septic drainage field is on the side. Mr. Dudick asked about the back, behind where the septic drainage is and Mr. Gardner replied that there are pipes that run through there. There is a very narrow living room back there, as well, and he was hoping to enlarge that portion in the future to make a normal-sized living room.

Mr. Dudick asked for public comment and there was none. Mr. Dudick made a motion to close the public hearing. Mr. Ritter seconded. Approval unanimous.

Mr. Dudick asked Mr. Myers for his comments. Mr. Myers replied that this seems to be very common in that part of town. There are quite a few people who have their garages out in front because of the way the lots are on that street. It is really the only viable place for a lot of them to put a garage. He does not see a problem.

Mr. Dudick asked the board for further comment and there was none. Mr. Dudick agreed with Mr. Myers and believes that because of the way the house and property, stream and lots are set up, this would be the best option available.

Mr. Lemire asked if the twisting of the garage changes any of the variances needed and Mr. Myers replied no.

Mr. Telesh made a motion to approve the application as presented. Mr. Ritter seconded. Ayes: Gleason, Ritter, Whalen, Dudick, Lemire, Telesh, Ferro. Noes: None.

- 2. An application from GroSolar (Matthew DiNisco), requesting area variances for a pole-mounted solar electric system. This is an end unit townhouse in Crescent Estates south PUD – phase II. Accessory structures require a minimum setback of 80 feet from the front line (property fronts on both Boyack and Carriage Roads). The building setback requirement is 30 feet. Applicant requests to put a photovoltaic array/system 15 feet off Boyack Raod. (1) A variance from A217-114 is**

**requested since it is not allowed to be within the main building setback; and (2) a variance is requested from 208-12, 80 feet required from the front property line on Boyack Road, 15 feet is proposed – variance requested = 65 feet. The property is located at 10 Carriage Road, Clifton Park. (Permit #80743)**

The secretary read the legal notice as it appeared in the Daily Gazette on September 10, 2009.

Mr. Matthew DiNisco presented this application. He is a representative of GroSolar, the solar contractor that proposes to install the system. They have looked at a variety of options to place the system. They have looked into a roof-mounted system as well as other locations on the property. However, due to space limitations and shading limitations he feels that this is the only place where the system can go. If they move it further away from the road, they will lose production, essentially rendering the system unusable because of shading issues.

Ms. Ferro asked if removing trees would help them comply with zoning regulations. Mr. DiNisco replied that he has not measured it. He does not know the length of the property, but potentially, with tree removal, this would be possible. However, these are old, large trees and it would be a costly endeavor.

Mr. Lemire asked if the proposed location is an open field and Mr. Gardner replied yes, that toward the house there are a number of trees, but further back there is more of an open field. Mr. Lemire asked if the applicant is Jennifer Stanley and Mr. Gardner replied yes. Mr. Lemire asked Mr. Gardner if Mrs. Stanley would be able to view this from her back deck. Mr. Gardner replied that she would probably see it. It is not a forest of trees, but she would not have a full view of it. Mr. Lemire asked if there is any buffer between the proposed structure and Boyack Road. Mr. Gardner replied that there are hedges along the hill. It rises up as it goes toward Boyack Road, probably about 7 or 8 feet in elevation and there are trees and shrubbery that is there as well.

Ms. Ferro asked about the height of the structure. Mr. Gardner replied that the structure should be about 15 feet high. Mrs. Ferro asked why the solar panels could not be roof-mounted. Mr. Gardner replied that this is not possible due to the orientation of the roof and the space available on the roof. Mr. Gardner stated that this system is the smallest his company provides and it still would not fit on the roof.

Mr. Dudick asked what this system would provide. Mr. Gardner stated that it would offset the electrical consumption within the house. Mr. Dudick asked how much, and Mr. Gardner stated he believes about 50%. Mr. Gardner then asked “Margarite,” a member of the public, how much she expects the system to offset the electrical consumption and her response was inaudible. Mr. Gardner then stated he believes it would offset it by a third, or 33%, if he remembers correctly.

Mr. Dudick asked for public comment and there was none. Mr. Dudick made a motion to close the public hearing. Mr. Ritter seconded. Approval unanimous.

Mr. Dudick asked Mr. Myers for his comments. Mr. Myers stated that he has a problem with the application. Since he has been here, there have been no accessory structures placed outside the building line, at least intentionally, and he does not know why we would start now. This violates

both the zoning and PUD legislation for the development. He does not feel it should be this close to Boyack Road. If it were set 80 feet back, like it should be according to zoning regulations, he does not think there would be an issue. Mr. Myers stated that even if it was beyond the 30-foot building line, it would be better than placing it half the distance to the road.

Mr. Lemire asked if “Margarite” could identify herself for the record. Margarite identified herself as Jennifer Stanley’s sister. Jennifer Stanley is the owner. Mr. Lemire asked Margarite if she lives on the property and she replied yes.

Mr. Myers again stated that to his knowledge they have never allowed an accessory structure outside the limits of the building line and he does not know why we would start with this.

Mr. Lemire asked Mr. Myers if he has been to the property and Mr. Myers replied yes. Mr. Lemire stated that there seems to be a lot of room there. Mr. Myers agreed. Mr. Lemire asked if there are any septic issues and Mr. Myers replied no.

Mr. Ritter asked Mr. DiNisco why he chose the proposed spot. Mr. DiNisco replied that it is purely based on the shading analysis that they have done. Mr. Dudick asked if a clearing could be made closer to the townhouse and Mr. DiNisco replied yes. Mr. Ritter asked Mr. DiNisco if, based on his analysis, the further you move the pole toward the home there is more shading and Mr. DiNisco replied yes.

Mr. Ritter asked about the kilowatt production. Mr. DiNisco replied that this is a 1,900 watt system, which would be about 2 kilowatts. Given the estimated number of sun hours per day, this would produce about 6 to 8 kilowatt-hours per day. If they are not used, they will be credited back to the homeowner.

Mr. Lemire asked about the size of the panel. Mr. DiNisco replied that one panel is about 5’ x 3’. Mr. Lemire asked why that would not fit on the roof and Mr. DiNisco replied that there would be ten panels. There was further discussion about this and Mr. DiNisco stated that a number of factors would prevent the system from being roof-mounted, size, angles and electrical considerations.

Mr. Lemire asked why the pole could not be placed closer to the house, above the roof. Mr. DiNisco replied that that this would not be possible due to cost and engineering issues. Mr. Dudick asked for specifics regarding cost and Mr. DiNisco replied that he did not know what it would cost, but the excavation, cost of a pole and cement for the proposed system is about \$3,000. If you increase the size of the pole to get above the trees, you would have to go about 50 feet in the air and he does not even know if that can be done with a single pole. If it can be done, his company would not do it.

Mr. Lemire referred to a section of the application wherein Mr. DiNisco noted that funding for this project has been obtained through NYSERDA’s PV rebate program and Mr. DiNisco replied yes. Mr. Lemire asked if they would be paying for it and Mr. DiNisco stated that they would be paying about \$4 per watt, so it ends up being about 50% of the entire system cost. Mr. Lemire

asked if they have been approached about taking down trees and will pay for that and Mr. DiNisco replied that they would not.

Mr. Whalen asked if 50% of the \$3,000 cost would be paid for NYSERDA. Mr. DiNisco replied that this is just the pole, not the entire system. Mr. Whalen asked would the total cost would be. Mr. DiNisco did not have that figure, but he submitted it with the building permit. He estimates that it is about a \$25,000 system. NYSERDA does not pay for 50%, but it works out to about 50% if you include the tax rebates. He can produce the proposal if needed. Mr. Whalen asked if anybody has looked at the area regarding tree removal. Mr. DiNisco does not believe they have obtained a quote for that.

Mr. Dudick asked for clarification of what cost NYSERDA will pick up and Mr. DiNisco replied that they would pick up \$7,600 of the \$25,000.

Mr. Ritter stated that he loves the concept but has a problem with this being the end unit of several townhouses, and it is not necessarily in compliance with the PUD and zoning. The zoning is an issue we can take care of, but the PUD issue is something we cannot. Mr. Ritter thinks that the board should look for clarity in the PUD issue before considering a zoning ruling on this application. Mr. Ritter also believes that if we allow this individual system, nothing would prohibit the neighbors from coming in with individual systems, as well. In the past, according to Mr. Ritter, we have looked at a whole vision of a community. Mr. Ritter feels that this is a substantial structure going up in the yard and he is not certain that the neighbors of this townhouse are even aware that one day this pole will be up. They might not necessarily be for or against this project, but he feels that there are a lot more questions that need answering because this is new to the marketplace. He feels that this project should have been noticed to the neighbors so they can have more of an impact on it. He also would like more justification of the expenses and explanation as to why a thin slate solar application would not work on this rooftop, what is the percentage of shading, etc. Mr. Ritter feels that this is groundbreaking for this board to look at this type of application and this could set a precedent for other applications. In this context, he would want to be certain that we go the extra mile and put this into context as to why we would grant a variance for this application and what is the justification for it.

Mr. Lemire asked if there is a wire that goes from the PV unit to the house and Mr. DiNisco replied yes. Mr. Lemire asked if the closer you get to the house would the wire be shorter and the cost be less and Mr. DiNisco replied yes, but he did not have a figure.

Mr. Dudick asked if more electricity would be generated if the system were placed closer to the house because of resistance issues. Mr. DiNisco replied that there are resistance issues but this can be reduced if the wire is sized appropriately. The electricity potential is greater.

Mr. Lemire asked about the savings and would the savings cover the cost of tree removal. Mr. DiNisco did not prepare or get any prices together because he did not think this would be an issue. Mr. Lemire stated that one of the considerations is whether the benefit of having this unit could be achieved by the applicant by other means, therefore not requiring a variance. To Mr. Lemire, when looking at this piece of property, he feels that there is a lot of space to put this structure somewhere else that does not need the zoning board's approval.

Mr. Myers stated that to his knowledge, there is only one other pole-mounted system in town, which is behind the house. In response to Mr. Ritter's concerns, this is not groundbreaking to the building department. There are several in town that have been permitted and all of them, with the above-mentioned exception are roof-mounted. They require a structural evaluation of the roof to be sure it can hold it. There are wiring code considerations as well. There is nothing that he can think of at a townhouse anywhere that has any of these units.

Mr. Dudick believes that townhouses are different from most of the homes in Clifton Park. He feels that townhouses represent a unique type of housing environment. Mr. Myers replied that unfortunately, the code does not differentiate. Mr. Myers thinks this would set a precedent and the PUD legislation may create a sticky problem as well. The regulation is pretty clear about buildings and accessories to buildings.

Mr. DiNisco wanted to stress to the board that they are trying to promote this technology as the country is turning in the direction of using less electricity. He feels that a key way to doing that is to make it affordable for customers. If they can take down less trees and orient it in a way that is not only cost-effective but also aesthetically pleasing and produces, that is what they go for. With this system they would have to take down quite a few trees if they place it anywhere else on the property.

Mr. Dudick stated that it is ironic, when trying to go green, that nature is preventing this from being an optimal situation. Mr. DiNisco stated that the zoning is preventing it; the trees are just there. Mr. Dudick feels that sometimes not every property is ideal for every situation. He is not in favor of something like this with such a large option as far as property is concerned.

Mr. Dudick made a motion to deny this application. Mr. Telesh seconded.

Mr. Ritter does not necessarily support denying the application but he would like the applicant to exercise more due diligence and advise the neighbors before the board says no. He would also like to see documentation regarding costs, what it would take to get him out of the buffer area, etc. Mr. Dudick asked Mr. Ritter if all of the neighbors came and were in favor of this, would it sway Mr. Ritter's decision, even with the issue of building. Mr. Ritter replied no, but he feels it needs to come out of the PUD buffer, back toward the townhouse. What concerns Mr. Ritter is that none of the neighbors in the development know that this pole may be going up, whether in the buffer or not. At the same time, Mr. Ritter feels that the board should be conscious of the fact that these applications are going to come in from other townhouse resident communities because solar power is being pushed as a renewable energy source. It is being funded at a great expense by the state and taxpayers. He feels the applicant should go back and rework it and build a coalition for the project. He also feels that the applicant should try to mitigate the PUD issue.

Mr. Myers stated that it is his understanding that to avoid the PUD impact, he would have to be at least 30 feet back or go to the town board to change the legislation. He asked Mr. Peller if that is correct and Mr. Peller replied yes. Mr. Myers replied if it is 30 feet back then it strictly becomes the zoning board's issue, at a minimum. Until they move it to that point, the town

board is also involved to amend the legislation to allow it. Mr. Lemire stated that the zoning board has no jurisdiction to tell the town board to do anything and Mr. Myers agreed.

Mr. Myers asked Mr. DiNisco which way the panels would face. Mr. DiNisco replied south, away from Boyack Road. Mr. Myers stated that this would perhaps mitigate some of the visual impact, but he feels it should go at least to the 30-foot line, and then maybe we can address it on our level.

Mr. Telesh's problem with the application is that he feels there are other options to make this readily achievable. If they move it 30 feet back, there would probably be tree removal involved anyway, and then this would be in compliance with zoning. Mr. Myers agreed and said the one property line is 200 feet long, so even if you go 80 feet from both roads, there is a 40-foot piece in the middle that should be legal. Mr. DiNisco agreed with the suggestion but added that the only thing that would deter them from putting it there is the number of trees on the costs associated, but they could look into it.

Mr. Dudick stated that this application is presented at this time, and he would like to take it on its face. Certainly, there are other ways that this application could have been presented and other issues that could have been addressed, such as notification issues and option issues, but with the application as presented, he is comfortable making a decision at this time. He stated that there is a motion for denial and a second, and he does not think that this should be allowed based on its location and feels that there are other options that would be more desirable.

Mrs. Gleason asked about tabling the application. There was discussion about that and Mr. DiNisco stated that he would like to withdraw the application and resubmit.

There was discussion about the motion to deny and the second. There was no vote and the application was withdrawn before the vote. No board action was taken.

Mr. Myers asked Mr. Peller if the application was withdrawn and not tabled and Mr. Peller replied yes. Mr. Peller stated that he is able to bring this back at a later date. Mr. Myers told the applicant he would not have to pay the fee again.

The secretary asked if it would have to be renoticed if resubmitted and Mr. Myers and Mr. Peller replied yes.

Mr. Ritter suggested notifying the neighbors, as it would be a neighborly thing to do, although not required.

Mr. Myers asked if there is a time limit on the reapplication and Mr. Peller stated no.

Mr. Ritter encouraged the applicant to work with Mr. Myers regarding the PUD, boundaries, etc., before determining which board to go to first.

- 3. An application from Bruce Kaiser, requesting an area variance from 208-11 and 208-86B to construct a three-car attached garage addition with attic storage. Both sections require 50-foot front setbacks. Applicant requests to reduce front setback to 33 feet – variance requested = 17 feet. The property is located at 623 MacElroy Road, Ballston Lake, New York. (Permit #80744)**

The secretary read the legal notice as it appeared in the Daily Gazette on September 10, 2009.

Mr. Bruce Kaiser, owner of the property, presented this application. He purchased the property with his wife last November. They moved from Latham, where they had a full walk-in attic and three-car detached garage with a full attic. After they purchased this house they realized they did not have enough space for storage. The existing house has no attic space and he should have measured the garage before they bought the house. Their current garage is approximately 19' x 25' feet and is too small. The plan is to build a three-car attached garage with attic space for storage. The problem is that the house is almost on a 45-degree angle and anyway he tries to lay this out they are limited. Also, there is a septic tank and leech line. They considered doing a detached garage, but the property drops off toward the back and there is still the issue of the septic tank and leech line. He feels this is the best way to do it.

Mr. Lemire asked about the color photo provided is the house and what is the orientation. Mr. Kaiser stated that it is the house and you are looking north. The part to the right is an existing garage. Mr. Lemire asked if the new garage will be placed where the cars are parked according to the photograph and Mr. Kaiser replied yes, and one corner of it will come out about 15 feet over the existing line.

Mr. Kaiser tried to move it back a little bit but there is an entryway to the side of the house along with a window, which he did not want to lose.

Mr. Kaiser referred to a letter from neighbor to the north, Melissa Barnett, who would be the only neighbor who would be able to see the house. Mr. Dudick read the letter, dated August 24, 2009, which stated that it was okay with them if the Kaiser's build an addition to their home.

Mr. Lemire asked if they would even see the addition if it was going to be built on the other side of the house. Mr. Kaiser replied that the house is set on such an angle that they probably would not see it.

Mr. Dudick stated that he walked on the property the day before and this is a very secluded house.

Mr. Dudick asked for public comment and there was none. Mr. Ritter made a motion to close the public hearing. Mr. Telesh seconded. Approval unanimous.

Mr. Dudick asked Mr. Kaiser if he was going to remove the little brown shed. Mr. Kaiser replied yes.

Mr. Dudick asked Mr. Myers for his comments. Mr. Myers stated that he has been speaking with Mr. Kaiser about this for awhile now and he does not have any issues with the application.

Mr. Dudick asked Mr. Kaiser what his occupation is, as the drawings and presentation were excellent. Mr. Kaiser replied that he is a graphic designer.

Mr. Ritter asked Mr. Kaiser if leave the existing small garage as is, and Mr. Kaiser replied yes.

Mr. Dudick made a motion to approve the application. Mr. Ritter seconded. Ayes: Gleason, Ritter, Whalen, Dudick, Lemire, Telesh, Ferro. Noes: None.

Mr. Dudick made a motion to approve the minutes from September 1, 2009. Mr. Whalen seconded. Approval unanimous.

Mr. Dudick made a motion to adjourn the meeting at 8:35 p.m. Mr. Ritter seconded. Approval unanimous.

Respectfully Submitted,

Jessica McCarthy  
Secretary

cc: Town Clerk, Town Board, Town Attorney, Zoning Board Members, Joel Peller, Counsel, Steve Myers, Department of Building and Development, Planning Board, ECC, Assessor, Highway