

MEETING – April 14, 2004

The regular Monthly Meeting of the Zoning Board of Appeals was held on Wednesday, April 14, 2004 at 7:00 p.m. at The Town of Ulster Town Hall, Lake Katrine, N.Y.

Secretary called the roll:

Present: Donald Wise-Chairman
Nelson White
Steven Burnham
Thomas Turco

The minutes of the March 3, 2004 meeting were approved as written by a motion made by Mr. Burnham and seconded by Mr. White. Roll call was taken all in favor.

Mr. Wise entertained the motion to open Public Hearing. Motion made by Mr. Turco seconded by Mr. White. Roll call was taken all in favor.

**JAMES SCOTT & KATHY TODD—1527 ROUTE 32, SAUGERTIES NY 12477
TAX MAP # 39.12-3-5—R-60**

Mr. Wise explained that council has advised the board not to act on File # 142 but rather refer back to the decision that was made at the September 15, 2003 Zoning Board Meeting.

PRELIMINARY HEARING:

**ZELDA BRIGLIA - FILE # 150: TAX MAP # 48.49-1-18.200—154 ESOPUS
AVE.KINGSTON NY 12401—ZONE R-10**

Mrs. Briglia was not able to attend the meeting. Mr. Turco made a motion to hold over for Public Hearing Mr. White seconded the motion. All were in favor.

**JUDITH FERRY-FILE # 151: TAX MAP # 56.17-2-20—874 DEWITT LAKE RD.
KINGSTON NY 12401—ZONE R-10**

Mr. Wise entertained a motion to open Preliminary Hearing. Motion made by Mr. White and seconded by Mr. Turco. Judith Ferry explained that the variance would be for a 16' x 16' addition; the property next to hers is a 50-acre vacant lot. Mr. Wise entertained a motion to close the Preliminary Hearing. Motion made by Mr. White and seconded by Mr. Turco. Motion made to hold over for Public Hearing by Mr. White and seconded by Mr. Burnham. All were in favor. Mr. Wise advised the applicant to contact the Building Department to make arrangements for a Public Hearing.

**BENDERSON DEVELOPMENT CO.—FILE # 152—TAX MAP # 48.2-3-2—1145
ULSTER AVE. KINGSTON, NY 12401—ZONE RC**

Mr. Wise entertained a motion to open Preliminary Hearing. Motion made by Mr. Burnham and seconded by Mr. White. Peter Casper and Mike Choppa were representing Benderson Co. Mr. Casper explained that Benderson came before the ZBA in June and was awarded a variance. Barnes & Noble would like a sign that is 301.75 square feet in area needing an additional variance for 109.75 square feet. Mr. Wise entertained a motion to close Preliminary Hearing. Motion made by Mr. Turco and seconded by Mr. White. All were in favor. Mr. Wise entertained a motion to hold over for Public Hearing. Motion made by Mr. White and seconded by Mr. Turco. All were in favor. Mr. Wise advised applicant to contact the Building Department to arrange for a Public Hearing.

RICHARD & LORI OZORES---FILE # 153---TAX MAP # 39.16-4-41---6 BEECH CT. KINGSTON NY 12401-- ZONE---R-10

Mr. Wise entertained a motion to open Preliminary Hearing. Motion made by Mr. Turco seconded by Mr. White. Mr. & Mrs. Ozores explains the proposed attached garage he states that after the addition there will be 6 feet between the garage and property line. A motion to close the Preliminary Hearing was made by Mr. Turco and seconded by Mr. White. Mr. Wise entertained motion to hold over for Public Hearing motion made by Mr. Burnham and seconded by Mr. Turco. All were in favor. Mr. Wise advised the applicants to contact the Building Department to arrange for a Public Hearing.

STEVEN deOLDE---FILE # 154---TAX MAP # 56.30-3-16---199 MILLERS LANE EXT. KINGSTON NY 12401---ZONE R-30

Mr. Wise entertained a motion to open Preliminary Hearing. Motion made by Mr. White and seconded by Mr. Burnham Mr. deOlde is seeking a variance for a front porch. If given the variance the house will be 21.2 feet off the front property line a motion to close the Preliminary Hearing was made by Mr. Turco and seconded by Mr. White. Mr. Wise entertained a motion to hold over for Public Hearing motion made by Mr. White and seconded by Mr. Burnham. All were in favor. Mr. Wise advised the applicants to contact the building Department to arrange for a Public Hearing.

JAMES KAMINSKI---FILE #155---TAX MAP # 39.16-4-50.200--- 26 POPLAR COURT, KINGSTON NY 12401---ZONE R-10

Mr. Wise entertained a motion to open Preliminary Hearing. Motion made by Mr. Burnham and seconded by Mr. White. Mr. Kaminski was not able to make the hearing. Motion to close Preliminary Hearing made by Mr. White and seconded by Mr. Turco. Motion to table file until the May hearing, motion made by Mr. Burnham and seconded by Mr. Turco. All in favor,

KOHL'S DEPARTMENT STORE---FILE #156---TAX MAP # 48.05-02-20.11---800 MIRON LANE, KINGSTON NY 12401---ZONE RC

Mr. Wise entertained a motion to open the Preliminary Hearing. Motion made by Mr. White and seconded by Mr. Turco. Paul Colucci explains that Kohl's would like to place a 195 square foot sign on building previously occupied by Kmart. The variance will be for 95 square feet as a 100 sq foot sign is allowed. Motion to close Preliminary Hearing made by Mr. Turco and seconded by Mr. Burnham. All in favor. Mr. Wise entertained a motion to hold over for a Public Hearing motion made by Mr. Burnham all in favor. Mr. Wise advised the applicant to contact the Building Department to arrange for a Public Hearing.

**ANTHONY CAVELLO---FILE # 157--- TAX MAP # 48.14-1-12---38-40 OLD
SAWKILL RD. KINGSTON, NY 12401---ZONE R-30**

Mr. Wise entertained a motion to open Preliminary Hearing motion made by Mr. Burnham and seconded by Mr. Turco. Anthony Cavello, Ron Matheus, and Dom Cavello represented the applicant. Mr. Cavello explained that the building is empty and he plans on improving the site and turning it into a fitness center. Mr. Cavello showed pictures of the property to the board and presents a letter from his current landlord stating he has made improvement on his rented property. Discussion on size of building and what type of business was in the building when building was built. Motion to close the Preliminary Hearing made by Mr. Burnham and seconded by Mr. White. Mr. Wise entertained a motion to hold over to a Public Hearing motion made by Mr. Burnham and seconded by Mr. White. All in favor. Mr. Wise advised the applicant to contact the Building Department to arrange for a Public Hearing. Mr. Wise explains what will happen at the Public Hearing.

File # 155 was brought back to table as Mr. Kaminski had notified the board that he could not make the meeting the neighbors do not have any problems with the proposed fence. Mr. White makes a motion to hold over to a Public Hearing Mr. Turco seconds. All in favor.

**RICHARD BELL---FILE # 146 ---TAX MAP #56.30-2-25 ---40 HOLIDAY LANE
KINGSTON, NY 12401---R-30**

Mr. Wise entertained a motion to open a Public Hearing motion made by Mr. Burnham and seconded by Mr. Turco. Richard and Kathy Bell explain where the addition will be on their property. Discussion on the house and when it was built and that the house was built in what is now the setback. No neighbors were at the meeting. Motion to close the Public Hearing made by Mr. Burnham and seconded by Mr. White. All in favor. Mr. Wise entertained a motion to accept or deny the variance. Motion to approve made by Mr. Burnham and seconded by Mr. White. All in favor. Variance approved.

**JOHN & PRISCILLA ECCLES---FILE # 147---TAX MAP # 48.1-34.220---21
POPLAR COURT KINGSTON, NY 12401 ---ZONE 10**

Mr. Wise entertained a motion to open Public Hearing motion made by Mr. Burnham and seconded by Mr. Turco. John Eccles applicant and David Van Benschoten Attorney were present. Mr. Van Benschoten submitted a copy of the survey of Mr. Eccles backyard stating that there is 22 feet between the fence and the pool. The back yard abuts Route 32. Mr. Van Benschoten states that the rear yard setback as stated in the Zoning Laws is 15 feet Mr. Van Benschoten states he cannot find anything in the Zoning Laws stating that a property can have two front setbacks. Mr. Wise explains that if the property is abutting two roads there is then two front setbacks therefore the setback is 30 feet. Mr. Wise states that this is also the case if a property is on a corner lot. Mr. Van Benschoten states that he saw the section on corner lots he would like to see the section on rear front setbacks. Mr. Eccles explains that he did try to follow Zoning Laws he went to the Building Department found out what the setbacks were and explained to the contractor to do the right thing. Mr. Petersen approved the plot plans submitted and the contractor did not follow them. Mr. Eccles states it was not his intention to encroach. Mr. White questions why the contractor did not follow the plan. Mr. White explains that he feels that the property owner is responsible to follow up on the contractors work. Mr. Wise stated that in any Zoning discrepancy the Proof of Burden is up to the property owner. Mr. Van Benschoten states if it is a case of self inflicted hardship Mr. Eccles did do everything in

his power to comply. Mr. Eccles states that he could not have followed up on the electrical work done for the pool, as he is not the expert on that subject so why would he be responsible for the pool measurements. Mr. Eccles states that even if he thought about measuring he would not have been able to as there were too many piles of dirt left in his yard at the time. Mr. Eccles states that Mr. Petersen did not mention the encroachment on his inspection but as an afterthought came back and measured at that time. Mr. Wise read Section 190-18 Sub-Section G of the Zoning Laws. Mr. Wise states that this explains the two front setbacks Mr. Van Benschoten disagreed. Discussion about interpretation of Zoning Laws followed. Motion made by Mr. White to close Public Hearing seconded by Mr. Burnham. All were in favor. Mr. Wise entertained a motion to approve or deny the variance. Motion made by Mr. Burnham and seconded by Mr. Turco. Roll call vote was taken:

Mr. White—No

Mr. Turco---No

Mr. Burnham—Yes

Mr. Wise--- No

Variance Denied.

Discussion on recourse followed.

**TIMELY SIGNS FOR JOHNSON NISSAN---FILE # 148---TAX MAP # 48.13-2-2--
-140 ROUTE 28 KINGSTON, NY---ZONE HC**

Mr. Wise entertained a motion to open Public Hearing motion made by Mr. Burnham and seconded by Mr. Turco. All were in favor. Ozzie Beichert owner of Timely Signs was present for Johnson Nissan. Mr. Beichert explains that Timely Signs on behalf of the Johnson Auto Dealership has been working with the Planning Board on a master plan for the site. These signs will be in the master plan. Discussion about the site and that the site is 18 feet below road level followed Mr. Wise read the Ulster County Planning Board Referral. The recommendation of the UCPB is to disapprove the variance. Mr. Beichert states that in the past three years the UCPB with one exception has denied every sign application sent in. Mr. Beichert states that he feels that the UCPB is anti signs and anti growth and that they are part of the problem we have, they do not want growth in Ulster County. A motion to close Public Hearing was made by Mr. Turco seconded by Mr. Burnham. All were in favor. Mr. Wise entertained a motion to approve or deny variance. Motion to approve made by Mr. White and seconded by Mr. Turco. All were in favor. Variance approved.

**TIMELY SIGNS FOR JOHNSON KIA---FILE # 149---TAX MAP # 48.13-2-2---
140 ROUTE 28 KINGSTON, NY---ZONE HC**

Mr. Wise entertained a motion to open Public Hearing motion made by Mr. Turco and seconded by Mr. Burnham. Mr. Beichert of Timely Signs explains the signage for Johnson Kia. Motion made by Mr. Turco to close the Public Hearing seconded by Mr. White. All were in favor. Mr. Wise entertained a motion to approve or deny variance. Motion made by Mr. White and seconded by Mr. Burnham. All were in favor. Variance approved

As a courtesy File #146 was brought back as Mr. Todd and Ms. Scott were not present when the meeting was opened. Mr. Wise explained the decision and the advise of council. Discussion followed concerning when the first meeting was held and if applicant was notified. Mr. Wise reviewed what recourse the applicant can proceed with. The

Secretary was told to find the old file and minutes to determine if applicants were notified of decision. Applicants were told that they would be notified of any findings.

The meeting was adjourned at 8:40.

Respectfully Submitted,

Mary Secreto
ZBA Secretary