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STATE OF NEW YORK : COUNTY OF ORANGE  
TOWN OF NEWBURGH ZONING BOARD OF APPEALS  
----- X  
In the Matter of

BOARD BUSINESS

- WITHDRAWAL OF THE STEVEN MOREAU  
LAKESIDE ROAD, LLC APPLICATION  
381 LAKESIDE ROAD  
SECTION 33; BLOCK 1; LOT 15
- APPOINTMENT OF ZONING BOARD OF APPEALS  
VICE CHAIRMAN

----- X

Date: January 26, 2023  
Time: 7:02 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, New York

BOARD MEMBERS: DARRIN SCALZO, Chairman  
DARRELL BELL  
JAMES EBERHART, JR.  
GREGORY M. HERMANCE  
JOHN MASTEN  
DONNA REIN

ALSO PRESENT: DAVID DONOVAN, ESQ.  
JOSEPH MATTINA  
SIOBHAN JABLESNIK

----- X

MICHELLE L. CONERO  
3 Francis Street  
Newburgh, New York 12550  
(845) 541-4163

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CHAIRMAN SCALZO: I'd like to call the meeting of the Zoning Board of Appeals to order. The order of business are the public hearings which are scheduled. The procedure of the Board is that the applicant will be called upon to step forward, state their request and explain why it should be granted. The Board will then ask the applicant any questions it may have, and then any questions or comments from the public will be entertained. The Board will then consider the applications and will try to render a decision this evening but may take up to 62 days to reach a determination.

I would ask that if you have a cellphone, to please turn it off or put it on silent. When speaking, speak directly into the microphone as the meeting is being recorded by our Stenographer.

Roll call, please.

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MS. JABLESNIK: Darrell Bell.

MR. BELL: Here.

MS. JABLESNIK: James Eberhart.

MR. EBERHART: Here.

MS. JABLESNIK: Robert Gramstad  
is absent this evening.

Greg Hermance.

MR. HERMANCE: Here.

MS. JABLESNIK: John Masten.

MR. MASTEN: Here.

MS. JABLESNIK: Donna Rein.

MS. REIN: Here.

MS. JABLESNIK: Darrin Scalzo.

CHAIRMAN SCALZO: Here.

MS. JABLESNIK: Also present is  
our Attorney, Dave Donovan; from Code  
Compliance, Joseph Mattina; and our  
Stenographer, Michelle Conero.

CHAIRMAN SCALZO: Could you all  
please rise for the Pledge.

(Pledge of Allegiance.)

CHAIRMAN SCALZO: Before we  
move into the actual formal portion  
of the meeting, we've got a few

2 announcements, the first one being if  
3 anyone was here with regard to the  
4 Moreau subdivision on Orange Lake,  
5 Lakeside Road, that application has  
6 been withdrawn, therefore there will  
7 be no action on that this evening.  
8 If anyone is here for that, you can  
9 go, or you can stay, because this is  
10 really cool.

11 The other is this is our first  
12 meeting of 2023, therefore as part of  
13 our reorganization someone needs to  
14 nominate. We need to vote on a vice  
15 chairman for the Board.

16 I'll look to any Members of the  
17 Board for any nominations for that  
18 position.

19 MR. MASTEN: I'll put my name  
20 in.

21 CHAIRMAN SCALZO: We have Mr.  
22 Masten putting his name in.

23 MR. HERMANCE: I'll nominate  
24 Mr. Bell.

25 CHAIRMAN SCALZO: We have Mr.

2 Hermance nominating Mr. Bell.

3 Do we have any others while  
4 we're here?

5 (No response.)

6 CHAIRMAN SCALZO: No. Okay.  
7 In this case I'll look for a second  
8 to either of those nominations.

9 MR. EBERHART: I'll second for  
10 Mr. Bell.

11 CHAIRMAN SCALZO: We have a  
12 second for Mr. Bell.

13 Can you roll on that, Siobhan?

14 MS. JABLESNIK: Mr. Bell?

15 MR. BELL: Yes.

16 MS. JABLESNIK: Mr. Eberhart?

17 MR. EBERHART: Yes.

18 MS. JABLESNIK: Mr. Hermance?

19 MR. HERMANCE: Yes.

20 MS. JABLESNIK: Mr. Masten?

21 MR. MASTEN: No.

22 MS. JABLESNIK: Ms. Rein?

23 MS. REIN: Yes.

24 MS. JABLESNIK: Mr. Scalzo?

25 CHAIRMAN SCALZO: Yes.

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(Time noted: 7:05 p.m.)

C E R T I F I C A T I O N

I, MICHELLE CONERO, a Notary Public  
for and within the State of New York, do  
hereby certify:

That hereinbefore set forth is a true  
record of the proceedings.

I further certify that I am not  
related to any of the parties to this  
proceeding by blood or by marriage and that  
I am in no way interested in the outcome of  
this matter.

IN WITNESS WHEREOF, I have hereunto  
set my hand this 8th day of February 2023.

*Michelle Conero*  
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MICHELLE CONERO

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STATE OF NEW YORK : COUNTY OF ORANGE  
TOWN OF NEWBURGH ZONING BOARD OF APPEALS  
----- X  
In the Matter of

NORTHERN ENTERPRISE NY, LLC  
  
31 Colden Hill Road, Newburgh  
Section 86; Block 1; Lot 5.243  
R-1 Zone

----- X

Date: January 26, 2023  
Time: 7:05 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, New York

BOARD MEMBERS: DARRIN SCALZO, Chairman  
DARRELL BELL  
JAMES EBERHART, JR.  
GREGORY M. HERMANCE  
JOHN MASTEN  
DONNA REIN

ALSO PRESENT: DAVID DONOVAN, ESQ.  
JOSEPH MATTINA  
SIOBHAN JABLESNIK

APPLICANT'S REPRESENTATIVE: AMY LAVINE

----- X

MICHELLE L. CONERO  
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(845) 541-4163

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CHAIRMAN SCALZO: Moving on to our normally scheduled activities. Our first applicant this evening is Northern Enterprise NY, LLC, 31 Colden Hill Road in Newburgh, seeking area variances of increasing the degree of nonconformity of the one side yard and combined side yards to build a 12 by 13.6 rear deck on an existing nonconforming dwelling.

Do we have mailings on that, Siobhan?

MS. JABLESNIK: Yes. This applicant sent out 19 letters.

CHAIRMAN SCALZO: Very good. Do we have anyone here? Two hands go up.

Anyone here that actually is representing the applicant? Please step forward and state your name.

MS. LAVINE: Good evening. My name is Amy Levine, I'm an attorney at JG Law.

THE AUDIENCE: I can't hear.



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MS. LAVINE: Good evening again. My name is Amy Lavine, I'm an attorney at JG Law. I'm representing the applicant in this variance.

As you all have in the application, this is a -- it's a residential property on Colden Hill Road. They bought the property in, I believe, 2019. As part of renovations to the property, they would like to replace the deck. They were informed they could not because the property is nonconforming as to the side yard and then the combined side yards. The variances that we're requesting are for those two requirements.

CHAIRMAN SCALZO: Correct. A lot of times what happens is once the houses are built, this is a very mature subdivision, regulations -- zoning regulations do become more restrictive over time.

I myself have no comments on

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this. As part of my new year's resolution, I'm vowing to not speak as much at these meetings and let the rest of the Board really lay it in there.

At this point I'll look to my left. Ms. Rein?

MS. REIN: I do. I have a question on page 2, question 13 about the wetlands. It says yes, there's an issue, and then it goes on to say that the mapping for the area is incomplete.

MS. LAVINE: There are wetlands on the property.

MS. REIN: Okay. Well let's see.

MS. LAVINE: Are you referring to the SEQRA?

CHAIRMAN SCALZO: That's correct. Part 2, the EAF mapper summary report.

Perhaps I can help, Ms. Rein. Digital mapping information, this may

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be near a freshwater wetland, or even near a Federal wetland. In this case sometimes it's recommended that there is further investigation to confirm the limits of the DEC wetlands and then the 100 foot adjacent area to that. But in this case, having seen the site --

MS. REIN: The reason that this came to my attention was because the question is does any portion of the site of the proposed action or lands adjoining the proposed action contain wetlands or other water bodies regulated by a Federal, State or Local agency, and they answered yes.

CHAIRMAN SCALZO: Actually, this is generated -- when you go on to the DEC's environmental mapper, it actually fills that portion out for you when you identify. So the applicant did go through that process. Having gone through that process myself, it is a -- if you are

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in an area near wetlands, they do check that box for you. You can't uncheck that box. But that's why we go out and we take a look as well. If there were ducks swimming behind the house, I'm sure we would have a concern here. I don't know that I've answered your question, but hopefully I've helped you understand a little bit.

MS. REIN: You have. It would be nice if they had it differently, if it's there or if it's not there or if it's a question. For an official piece of paper like that, it just seems very not accurate.

CHAIRMAN SCALZO: I understand. So I may have let the applicant's representation off the hook, but if you would like to add anything to what I had said, please feel free.

MS. LAVINE: I think your description was well put.

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CHAIRMAN SCALZO: Adequate.  
Thank you.

MS. LAVINE: There are no wetlands on the property, but the form is automatically generated.

MS. REIN: Thank you.

CHAIRMAN SCALZO: Thank you.

Mr. Masten?

MR. MASTEN: Is this the one on Colden Hill Road?

CHAIRMAN SCALZO: That's it.  
Yes, it is.

MR. MASTEN: I have none. I noticed -- I see they framed it all in, that rear deck already.

CHAIRMAN SCALZO: Correct. A lot of times --

MR. MASTEN: I went out there today.

CHAIRMAN SCALZO: Applicants, we see them a lot in here asking for forgiveness rather than permission. It does happen. I agree with you.

MR. MASTEN: I don't have any

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other comments.

CHAIRMAN SCALZO: We see that.

Mr. Bell?

MR. BELL: I agree, we see it often. I have no comments.

CHAIRMAN SCALZO: I don't know that it's --

MR. BELL: It's not detrimental or anything.

CHAIRMAN SCALZO: We may get to that. I'm not quite sure.

Was your client unaware that they required a permit for this?

MS. LAVINE: I don't have that information.

CHAIRMAN SCALZO: Okay. Mr. Hermance?

MR. HERMANCE: I have nothing else.

CHAIRMAN SCALZO: Mr. Eberhart?

MR. EBERHART: I don't have anything. That does concern me, about moving forward without having approval of the variance.

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CHAIRMAN SCALZO: It concerns me as well. Having been on the Board for close to ten years, this isn't the first time I've seen this, or the twenty-fifth.

At this point I'll open it up to any members of the public that wish to speak about this application. Is there anyone here from the public?

MR. SCALONE: I have a couple of questions.

CHAIRMAN SCALZO: Sure. Just come up and identify yourself.

MR. SCALONE: I'm Phil Scalone. I live at 33 Colden Hill Road.

The question I have is, number one, you addressed the permit. Is there a permit to tear down the deck, because they did tear down the deck and they started building a new deck? The skeleton of the deck is there. I'm not quite sure what the dimensions are. I believe when I saw the plan, they're looking for a 12 by

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13 deck.

CHAIRMAN SCALZO: Let's go to the dimensions here.

MR. SCALONE: I have a site plan here.

CHAIRMAN SCALZO: 12 by 13.5. Yes, sir.

MR. SCALONE: Is that less than the old footprint or is that more than the old footprint? They're trying to expand the deck property or are they decreasing it back to the 30 foot line, 30 foot from the edge of the house to my property line?

MR. DONOVAN: Sir, if I can maybe try this. The deck -- actually, the rear yard setback conforms. The problem is the side yard setbacks don't conform, and so when you put the deck up, you increase the degree of the nonconformity.

MR. SCALONE: That's fine to increase the degree. Define



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increased degree.

MR. DONOVAN: It's larger than it was before. So you have a house. You put a deck on it. Now the structure, the mass of the structure is larger than it was before. There is no improper encroachment into the rear yard, however.

MR. SCALONE: But is there encroachment to the side?

MR. DONOVAN: The side -- if you took the deck off, there was no deck, it doesn't conform to the side yards. The house as it exists now doesn't conform to the side yards. When you put the deck up, the mass of the structure is bigger, so you're increasing the degree of nonconformity of the nonconforming side yards.

MR. SCALONE: What does that mean to me? I'm the neighbor.

CHAIRMAN SCALZO: If they were in here looking to put in a small

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shed that met all the dimensions required for a small shed and they were also more than 5 feet off any property line, which is what you need for an accessory structure, they would still be here because their house is deficient on the side yards. We can't -- when they come in as an applicant for this, we can't ask them to shrink the size of their home just to accommodate the deck.

MR. SCALONE: Okay. Because I had the plot plan. Can I just show you? I just want -- I have my interpretation of what they want to build. I just want somebody to take a look at this and see if there's some agreement. It looks like --

MR. DONOVAN: I'm a lawyer. You better ask the Chairman.

MR. SCALONE: This is the new deck. Is that right?

CHAIRMAN SCALZO: That is correct.

MR. SCALONE: That's the side

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of the house. It appears as though  
it's set back from the side.

CHAIRMAN SCALZO: It does  
appear that way.

MR. SCALONE: That's all I'm  
asking. Because the old deck used to  
be closer to the side of the house.  
It was bigger than what it is right  
now. I just want assurances that  
it's less than what they had before.  
According to this --

CHAIRMAN SCALZO: Sir, I have  
to stop you right there. They're not  
here because their deck is non-  
conforming. They applied and started  
to build it without the permit.  
However, what is bringing them here  
is the nonconformance of the side  
yard of the existing house. The deck  
doesn't mean a thing.

MR. SCALONE: You can't change  
the footprint of the house.

CHAIRMAN SCALZO: That's correct.

MR. SCALONE: It should be 30

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feet, but now I know it's 25 feet.  
You're granting approval that it's  
okay for them to build the deck based  
on the structure as it is?

CHAIRMAN SCALZO: Coming off  
the back of the house, the deck will  
not encroach upon any of the rear  
yard setbacks.

MR. SCALONE: Got it.

CHAIRMAN SCALZO: Very good.

MR. SCALONE: I still want to  
get an answer on the permit.

CHAIRMAN SCALZO: As you heard  
me say, sir, often we see people  
coming in asking for forgiveness  
rather than permission. A lot of  
people don't know they need permits  
if they're replacing a structure.

MR. MATTINA: Just to clear  
something up. Before these people  
bought the house, the previous owner  
had a rear deck and a sunroom built  
without a permit. The new owners  
have taken it down. This deck is

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going to be a lot less than what was originally there. The sunroom and deck used to go back the whole back of the house. As you can see in the pictures, you can see where the ridge plate or the ledger plate is. This deck is a lot smaller than what was actually there.

MS. JABLESNIK: The only way that you can get to the ZBA is through a permit application. The permit application came in to the office, they got kicked to the Zoning Board, and they'll go back to the Building Department.

CHAIRMAN SCALZO: Thank you.

MS. JABLESNIK: You're welcome.

CHAIRMAN SCALZO: Is anyone else from the public here to speak about this application?

MR. POMARICO: My name is Mike Pomarico, 34 Colden Hill Road. I live immediately across the street from this property.

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I really don't know if the Board is going to be able to actually address my concerns because it probably is outside of this action. I'm going to kind of put it out there anyway and see what you guys say.

CHAIRMAN SCALZO: This is all recorded in the meeting minutes. Whatever you say will end up being part --

MR. POMARICO: I totally understand, sir. I don't have any problem with the deck, really. I understand the setback issues and I'm okay with that.

What I wanted to ask the Board is the original variance was many, many moons ago; right? This took place a long time ago. The way the house was used over the past few years -- so there was originally a family that lived in that house. The variance was given to that family so that they'd have a mother/daughter

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arrangement. The parents were living on the lowest level and the rest of the family was living on the upper two floors. The parents passed on. They moved out. They sold the house to another owner. I suspect that may be the owner that built the deck and the sunroom on the back without going for the permit. Over time, the way the house is utilized, it was what I would say -- I'm assuming that the original variance was for a two-family.

CHAIRMAN SCALZO: We don't have that information in front of us, whether any variance --

MR. POMARICO: That's why I'm saying --

CHAIRMAN SCALZO: Extended family living within the dwelling is --

MR. POMARICO: I guess where I'm going with it is, you know, at times in the past, especially in the

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past like three to five years, there was a tremendous amount of activity in this house. A lot of people in the house.

I would suspect that a two-family, R-2 -- if it's a variance it's in the R-1; right? A two-family is that the people that are living in that structure and each of the two units would be considered to be a family unit. What was happening was that -- I believe that there were more people living in the house than just family units. It was being -- at times you'd see maybe ten or twelve cars in the driveway. It was overwhelming. There was a lot of activity, the house wasn't being maintained properly, the grass wasn't being cut. It just was unsightly.

Now, the applicant, I'm really encouraged because since he bought the house, the grass has been cut, he's done improvements to the



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landscaping. He's definitely made an effort to clean the place up, which is great, right, because nobody wants to have an eyesore in their neighborhood.

I know that the mission of this Board is to not allow those things to happen; right? When the original variance was granted, I know the Board -- it wasn't the Board's intent for that house to manifest itself to the place where it was a few years ago, where there's all kinds of unsightly traffic, overloading of the driveway, just the structure not being used the way you would -- it was originally intended to be used in the variance.

CHAIRMAN SCALZO: Mr. Pomarico, I understand exactly what you're saying. That is out of our --

MR. POMARICO: I understand.

CHAIRMAN SCALZO: You keep referring to this original variance.

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I'm not sure that there was ever one to begin with. I believe the issues that you're bringing up here are all code compliance issues and enforcement issues. Mr. Mattina happens to be sitting here. He's from the Building Department.

MR. POMARICO: What I can do -- maybe the best thing for me to do is to stop into the Building Department. Mr. Mattina I actually saw about a week or so ago.

MR. MATTINA: When these new applicants bought this house I met with the owners and the engineer. The house was issued a permit to go back to the way it was before the variance. All this illegal stuff that was done, the house is getting put back the way it was back in 1987 or '86 when it was issued. So it is being done.

MR. DONOVAN: Single-family, Joe?

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MR. MATTINA: No. It's a two-family.

CHAIRMAN SCALZO: When you say two-family, is it an accessory apartment under 700 square feet?

MR. MATTINA: Not back then. Back then it was an accessory apartment. It didn't have limits on square footage. Other bedrooms have been added. They were all taken out. It was put back originally when the original variance was granted back in the '80s.

MR. DONOVAN: If you look at the code, two families are allowed in the R-1 subject to Planning Board approval.

MR. MATTINA: This was done back in the '80s.

MR. DONOVAN: Not by Planning Board approval but by variance?

MR. MATTINA: Back then all you needed was a Zoning Board variance.

MR. DONOVAN: It's not that

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easy, Joe.

MR. MATTINA: It was in the '80s.

CHAIRMAN SCALZO: That's a compliment, Joe.

MR. MATTINA: The house was brought back to the way it was supposed to have been. I know that for a fact because I've been there.

CHAIRMAN SCALZO: Mr. Pomarico, does that satisfy your --

MR. POMARICO: That does help, Mr. Chairman.

Just so I'm clear on this. Mr. Mattina's team has the capacity to ensure that as the building is reoccupied, that it is two families that reside in the residence and not multiple individuals who may not be of the same family?

CHAIRMAN SCALZO: That's way out of our --

MR. POMARICO: In other words, it's turning into an apartment

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building.

CHAIRMAN SCALZO: That's never fun to have in your neighborhood. I can appreciate that.

MR. POMARICO: I know that's what -- the original variance did not intend for that to happen in our neighborhood. I know that for a fact, right. This Board wouldn't want that to happen.

CHAIRMAN SCALZO: Joe said everything was easy in the '80s.

MR. MATTINA: You get into legal issues, who can and can't stay within the family.

MR. DONOVAN: The definition of family is a very difficult thing. The law has a very expansive definition of family. However, what Joe is saying, from Code Compliance, is it's approved as a two family. If it's used as something different than a two family, that would become an enforcement issue. I can't sit here

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and tell you tonight that Code Compliance or this Board or the Town of Newburgh can guarantee that it won't be used improperly. It is permitted as a two family. If it's used as more than a two family, it's subject to appropriate enforcement.

MR. POMARICO: So we'll just keep an eye on things. If it starts to drift, we'll alert Mr. Mattina and he can investigate.

MR. DONOVAN: Correct.

MR. POMARICO: Thank you very much.

MR. DONOVAN: Thank you.

CHAIRMAN SCALZO: Anyone else? Come on back up.

MR. SCALONE: Hypothetically --

CHAIRMAN SCALZO: Hang on. Hold it. I would like to remind everyone that's here that we are here looking at an application that has two side yards that are not in compliance. When it comes to the

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other issues, perhaps you can reach out to Mr. Mattina tomorrow on the telephone so we can move forward with our meeting.

MR. SCALONE: When you set up a meeting, Mike, I want to be there with him. Or I'll set it up. Either way. I have the same issue.

CHAIRMAN SCALZO: Michelle, it appears I'm blowing that New Year's resolution.

Is there anyone else from the public that wishes to discuss any aspects of this application regarding the side yards, which is what the application is in front of us for?

(No response.)

CHAIRMAN SCALZO: Okay. I'm going to go back to the Board.

MR. BELL: Nothing.

CHAIRMAN SCALZO: Then I will look to the Board for a motion to close the public hearing.

MR. BELL: I'll make a motion

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to close the public hearing.

MR. MASTEN: I'll second it.

CHAIRMAN SCALZO: We have a motion from Mr. Bell. We have a second from Mr. Masten.

Roll on that, please, Siobhan.

MS. JABLESNIK: Mr. Bell?

MR. BELL: Yes.

MS. JABLESNIK: Mr. Eberhart?

MR. EBERHART: Yes.

MS. JABLESNIK: Mr. Hermance?

MR. HERMANCE: Yes.

MS. JABLESNIK: Mr. Masten?

MR. MASTEN: Yes.

MS. JABLESNIK: Ms. Rein?

MS. REIN: Yes.

MS. JABLESNIK: Mr. Scalzo?

CHAIRMAN SCALZO: Yes.

I should have just said all in favor.

This is a Type 2 action under SEQRA, therefore we will go through the area variance criteria and discuss the factors we're weighing,



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the first one being whether the benefits can be achieved by other means feasible to the applicant. This is related to the side yards of the existing dwelling, therefore I don't believe so. The benefit can't be achieved without sawing the house.

The second, if there's an undesirable change in the neighborhood character or a detriment to nearby properties. We're hopeful, after the testimony that we just heard, that it actually is a desirable change to the neighborhood. That's what we're hoping for.

MR. BELL: I think so.

CHAIRMAN SCALZO: The third, whether the request is substantial. By the numbers, because the zoning changed, I suppose. It's out of compliance, but there's nothing they can do about it.

The fourth, whether the request will have adverse physical or

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environmental effects.

MR. BELL: No.

MR. EBERHART: No.

MR. HERMANCE: No.

MR. MASTEN: No.

MS. REIN: No.

CHAIRMAN SCALZO: No.

The fifth, whether the alleged difficulty is self-created which is relevant but not determinative. This was not self-created by the current owners.

Therefore, having gone through the balancing tests, does the Board have a motion of some sort?

MR. BELL: I'll make a motion for approval.

MR. MASTEN: I'll second it.

CHAIRMAN SCALZO: We have a motion from Mr. Bell. We have a second from Mr. Masten.

Please roll on that, Siobhan.

MS. JABLESNIK: Mr. Bell?

MR. BELL: Yes.

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MS. JABLESNIK: Mr. Eberhart?

MR. EBERHART: Yes.

MS. JABLESNIK: Mr. Hermance?

MR. HERMANCE: Yes.

MS. JABLESNIK: Mr. Masten?

MR. MASTEN: Yes.

MS. JABLESNIK: Ms. Rein?

MS. REIN: Yes.

MS. JABLESNIK: Mr. Scalzo?

CHAIRMAN SCALZO: Yes.

The motion is carried. The  
variances are approved. Thank you.

(Time noted: 7:27 p.m.)

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C E R T I F I C A T I O N

I, MICHELLE CONERO, a Notary Public  
for and within the State of New York, do  
hereby certify:

That hereinbefore set forth is a true  
record of the proceedings.

I further certify that I am not  
related to any of the parties to this  
proceeding by blood or by marriage and that  
I am in no way interested in the outcome of  
this matter.

IN WITNESS WHEREOF, I have hereunto  
set my hand this 8th day of February 2023.

*Michelle Conero*  
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MICHELLE CONERO

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STATE OF NEW YORK : COUNTY OF ORANGE  
TOWN OF NEWBURGH ZONING BOARD OF APPEALS

- - - - - X  
In the Matter of

ANN MARIE STEVENS

11 Noel Drive, Newburgh  
Section 77; Block 3; Lot 4  
R-3 Zone

- - - - - X

Date: January 26, 2023  
Time: 7:27 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, New York

BOARD MEMBERS: DARRIN SCALZO, Chairman  
DARRELL BELL  
JAMES EBERHART, JR.  
GREGORY M. HERMANCE  
JOHN MASTEN  
DONNA REIN

ALSO PRESENT: DAVID DONOVAN, ESQ.  
JOSEPH MATTINA  
SIOBHAN JABLESNIK

APPLICANT'S REPRESENTATIVE: ANN MARIE STEVENS

- - - - - X

MICHELLE L. CONERO  
3 Francis Street  
Newburgh, New York 12550  
(845) 541-4163

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CHAIRMAN SCALZO: Our next applicant this evening is Ann Marie Stevens, 11 Noel Drive, seeking an area variance of the rear yard setback to build an 8 by 17.5 foot rear deck and mud room.

Do we have mailings on this, Siobhan?

MS. JABLESNIK: Yes. This applicant sent out 68 letters.

CHAIRMAN SCALZO: 68. You may be the winner tonight.

That was a one-sentence explanation of what it is you're trying to do. If you feel as though that's satisfactory enough to get us through, great. If not, if you'd like to go ahead and add some more. We would like to know at least who you are.

MS. STEVENS: I'm Ann Marie Stevens. That's it. It's just a mud room and a deck.

CHAIRMAN SCALZO: We'll try to

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make this as painless as possible.  
I'm going to start on my right this  
time.

Mr. Eberhart, do you have any  
comments regarding this application?

MR. EBERHART: No comments for  
this application.

CHAIRMAN SCALZO: How about Mr.  
Hermance?

MR. HERMANCE: No. Being that  
the deck is going to be built behind  
the house, there were fences on both  
sides, I don't even know if it will  
be visible. I have no other comments.

CHAIRMAN SCALZO: I understand.  
Mr. Bell?

MR. BELL: I think it will be a  
great improvement.

CHAIRMAN SCALZO: Very good.  
Mr. Masten?

MR. MASTEN: I have no problem  
with it.

CHAIRMAN SCALZO: Ms. Rein?

MS. REIN: I have no problem

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with it. They did the application pretty well.

CHAIRMAN SCALZO: You get a thumbs up. We're not over yet.

At this point I'd like to open it up to any members of the public that wish to speak about this application.

Okay. Thank you. Step forward, please. We have to hear your name and everything else that goes with it.

MR. SZELI: I'm Steve Szeli. I'm at 20 Noel Drive, across the street but on a curve. I actually face the side of the house.

I definitely understand the fences are going to block the deck from me seeing it. I was just curious how big --

MS. STEVENS: It's on the same footprint as the back steps that are there.

MR. SZELI: Just like a 2 by 3?



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MS. STEVENS: 3 by 9 or something. It goes out. It's the same.

MR. SZELI: Right. I have no problem. I just didn't have a chance to see it so I was curious to find out how much. That's all. I just wanted to find out.

CHAIRMAN SCALZO: We're glad you showed up. That's how we got a couple of our members here. You might find this to be so interesting that the next time there's a vacancy, you might want to apply.

The information does appear, and this is all online. We don't hide anything. The information that you just asked, you can actually take a look, it's still up there today. It will be up there tomorrow.

MR. SZELI: I'll take a look.

CHAIRMAN SCALZO: Is there anyone else from the public that wishes to speak about this

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application?

(No response.)

CHAIRMAN SCALZO: All right.  
I'll go back to the Board.

MR. BELL: No comments.

MR. HERMANCE: No comments.

CHAIRMAN SCALZO: Very good.  
I'll look to the Board for a motion  
to close the public hearing.

MR. MASTEN: I'll make a motion  
to close the public hearing.

MR. EBERHART: Second.

CHAIRMAN SCALZO: We have a  
motion from Mr. Masten. It appears  
we have a second from Mr. Eberhart.  
All in favor?

MR. BELL: Aye.

MR. EBERHART: Aye.

MR. HERMANCE: Aye.

MR. MASTEN: Aye.

MS. REIN: Aye.

CHAIRMAN SCALZO: Aye.

Those opposed?

(No response.)

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CHAIRMAN SCALZO: Very good.  
This is a Type 2 action under SEQRA.  
We're going to hit the five factors  
again, the first one being whether or  
not the benefit can be achieved by  
other means feasible to the applicant.

MR. BELL: No.

CHAIRMAN SCALZO: Not sitting  
up a little elevated, she'd be  
sitting on the ground.

The second, if there's an  
undesirable change in the  
neighborhood character or a detriment  
to nearby properties. I think it's  
going to be unnoticed.

The third, whether the request  
is substantial. By the numbers it  
may be, but the lots are all small in  
that subdivision.

The fourth, whether the request  
will have adverse physical or  
environmental effects. It does not  
appear so.

And the fifth, whether the

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alleged difficulty is self-created  
which is relevant but not  
determinative. Of course it's self-  
created. That's why they're applying  
in advance of starting construction.

MR. BELL: Yes.

CHAIRMAN SCALZO: Having gone  
through the balancing tests, does the  
Board have a motion of some sort?

MR. EBERHART: I'll make a  
motion to approve.

MR. HERMANCENCE: Second.

CHAIRMAN SCALZO: I believe I  
heard Mr. Eberhart make a motion. I  
thought I heard Mr. Hermance mumble a  
second.

MR. HERMANCENCE: I'll second.

CHAIRMAN SCALZO: If you could  
roll on that, Siobhan.

MS. JABLESNIK: Mr. Bell?

MR. BELL: Yes.

MS. JABLESNIK: Mr. Eberhart?

MR. EBERHART: Yes.

MS. JABLESNIK: Mr. Hermance?

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MR. HERMANCENCE: Yes.

MS. JABLESNIK: Mr. Masten?

MR. MASTEN: Yes.

MS. JABLESNIK: Ms. Rein?

MS. REIN: Yes.

MS. JABLESNIK: Mr. Scalzo?

CHAIRMAN SCALZO: Yes.

Your variances are approved.

Good luck.

(Time noted: 7:32 p.m.)

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C E R T I F I C A T I O N

I, MICHELLE CONERO, a Notary Public  
for and within the State of New York, do  
hereby certify:

That hereinbefore set forth is a true  
record of the proceedings.

I further certify that I am not  
related to any of the parties to this  
proceeding by blood or by marriage and that  
I am in no way interested in the outcome of  
this matter.

IN WITNESS WHEREOF, I have hereunto  
set my hand this 8th day of February 2023.

*Michelle Conero*  
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MICHELLE CONERO

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STATE OF NEW YORK : COUNTY OF ORANGE  
TOWN OF NEWBURGH ZONING BOARD OF APPEALS

- - - - - X  
In the Matter of

KEHOE CORP.

4 Bruschetti Court, Walden  
Section 3; Block 1; Lot 80.32  
R-1 Zone

- - - - - X

Date: January 26, 2023  
Time: 7:32 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, New York

BOARD MEMBERS: DARRIN SCALZO, Chairman  
DARRELL BELL  
JAMES EBERHART, JR.  
GREGORY M. HERMANCE  
JOHN MASTEN  
DONNA REIN

ALSO PRESENT: DAVID DONOVAN, ESQ.  
JOSEPH MATTINA  
SIOBHAN JABLESNIK

APPLICANT'S REPRESENTATIVE: JOSEPH KEHOE

- - - - - X

MICHELLE L. CONERO  
3 Francis Street  
Newburgh, New York 12550  
(845) 541-4163

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CHAIRMAN SCALZO: Our next applicant is Kehoe Corp., 4 Bruschetti Court. Actually, the mailing address is Walden. They're seeking an area variance of the front yard on a County road to continue the construction of a single-family dwelling unit.

Siobhan, do we have mailings on this?

MS. JABLESNIK: Yes. This applicant sent out 17 mailings, but we have not received from the County. I just checked my e-mail before I came in today hoping that there was a late send, but nothing.

MR. KEHOE: See you next month.

CHAIRMAN SCALZO: Whoa, hold everything. We're only down one Member at the moment, so you can still give us a little narrative.

I'll tell you what, I find this very, very interesting.

MR. KEHOE: So do I.



2 CHAIRMAN SCALZO: I do know Mr.  
3 Rodman, and I see from the  
4 application, because when I was  
5 picking up my package over there  
6 Siobhan had given me some of the  
7 other submittals that were in there,  
8 the initial submission to the  
9 Building Department did show a 60  
10 foot front yard from Rock Cut Road,  
11 yet when the foundation went in we're  
12 showing 51.7.

13 MR. KEHOE: Correct. He also  
14 submitted one at 50 feet which Joe  
15 kicked back and we had to resubmit  
16 one at 60. What I believe happened  
17 is he went and pinned off the  
18 original 50 and here we are.

19 CHAIRMAN SCALZO: Okay. And  
20 your foundation is in the ground.

21 MR. KEHOE: It's in the ground.

22 CHAIRMAN SCALZO: I know that.  
23 I'm just helping you out there.

24 So this is an awful  
25 circumstance. It's kind of

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embarrassing.

MR. KEHOE: Terrible. And the first house that I had pinned by a licensed professional. I usually pin my own houses. This is the first time I had to come before the Zoning Board.

CHAIRMAN SCALZO: That will never get you in trouble.

Okay. Any questions from -- I'll start with Mr. Eberhart. Any questions there?

It's a tough one. I understand mistakes can happen, even though the County road and the State highways are a 60 foot front yard setback. Other than that, if this was on a secondary road, the 50 foot would be applicable. However, it's not.

Mr. Eberhart, you're going to have next month to come up with questions, too.

MR. EBERHART: Yeah.

MR. KEHOE: If I could just

2 jump in there real quick. I don't  
3 know if you saw the property. It is  
4 still 75.5 feet off of the pavement  
5 because you have that ditch, then  
6 they started the property line at  
7 that flat spot. So it is -- the  
8 property line is farther than what it  
9 usually is. It's usually 10 feet off  
10 pavement, down Forest, down the rest  
11 of Rock Cut.

12 CHAIRMAN SCALZO: That's if  
13 they --

14 MR. KEHOE: I'm not making  
15 excuses at all, but -- you know, but  
16 -- I'm not making excuses. I'm just  
17 saying maybe it's a saving grace.  
18 Also it's a flag lot. It's not  
19 facing Bruschetti. It's the only one  
20 facing Rock Cut. Anything else that  
21 I can come up with?

22 CHAIRMAN SCALZO: I understand.  
23 The actual distance to the edge of  
24 pavement is, I don't want to say to  
25 code. When you refer to the code,

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it's kind of meaningless to the code.  
I understand where you're going, it  
is quite a distance off the actual  
improved right-of-way. Like I say,  
for what Mr. Mattina is interested  
in, it's kind of meaningless.

All right. Mr. Hermance, do  
you have any questions on that?

MR. HERMANCE: The question I  
wrote down is how would the  
foundation be located when the 60  
foot was known. You explained that.

MR. KEHOE: He went out and  
pinned it. We had the surveyor go  
out and pin on advice from my  
concrete contractor, because  
supposedly it was a tight lot. He  
was giving me a little friction. I  
said, you know, fine, I'll have a  
surveyor pin it, no problem. We  
actually dug 1 foot back from the  
pins. That's how we got the 51.1.  
It should have been reshot. We dug  
off of the surveyor's pin, and that's

2 how we got here.

3 CHAIRMAN SCALZO: There is a  
4 little bit of delay to your project  
5 going on.

6 MR. KEHOE: And we missed our  
7 good weather window, too.

8 CHAIRMAN SCALZO: It's not  
9 going to snow anymore.

10 MR. KEHOE: I'll hold you to  
11 that.

12 MS. JABLESNIK: Did you go buy  
13 a plow today or something?

14 CHAIRMAN SCALZO: A whole bunch  
15 of salt.

16 Mr. Bell, do you have any  
17 questions?

18 MR. BELL: No. I'm good.

19 CHAIRMAN SCALZO: We have  
20 another month. We haven't heard back  
21 from the County, unfortunately.

22 Mr. Masten?

23 MR. MASTEN: I was out there  
24 today. I saw a dump truck parked in  
25 the driveway. I could see the

2 property. I didn't see any  
3 paperwork. I don't know where the  
4 paperwork was.

5 CHAIRMAN SCALZO: The posting?

6 MR. MASTEN: Yes.

7 CHAIRMAN SCALZO: I've got to  
8 be honest with you --

9 MR. BELL: I didn't see it  
10 either.

11 MR. KEHOE: It's right at the  
12 mouth of the driveway.

13 There shouldn't be a dump truck  
14 there.

15 MR. MASTEN: There was a large  
16 ten-wheel dump truck parked in your  
17 driveway going in there. I wasn't  
18 going to go walking back there with  
19 my balance.

20 MR. KEHOE: That's definitely  
21 not one of ours. I don't know who  
22 would be parking there. It's posted  
23 right at the beginning of that  
24 construction entrance.

25 CHAIRMAN SCALZO: If you don't

2 mind -- I'm going to give you my pen.  
3 I missed it myself. If you could  
4 just draw a circle on that, where you  
5 posted it.

6 MS. REIN: There it is, next to  
7 the dump truck, or some truck. A red  
8 truck.

9 MR. MASTEN: There was a truck.

10 MR. KEHOE: There's actually  
11 two, one at the mouth and one --

12 CHAIRMAN SCALZO: What happens  
13 is they'll either blow over or kids  
14 like the sticks to play with.

15 MR. KEHOE: I'd like to know  
16 who is driving that dump truck.  
17 That's definitely not one of ours.

18 CHAIRMAN SCALZO: This is still  
19 a public hearing. If anyone is here  
20 from the public that wishes to speak  
21 about this application, now is your  
22 opportunity, and so will next month  
23 be.

24 (No response.)

25 CHAIRMAN SCALZO: No. All

2 right. So I'm going to look to the  
3 Board for one last set of questions.  
4 If not -- everyone is shaking their  
5 heads.

6 I'll look to the Board for a  
7 motion to keep the public hearing  
8 open until we hear back --

9 MR. MASTEN: I'll make a motion  
10 to keep the public hearing open until  
11 we get the paperwork.

12 MR. BELL: Second.

13 CHAIRMAN SCALZO: We have a  
14 motion from Mr. Masten. We have a  
15 second from Mr. Bell.

16 MR. DONOVAN: Just to be clear,  
17 that's to the fourth Thursday of  
18 February.

19 MR. MASTEN: The 23rd.

20 CHAIRMAN SCALZO: Very good.

21 All in favor?

22 MR. BELL: Aye.

23 MR. EBERHART: Aye.

24 MR. HERMANCE: Aye.

25 MR. MASTEN: Aye.



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MS. REIN: Aye.

CHAIRMAN SCALZO: Aye.

Those opposed?

(No response.)

CHAIRMAN SCALZO: See you next  
month.

MR. KEHOE: I'll check the  
postings tomorrow.

CHAIRMAN SCALZO: Make sure  
they're upright. It was pretty windy  
yesterday.

MR. KEHOE: I'll fix them.  
I'll see about the dump truck, too.  
Thank you.

(Time noted: 7:39 p.m.)

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C E R T I F I C A T I O N

I, MICHELLE CONERO, a Notary Public  
for and within the State of New York, do  
hereby certify:

That hereinbefore set forth is a true  
record of the proceedings.

I further certify that I am not  
related to any of the parties to this  
proceeding by blood or by marriage and that  
I am in no way interested in the outcome of  
this matter.

IN WITNESS WHEREOF, I have hereunto  
set my hand this 8th day of February 2023.

*Michelle Conero*  
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MICHELLE CONERO

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STATE OF NEW YORK : COUNTY OF ORANGE  
TOWN OF NEWBURGH ZONING BOARD OF APPEALS

- - - - - X  
In the Matter of

TERESA FRANCO

5 Sylvester Court, Newburgh  
Section 108; Block 4; Lot 6  
R-1 Zone

- - - - - X

Date: January 26, 2023  
Time: 7:39 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, New York

BOARD MEMBERS: DARRIN SCALZO, Chairman  
DARRELL BELL  
JAMES EBERHART, JR.  
GREGORY M. HERMANCE  
JOHN MASTEN  
DONNA REIN

ALSO PRESENT: DAVID DONOVAN, ESQ.  
JOSEPH MATTINA  
SIOBHAN JABLESNIK

APPLICANT'S REPRESENTATIVE: TERESA FRANCO-  
ORTIZ AND RICHARD ORTIZ

- - - - - X

MICHELLE L. CONERO  
3 Francis Street  
Newburgh, New York 12550  
(845) 541-4163

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CHAIRMAN SCALZO: Our next applicant is Teresa Franco, seeking area variances of the rear yard setback and combined side yard setbacks to build a 30.5 by 31.3 house/pool deck to a 15 foot by 30 foot above ground pool. So it's a house/pool deck. So it's going from the house deck to the pool deck to the pool.

Do we have mailings on that, Siobhan?

MS. JABLESNIK: This applicant also sent out 68. It's a tie.

CHAIRMAN SCALZO: That's a lot of mailings. I bet you had a great time stuffing envelopes.

MS. FRANCO-ORTIZ: A lot of stamps.

CHAIRMAN SCALZO: I've said what I had to say. If you could introduce yourself. If I haven't captured what you're looking to do adequately, please feel free.

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MS. FRANCO-ORTIZ: I'm Teresa Franco-Ortiz.

MR. ORTIZ: I'm Richard Ortiz.

MS. FRANCO-ORTIZ: We're just trying to extend our -- we want to knock down the existing deck and make a better deck. We want to extend it to the pool.

CHAIRMAN SCALZO: I see that. Knock it down because it's old. I'm old. I don't think it's really out of character with what we see going on around there. The pool is in, so we know where we're going to stop at that point. I have nothing.

I'm going to look to Ms. Rein.

MS. REIN: I have nothing.

CHAIRMAN SCALZO: Mr. Masten?

MR. MASTEN: I have no questions. I stood on a couple of cement blocks by the fence. It's a beautiful yard.

MS. FRANCO-ORTIZ: Thank you. We weren't home?

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MR. MASTEN: There were three vehicles in the driveway.

MS. FRANCO-ORTIZ: Did you ring -- I mean, I'm normally always home, so I'm surprised. Normally when you ring the bell -- he rang the bell and we saw it on the Ring, so we spoke to him and told him we weren't home but we would be coming home.

MR. MASTEN: There's some dogs in the neighborhood on the other side of the property there come running across there and started barking at me. Somebody yelled and he took off.

MR. ORTIZ: A dog? The neighbor's dog?

MR. MASTEN: On the next street over. I guess I said shut up and somebody yells what's he doing over there. I said barking at me.

MS. REIN: Watching the neighbor's property.

MR. MASTEN: That's what he's doing.

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CHAIRMAN SCALZO: Mr. Bell, any comments?

MR. BELL: I was able to get into the backyard with help from Ms. Ortiz. I don't have any comments.

CHAIRMAN SCALZO: Let the record show Mr. Bell rung the bell.

Mr. Hermance?

MR. HERMANCE: I just have one question. The height of the deck, is it going to be a multi-level? Obviously the pool is at a different elevation. Is it going to be -- is the deck going to be up high and then drop down or is it going to --

MS. FRANCO-ORTIZ: It's going to drop down to the pool.

MR. ORTIZ: It's the existing deck, but we'll replace that with a little wider one. It's going to step down.

MR. HERMANCE: Step down to the pool. Okay.

CHAIRMAN SCALZO: Mr. Eberhart?

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MR. EBERHART: I have nothing.

CHAIRMAN SCALZO: Not even that you're happy they're here before they are actually starting construction? Very good.

Is there anyone from the public here to talk about this -- that wishes to comment about this application?

(No response.)

CHAIRMAN SCALZO: All right. I'll go back to the Board. Any more opportunities?

MR. BELL: No. I have none.

CHAIRMAN SCALZO: You're excited nobody wanted to talk about your application.

MS. FRANCO-ORTIZ: My first time coming. I didn't know if people would get up here and complain.

MS. REIN: If we do this, there's going to be a pool party at your house.

MS. FRANCO-ORTIZ: Absolutely. It's big enough. That was my



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retirement present.

MS. REIN: Congratulations.

CHAIRMAN SCALZO: Good for you.

I'll look to the Board for a motion to close the public hearing.

MR. BELL: I'll make a motion to close the public hearing.

MR. MASTEN: I'll second it.

CHAIRMAN SCALZO: We have a motion from Mr. Bell. We have a second from Mr. Masten. All in favor?

MR. BELL: Aye.

MR. EBERHART: Aye.

MR. HERMANCE: Aye.

MR. MASTEN: Aye.

MS. REIN: Aye.

CHAIRMAN SCALZO: Aye.

Those opposed?

(No response.)

CHAIRMAN SCALZO: Very good.  
So this is also a Type 2 action under SEQRA.

We're going to go through our

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factors again, the first one being whether or not the benefit can be achieved by other means feasible to the applicant. It's kind of difficult to get in the pool right now. With that deck going down there, you can just fall off the deck right into the pool now, can't you.

The second, if there's an undesirable change in the neighborhood character or a detriment to nearby properties.

MR. BELL: No.

MR. EBERHART: No.

MR. HERMANCE: No.

MR. MASTEN: No.

MS. REIN: No.

CHAIRMAN SCALZO: No.

Someone stepping on blocks looking over the fence, they might have an issue with that.

MR. MASTEN: I wanted to see what was in there. I tried to get in the gate and it was closed.

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MS. FRANCO-ORTIZ: We keep it locked because we have a dog.

CHAIRMAN SCALZO: The third, whether the request is substantial. By the numbers it may be. Again, when you have a fixed pool and then the deck going from the house to the pool, I don't think it's a substantial request.

The fourth, whether the request will have adverse physical or environmental effects.

MR. BELL: No.

MR. EBERHART: No.

MR. HERMANCE: No.

MR. MASTEN: No.

MS. REIN: No.

CHAIRMAN SCALZO: No. It doesn't appear so.

The fifth, whether the alleged difficulty is self-created which is relevant but not determinative. Of course it's self-created. I don't think it's going to factor in to the

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way I vote on this.

Having gone through the balancing tests, does the Board have a motion of some sort?

MR. BELL: I'll make a motion for approval.

MS. REIN: I'll second.

CHAIRMAN SCALZO: Mr. Bell made the motion. Ms. Rein made the second.

Roll on that, please.

MS. JABLESNIK: Mr. Bell?

MR. BELL: Yes.

MS. JABLESNIK: Mr. Eberhart?

MR. EBERHART: Yes.

MS. JABLESNIK: Mr. Hermance?

MR. HERMANCE: Yes.

MS. JABLESNIK: Mr. Masten?

MR. MASTEN: Yes.

MS. JABLESNIK: Ms. Rein?

MS. REIN: Yes.

MS. JABLESNIK: Mr. Scalzo?

CHAIRMAN SCALZO: Yes.

The variances are approved.

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TERESA FRANCO

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Good luck.

You want to join us when  
there's a vacancy?

MS. REIN: I just have to say  
one thing. I love the comments  
throughout this application. The  
question asked, just the deck.  
Another question asked, just a deck.  
It's just a deck. Enjoy your deck.

MS. FRANCO-ORTIZ: Thank you.

(Time noted: 7:46 p.m.)

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C E R T I F I C A T I O N

I, MICHELLE CONERO, a Notary Public  
for and within the State of New York, do  
hereby certify:

That hereinbefore set forth is a true  
record of the proceedings.

I further certify that I am not  
related to any of the parties to this  
proceeding by blood or by marriage and that  
I am in no way interested in the outcome of  
this matter.

IN WITNESS WHEREOF, I have hereunto  
set my hand this 8th day of February 2023.

*Michelle Conero*  
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MICHELLE CONERO

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STATE OF NEW YORK : COUNTY OF ORANGE  
TOWN OF NEWBURGH ZONING BOARD OF APPEALS

- - - - - X  
In the Matter of

MICHELLE RIDER & GEOFFREY BRACKETT

37 Dogwood Hills Road, Newburgh  
Section 78; Block 5; Lot 7  
R-1 Zone

- - - - - X

Date: January 26, 2023  
Time: 7:46 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, New York

BOARD MEMBERS: DARRIN SCALZO, Chairman  
DARRELL BELL  
JAMES EBERHART, JR.  
GREGORY M. HERMANCE  
JOHN MASTEN  
DONNA REIN

ALSO PRESENT: DAVID DONOVAN, ESQ.  
JOSEPH MATTINA  
SIOBHAN JABLESNIK

APPLICANT'S REPRESENTATIVE: MICHELLE RIDER  
AND GEOFFREY BRACKETT

- - - - - X

MICHELLE L. CONERO  
3 Francis Street  
Newburgh, New York 12550  
(845) 541-4163

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CHAIRMAN SCALZO: We have a held open application from the December 22nd meeting, Michelle Rider, Geoffrey Brackett, 37 Dogwood Hills, seeking an area variances of building height and setback from the side property line to divert an existing accessory building into living space, otherwise known in this case as an accessory apartment.

MS. RIDER: Now it is.

CHAIRMAN SCALZO: We had discussions about this application. Really all we're here to talk about now is because the garage doesn't meet the 5 yard setback. Correct?

MS. RIDER: Setback and height, which we did talk about last month as an option. I think the threshold issue last month was is it under the 700 feet. We met with Mr. Mattina the next morning.

Thank you.

He accommodated us quickly. He



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asked for further drawings from our architect, which we did turn in. As you can see, it's under the limit and it can be classified as an accessory apartment now. The setback is the same issue as our prior --

CHAIRMAN SCALZO: That's pre-existing.

MS. RIDER: 4.9 feet versus 5. We think it's a couple hundred years old, the stone foundation.

CHAIRMAN SCALZO: It might have been 5 feet at one point.

MS. RIDER: We think it was 100 feet at one time. It all got subdivided many, many years ago.

The height is 19.8 average height as compared to the 15 foot requirement for an accessory apartment.

CHAIRMAN SCALZO: It's pretty straightforward now that we've straightened out the accessory apartment issues.

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MS. RIDER: Thank you.

CHAIRMAN SCALZO: Again, the side yard setback is very easy to understand. The height, also very easy to understand.

It's going to be for, as you explained last time, you have some adult children that want to come back and he's got a Marshall stack that he likes to jam to once in awhile.

MS. RIDER: Two guitars and harmonicas for Christmas. All that.

CHAIRMAN SCALZO: This public hearing I thought remained open.

MR. DONOVAN: That's correct.

CHAIRMAN SCALZO: Is anyone here from the public that wishes to speak about this application?

(No response.)

CHAIRMAN SCALZO: Any other comments from the Board?

MS. REIN: I have one. It just struck me as strange. Where the question was will the proposed action

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be connected to existing public or private water supply, you said no.

MS. RIDER: It's not. We have a well and septic. We have an application in for a separate septic for this.

MS. REIN: I saw the septic. I didn't see the well. Okay. That was easy.

CHAIRMAN SCALZO: Piece of cake. Your well, your yield will support both?

MS. RIDER: That's what we were advised, yes.

CHAIRMAN SCALZO: It only has to be 5 gallons per minute or better.

MS. RIDER: We already had the engineer look at it. The septic application is in. There's one thing missing for that, which I just received today. I just want to review it before I turn it in and then it will be underway, too.

CHAIRMAN SCALZO: Ms. Rein,

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does that satisfy your questions?

MS. REIN: Thank you.

CHAIRMAN SCALZO: How about you, Mr. Masten?

MR. MASTEN: None.

CHAIRMAN SCALZO: Mr. Bell?

MR. BELL: I missed the last meeting, but I went out today and drove around. I understand.

CHAIRMAN SCALZO: It's quite the subdivision.

MS. RIDER: It's pretty invisible.

MR. BELL: I had a chance to drive out there and see it. I have none.

CHAIRMAN SCALZO: Very good. Mr. Hermance?

MR. HERMANCE: I have nothing.

CHAIRMAN SCALZO: Mr. Eberhart?

MR. EBERHART: It is nice up there. Last time I went up.

CHAIRMAN SCALZO: Very good. Having gone through all this stuff

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here, I'll look to the Board for a motion to close the public hearing.

MR. BELL: I'll make a motion to close the public hearing.

MR. EBERHART: Second.

CHAIRMAN SCALZO: We have a motion from Mr. Bell. We have a second from Mr. Eberhart. All in favor?

MR. BELL: Aye.

MR. EBERHART: Aye.

MR. HERMANCENCE: Aye.

MR. MASTEN: Aye.

MS. REIN: Aye.

CHAIRMAN SCALZO: Aye.

Those opposed?

(No response.)

CHAIRMAN SCALZO: Very good.

This is also a Type 2 action under SEQRA. Correct, Counsel?

MR. DONOVAN: That is correct, Mr. Chairman.

CHAIRMAN SCALZO: That's the first time I asked you that.

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MR. DONOVAN: You've been right so far. Your legal opinion was better received by the gentleman on the first application. He had no idea what I was talking about, but he knew right away what you were talking about.

CHAIRMAN SCALZO: It's part of my charm. Thank you.

We're going to also go through our balancing tests again. Whether or not the benefit can be achieved by other means feasible to the applicant.

MR. BELL: No.

CHAIRMAN SCALZO: The benefit, no.

The second, if there's an undesirable change in the neighborhood character or a detriment to nearby properties. The structure is already there.

The third, whether the request is substantial. We've given variances for 4 feet before for

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building height. The preexisting nonconforming about the side yard setback or rear yard setback is not an issue.

The fourth, whether the request will have adverse physical or environmental effects. I don't think so. Other than the installation of a new septic system which is going to be in accordance with State standards, I don't see anything being a problem.

The fifth, whether the alleged difficulty is self-created. Well, yeah. Except -- yes and no, because the self-created portion, you can't apply that to the side yard setback.

So having gone through the balancing tests, does the Board have a motion of some sort?

MR. BELL: I'll make a motion for approval.

MR. HERMANCENCE: I'll second.

CHAIRMAN SCALZO: We have a

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motion for approval from Mr. Bell.  
We have a second from Mr. Hermance.  
Can you roll on that, please,  
Siobhan?

MS. JABLESNIK: Mr. Bell?

MR. BELL: Yes.

MS. JABLESNIK: Mr. Eberhart?

MR. EBERHART: Yes.

MS. JABLESNIK: Mr. Hermance?

MR. HERMANCE: Yes.

MS. JABLESNIK: Mr. Masten?

MR. MASTEN: Yes.

MS. JABLESNIK: Ms. Rein?

MS. REIN: Yes.

MS. JABLESNIK: Mr. Scalzo?

CHAIRMAN SCALZO: Yes.

The motion is carried. The  
variances are approved.

MS. RIDER: Thank you so much.

(Time noted: 7:52 p.m.)



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C E R T I F I C A T I O N

I, MICHELLE CONERO, a Notary Public  
for and within the State of New York, do  
hereby certify:

That hereinbefore set forth is a true  
record of the proceedings.

I further certify that I am not  
related to any of the parties to this  
proceeding by blood or by marriage and that  
I am in no way interested in the outcome of  
this matter.

IN WITNESS WHEREOF, I have hereunto  
set my hand this 8th day of February 2023.

*Michelle Conero*  
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MICHELLE CONERO

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STATE OF NEW YORK : COUNTY OF ORANGE  
TOWN OF NEWBURGH ZONING BOARD OF APPEALS  
----- X  
In the Matter of

BOARD BUSINESS

AARON & SUZANNE MAZUREK  
580 Lakeside Road, Newburgh  
Section 13; Block 2; Lot 1  
R-1 Zone

----- X

Date: January 26, 2023  
Time: 7:52 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, New York

BOARD MEMBERS: DARRIN SCALZO, Chairman  
DARRELL BELL  
JAMES EBERHART, JR.  
GREGORY M. HERMANCE  
JOHN MASTEN  
DONNA REIN

ALSO PRESENT: DAVID DONOVAN, ESQ.  
JOSEPH MATTINA  
SIOBHAN JABLESNIK

----- X

MICHELLE L. CONERO  
3 Francis Street  
Newburgh, New York 12550  
(845) 541-4163

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CHAIRMAN SCALZO: Under Board Business we have this evening Mazurek, 580 Lakeside Road, a request for a six-month extension.

The variance was granted on the 27th of July at our 2022 meeting.

Any discussion on that?

MR. BELL: No.

CHAIRMAN SCALZO: I'll tell you, right now it's still difficult to get supplies. I can completely understand a six-month extension is warranted.

There's no discussion.

All right. Counsel, we just vote on granting an additional --

MR. DONOVAN: It will be a motion to grant the six-month extension.

CHAIRMAN SCALZO: I'll look for a motion to grant the six-month extension.

MR. BELL: I'll make a motion to grant the six-month extension.

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MR. MASTEN: Second.

CHAIRMAN SCALZO: We have a motion from Mr. Bell. We have a second from Mr. Masten. All in favor?

MR. BELL: Aye.

MR. EBERHART: Aye.

MR. HERMANCE: Aye.

MR. MASTEN: Aye.

MS. REIN: Aye.

CHAIRMAN SCALZO: Aye.

Those opposed?

(No response.)

(Time noted: 7:54 p.m.)

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STATE OF NEW YORK : COUNTY OF ORANGE  
TOWN OF NEWBURGH ZONING BOARD OF APPEALS  
----- X  
In the Matter of

BOARD BUSINESS

- APPROVAL OF 2023 MEETING DATES

----- X

Date: January 26, 2023  
Time: 7:54 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, New York

BOARD MEMBERS: DARRIN SCALZO, Chairman  
DARRELL BELL  
JAMES EBERHART, JR.  
GREGORY M. HERMANCE  
JOHN MASTEN  
DONNA REIN

ALSO PRESENT: DAVID DONOVAN, ESQ.  
JOSEPH MATTINA  
SIOBHAN JABLESNIK

----- X

MICHELLE L. CONERO  
3 Francis Street  
Newburgh, New York 12550  
(845) 541-4163

2 CHAIRMAN SCALZO: The last item  
3 on the agenda, before 8:00 this  
4 evening I might add, is the approval  
5 of the 2023 meeting dates which I  
6 believe all of you have in your  
7 packages. The only one that's an  
8 oddity here would be November 21st,  
9 which is the Tuesday before  
10 Thanksgiving, which it's always the  
11 Tuesday before Thanksgiving.

12 I do want to call all the Board  
13 Members' attention to, I think it's  
14 March that has five Thursdays in it.  
15 Pay attention. We're always the  
16 fourth one.

17 Other than that, have the  
18 Members of the Board had a chance to  
19 read the meeting minutes from  
20 December? If so, a motion to approve  
21 the meeting minutes for the December  
22 meeting.

23 MR. MASTEN: I'll make a motion  
24 to approve the minutes for December.

25 CHAIRMAN SCALZO: We have a

2 motion from Mr. Masten. Do we have a  
3 second?

4 MR. EBERHART: I'll second.

5 MS. REIN: Second.

6 CHAIRMAN SCALZO: I think Mr.  
7 Eberhart beat you. All in favor?

8 MR. BELL: Aye.

9 MR. EBERHART: Aye.

10 MR. HERMANCE: Aye.

11 MR. MASTEN: Aye.

12 MS. REIN: Aye.

13 CHAIRMAN SCALZO: Aye.

14 Those opposed?

15 (No response.)

16 CHAIRMAN SCALZO: I believe  
17 that concludes our meeting for the  
18 evening.

19 MR. RICHICHI: I came in late.  
20 I apologize for the interruption. I  
21 was here for the Colden Hill Road  
22 property. I live across the street.  
23 The variance for the deck.

24 CHAIRMAN SCALZO: Yes. Colden  
25 Hill Road, they were in here because



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of the deck. They are putting a new deck on. However, the application, what landed them here, was because the existing house is nonconforming. Really the deck being put on the back, the deck wasn't exceeding or infringing upon the rear yard setback. What we were voting on was allowing them to continue to have their house exactly where it is.

MR. RICHICHI: And did that vote occur?

CHAIRMAN SCALZO: Yes, it did. Their variances were approved and they are on their way to making the house look better than it did.

THE REPORTER: Can I have your name, please?

MR. RICHICHI: Richichi, 36 Colden Hill Road.

CHAIRMAN SCALZO: I'll look to the Board for a motion to adjourn.

MR. HERMANCENCE: I'll make the motion.

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MR. BELL: Second.

CHAIRMAN SCALZO: All in favor?

MR. BELL: Aye.

MR. EBERHART: Aye.

MR. HERMANCE: Aye.

MR. MASTEN: Aye.

MS. REIN: Aye.

CHAIRMAN SCALZO: Aye.

(Time noted: 7:57 p.m.)

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