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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

NOMINATION OF VICE CHAIRMAN
FOR THE ZONING BOARD OF APPEALS

----- X

Date: January 27, 2022
Time: 7:00 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, New York

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

ALSO PRESENT: DAVID DONOVAN, ESQ.
JOSEPH MATTINA

----- X

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

1 B O A R D B U S I N E S S

2 CHAIRMAN SCALZO: I'd like to
3 call the meeting of the ZBA to order.
4 The order of business this evening
5 are the public hearings scheduled.
6 The procedure of the Board is that
7 the applicant will be called upon to
8 step forward, state their request and
9 explain why it should be granted.
10 The Board will then ask the applicant
11 any questions it may have, and then
12 any questions or comments from the
13 public will be entertained. The
14 Board will then consider the
15 applications and will try to render a
16 decision this evening but may take up
17 to 62 days to reach a determination.

18 I would ask that if you have a
19 cellphone, to please turn it off or
20 put it on silent. When speaking,
21 speak directly into the microphone as
22 it is being recorded.

23 We are without our ZBA
24 Secretary, Siobhan, this evening,
25 therefore roll call. Mr. Bell.

1 B O A R D B U S I N E S S

2 You can stay there. It's only going
3 to take a second.

4 Something that was left off the
5 agenda this evening is
6 reorganization. As some of you are
7 aware, we lost our vice chair, John
8 McKelvey, during the year last year.
9 As part of our reorganization someone
10 needs to nominate and we need to vote
11 on a vice chairman for the Board.

12 I'll look to any Members of the
13 Board for any nominations for that
14 position.

15 MR. HERMANCE: I would nominate
16 Mr. Bell.

17 CHAIRMAN SCALZO: We have a
18 nomination from Mr. Bell, which I
19 think is outstanding. The ten
20 meetings I was at last year, I think
21 I got five phone calls after the
22 meetings from Mr. Bell asking about
23 how we approach things, and I thought
24 that was great. Therefore I will
25 second that.

1 B O A R D B U S I N E S S

2 We roll on that. Mr. Bell?

3 Can he vote on this?

4 MR. DONOVAN: He can, actually.

5 You can vote no.

6 CHAIRMAN SCALZO: Is that
7 something you're willing to do, Mr.
8 Bell?

9 MR. BELL: Yes.

10 CHAIRMAN SCALZO: Mr. Hermance?

11 MR. HERMANCE: Yes.

12 CHAIRMAN SCALZO: Going to me,
13 yes.

14 Mr. Eberhart?

15 MR. EBERHART: Yes.

16 CHAIRMAN SCALZO: Mr. Gramstad?

17 MR. GRAMSTAD: Yes.

18 CHAIRMAN SCALZO: Mr. Masten?

19 MR. MASTEN: Yes.

20 CHAIRMAN SCALZO: Very good.

21 MR. DONOVAN: I have to say, I
22 really thought Tony would get it,
23 he's not here, as a joke.

24 CHAIRMAN SCALZO: Tony reached
25 out to me, our former member, Tony

1 BOARD BUSINESS

2 Marino --

3 MR. DONOVAN: He's a former
4 member?

5 CHAIRMAN SCALZO: You were
6 absent, Dave. You missed all the
7 good stuff.

8 We now have a vacancy. Anybody
9 in the room interested in what we do,
10 you're going to see just how cool it
11 is. They pay you handsomely. Not
12 really. I will say we got Mr.
13 Hermance and we also got Mr. Gramstad
14 because they were on the other side
15 and they saw how we operated and
16 wanted to contribute. They thought
17 it was pretty interesting, so that
18 was a wonderful way for them to
19 arrive here at the Board.

20 So if anybody is interested in
21 what we do, write a letter to the
22 Town Supervisor.

23 It could be you, Mr. Lytle.
24 You never know.

25 Anyway, a letter to the Town

1 BOARD BUSINESS

2 Supervisor expressing interest, that
3 would be fantastic.

4

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

6

7 CERTIFICATION

8

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

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

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

19 IN WITNESS WHEREOF, I have hereunto
20 set my hand this 5th day of February 2022.

21

22

23

24

25

Michelle Conero

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

SNK PETROLEUM WHOLESALERS
747 Boulevard, Newburgh
Section 89; Block 1; Lots 80.1 & 80.2
IB Zone

----- X

Date: January 27, 2022
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.
ROBERT GRAMSTAD
GREGORY M. HERMANCE
JOHN MASTEN

ALSO PRESENT: DAVID DONOVAN, ESQ.
JOSEPH MATTINA

APPLICANT'S REPRESENTATIVE: KENNETH LYTLE

----- X

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

1 S N K P E T R O L E U M W H O L E S A L E R S

2 CHAIRMAN SCALZO: Our first
3 applicant for this evening is SNK
4 Petroleum Wholesalers, 747 Boulevard,
5 Newburgh. It is a Planning Board
6 referral for area variances of the
7 front yard for a canopy, side yard
8 for a west canopy, rear yard for the
9 proposed building, rear and side yard
10 for the east canopy, and variances
11 for any proposed signage on the
12 canopy. This is resubmitted from
13 January 2021, one year ago.

14 On this we have -- let's see.
15 The applicant sent out fourteen
16 letters. All mailings, publications
17 and postings are in order.

18 We did send this to the Orange
19 County Department of Planning on
20 12/21. We received notice from the
21 Orange County Planning Department.
22 The County recommendation is a Local
23 determination.

24 Therefore, this is not our first
25 time at this rodeo. Mr. Lytle, we

1 S N K P E T R O L E U M W H O L E S A L E R S

2 have seen you multiple times for
3 this. I believe at one point you had
4 everything you needed, and then it
5 was retracted, and then it was put
6 back, and then there was some
7 confusion amongst some items.

8 MR. LYTLE: Yes.

9 CHAIRMAN SCALZO: But here you
10 are again, a year later, --

11 MR. LYTLE: Yup.

12 CHAIRMAN SCALZO: -- to tell us
13 why this time you've got it right.
14 So all right, let's hear it from you,
15 Mr. Lytle.

16 MR. LYTLE: Can you hear me
17 from the mic or should I stand right
18 next to it?

19 CHAIRMAN SCALZO: You can stand
20 right next to it. Michelle needs to
21 hear you. I learned a lesson a few
22 months back. The slower you talk the
23 easier it is for Michelle to capture
24 everything that you say. Apparently
25 I talk very fast. I was not aware of

1 SNK P E T R O L E U M W H O L E S A L E R S

2 that.

3 MR. LYTTLE: Good evening. I am
4 here representing SNK Petroleum
5 Wholesalers. Yes, you are correct,
6 we've been here multiple times with
7 this project.

8 Over the years we had --
9 originally we had a plan prepared.
10 Now we're back in front of the Board
11 with the actual applicant who
12 actually wants to build and construct
13 a gas station. Before it was more
14 preliminary, conceptual to get to
15 that point.

16 We were back and forth with the
17 variances. We received the variances
18 we needed, but now with the actual
19 applicant, SNK, they have a little
20 different layout/configuration that
21 they prefer, as you can see on the
22 plans.

23 We've been before the Planning
24 Board. Again, it fronts on 747
25 Boulevard at the intersection of

1 S N K P E T R O L E U M W H O L E S A L E R S

2 Route 84. It is in the IB Zone.

3 They have four gas pump
4 stations in the front of the building
5 right along 747 Boulevard. The
6 diesel pumps will be on the back, on
7 the other -- towards the east side of
8 it.

9 The flow of traffic is around
10 the building.

11 CHAIRMAN SCALZO: Mr. Lytle,
12 hang on one second. When we roll our
13 papers over it hits the microphone
14 and it's difficult to hear anything.
15 Hang on one second. Page 2 is the
16 page that we really should be looking
17 at to go along with your narrative.
18 I'm sorry to cut you off, Mr. Lytle.
19 Please continue.

20 MR. LYTLE: The lot is proposed
21 with an individual well. Actually,
22 septic will be on the second part of
23 this parcel to the north.

24 The variances required, again,
25 are based on the actual current

1 S N K P E T R O L E U M W H O L E S A L E R S

2 configuration and the layout that the
3 Planning Board is okay with. That's
4 really why we're before the Board
5 tonight.

6 CHAIRMAN SCALZO: Very good.
7 Thank you, Mr. Lytle. As you had
8 just said, and I don't know that this
9 is a concern -- actually, it is a
10 concern of mine. When you were at
11 the Planning Board and they referred
12 you to us, had any traffic
13 evaluations been heard? Had Mr.
14 Wersted talked about the flow through
15 the lot at all?

16 MR. LYTTLE: At the last Board
17 meeting he had asked us to show the
18 actual truck turning radius going
19 around, which we actually added to
20 the plan. They talked about a
21 possible traffic study. We have
22 letters from the DOT that the
23 entrance is acceptable for truck
24 traffic and their interchange with
25 747 Boulevard without the traffic

1 S N K P E T R O L E U M W H O L E S A L E R S

2 study. We're going back and forth
3 with the Planning Board about that
4 issue. The turning radius is on the
5 plot plan, as you see. The larger
6 truck for the fuel tanks is actually
7 shown on the plan.

8 CHAIRMAN SCALZO: Thank you
9 very much for clarifying that.

10 My next question is obviously
11 the ingress and egress to the portion
12 where the building and the pumps are.
13 This lot is split in two. You're
14 crossing over it with the ingress/
15 egress. Is there an easement in
16 place for your ability to cross that?
17 Since you had just mentioned the
18 sanitary disposal system would be on
19 the portion of the lot -- the
20 triangular portion, is there
21 something in place that allows you to
22 cross that lot that you don't own?

23 MR. LYTLE: Yup. There's
24 actually an easement in place which
25 allows for ingress and egress and

1 S N K P E T R O L E U M W H O L E S A L E R S

2 utilities across to allow this to
3 happen. It's already in place and
4 already filed. Actually, I believe
5 it's from the DEP that includes the
6 property to cross.

7 CHAIRMAN SCALZO: Okay.

8 Counsel, I have a -- the initial
9 application that Mr. Lytle appeared
10 before us a year ago was actually --
11 they pulled it back. So this is --
12 we'll consider this a brand new
13 application?

14 MR. DONOVAN: Correct.

15 CHAIRMAN SCALZO: The history
16 behind this, we were going through
17 COVID at the time. One of our
18 meetings I believe on this may have
19 been a virtual meeting and that was
20 when there was a lot of public input.

21 After I go through my initial
22 list on the Board here, I'm going to
23 open it up to the public. It's going
24 to be just an observation that when
25 it was available to the public

1 S N K P E T R O L E U M W H O L E S A L E R S

2 online, we had -- a lot of people had
3 provided comments.

4 I myself don't have any
5 comments. Actually, I do. Mr.
6 Lytle, what is so different about
7 this application with the variances
8 that you're requesting relative to
9 the ones that you actually got
10 approved over a year ago?

11 MR. LYTLE: Prior to this the
12 building was rotated 90 degrees where
13 it's currently located having just a
14 pump along the northern side. In
15 this case here we rotated it and
16 allowed for flow around the building.

17 CHAIRMAN SCALZO: Thank you
18 very much. That's all I have.

19 MR. LYTLE: One more point.
20 You mentioned about a Zoom meeting.
21 I don't think we've been to a Zoom
22 meeting. That might have been a
23 misunderstanding. I'm not sure. I
24 don't think we had any Zoom meetings
25 about this project.

1 S N K P E T R O L E U M W H O L E S A L E R S

2 MR. DONOVAN: I'm not sure.

3 MR. BELL: I don't think so
4 either.

5 MR. LYTLE: I don't think so.

6 MR. DONOVAN: Did you get an
7 approval for this?

8 MR. LYTLE: We had an approval.

9 MR. DONOVAN: Before it was a
10 different user. Correct?

11 MR. LYTLE: A different user.

12 MR. DONOVAN: The recollection
13 I have is the gentleman that's with
14 you this evening showed up on one or
15 two occasions and he got stood up.
16 By that I mean you didn't show up.
17 So I think that the application was
18 then dormant. Right? You've done
19 mailings, so this is a public
20 hearing.

21 MR. LYTLE: Yes.

22 CHAIRMAN SCALZO: All right.
23 Very good. At this point I'm going
24 to turn to my left. Mr. Masten, do
25 you have any comments on this

1 S N K P E T R O L E U M W H O L E S A L E R S

2 application?

3 MR. MASTEN: Not really.

4 CHAIRMAN SCALZO: Okay. Mr.
5 Gramstad?

6 MR. GRAMSTAD: Are you looking
7 to put in four gas islands and three
8 diesel?

9 MR. LYTTLE: That is correct.

10 MR. GRAMSTAD: Okay.

11 CHAIRMAN SCALZO: Just for the
12 record, we're here looking at
13 variances only. Any environmental
14 impacts regarding the DEC -- DEC is
15 going to probably do a review on this
16 as well. We're looking at the
17 variances that they are requesting
18 for -- they're all area variances.

19 Mr. Eberhart, any questions?

20 MR. EBERHART: No questions for
21 me.

22 CHAIRMAN SCALZO: Mr. Hermance?

23 MR. HERMANCE: No. Not at this
24 time.

25 CHAIRMAN SCALZO: Mr. Bell?

1 S N K P E T R O L E U M W H O L E S A L E R S

2 MR. BELL: No.

3 CHAIRMAN SCALZO: Okay. My
4 first roll through the Board.

5 At this point I'm going to open
6 it up to any members of the public
7 that wish to speak about this
8 application. Please step forward and
9 identify yourself so Ms. Conero can
10 capture your information.

11 MR. WEDDELL: Good evening,
12 gentlemen. My name is Thomas
13 Weddell. That's W-E-D-D-E-L-L.

14 There could never have been an
15 approval on this prior because he
16 didn't own the property prior to
17 this.

18 CHAIRMAN SCALZO: I had
19 reviewed the application and I saw
20 your name on there as well with some
21 legal documents attached to them, so
22 I am fully familiar with your name.

23 MR. WEDDELL: So there was no
24 approval. I have not seen a change
25 in this design from the last time,

1 S N K P E T R O L E U M W H O L E S A L E R S

2 which was supposedly at a video
3 conference that we were supposed to
4 have. They didn't own the property
5 so they couldn't present.

6 Right away one of the things is
7 -- I went through the application.
8 Let me just sort through my papers
9 here because I do have what was
10 online.

11 I guess my first question would
12 be what is this really zoned, because
13 in the application it says it's
14 industrial -- it's in an industrial
15 park or industrial area, which I
16 really don't think it is. It's IB.
17 It got zoned IB in 2014 as they
18 constructed 747, okay. Before that
19 it was residential. It was owned by
20 my great grandfather at that point in
21 time. So that piece of property was
22 residential. But when they put the
23 exit 5 there for -- I don't know what
24 the current number is, the new
25 number, that exit now, the Town took

1 S N K P E T R O L E U M W H O L E S A L E R S

2 that one little sliver piece of
3 property and zoned it IB in 2014,
4 which I'm questioning because around
5 it is all residential, okay. It's
6 not just an industrial zone. You've
7 probably all been off this exit and
8 all seen it. Right across the
9 entrance from that, where it comes
10 out there's a residential house. Not
11 mine. Behind it -- the pictures that
12 are included in here only take
13 pictures facing 84. They do not take
14 pictures the other way which then
15 you'd start to see the houses that
16 are right there. So that's question
17 number one.

18 The zoning I got off of the
19 County. It was zoned commercial
20 under 330 and 331. I understand -- I
21 got the Town of Newburgh stuff in
22 2014. I question that, which I'll
23 probably have to get further into
24 that, okay.

25 Question 6 -- or actually

1 S N K P E T R O L E U M W H O L E S A L E R S

2 question 3, Part D said there was a
3 Town Planning Board meeting and that
4 there would be attached to this
5 document those reports. They were
6 not online. They were not attached.
7 So that was -- that was referred from
8 the Planning Board to here. I don't
9 know how they got before the Planning
10 Board before they owned the property,
11 but they were able to do all that
12 stuff beforehand.

13 Question 6 -- 6-A, it mentions
14 that it's located in an industrial
15 area. It's not. It's residential.
16 As a matter of fact, you've got a
17 whole new bunch of residences across
18 down from the Amazon entry right
19 there. It's all residential.

20 I own behind this. I own this
21 piece of property right behind this.
22 I own four pieces of property there
23 with three residences it. My son and
24 my daughter each own a residence
25 that's right behind us.

1 S N K P E T R O L E U M W H O L E S A L E R S

2 One issue that's with this
3 piece of property is there's a right-
4 of-way to the piece of property I own
5 directly behind it. I have a right-
6 of-way to come through this piece of
7 property to get to that. It's this
8 spot right there. It's that
9 particular spot. That's the only
10 spot you can cross that because that
11 is the aqueduct. That's the only
12 place you can cross that. In his
13 design here, if you read the little
14 fine print, there's a retaining wall.
15 I'm not going to be able to get to
16 that spot, okay, to get to my house
17 or get to that property. If that is
18 not available to me, my piece of
19 property is now landlocked and you
20 cannot get to that particular
21 property that's behind there.

22 The required area is not
23 substantial because the building is
24 in the rear of the property, it
25 minimizes. When they moved it back,

1 S N K P E T R O L E U M W H O L E S A L E R S

2 it minimized it. Now he's asking for
3 a variance of not just 5 feet, 10
4 feet, he's asking for 35 feet, 28
5 feet. He's asking for significant
6 variances that will affect in and out
7 of that property and will affect how
8 I get in and out of that piece of
9 property now.

10 The fact that there's no other
11 property available is not true.
12 Across the street -- there's a piece
13 of property that the same owner that
14 owns this property now owns across
15 the street. That's been for sale for
16 a number of years. You go right down
17 747, right across the street from
18 Johnny's, there's a great big piece
19 of property that's for sale there.
20 It's on the corner of 17K which is
21 not in a residential area. There's
22 not residential houses that are
23 there.

24 I really think this zoning was
25 spot zoning because that's the only

1 S N K P E T R O L E U M W H O L E S A L E R S

2 piece right there that really
3 connects everything else. That one
4 little piece was zoned that.

5 It's not a disadvantage to
6 this. He mentioned that he can't do
7 this because they're now at a
8 disadvantage because they took that
9 piece of property. Before that, when
10 they took the piece of property for
11 the entranceway or exit way off of
12 84, it was just zoned residential.
13 Now it's zoned commercial. At least
14 what I have is commercial. It's IB.
15 It's not industrial.

16 So again, I'm questioning all
17 these things that I don't think are
18 really fair to me and the rest of the
19 people that live right there, being
20 mostly my family, but you also have
21 new houses and you have the people
22 that live right across the street
23 from there.

24 CHAIRMAN SCALZO: Well Mr.
25 Weddell, thank you.

1 S N K P E T R O L E U M W H O L E S A L E R S

2 MR. WEDDELL: I hope I didn't
3 speak too fast. I'm extremely
4 nervous about this.

5 CHAIRMAN SCALZO: No. You did
6 fine.

7 Michelle, is there anything
8 else you would like clarification on?

9 MS. CONERO: I have everything.
10 Thank you.

11 CHAIRMAN SCALZO: Very good.
12 Thank you.

13 MR. WEDDELL: I am unclear
14 about the zoning. I understand IB
15 does qualify for a gas station. I do
16 understand that. But I also question
17 how in 2014 it came about. I was not
18 notified. I would have to have proof
19 I was actually notified, or any one
20 of the people. I've lived there for
21 39 years. I was not notified of the
22 change. I was notified that they
23 were going to change 747 but not just
24 spot zone that spot in 2014.

25 CHAIRMAN SCALZO: Okay. Mr.

1 S N K P E T R O L E U M W H O L E S A L E R S

2 Weddell, let me ask you -- thank you
3 for pointing out to us the access
4 right-of-way existing lane. Is that
5 how you currently get to your
6 residence?

7 MR. WEDDELL: It's not how I
8 currently get to the residence.
9 That's a vacant piece of land behind
10 me that's there. That would be how I
11 would get to that. I'm being taxed
12 as if it's a saleable lot. It's
13 valued at \$40,000, that lot. That's
14 the only way I can get to that lot.

15 CHAIRMAN SCALZO: Thank you.
16 That's quite interesting.

17 Is there anyone else here from
18 the public to speak about this
19 application?

20 (No response.)

21 CHAIRMAN SCALZO: Very good.
22 I'm going to look back to the Board
23 here, and perhaps Counsel. Let me
24 start with the Board.

25 Mr. Bell, having heard Mr.

1 S N K P E T R O L E U M W H O L E S A L E R S

2 Weddell's testimony -- if I'm saying
3 it properly.

4 MR. WEDDELL: Weddell.

5 CHAIRMAN SCALZO: Thank you.

6 Having heard Mr. Weddell's
7 testimony; Mr. Bell, do you have any
8 additional questions at this point?

9 MR. BELL: Not at this time. I
10 know I was -- when I looked at the
11 property, I did take a ride back to
12 the new community that's been built
13 back in there to see what was going
14 on.

15 When you mentioned access, I
16 couldn't see where you were pointing.
17 I see on here. I want to make sure.
18 You said you only have access to one
19 location into your --

20 MR. LYTLE: Do you want me to
21 clarify for you?

22 CHAIRMAN SCALZO: Please. Yes.
23 Before you do; Mr. Bell, we're
24 looking at sheet 1. I almost think
25 the easier way to look at this is

1 S N K P E T R O L E U M W H O L E S A L E R S

2 look at the location map. If we're
3 looking at the location map, it
4 appears to me from Mr. Weddell's
5 testimony that he owns that
6 triangular shaped parcel on the other
7 side of the aqueduct.

8 Is that correct, Mr. Weddell?

9 MR. WEDDELL: That's correct.

10 CHAIRMAN SCALZO: And it
11 appears to be -- other than that
12 access -- it does not appear via the
13 tax map, which I'm sure this was
14 inserted from, it does not appear
15 that there's any other access.

16 MR. BELL: I'm not seeing it.
17 Here's 747. There's no access to it.

18 MR. LYTLE: Darrin, if I may.

19 CHAIRMAN SCALZO: I'm sorry,
20 Mr. Lytle. I just wanted to see if I
21 could get my Members --

22 MR. LYTLE: If you look at that
23 location map, that's correct. That
24 triangular piece of property was sold
25 to Mr. Weddell from the owner of this

1 S N K P E T R O L E U M W H O L E S A L E R S

2 property years back. He wanted it as
3 a buffer from his residential homes,
4 which he does own up there, as a
5 buffer. He is correct, there is a
6 small access way that goes across
7 this property. It goes across the
8 easement DEP gave -- granted across
9 the aqueduct path which is there.
10 There are a lot of grading issues to
11 deal with, if he even wants to.

12 Since the property was sold --
13 that triangular property was sold to
14 him, there was an error made by the
15 attorneys. That had been worked out.
16 You saw the new deed. In doing so
17 that access point does show it comes
18 to our retaining wall. With the
19 legal paper we revised the retaining
20 wall, opening it up so they would
21 have access to that plot. Correct?

22 MR. WEDDELL: Now I've got all
23 these additional setbacks that were
24 -- we're not talking 10 feet. We're
25 talking 25, 35.

1 S N K P E T R O L E U M W H O L E S A L E R S

2 MR. LYTLE: We're just talking
3 about the access.

4 MR. WEDDELL: It affects the
5 access point because there's going to
6 be tractor trailer trucks coming
7 through there. You're talking about
8 now all of a sudden you've got this
9 little thing other than what it
10 should be.

11 Let's talk about the signs. How
12 many more signs do I need? I look --
13 if you come and stand at my house,
14 you'll see the back end of this gas
15 station right off my backyard. Right
16 off my back door to my back porch
17 you'll be looking right into the back
18 of this. You're all welcome to come.
19 My wife will cook you cakes or
20 whatever. You can come and see what
21 I'm going to see.

22 MR. LYTLE: I have a picture if
23 you guys would like to see what it
24 looks like from our site looking
25 towards his home.

1 S N K P E T R O L E U M W H O L E S A L E R S

2 CHAIRMAN SCALZO: Sure. I
3 drove past the site but I did not get
4 out and walk around the perimeter.

5 MR. LYTLE: This is standing on
6 the property looking towards his
7 home. You'll see it's in the winter.

8 CHAIRMAN SCALZO: Mr. Lytle, if
9 you're going to hand stuff out, as
10 you're handing it -- I'm trying to
11 help Michelle here.

12 Do you need to record
13 everything Mr. Lytle is saying as he
14 hands photos to the Board?

15 MS. CONERO: I do.

16 CHAIRMAN SCALZO: Very good.
17 Slow it down and face her.

18 MR. LYTLE: I'll just pass them
19 out and then we'll talk.

20 So that picture is standing
21 actually approximately where the
22 building would be located looking
23 toward Mr. Weddell's house in the
24 winter.

25 MR. WEDDELL: We're not looking

1 S N K P E T R O L E U M W H O L E S A L E R S

2 towards my house here at all.

3 MR. LYTLE: We're looking over
4 the aqueduct which goes in this
5 direction. It's proximate into all
6 your residential areas.

7 MR. WEDDELL: You're not
8 looking at my house at all. That's
9 very strategic. I get it. I got
10 what you did. I got it.

11 MR. LYTLE: It's in the winter
12 months with no leaves.

13 MR. WEDDELL: If you stand --

14 MR. DONOVAN: If I could just
15 interrupt for a second. If everybody
16 can speak one at a time and address
17 the Board, please.

18 MR. LYTLE: We're standing here
19 at the building location, looking in
20 a northeasterly direction towards the
21 residential homes.

22 CHAIRMAN SCALZO: Thank you,
23 Mr. Lytle.

24 MR. WEDDELL: So I guess that's
25 the only direction we can look at is

1 S N K P E T R O L E U M W H O L E S A L E R S

2 in that particular direction. We
3 can't look to the north, we can't
4 look to the south nor to the east.
5 So it's just we can only look west,
6 directly west. This is not a very
7 fair picture. You can come and see
8 it. Visit my house and see what
9 you're going to see.

10 CHAIRMAN SCALZO: Okay. Mr.
11 Bell, any other comments?

12 MR. BELL: I'm good.

13 CHAIRMAN SCALZO: Mr. Hermance,
14 any comments since we've heard the
15 testimony of Mr. Weddell?

16 MR. HERMANCE: Yes. My
17 question is you're saying only one of
18 these parcels is zoned IB?

19 MR. WEDDELL: I'm saying that
20 those two little pieces of parcel are
21 really considered one. The only
22 reason it's broken is because it has
23 a right-of-way through there for the
24 creek. That little section is there
25 because there's a creek that goes

1 S N K P E T R O L E U M W H O L E S A L E R S

2 through there. The aqueduct goes
3 across the road and goes down into
4 the wetlands on the other side of the
5 road. So that little sliver is the
6 only piece. That 1.5 acres is the
7 only sliver there that the Town of
8 Newburgh has that's IB right there.
9 The rest of it all around it is
10 residential.

11 MR. LYTLE: So if you want to
12 go to sheet number 1, you'll see the
13 location map in the upper left-hand
14 corner. We show the zoning line on
15 it. Everything along 747 Boulevard
16 and west of the aqueduct would be the
17 IB and to the right would be
18 residential.

19 MR. WEDDELL: The west is Town
20 of Montgomery, it's not Town of
21 Newburgh.

22 CHAIRMAN SCALZO: All right.
23 Mr. Eberhart, do you have anything
24 more to add?

25 MR. EBERHART: The difficulty

1 S N K P E T R O L E U M W H O L E S A L E R S

2 I'm having is I didn't have the
3 opportunity to see it from the
4 perspective that this gentleman here
5 is viewing it.

6 CHAIRMAN SCALZO: Actually I
7 don't believe any of us have. So
8 that's an interesting point that you
9 have there. Okay. That's fine.

10 Mr. Gramstad, do you have
11 any --

12 MR. GRAMSTAD: Nothing.

13 CHAIRMAN SCALZO: How about
14 you, Mr. Masten?

15 MR. MASTEN: I'm a little
16 confused right now.

17 CHAIRMAN SCALZO: This is
18 certainly an interesting application.

19 MR. MASTEN: Yes, it is.

20 CHAIRMAN SCALZO: It became
21 more interesting after --

22 MR. MASTEN: The last time it
23 was presented I walked that whole
24 property. I can see where this
25 gentleman was talking about where

1 S N K P E T R O L E U M W H O L E S A L E R S

2 it's become landlocked. I used to
3 have friends that lived on Mitchell
4 Lane there and they said they hope
5 they never build anything over there
6 when 84 come through. Times have
7 changed.

8 CHAIRMAN SCALZO: Very good.

9 One more time. Is there anyone
10 from the public here?

11 (No response.)

12 CHAIRMAN SCALZO: All right.

13 MR. WEDDELL: My children would
14 have all been here. They all got
15 COVID so I can't help you with that.

16 CHAIRMAN SCALZO: We're all
17 struggling with that right now,
18 that's for sure.

19 I'll look to the Board. At
20 this point we're looking at area
21 variances here. However, Mr. Weddell
22 did bring up some points that I had
23 not considered about the availability
24 of other areas very close to it. Not
25 that that's a determinative condition

1 S N K P E T R O L E U M W H O L E S A L E R S

2 here because the applicant does not
3 own those other lots.

4 MR. LYTTLE: That's right.

5 CHAIRMAN SCALZO: I'm
6 struggling with this. Counsel --

7 MR. DONOVAN: Mr. Chairman, let
8 me say a couple of things. One, the
9 issue of spot zoning, appropriate
10 zoning was brought up. Just to be
11 clear, that's not anything that has
12 to do with the Zoning Board. The
13 Town Board is in charge of zoning.

14 MR. WEDDELL: I understand.

15 MR. DONOVAN: This Board has to
16 look at it by what the zoning is now,
17 which is IB. That has nothing to do
18 with us.

19 The general rule also is if
20 there's a restrictive covenant or
21 some private agreement, it generally
22 doesn't impact what the Board does.
23 A lot of times when people have --
24 they live in a homeowners
25 association, the HOA wants the Town

1 S N K P E T R O L E U M W H O L E S A L E R S

2 to enforce the conditions. The Town
3 can't do that, it's a private
4 covenant.

5 I represented the Board
6 recently where a gentleman had
7 subdivided a piece of property, put
8 in five lots, had a restrictive
9 covenant on all the lots that they
10 couldn't be less than 5 acres.
11 Somebody wanted to subdivide and make
12 the lot less than 5 acres. People
13 complained. The law doesn't allow
14 the Board, in that case the Planning
15 Board, to do anything because it's a
16 private covenant.

17 What's a little bit different
18 here, and I'm referring to the
19 easement, I think it may be helpful
20 to see the terms of the easement and
21 to see whether or not there's going
22 to be anything done on this property
23 as a result of this development that
24 would frustrate the purpose of the
25 easement. I understand it's a

1 S N K P E T R O L E U M W H O L E S A L E R S

2 private covenant, but it may impact
3 the Board's deliberations in terms of
4 the appropriateness of the variance.

5 I don't think, Ken, you gave us
6 a copy of that easement.

7 MR. LYTLE: We did not. It's
8 for access only. We can get a copy.

9 MR. DONOVAN: I think that
10 might be something.

11 The other thing that was
12 raised, the first of the five factors
13 that you have to consider is whether
14 or not the issuance of the variances
15 requested are going to have an
16 adverse impact on the character of
17 the neighborhood or cause a detriment
18 to nearby properties. Issues have
19 been raised tonight. I know you've
20 been out there before because the
21 application has been in front of you
22 before, but it wouldn't be
23 unreasonable to go back out to the
24 property and get a sense from the
25 surrounding residential properties as

1 S N K P E T R O L E U M W H O L E S A L E R S

2 they did not take -- at any time did
3 they take into consideration that
4 easement from property A to property
5 B to property C, that that road was
6 even taken into consideration at one
7 point at all, because it absolutely
8 blocks it. It's written right on the
9 side of that map what that easement
10 is and property A, property B and
11 property C.

12 MR. DONOVAN: Not to be
13 impolite, but that has nothing to do
14 with this Board's job.

15 MR. WEDDELL: I get it.

16 MR. DONOVAN: I understand it's
17 important to you.

18 MR. WEDDELL: Article 70. I'll
19 get what I've got to get.

20 CHAIRMAN SCALZO: Right. Thank
21 you for the guidance, Counselor,
22 here.

23 Mr. Lytle, if you could provide
24 us with the terms of that easement.

25 MR. LYTLE: Yup.

1 S N K P E T R O L E U M W H O L E S A L E R S

2 CHAIRMAN SCALZO: And Counsel
3 just solidified what I was thinking.
4 My opinion, as a Member of this
5 Board, is that we leave the public
6 hearing open on this application
7 until we gather more information.

8 My opinion also is that this
9 necessitates another field visit on
10 my part, and probably on the part of
11 the other Zoning Board Members as
12 well, having heard the testimony of
13 Mr. Weddell.

14 We do our best when we go out
15 to look at things. Hearing the
16 testimony of the public certainly
17 helps us perhaps focus what we're
18 looking at from a different angle.

19 I appreciate your comments.
20 They are very important to us.

21 I'm going to look to the Board
22 here for a motion of some sort
23 regarding the public hearing.

24 MR. BELL: I'll make a motion
25 that we keep the public hearing open.

1 S N K P E T R O L E U M W H O L E S A L E R S

2 MR. MASTEN: I'll second it.

3 CHAIRMAN SCALZO: We have a
4 motion to keep the public hearing
5 open from Mr. Bell. We have a second
6 from Mr. Masten.

7 MR. DONOVAN: Just for clarity,
8 that's until the fourth Thursday in
9 February. That's the Board's next
10 meeting. Also to be clear, there's
11 no new notice that's mailed. This is
12 your notice tonight that this matter
13 will be on the agenda for the fourth
14 Thursday in February. You can
15 obviously check the website or call
16 Siobhan in the office and she'll help
17 you if there's anything different,
18 but this is your notice.

19 CHAIRMAN SCALZO: That would be
20 February 24th. Thursday, February
21 24th will be our next meeting.

22 We have a motion from Mr. Bell.
23 We have a second from Mr. Masten.
24 All in favor of keeping the public
25 hearing open on this application?

1 S N K P E T R O L E U M W H O L E S A L E R S

2 MR. BELL: Aye.

3 MR. EBERHART: Aye.

4 MR. GRAMSTAD: Aye.

5 MR. HERMANCE: Aye.

6 MR. MASTEN: Aye.

7 CHAIRMAN SCALZO: Aye.

8 Opposed?

9 (No response.)

10 MR. LYTLE: I have one question
11 for you. Can you pick a specific
12 time and date that works for
13 everybody and we can go out and show
14 you where it's going to be located?

15 CHAIRMAN SCALZO: You know
16 what, I would like to accommodate
17 that, however it's very difficult to
18 get -- not only that. It's almost
19 better we go alone. If we're out
20 there talking about the
21 application --

22 MR. DONOVAN: That's my cue.
23 So site visits are specifically
24 allowed by law. What you can't do is
25 go out and deliberate. You can

1 S N K P E T R O L E U M W H O L E S A L E R S

2 observe. You could have Mr. Lytle
3 there. You could have Mr. Weddell
4 there. You can't engage in a
5 conversation about -- you know, you
6 could ask where is the corner of the
7 building. Anything that's going to
8 help you. But you can't say hey, how
9 are you going to vote. You can't do
10 that. So site visits are encouraged,
11 they're a great idea, but you can't
12 deliberate when you're there.

13 CHAIRMAN SCALZO: Thank you,
14 Counselor. Very good.

15 So regarding this application,
16 we will see you in February. We will
17 make a site visit. I don't know that
18 we'll be able to let you know when
19 we're there. Everybody is running
20 crazy these days.

21 MR. LYTTLE: Do you want me to
22 put a stake out there so you have an
23 idea of where the building would be?

24 CHAIRMAN SCALZO: Counsel just
25 said if you wanted to know where the

1 S N K P E T R O L E U M W H O L E S A L E R S

2 building was --

3 MR. LYTLE: I'll put that out
4 there for you.

5 CHAIRMAN SCALZO: Probably the
6 four corners of the building would be
7 wonderful.

8 MR. LYTLE: You give me a week
9 and we'll get that out there.

10 CHAIRMAN SCALZO: I have a
11 month to go take a look. See what
12 you can do there.

13 Thank you very much. Thank you
14 for your comments, sir. They're very
15 important and I'm glad you showed up.

16

17 (Time noted: 7:36 p.m.)

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S N K P E T R O L E U M W H O L E S A L E R S

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 4th day of February 2022.

Michelle Conero

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

JESSICA GUELBERG-DUNLOP
259 Fostertown Road, Newburgh
Section 39; Block 1; Lots 23 & 24
R-2 Zone

----- X

Date: January 27, 2022
Time: 7:37 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, New York

BOARD MEMBERS: DARRIN SCALZO, Chairman
DARRELL BELL
JAMES EBERHART, JR.
ROBERT GRAMSTAD
GREGORY M. HERMANCANCE
JOHN MASTEN

ALSO PRESENT: DAVID DONOVAN, ESQ.
JOSEPH MATTINA

APPLICANT'S REPRESENTATIVE: KENNETH LYTLE

----- X

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

1 JESSICA GUELBERG-DUNLOP

2 CHAIRMAN SCALZO: Our second
3 applicant this evening is Jessica
4 Guelberg-Dunlop, 259 Fostertown Road
5 in Newburgh. This is a Planning
6 Board referral for an area variance
7 of the side yard which is an existing
8 nonconforming. The project involves
9 a lot line change between parcels
10 39-1-23 and 39-1-24.

11 We did have Orange County
12 Department of Planning.

13 The applicant sent out thirty
14 letters.

15 The Orange County Planning
16 Department recommendation is a Local
17 determination.

18 All of the mailings,
19 publications and postings are in
20 order.

21 Mr. Lytle, you're up again.
22 Let's hear it.

23 MR. LYTLE: This should be
24 simpler we believe. It's off
25 Fostertown Road. There are two

1 JESSICA GUELBERG-DUNLOP

2 existing parcels. The neighbor to
3 the north is looking to get an
4 additional 60 feet in her rear yard
5 to get a shed on her property and
6 give her a backyard. Really we're
7 here before the Board for that
8 reason.

9 Before they had an existing
10 nonconforming for the separation from
11 the side yard. Doing the lot line
12 change I guess gets rid of that
13 grandfathering, which is why we're
14 before the Board.

15 CHAIRMAN SCALZO: Thank you
16 very much, Mr. Lytle.

17 I've been on the Board for
18 quite a few years. I think this
19 property has been in front of us
20 before for something else.

21 MR. LYTLE: There was something
22 with access. Was it involving that?

23 CHAIRMAN SCALZO: Maybe it was
24 the rear deck or something.

25 MR. LYTLE: Yes, the rear deck.

1 JESSICA GUELBERG-DUNLOP

2 I heard about that.

3 CHAIRMAN SCALZO: I knew I had
4 been there before.

5 Just so I can help out the
6 Members of the Board here, anything
7 that would pertain to this lot that
8 had to go through the Building
9 Department because of that
10 nonconforming side yard, they would
11 be here for it. That's pretty much
12 the case because they have a pre-
13 existing nonconforming condition.

14 MR. LYTTLE: That's right.

15 CHAIRMAN SCALZO: You're not
16 picking the house up and moving it to
17 get that side yard.

18 MR. LYTTLE: It's a process.

19 CHAIRMAN SCALZO: It's a
20 process. So I have absolutely no
21 comments on this.

22 I'm going to look down to Mr.
23 Bell. Do you have any comments on
24 this?

25 MR. BELL: No.

1 JESSICA GUELBERG-DUNLOP

2 CHAIRMAN SCALZO: Mr. Hermance?

3 MR. HERMANCE: No.

4 CHAIRMAN SCALZO: Mr. Eberhart?

5 MR. EBERHART: No comments.

6 CHAIRMAN SCALZO: Mr. Gramstad?

7 MR. GRAMSTAD: No.

8 CHAIRMAN SCALZO: Mr. Masten?

9 MR. MASTEN: No.

10 CHAIRMAN SCALZO: At this point

11 I'm going to look to any members of

12 the public here who wish to speak

13 about this application.

14 Let me give it to the public

15 first and then we'll hear from our

16 Code Compliance department.

17 Sir, stand up and identify

18 yourself for our stenographer.

19 MR. GRZECHOWSKI: Eric, with a

20 C, last name G-R-Z-E-C-H-O-W-S-K-I.

21 We are at section 39-1-82.

22 CHAIRMAN SCALZO: Okay. I'm at

23 a loss here. I have to dig out a

24 different part of my application

25 because the vicinity map is not

1 JESSICA GUELBERG-DUNLOP

2 very --

3 MR. LYTLE: This is you?

4 MR. GRZECHOWSKI: That's
5 correct.

6 CHAIRMAN SCALZO: Now I
7 understand. You are at the southeast
8 corner of this application.

9 MR. GRZECHOWSKI: That's
10 correct.

11 So you're looking for a side
12 yard setback to the section 39-1-23.
13 Is that correct?

14 MR. LYTLE: Yes.

15 CHAIRMAN SCALZO: That is
16 correct.

17 MR. GRZECHOWSKI: To the side
18 yard?

19 MR. LYTLE: The side yard up
20 here. The existing home.

21 MR. GRZECHOWSKI: So you're
22 looking from Fostertown Road, right,
23 it's to the left of the house?

24 MR. LYTLE: Fostertown Road is
25 to the right of the house. Right in

1 JESSICA GUELBERG-DUNLOP

2 this corner. I'll show you the map.
3 If you're on Fostertown Road looking
4 toward the property, here's the
5 existing house. It's to the right.

6 MR. GRZECHOWSKI: This is
7 section 39-1-24?

8 MR. LYTLE: 24 and 23. 24, the
9 only reason they're involved in this
10 is because they're taking some of
11 their property from the rear yard.
12 This is additional property.
13 Assuming everything goes well, it's
14 going to come from this lot to give
15 to that lot to make them larger. In
16 doing so it meets all the other
17 requirements.

18 CHAIRMAN SCALZO: Hang on.
19 Gentlemen, if you're going to
20 exchange papers that we haven't seen,
21 we can't do our job. If you're going
22 to --

23 MR. GRZECHOWSKI: For myself,
24 the section and block number, what I
25 have is different than on his plan.

1 JESSICA GUELBERG-DUNLOP

2 MR. LYTLE: Can I look at your
3 map for a second? Can I do that?

4 CHAIRMAN SCALZO: Can I look at
5 the map?

6 MR. LYTLE: It's the survey
7 map.

8 CHAIRMAN SCALZO: Michelle, in
9 my hands I have a map prepared by
10 Howard Weeden which is showing this
11 gentleman, Mr. Bielat.

12 MR. GRZECHOWSKI: That's my
13 cousin.

14 CHAIRMAN SCALZO: Very good.
15 It's a little bit removed from where
16 we are looking. Mr. Weeden's map
17 does not show the contiguous
18 adjoiners' sections, blocks and lots,
19 unless I'm missing something.

20 MR. GRZECHOWSKI: I printed out
21 another one for myself. If you don't
22 mind.

23 CHAIRMAN SCALZO: Please.
24 Thank you.

25 Okay. Well sir, what we're

1 JESSICA GUELBERG-DUNLOP

2 looking at here, this lot, the lot of
3 your cousin, is Section 39, Block 1,
4 Lot 82.

5 MR. GRZECHOWSKI: That is
6 correct.

7 CHAIRMAN SCALZO: That is
8 correct. Which is indicated on this
9 very same map for the application as
10 39-1-82. So this information
11 matches. When you go outside of the
12 lot of your cousin, there is no
13 indication on these lots what the
14 sections, blocks and lots are,
15 although the applicant's map does
16 have the sections, blocks and lots
17 for all of the contiguous lots to
18 this application. They appear to be
19 correct.

20 MR. GRZECHOWSKI: You're asking
21 for two different things. Right?

22 MR. LYTTLE: No. Just the one
23 right here.

24 CHAIRMAN SCALZO: Sir, if I can
25 simplify this. He is asking that it

1 JESSICA GUELBERG-DUNLOP

2 be acceptable that the house remain
3 exactly where it is because when the
4 house was built the zoning did not
5 require a 20 or 25 yard setback from
6 the side yard.

7 MR. GRZECHOWSKI: Lot 39-1-24?

8 MR. LYTLE: 23.

9 CHAIRMAN SCALZO: 23.

10 MR. LYTLE: This lot.

11 CHAIRMAN SCALZO: Not the big
12 lot. Not the big lot that your
13 cousin touches. It's one lot removed
14 from that.

15 MR. LYTLE: Your cousin is down
16 here touching this lot. We're way up
17 here in this corner touching this
18 lot.

19 MR. GRZECHOWSKI: This hearing
20 notice, though, it says --

21 MR. LYTLE: We have to label
22 both sections, blocks and lots.

23 CHAIRMAN SCALZO: The
24 application includes the lot that is
25 receiving the additional land plus

1 JESSICA GUELBERG-DUNLOP

2 the lot that is granting the
3 additional land. The lot that's
4 granting the additional land is the
5 lot next to your cousin but it is
6 quite removed from your cousin's lot.

7 MR. GRZECHOWSKI: Who is
8 39-1-23?

9 CHAIRMAN SCALZO: 24 is
10 granting, 23 is receiving.

11 MR. LYTTLE: This area is being
12 affected. Your cousin is down here.

13 MR. GRZECHOWSKI: I'm sorry.
14 I'm confused. You're giving this to
15 23?

16 MR. LYTTLE: 24 owns this whole
17 parcel. 23 existing is this small
18 parcel. Look here on the map, you'll
19 see 24. This little square here is
20 being given from 24 to 23. Your
21 cousin's lot is way down here, not
22 affected by this at all. You're an
23 adjoining owner so we have to do a
24 notice letting --

25 MR. GRZECHOWSKI: I understand.

1 JESSICA GUELBERG-DUNLOP

2 MR. LYTLE: You're looking at
3 that house --

4 CHAIRMAN SCALZO: Mr. Lytle,
5 I'm sorry, here we go again. I'll
6 tell you what, sir. I'm going to
7 give you an opportunity to sit down
8 and digest what we're talking about
9 here for a moment. Feel free to
10 stand by that map to see if you can
11 better understand it.

12 I did see Mr. Mattina's hand up
13 because he had some comments
14 regarding this application. Mr.
15 Mattina.

16 MR. MATTINA: Fostertown Road
17 is a County road. The front yard
18 should be 60 feet, not 51. It should
19 be two variances.

20 CHAIRMAN SCALZO: Okay. That's
21 also a pre-existing nonconforming.
22 Thank you, Joe, for pointing that
23 out.

24 Counselor, should we get that
25 far, I don't believe -- we could have

1 JESSICA GUELBERG-DUNLOP

2 the application modified but I
3 believe we can still move on it.

4 MR. DONOVAN: You can still
5 move because it's a setback. In
6 terms of notice, it's the same type
7 of variance so you're fine.

8 CHAIRMAN SCALZO: Okay. Thank
9 you, Mr. Mattina.

10 Sir, are you clear with --

11 MR. GRZECHOWSKI: I'm not. Can
12 you just explain to me which one is
13 39-23?

14 MR. LYTLE: 23 is up here.
15 That's 23. I can't point to your
16 map. I'm sorry. Your map in the
17 upper left-hand corner where the red
18 lines --

19 CHAIRMAN SCALZO: All right.
20 I'm going to try to sketch something
21 on a map that I have in front of me.

22 MR. LYTLE: There you go.
23 Sorry.

24 CHAIRMAN SCALZO: I usually
25 bring highlighters with me but I

1 JESSICA GUELBERG-DUNLOP

2 don't have any today.

3 Sir, if you can come here for a
4 moment.

5 I'm sorry, Michelle. There's
6 no way for you to do this.

7 The application currently, if
8 we weren't -- if they weren't
9 applying for anything, Section 39,
10 Block 1, Lot 23 is this area right
11 here. It's just what I hatched out
12 right here. Your cousin's lot is
13 down here. That's your cousin's
14 right there. What is happening here
15 is Mr. McGowan is going to convey or
16 -- convey is the right word, this
17 section that's 60 feet, a
18 continuation of that line down the
19 stonewall, and then he's going to go
20 110 or 111, close to it, and then
21 back up to add this portion to this
22 lot. That's all he's doing. So your
23 cousin, what he's looking at is going
24 to be literally unaffected.

25 MR. GRZECHOWSKI: I wrote that

1 JESSICA GUELBERG-DUNLOP

2 this home is 39-1-23 which is right
3 here.

4 CHAIRMAN SCALZO: That's down
5 that way.

6 MR. GRZECHOWSKI: But it's not?

7 CHAIRMAN SCALZO: No.

8 MR. GRZECHOWSKI: Okay. All
9 right. I got it. Thank you.

10 CHAIRMAN SCALZO: Thank you. I
11 should bring my highlighter. I
12 usually have them with me.

13 MR. DONOVAN: Given that the
14 chairman is a PE, you can bill for
15 that.

16 CHAIRMAN SCALZO: I'm trying to
17 smooth out the wrinkles here.

18 MR. GRZECHOWSKI: Thank you.

19 CHAIRMAN SCALZO: Is there
20 anyone else from the public here that
21 wishes to speak about this
22 application?

23 (No response.)

24 CHAIRMAN SCALZO: Mr. Mattina
25 has made his -- at least allowed us

1 JESSICA GUELBERG-DUNLOP

2 to understand that this application
3 actually is for two variances. I
4 don't believe the Planning Board
5 picked up on that first one.

6 MR. LYTTLE: Not at all.

7 CHAIRMAN SCALZO: So Joe, what
8 we're going to do is we're going to
9 adjust it here when we send it back
10 to the Planning Board, should we get
11 a positive vote here, which is going
12 to lead me to look to the Board for a
13 motion to close the public hearing.

14 MR. GRAMSTAD: I'll make a
15 motion to close the public hearing.

16 MR. BELL: Second.

17 CHAIRMAN SCALZO: We have a
18 motion from Mr. Gramstad. We have a
19 second from Mr. Bell. All in favor?

20 MR. BELL: Aye.

21 MR. EBERHART: Aye.

22 MR. GRAMSTAD: Aye.

23 MR. HERMANCE: Aye.

24 MR. MASTEN: Aye.

25 CHAIRMAN SCALZO: Aye.

1 JESSICA GUELBERG-DUNLOP

2 This is a Type 2 action under
3 SEQRA. In this case we're going to
4 go through the area variance criteria
5 and discuss the five factors, the
6 first one being whether or not the
7 benefit can be achieved by other
8 means feasible to the applicant. It
9 appears not at all. These are pre-
10 existing nonconforming conditions.

11 The second is if there is an
12 undesirable change in the
13 neighborhood character or a detriment
14 to nearby properties. Again, it
15 would be unnoticed. Nothing is
16 changing there.

17 The third, whether the request
18 is substantial. By numbers some may
19 consider it to be substantial,
20 however again it's a pre-existing
21 nonconforming condition so it really
22 doesn't work with that.

23 The fourth, whether the request
24 will have adverse physical or
25 environmental effects. It would be

1 JESSICA GUELBERG-DUNLOP

2 unchanged. There will be none.

3 And the fifth, whether the
4 alleged difficulty is self-created,
5 which in this case it is not.

6 Having gone through the
7 criteria, does the Board have a
8 motion of some sort?

9 MR. HERMANCE: I'll make a
10 motion to approve.

11 MR. BELL: I'll second it.

12 CHAIRMAN SCALZO: We have a
13 motion to approve from Mr. Hermance.
14 We have a second from Mr. Bell.

15 Rolling on that, Mr. Bell.

16 MR. BELL: Yes.

17 CHAIRMAN SCALZO: Mr. Hermance?

18 MR. HERMANCE: Yes.

19 CHAIRMAN SCALZO: Mr. Eberhart?

20 MR. EBERHART: Yes.

21 CHAIRMAN SCALZO: Mr. Gramstad?

22 MR. GRAMSTAD: Yes.

23 CHAIRMAN SCALZO: Mr. Masten?

24 MR. MASTEN: Yes.

25 CHAIRMAN SCALZO: Yes.

1 JESSICA GUELBERG-DUNLOP

2 Very good. The motion is
3 carried. The variances are approved.

4 MR. LYTLE: Thank you.

5 CHAIRMAN SCALZO: Thank you.

6 Counsel, when you write that
7 up, even though I did not say what
8 the variances are for, we're aware
9 they're for the side yard and front
10 yard setback. Thank you, counselor.

11

12 (Time noted: 7:55 p.m.)

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J E S S I C A G U E L B E R G - D U N L O P

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 4th day of February 2022.

Michelle Conero

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

KEVIN GAGLIANO
55 South Plank Rd & 18 Brookside Ave,
Newburgh
Section 71; Block 5; Lots 8 & 18.1
R-3 Zone

----- X

Date: January 27, 2022
Time: 7:55 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, New York

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

ALSO PRESENT: DAVID DONOVAN, ESQ.
JOSEPH MATTINA

APPLICANT'S REPRESENTATIVE: KEVIN GAGLIANO

----- X

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

1 KEVIN GAGLIANO

2 CHAIRMAN SCALZO: Our next
3 application this evening is Kevin
4 Gagliano, 55 South Plank Road and 18
5 Brookside Avenue. This is also a
6 Planning Board referral for a lot
7 line change between parcel numbers
8 71-5-8 and 71-5-18.1. Area variances
9 for lot 8 are lot size, lot width,
10 front yard and both side yards. Lot
11 18.1 requires a front yard variance.

12 Now, in this case we have sent
13 it out to Orange County Department of
14 Planning because it is on a State
15 highway. It was sent out on the 13th
16 of January. We have not received
17 comments back from the County yet. I
18 don't know if you know what that
19 means to you but I'll tell you.
20 Without Orange County Planning
21 Department comments received -- they
22 have thirty days to respond. We have
23 to give them until the 13th of
24 February. We cannot act on your
25 application in a positive or a

1 KEVIN GAGLIANO

2 negative way. We would be required
3 to keep the public hearing open this
4 evening.

5 Since you are here, we would
6 like you to present, that way it kind
7 of smooths the edges for next time
8 you come.

9 To go back to the formal part
10 of this. The applicant sent out 43
11 letters. All the mailings,
12 publications and postings are in
13 order.

14 If you can identify yourself,
15 sir. I've never seen you before so I
16 don't know you. Let Michelle know
17 who you are and tell us what you've
18 got going on.

19 MR. GAGLIANO: Thank you. Good
20 evening, Members of the Board. My
21 name is Kevin Gagliano. I'm a local
22 attorney. I'm also the owner of
23 71-5-8.

24 What is being requested is,
25 similar to the prior application, a

1 KEVIN GAGLIANO

2 grant of a small piece of land, or a
3 conveyance of a small piece of land
4 measuring approximately 1/20th of an
5 acre from section, block and lot
6 71-5-18.1 conveyed to my lot, 71-5-8.

7 Really the purpose of this is
8 just to clean up the lot line. I
9 also own the adjacent parcel, 71-5-7.
10 Butting up against the back of that
11 parcel is a fence owned by 71-5-18.1.
12 This is just moving the property line
13 along the fence line. As it is now,
14 this property is pretty much left
15 unattended by the current owners,
16 leaves pile up, wood, debris. Really
17 the purpose is just to clean up the
18 lines, extend the backyard a little
19 bit and be able to maintain this
20 small piece of land.

21 CHAIRMAN SCALZO: Very good. I
22 looked at it. It's pretty simple.
23 Now you're taking away the place
24 where the guy throws his leaves.

25 MR. GAGLIANO: Exactly.

1 KEVIN GAGLIANO

2 CHAIRMAN SCALZO: Like I say,
3 for me this is pretty simple.
4 Basically it's a pre-existing
5 nonconforming condition. I have no
6 comments at this point.

7 I'll look to any Members of the
8 Board. Mr. Masten, we'll start with
9 you.

10 MR. MASTEN: I have no
11 comments.

12 CHAIRMAN SCALZO: How about
13 you, Mr. Gramstad?

14 MR. GRAMSTAD: Nothing.

15 CHAIRMAN SCALZO: Mr. Eberhart?

16 MR. EBERHART: Nothing.

17 CHAIRMAN SCALZO: Mr. Hermance?

18 MR. HERMANCE: I have nothing.

19 CHAIRMAN SCALZO: Mr. Bell?

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

21 CHAIRMAN SCALZO: Very good.

22 Are there any members of the
23 public here to speak about this
24 application?

25 (No response.)

1 KEVIN GAGLIANO

2 CHAIRMAN SCALZO: Okay.

3 Hearing none, I'm going to look to
4 the Board for a motion to keep the
5 public hearing open until the next
6 month.

7 MR. MASTEN: I'll make a motion
8 we keep the public hearing open.

9 MR. EBERHART: Second.

10 CHAIRMAN SCALZO: We have a
11 motion from Mr. Masten. We have a
12 second from Mr. Eberhart. All in
13 favor?

14 MR. BELL: Aye.

15 MR. EBERHART: Aye.

16 MR. GRAMSTAD: Aye.

17 MR. HERMANCE: Aye.

18 MR. MASTEN: Aye.

19 CHAIRMAN SCALZO: Aye.

20 Sir, we'll see you on the 24th
21 of February.

22 MR. GAGLIANO: Thank you. Have
23 a good night.

24

25 (Time noted: 8:00 p.m.)

1 KEVIN GAGLIANO

2

3

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

4

5

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

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

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

16 IN WITNESS WHEREOF, I have hereunto
17 set my hand this 4th day of February 2022.

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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

MAGDALINI ZACHARIA
8 North Plank Road, Newburgh
Section 80; Block 5; Lot 19
B Zone

----- X

Date: January 27, 2022
Time: 8:00 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, New York

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

ALSO PRESENT: DAVID DONOVAN, ESQ.
JOSEPH MATTINA

APPLICANT'S REPRESENTATIVE: DARREN DOCE

----- X

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

1 MAGDALINI ZACHARIA

2 CHAIRMAN SCALZO: Our next
3 application this evening is Magdalini
4 Zacharia, 8 North Plank Road in
5 Newburgh, which is also known as New
6 York State Route 32, in a B Zone. It
7 is also a Planning Board referral for
8 area variances of the front yard and
9 lot surface coverage to expand the
10 existing Curaleaf.

11 With regard to this, the
12 applicant sent out fifteen letters.
13 All the mailings, publications and
14 postings are in order.

15 We did send it to Orange County
16 Department of Planning on the 4th of
17 January. Unfortunately we have not
18 heard back from the County yet on
19 this.

20 Mr. Doce, unfortunately that
21 means we cannot act on your
22 application this evening, positive or
23 negative. Since you are here, we
24 would like you to present so next
25 time we're a little more informed.

1 MAGDALINI ZACHARIA

2 MR. DOCE: I'm Darren Doce, the
3 engineer representing the applicant
4 on the site plan approval process.

5 We were before the Planning
6 Board. As you said, it's the
7 existing Curaleaf building located
8 between the Alexis diner and Burger
9 King.

10 There's an existing 1,697
11 square foot building located on the
12 parcel. There's a proposed addition
13 of 1,727 square feet.

14 I'll point out the
15 nonconformities are existing
16 nonconformities. The existing
17 building has a front yard setback of
18 53.8 feet where 60 feet is required.
19 Also a lot surface coverage of 95.14
20 where 85 percent is allowed. That's
21 also an existing nonconformity.
22 We're not increasing that.

23 We're replacing the paved area
24 with building area so the lot surface
25 coverage will remain the same.

1 MAGDALINI ZACHARIA

2 The proposed building will meet
3 all of the required setbacks.

4 The nonconformity is in the
5 front yard setback of the existing
6 building.

7 We feel it's a developed area,
8 that there are going to be no real
9 impacts to the area or change in the
10 nature of the neighborhood. Since
11 the nonconformities are existing,
12 we're not making them any greater
13 than they are.

14 CHAIRMAN SCALZO: Very good.
15 Thank you very much.

16 Again on this one I don't have
17 any comments. My comments are going
18 to be addressed by the Planning
19 Board.

20 I agree with your assessment
21 that the building is going to replace
22 a paved area. I'm just kind of
23 curious when you're talking about
24 sheet flow over the pavement, you're
25 going to have gutters I'm sure.

1 MAGDALINI ZACHARIA

2 That's something they'll look at, not
3 me.

4 MR. DOCE: It's connected to an
5 existing catch basin and then the
6 rest sheet flows toward -- it sheet
7 flows off the highway and from the
8 building towards the highway.
9 There's a depression there with catch
10 basins that collect it. It's been
11 sent to New York State DOT.

12 CHAIRMAN SCALZO: I'm sure.
13 Like I say, that's not -- I'm just
14 curious because of my industry.
15 Thank you for indulging me. I have
16 no other comments on that.

17 I'm going to go flip side here.
18 Mr. Bell, do you have any comments on
19 this?

20 MR. BELL: No.

21 CHAIRMAN SCALZO: How about
22 you, Mr. Hermance?

23 MR. HERMANCE: No.

24 CHAIRMAN SCALZO: Mr. Eberhart?

25 MR. EBERHART: No comments.

1 MAGDALINI ZACHARIA

2 CHAIRMAN SCALZO: Mr. Gramstad?

3 MR. GRAMSTAD: No comments.

4 CHAIRMAN SCALZO: Mr. Masten?

5 MR. MASTEN: No.

6 CHAIRMAN SCALZO: Nothing.

7 Okay.

8 I'll look to any members of the
9 public that wish to speak about this
10 application?

11 (No response.)

12 CHAIRMAN SCALZO: Any Code
13 Compliance comments on this?

14 MR. MATTINA: No.

15 CHAIRMAN SCALZO: Very good.
16 I'll look to the Board for a motion
17 to extend the public hearing to
18 February 24th.

19 MR. GRAMSTAD: I'll make a
20 motion to extend the public hearing.

21 MR. EBERHART: Second.

22 CHAIRMAN SCALZO: We have a
23 motion from Mr. Gramstad. We have a
24 second from Mr. Eberhart. All in
25 favor?

1 M A G D A L I N I Z A C H A R I A

2 MR. BELL: Aye.

3 MR. EBERHART: Aye.

4 MR. GRAMSTAD: Aye.

5 MR. HERMANCE: Aye.

6 MR. MASTEN: Aye.

7 CHAIRMAN SCALZO: Aye.

8 MR. DOCE: Thank you.

9 CHAIRMAN SCALZO: See you next
10 month.

11

12 (Time noted: 8:05 p.m.)

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MAGDALINI ZACHARIA

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 4th day of February 2022.

Michelle Conero

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

JOSHUA RODRIGUEZ
46 Laurie Lane, Newburgh
Section 40; Block 2; Lot 4
R-3 Zone

----- X

Date: January 27, 2022
Time: 8:05 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, New York

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

ALSO PRESENT: DAVID DONOVAN, ESQ.
JOSEPH MATTINA

APPLICANT'S REPRESENTATIVE: JOSHUA RODRIGUEZ

----- X

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

1 JOSHUA RODRIGUEZ

2 CHAIRMAN SCALZO: Our next
3 applicant is Joshua Rodriguez, 46
4 Laurie Lane in Newburgh, seeking an
5 area variance of the front yard to
6 build a 6 by 7 front deck.

7 This applicant sent out 47
8 letters. All the mailings,
9 publications and postings are in
10 order.

11 This did not need County
12 comments, so we can actually talk
13 about yours tonight.

14 Before we get started, I have a
15 little thing here that says please
16 give this to Mr. Rodriguez of Laurie
17 Lane. That's from Siobhan.

18 MR. RODRIGUEZ: Yeah. I gave
19 her pictures.

20 CHAIRMAN SCALZO: Very good.
21 Okay. We have all been by your lot.
22 I may have captured everything that
23 we're talking about here when I read
24 what you're looking for.

25 Driving by it, the current

1 JOSHUA RODRIGUEZ

2 condition of the front porch and
3 steps is pretty poor. My assumption
4 is you're replacing in kind.

5 MR. RODRIGUEZ: Right. I have
6 a contractor and he's replacing the
7 retaining wall and front entryway.

8 CHAIRMAN SCALZO: Okay. So in
9 this case I asked Siobhan to dig
10 through the property file. She did
11 find an existing survey of your lot,
12 because the sketch that you provided
13 in the application, I was unsure of
14 whether or not the front yard setback
15 was from the pavement or the property
16 line. Unfortunately I did not print
17 out what Siobhan had sent me. As I'm
18 looking for it in my e-mail, I'm
19 going to turn it over to Mr. Bell to
20 start there with any questions that
21 he may have and -- ahh, Mr. Eberhart,
22 you're the best. Oh, Mr. Gramstad,
23 you're the best.

24 So what I am looking at, it
25 appears that your front left corner

1 JOSHUA RODRIGUEZ

2 -- if you're facing your house, the
3 offset to the front left corner is
4 40.98 feet and the offset to the
5 front right corner is 40.1 feet. You
6 have a 6 by 7 platform, and then I
7 don't know what your run is on the
8 stairs.

9 Mr. Mattina, do you happen to
10 have any information that could help
11 us here?

12 MR. MATTINA: The removed steps
13 we don't count in the setback. We
14 don't worry about it.

15 CHAIRMAN SCALZO: That's fine.

16 MR. MATTINA: That would be
17 hard to figure out.

18 CHAIRMAN SCALZO: So is it 7
19 wide by 6 deep or 6 wide by 7 deep?

20 MR. RODRIGUEZ: 6 by 7. 6
21 wide.

22 CHAIRMAN SCALZO: 7 along the
23 house and 6 out or 6 along the house
24 and 7 out?

25 MR. RODRIGUEZ: It's 7 along

1 JOSHUA RODRIGUEZ

2 the house and 6 --

3 CHAIRMAN SCALZO: And 6 out.
4 Okay. In this case, if you're coming
5 out 6, your offsets, I'm going to
6 average them. I'm going to average
7 them to say 40. So if you're coming
8 out 6, then the variance that you
9 would require would be to 34 feet,
10 not 38.

11 Am I doing that math right,
12 Counsel?

13 MR. DONOVAN: I had 34. This
14 is not 34?

15 MR. MATTINA: It is 34.11 which
16 is 50 percent. So I have the same
17 numbers you have on my little sheet
18 here.

19 CHAIRMAN SCALZO: This is
20 fantastic, Joe.

21 MR. DONOVAN: I have the same
22 thing, only because I took it from
23 Joe, though.

24 CHAIRMAN SCALZO: I got
25 distracted from the sketch that was

1 JOSHUA RODRIGUEZ

2 provided. So it sounds to me like
3 you're right where you ought to be.
4 So we're looking for a variance for a
5 34 foot setback.

6 I have no comments. Anything
7 is going to be an improvement over
8 what it is now. So I've got nothing.

9 Mr. Masten?

10 MR. MASTEN: I have nothing.

11 CHAIRMAN SCALZO: Mr. Gramstad?

12 MR. GRAMSTAD: Nothing.

13 CHAIRMAN SCALZO: Mr. Eberhart?

14 MR. EBERHART: No problem.

15 CHAIRMAN SCALZO: Mr. Hermance?

16 MR. HERMANCE: Nothing.

17 CHAIRMAN SCALZO: Mr. Bell?

18 MR. BELL: No.

19 CHAIRMAN SCALZO: Very good.

20 Is there anyone here from the public
21 that wishes to speak about this
22 application?

23 (No response.)

24 CHAIRMAN SCALZO: It appears

25 not.

1 JOSHUA RODRIGUEZ

2 I will look to the Board for a
3 motion to close the public hearing.

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

6 MR. GRAMSTAD: I'll second it.

7 CHAIRMAN SCALZO: We have a
8 motion from Mr. Masten. We have a
9 second from Mr. Gramstad. All in
10 favor?

11 MR. BELL: Aye.

12 MR. EBERHART: Aye.

13 MR. GRAMSTAD: Aye.

14 MR. HERMANCENCE: Aye.

15 MR. MASTEN: Aye.

16 CHAIRMAN SCALZO: Aye.

17 This is a Type 2 action under
18 SEQRA. We're going to go through the
19 five factors we're weighing, the
20 first one being whether or not the
21 benefit can be achieved by other
22 means feasible to the applicant. If
23 he didn't do it. So no.

24 Second, if there's an
25 undesirable change in the

1 JOSHUA RODRIGUEZ

2 neighborhood character or a detriment
3 to nearby properties. Having driven
4 through there actually today, it is
5 quite similar in character to the
6 other houses that have an entry. It
7 appears right in character with the
8 neighborhood.

9 The third, whether the request
10 is substantial. It does not appear
11 so.

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

15 MR. BELL: No.

16 MR. EBERHART: No.

17 MR. GRAMSTAD: No.

18 MR. HERMANCE: No.

19 MR. MASTEN: No.

20 CHAIRMAN SCALZO: And the
21 fifth, whether the alleged difficulty
22 is self created which is relevant but
23 not determinative. Maybe it was when
24 he did the first one. A guy needs to
25 get in and out of his house.

1 JOSHUA RODRIGUEZ

2 MR. BELL: To be safe.

3 CHAIRMAN SCALZO: Having gone
4 through the balancing test of the
5 area variance, does the Board have a
6 motion of some sort?

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

9 MR. HERMANCE: I'll second it.

10 CHAIRMAN SCALZO: We have a
11 motion for approval from Mr. Bell.
12 We have a second from Mr. Hermance.
13 I'm going to roll on that.

14 Mr. Bell?

15 MR. BELL: Yes.

16 CHAIRMAN SCALZO: Mr. Hermance?

17 MR. HERMANCE: Yes.

18 CHAIRMAN SCALZO: I am
19 affirmative as well.

20 Mr. Eberhart?

21 MR. EBERHART: Yes.

22 CHAIRMAN SCALZO: Mr. Gramstad?

23 MR. GRAMSTAD: Yes.

24 CHAIRMAN SCALZO: Mr. Masten?

25 MR. MASTEN: Yes.

1 J O S H U A R O D R I G U E Z

2 CHAIRMAN SCALZO: Very good.

3 The motion is carried. The variances
4 are granted. Good luck.

5 MR. RODRIGUEZ: Thank you.

6 (Time noted: 8:11 p.m.)

7

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

9

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

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

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

20 IN WITNESS WHEREOF, I have hereunto
21 set my hand this 4th day of February 2022.

22

23

24

25

Michelle Conero

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

BRIAN ROBERTSON
42 Millhouse Road, Marlboro
Section 8; Block 1; Lot 29.22
AR Zone

----- X

Date: January 27, 2022
Time: 8:11 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, New York

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

ALSO PRESENT: DAVID DONOVAN, ESQ.
JOSEPH MATTINA

APPLICANT'S REPRESENTATIVE: BRIAN ROBERTSON

----- X

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

1 B R I A N R O B E R T S O N

2 CHAIRMAN SCALZO: Our final
3 applicant for this evening is Brian
4 Robertson, 42 Millhouse Road in
5 Marlboro, seeking an area variance of
6 13 feet in the front yard to build an
7 8 by 53 covered front porch.

8 What we have here is it did not
9 require Orange County Department of
10 Planning.

11 One of the coolest things
12 Siobhan straightened me out on was
13 your lot is in an odd spot. You only
14 had to send out three letters.

15 MR. ROBERTSON: Right.

16 CHAIRMAN SCALZO: So obviously
17 you're relatively rural. The Gomez
18 Millhouse is really the big one.

19 MR. ROBERTSON: We're one of
20 the recipients of the Gomez Millhouse
21 land that's around us.

22 CHAIRMAN SCALZO: Sir, if I
23 could back you up a little bit. If
24 you could state your name for our
25 records.

1 B R I A N R O B E R T S O N

2 MR. ROBERTSON: My name is
3 Brian Robertson of 42 Millhouse Road.
4 I'm the owner. We purchased the
5 house back in 2004. Thanks for your
6 time this evening.

7 The project, it's a multi-
8 phased project. When we originally
9 purchased the residence in 2004 it
10 was a duplex. My wife and I lived in
11 half and we rented out half to help
12 supplement our income. We ended up
13 having too many kids so we pushed the
14 tenant out and we expanded it to the
15 other half. That was also an open
16 application. We have everything that
17 went through. We did everything
18 appropriate to the Town of Newburgh.

19 Now we're at the point where
20 we're finishing off the outside front
21 of the house with a porch. The north
22 side, the way I have always
23 envisioned it, has a rounded off
24 gazebo, a rounded off corner of that
25 porch. The variances for that

1 B R I A N R O B E R T S O N

2 outside tangent is too close to the
3 existing road. So it does encroach
4 on that. I think it lands somewhere
5 around 40 feet from the road.

6 CHAIRMAN SCALZO: Very good.
7 Thank you. Again, we've all been by.
8 It's a nice setup. It must have been
9 better when the road was closed.

10 MR. ROBERTSON: It was.

11 CHAIRMAN SCALZO: You're out
12 there on your own. I don't know how
13 many folks would drive by and be
14 offended by what you're trying to do
15 there.

16 We're only looking at the front
17 yard. 50 is the minimum. The
18 proposed is 37. It's an area
19 variance of 13 feet. Percentage wise
20 it's at 26. Some may think that's
21 substantial but in this case I don't.

22 I have no comments on this
23 application myself.

24 I'm going to move over to Mr.
25 Bell. Do you have any comments on

1 B R I A N R O B E R T S O N

2 this?

3 MR. BELL: No, I do not.

4 CHAIRMAN SCALZO: Very good.

5 Mr. Hermance?

6 MR. HERMANCE: This is a front
7 yard or a side yard?

8 CHAIRMAN SCALZO: The
9 orientation of the house makes it
10 appear it's a side yard, however the
11 front yard is measured off the road.
12 I can understand.

13 Having said that, any comments,
14 Mr. Hermance?

15 MR. HERMANCE: No. I have
16 none.

17 CHAIRMAN SCALZO: Mr. Eberhart?

18 MR. EBERHART: No. No comments
19 at all.

20 CHAIRMAN SCALZO: Mr. Gramstad?

21 MR. GRAMSTAD: No.

22 CHAIRMAN SCALZO: Mr. Masten?

23 MR. MASTEN: No. I saw a
24 beautiful deer there. They were
25 coming over from the orchard.

1 B R I A N R O B E R T S O N

2 CHAIRMAN SCALZO: Are there any
3 members of the public here to discuss
4 this application?

5 (No response.)

6 CHAIRMAN SCALZO: Any comments
7 from Code Compliance?

8 MR. MATTINA: We're good.

9 CHAIRMAN SCALZO: Very good.
10 At this point I will look to the
11 Board for a motion to close the
12 public hearing.

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

15 MR. BELL: Second.

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

19 MR. BELL: Aye.

20 MR. EBERHART: Aye.

21 MR. GRAMSTAD: Aye.

22 MR. HERMANCE: Aye.

23 MR. MASTEN: Aye.

24 CHAIRMAN SCALZO: Aye as well.

25 And moving on. This is also a

1 B R I A N R O B E R T S O N

2 Type 2 action under SEQRA. We're
3 going to discuss our five factors
4 again.

5 First, whether the benefit can
6 be achieved by other means feasible
7 to the applicant. The benefit he's
8 seeking, I would say he can't achieve
9 it if he's looking to get out there
10 with a nice porch, put a couple
11 rocking chairs out there.

12 Second, if there's an
13 undesirable change to the
14 neighborhood character or a detriment
15 to nearby properties.

16 MR. BELL: No.

17 MR. EBERHART: No.

18 MR. GRAMSTAD: No.

19 MR. HERMANCE: No.

20 MR. MASTEN: No.

21 CHAIRMAN SCALZO: I don't think
22 the three people that got mailings
23 are really upset about this.

24 The third, whether the request
25 is substantial. By the numbers,

1 B R I A N R O B E R T S O N

2 perhaps. I don't believe so
3 regarding where this is physically
4 located.

5 Fourth, whether the request
6 will have adverse physical or
7 environmental effects. It does not
8 appear so.

9 And then the fifth, whether the
10 alleged difficulty is self created
11 which is relevant but not
12 determinative. Of course it's self
13 created, but of course that's
14 relevant and not determinative.

15 Having gone through the
16 balancing factors here, does the
17 Board have a motion of some sort?

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

20 MR. GRAMSTAD: I'll second it.

21 CHAIRMAN SCALZO: We have a
22 motion for approval from Mr. Bell.
23 We have a second from Mr. Gramstad.
24 I'm going to roll on that.

25 Mr. Bell?

1 B R I A N R O B E R T S O N

2 MR. BELL: Yes.

3 CHAIRMAN SCALZO: Mr. Hermance?

4 MR. HERMANCE: Yes.

5 CHAIRMAN SCALZO: I am

6 affirmative.

7 Mr. Eberhart?

8 MR. EBERHART: Yes.

9 CHAIRMAN SCALZO: Mr. Gramstad?

10 MR. GRAMSTAD: Yes.

11 CHAIRMAN SCALZO: Mr. Masten?

12 MR. MASTEN: Yes.

13 CHAIRMAN SCALZO: Very good.

14 The motion is carried. The variances
15 are approved. Good luck.

16 MR. ROBERTSON: Thank you,
17 Board.

18 CHAIRMAN SCALZO: Thank you.

19 That concludes our meeting for
20 this evening, all except for we still
21 have outstanding meeting minutes that
22 we haven't voted on. Unfortunately I
23 don't recall which months were still
24 outstanding.

25 MR. HERMANCE: I thought it was

1 B R I A N R O B E R T S O N

2 December.

3 MR. DONOVAN: It would have
4 been November.

5 CHAIRMAN SCALZO: November and
6 December. We need to approve
7 November and December meetings which
8 I have finally had a chance to read.

9 In this case I would make a
10 motion to accept the meeting minutes
11 for the months of November and
12 December.

13 MR. HERMANCE: I'll second it.

14 CHAIRMAN SCALZO: A second from
15 Mr. Hermance. All in favor?

16 MR. BELL: Aye.

17 MR. EBERHART: Aye.

18 MR. GRAMSTAD: Aye.

19 MR. HERMANCE: Aye.

20 MR. MASTEN: Aye.

21 CHAIRMAN SCALZO: Aye.

22 Do we have a motion to adjourn?

23 MR. BELL: I'll make a motion
24 to close the meeting.

25 MR. HERMANCE: Second.

1 B R I A N R O B E R T S O N

2 CHAIRMAN SCALZO: We have a
3 motion to close the meeting from Mr.
4 Bell. We have a second from Mr.
5 Hermance. All in favor?

6 MR. BELL: Aye.

7 MR. EBERHART: Aye.

8 MR. GRAMSTAD: Aye.

9 MR. HERMANCE: Aye.

10 MR. MASTEN: Aye.

11 CHAIRMAN SCALZO: Aye.

12

13 (Time noted: 8:20 p.m.)

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B R I A N R O B E R T S O N

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 4th day of February 2022.

Michelle Conero

MICHELLE CONERO