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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 (Drury Lane), Newburgh
Section 89; Block 1; Lots 80.1 & 80.2
R-3 Zone

----- X

Date: February 25, 2021
Time: 7:00 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: DARRIN SCALZO, Chairman
DARRELL BELL
GREGORY M. HERMANCE
RICHARD LEVIN
JOHN MASTEN
ANTHONY MARINO
JOHN MCKELVEY

ALSO PRESENT: DAVID DONOVAN, ESQ.
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 ZBA to order.

Siobhan, are we turned on over there?

MS. JABLESNIK: Yes.

CHAIRMAN SCALZO: Very good. The first order of business are the public hearings scheduled for this evening. 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 take any questions or comments from the public. After the public hearings have been completed, we will actually move right on to the determination period. The Board will consider the applications in the order heard and will try to render a decision this evening but may take up to 62 days to reach a determination.

I would ask if you have a cellphone, to please turn it off or put it on silent. When speaking, speak directly into the microphone. This is being recorded. We are currently under a hybrid type meeting where all the applicants and their representation is here with us in the

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building. Members of the public are invited to speak on any application when they are called upon through the Zoom platform.

Roll call, please.

MS. JABLESNIK: Darrell Bell.

MR. BELL: Here.

MS. JABLESNIK: Greg Hermance.

MR. HERMANCE: Here.

MS. JABLESNIK: Richard Levin.

MR. LEVIN: Here.

MS. JABLESNIK: Anthony Marino.

MR. MARINO: Here.

MS. JABLESNIK: John Masten.

MR. MASTEN: Here.

MS. JABLESNIK: John McKelvey.

MR. MCKELVEY: Here.

MS. JABLESNIK: Darrin Scalzo.

CHAIRMAN SCALZO: Present.

MS. JABLESNIK: Also present is Dave Donovan, our Attorney, and our Stenographer, Michelle Conero.

CHAIRMAN SCALZO: Very good. If you could all please rise for the Pledge.

Mr. Marino, will you lead us, please.

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(Pledge of Allegiance.)

CHAIRMAN SCALZO: Prior to digging in this evening, I will let anyone here know that SNK Petroleum Wholesalers, 747 Boulevard, formerly known as Drury Lane, in Newburgh has asked for a postponement to the next meeting available. If anyone is here for that, you will not be re-noticed.

Actually, I'll look to the Members of the Board. Can someone make a motion that we extend the public hearing for SNK Petroleum to the March meeting?

MR. MCKELVEY: I'll make the motion.

MR. MASTEN: I'll second it.

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

MR. BELL: Aye.

MR. HERMANCE: Aye.

MR. LEVIN: Aye.

MR. MARINO: Aye.

MR. MASTEN: Aye.

MR. MCKELVEY: Aye.

CHAIRMAN SCALZO: Yes. Very good.

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(Time noted: 7:04 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 March 2021.

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

VINCENT PATTI

41 Rockwood Drive, Newburgh
Section 109; Block 1; Lot 10
R-3 Zone

----- X

Date: February 25, 2021
Time: 7:04 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: DARRIN SCALZO, Chairman
DARRELL BELL
GREGORY M. HERMANCE
RICHARD LEVIN
JOHN MASTEN
ANTHONY MARINO
JOHN MCKELVEY

ALSO PRESENT: DAVID DONOVAN, ESQ.
SIOBHAN JABLESNIK

APPLICANT'S REPRESENTATIVE: VINCENT PATTI

----- X

MICHELLE L. CONERO
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Newburgh, New York 12550
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VINCENT PATTI

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CHAIRMAN SCALZO: Our first applicant this evening is Vincent Patti, 41 Rockwood Drive in Newburgh, seeking an area variance of the front yard (a corner lot) to keep a 10 by 12 shed.

Siobhan, mailings on that?

MS. JABLESNIK: This applicant sent out 73 mailings.

CHAIRMAN SCALZO: 73 mailings. That Rockwood Drive area is quite condensed. We know we get quite a few responses from there.

If anyone is here to represent the 41 Rockwood Drive application, please step forward.

MR. PATTI: Hello, all. This is the first time in 53 years I've ever been here.

CHAIRMAN SCALZO: Could you introduce yourself to use, please?

MR. PATTI: I am Vincent Patti.

CHAIRMAN SCALZO: Mr. Patti, I will tell you that we have all visited the property and your neighborhood. It's a nice little neighborhood.

MR. PATTI: Thank you.

CHAIRMAN SCALZO: It appears to me that

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VINCENT PATTI

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your lot is almost surrounded by three sides on streets.

MR. PATTI: Unbeknownst to me when I installed that shed many, many, many years ago. I didn't know I had two fronts. I was unaware of it, and that's totally my fault. I should have looked into the building code way before I installed the shed. But what it would have cost me to move the shed and the extra fill and everything I would have had to bring in, I figured this was probably the better way to go. Also, because of the strategic location of where the shed is, it's very handy to perform work around the house, and it's also the backyard.

CHAIRMAN SCALZO: Very good. It does back up right to woods. Well it backs up to the paper street.

MR. PATTI: In the summertime you don't even see it.

CHAIRMAN SCALZO: I see your house is for sale.

MR. PATTI: Yes, it is.

CHAIRMAN SCALZO: That's why you're here; right?

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VINCENT PATTI

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MR. PATTI: That's correct. I'm
tightening up some loose ends.

CHAIRMAN SCALZO: I understand.
I'm going to look to the Board for any
comments. Mr. Bell, we'll start with you.

MR. BELL: I have none.

CHAIRMAN SCALZO: Mr. Levin?

MR. LEVIN: None.

CHAIRMAN SCALZO: Mr. Hermance?

MR. HERMANCE: I have no comments.

CHAIRMAN SCALZO: Mr. Marino?

MR. MARINO: You built the shed?

MR. PATTI: No.

MR. MARINO: You didn't?

MR. PATTI: No. It was prefabbed by
Mr. Shed.

MR. MARINO: And it was there before
the house --

MR. PATTI: No. I'm the original owner
of that house.

MR. MARINO: You put the shed up,
though?

MR. PATTI: Yes, I did.

CHAIRMAN SCALZO: As I believe he just

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VINCENT PATTI

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said, he put it up in the wrong place and he understands that.

MR. PATTI: I did not know.

CHAIRMAN SCALZO: So the short story is when you put the shed up you didn't get a permit for it.

MR. PATTI: That's correct. I didn't know I needed a permit for the shed. Again, my fault.

CHAIRMAN SCALZO: Very good. Thank you.

Mr. McKelvey?

MR. MCKELVEY: I have nothing.

CHAIRMAN SCALZO: Mr. Masten?

MR. MASTEN: I have nothing.

CHAIRMAN SCALZO: You know, it's even painted the same color as the house.

MR. PATTI: Unintentional.

CHAIRMAN SCALZO: It doesn't -- well obviously it does not comply with code. However, your direct neighbors are a long way away from you.

MR. PATTI: Yeah.

CHAIRMAN SCALZO: And again --

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VINCENT PATTI

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MR. MCKELVEY: A lot of woods.

MR. BELL: A lot of woods.

CHAIRMAN SCALZO: Very presentable. It looks great. I don't have any comments.

At this point I'm going to open it up to any members of the public that wish to speak about this application, Vincent Patti, 41 Rockwood Drive. Does anyone from the public want to speak about this application, raise your hand and we will call on you.

MS. JABLESNIK: Or unmute yourself.

I don't see anybody.

CHAIRMAN SCALZO: Any hands up?

MS. JABLESNIK: No.

MR. SCALZO: A lot of phones. You can't see the hands up on the phones.

Very good. I'll look to the Board. Any last opportunities to speak here?

MR. MCKELVEY: No.

MR. MARINO: No.

CHAIRMAN SCALZO: Then 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.

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MR. HERMANCE: Second.

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

MR. BELL: Aye.

MR. HERMANCE: Aye.

MR. LEVIN: Aye.

MR. MARINO: Aye.

MR. MASTEN: Aye.

MR. MCKELVEY: Aye.

CHAIRMAN SCALZO: Yes.

Any opposed?

(No response.)

CHAIRMAN SCALZO: No. The public hearing is closed.

At this point we are going to go through -- this is a Type 2 action under SEQRA. We are going to go through our criteria and discuss the five factors we're weighing, the first one being whether or not the benefit can be achieved by other means feasible to the applicant. Well it's already there. So the other benefit that can be achieved by other means is to remove it and then come and ask for a

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variance and put it back.

Any comments on that, Board Members?

(No response.)

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

MR. McKELVEY: No.

MR. MARINO: No.

CHAIRMAN SCALZO: The third, whether the request is substantial.

MR. BELL: No.

MR. HERMANCE: No.

MR. LEVIN: No.

MR. McKELVEY: No.

MR. MASTEN: No.

MR. MARINO: No.

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

MR. BELL: No.

MR. HERMANCE: No.

MR. LEVIN: No.

MR. McKELVEY: No.

MR. MASTEN: No.

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VINCENT PATTI

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MR. MARINO: No.

CHAIRMAN SCALZO: It does not appear so.

The fifth, whether the alleged difficulty is self-created which is relevant but not determinative. Of course the applicant, you know, gave us testimony that it is self-created.

MR. PATTI: Yes, it is.

CHAIRMAN SCALZO: So if the Board approves, to grant the minimum variance necessary and may impose reasonable conditions.

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

MR. MCKELVEY: I'll make a motion we approve it.

MR. MARINO: I'll second it.

CHAIRMAN SCALZO: We have a motion from Mr. McKelvey. We have a second from Mr. Marino. Roll on that, please, Siobhan.

MS. JABLESNIK: Mr. Bell?

MR. BELL: Yes.

MS. JABLESNIK: Mr. Hermance?

MR. HERMANCE: Yes.

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MS. JABLESNIK: Mr. Levin?

MR. LEVIN: Yes.

MS. JABLESNIK: Mr. Marino?

MR. MARINO: Yes.

MS. JABLESNIK: Mr. Masten?

MR. MASTEN: Yes.

MS. JABLESNIK: Mr. McKelvey?

MR. MCKELVEY: Yes.

MS. JABLESNIK: Mr. Scalzo?

CHAIRMAN SCALZO: Yes.

The motion is approved. The variances are granted.

In a couple of days reach out to Siobhan or the Building Department and they'll direct you from there.

MR. PATTI: Beautiful. Thank you very much, gentlemen -- ladies and gentlemen. I appreciate it.

CHAIRMAN SCALZO: Good luck.

MR. PATTI: Thank you.

(Time noted: 7:16 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 March 2021.

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

NICHOLAS DIBRIZZI

13 Anchor Drive, Newburgh
Section 121; Block 1; Lot 15
R-1 Zone

----- X

Date: February 25, 2021
Time: 7:16 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: DARRIN SCALZO, Chairman
DARRELL BELL
GREGORY M. HERMANCE
RICHARD LEVIN
JOHN MASTEN
ANTHONY MARINO
JOHN McKELVEY

ALSO PRESENT: DAVID DONOVAN, ESQ.
SIOBHAN JABLESNIK

APPLICANT'S REPRESENTATIVE: JEFFREY DEGRAW &
NICHOLAS DIBRIZZI

----- X

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

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CHAIRMAN SCALZO: Our second applicant this evening is Nicholas Dibrizzi, 13 Anchor Drive in Newburgh, seeking area variances, plural, of lot building coverage, lot surface coverage and maximum square foot for accessory buildings to build a 1,426 square foot pool house, a 360 square foot gazebo and inground pool on the property.

Siobhan, mailings?

MS. JABLESNIK: This applicant sent out 18 letters.

CHAIRMAN SCALZO: 18. 1-8?

MS. JABLESNIK: 1-8.

CHAIRMAN SCALZO: Very good. It's tough with the mask.

MS. JABLESNIK: I'm sorry.

CHAIRMAN SCALZO: Who do we have here representing this application?

MR. DEGRAW: I'm Jeff DeGraw from DeGraw & DeHaan Architects. And Mr. Dibrizzi is here.

CHAIRMAN SCALZO: Good evening. If you could please grab the microphone. There is an easel there if you would like to throw anything

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up on the board. However, you're more than welcome to just verbally describe your project to us.

MR. DEGRAW: I will say that I have been here before but it is the first time in a year, so it's very nice to be out again.

Really we're looking at three variances requested. We have a lot building coverage. The permitted is 10 percent, it is currently 10.3. We are looking to increase it to 13.5 percent. I will just go ahead. I think you've all got copies of this here, so I'll just go off of that. The lot surface coverage is allowed 20 percent. Presently existing is 23 percent. We are looking to increase that to 39.1 percent. The building area allowable is 1,000 square feet. Actually, by our calculations we have the building at 1,000 square feet. It just depends on how you look at it. There is also an open air pergola and gazebo. If that's considered part of the structure --

CHAIRMAN SCALZO: It is.

MR. DEGRAW: Okay. Then it's more.

There's also part of the building that

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is essentially a basement. It's subterranean. Again, open for interpretation. Regardless, those are the three things that are in question.

It is on Anchor Drive. Have you guys been out to the property?

CHAIRMAN SCALZO: We have. We have. I understand when you say it's going to be subterranean. I did walk around, looked. You're going to be cutting into quite the hill.

MR. DEGRAW: Quite the hill. The idea really is to make the building as nonvisible from the road as possible. We're trying to tuck it into that hillside. It's really the best spot on the property to put -- essentially the only spot on the property to put the pool. I think that's it. We're trying to make it a low-key structure. It should not be visible from any other houses or obstruct any view. It has a lot of open area heading down to the river. It's really not in anybody's view shed.

CHAIRMAN SCALZO: Very good. Quick question which really has nothing to do with this application. Where is the well and septic on this lot?

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MR. DEGRAW: The well and septic.

MR. DIBIRZZI: The septic is in the front yard. The septic is in the backyard but it's going to be --

CHAIRMAN SCALZO: The well?

MR. DIBRIZZI: The well. I'm sorry. Excuse me.

CHAIRMAN SCALZO: That's the simple stuff to begin with.

We're going to have another application later that's looking for area variances that are going to be substantially increasing for lot coverage. Something that Jim Manley, the fellow that was chairman before me that used to remind us of is in the Town's master plan we have what we call nodes or hamlet districts. This is in Balmville, River Road. Very removed from, you know, dense population. We look at these individually by neighborhood. You said it yourself. When I went down to the subdivision, I zipped around in the cul-de-sac. The subdivision is not fully matured yet. It's not fully developed. But even when it is, the placement of this behind the house, the lot to the left of you

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is going to be completely looking over top of this. I don't know, maybe the neighbor at the end of the cul-de-sac might be able to see your pool. I think the design here is a great job at avoiding really an intrusion on the neighborhood. That's just my -- that's my comment.

MR. DEGRAW: Thank you.

MR. DIBRIZZI: Thank you.

CHAIRMAN SCALZO: I'm actually going to turn to the Members of the Board. Mr. Masten, do you have any comments on it?

MR. MASTEN: No, I don't.

CHAIRMAN SCALZO: Mr. McKelvey?

MR. MCKELVEY: No.

CHAIRMAN SCALZO: Mr. Marino?

MR. MARINO: No.

CHAIRMAN SCALZO: Mr. Hermance?

MR. HERMANCE: I also walked the property and looked at that hill. The line of sight, I don't think it will be an issue. It was a nice design.

MR. DEGRAW: Thank you.

CHAIRMAN SCALZO: Mr. Levin?

MR. LEVIN: I have one question. The

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land below you, is that your land or is that somebody else's? Going south.

MR. DIBRIZZI: Yes. We do own that lot as well.

MR. LEVIN: You own that?

MR. DIBRIZZI: Yes.

MR. LEVIN: Okay.

CHAIRMAN SCALZO: Mr. Bell?

MR. BELL: I'm good. It's a beautiful area.

CHAIRMAN SCALZO: Okay. At this point I'm going to open it up to any members of the public that wish to speak about the Dibrizzi application at 13 Anchor Drive. Anyone from the public that wishes to speak, now is your opportunity.

MS. JABLESNIK: No.

CHAIRMAN SCALZO: Siobhan, do you see any hands up?

MS. JABLESNIK: No. Nothing.

CHAIRMAN SCALZO: Okay. Very good. I'll look to the Board for any other comments?

UNIDENTIFIED SPEAKER: Excuse me. Can

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NICHOLAS DIBRIZZI

24

you hear me?

CHAIRMAN SCALZO: Very good. Yes.

UNIDENTIFIED SPEAKER: I'm just testing my audio because I've never done this before. First time in my life. I do want to speak on the presentation coming up. Thank you very much.

CHAIRMAN SCALZO: Very good. I'm glad you can hear us. You can hear us okay?

UNIDENTIFIED SPEAKER: Perfect. The technology is amazing.

CHAIRMAN SCALZO: It's much better than it was a few months ago.

UNIDENTIFIED SPEAKER: Thank you.

CHAIRMAN SCALZO: Very good.

Okay. So in this case we have no more comments from the public, no more comments from the Board. 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. MARINO: Second.

CHAIRMAN SCALZO: We have a motion from Mr. Masten. We have a second from Mr. Marino. All in favor of closing the public hearing?

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MR. BELL: Aye.

MR. HERMANCE: Aye.

MR. LEVIN: Aye.

MR. MARINO: Aye.

MR. MASTEN: Aye.

MR. McKELVEY: Aye.

CHAIRMAN SCALZO: Aye.

All opposed?

(No response.)

CHAIRMAN SCALZO: Nothing.

In this case it's a Type 2 action under
SEQRA. Correct, Counselor?

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

CHAIRMAN SCALZO: Very good.

We'll go through the criteria, the
first one being whether or not the benefit can be
achieved by other means feasible to the
applicant. Well, I don't know if it would meet
the scope of what he's trying to do in this case.
However, I didn't hear anybody ask to reduce the
size, any Board Member or the public. Do any
Members of the Board have a comment on that?

MR. BELL: No.

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MR. HERMANCE: No.

MR. LEVIN: No.

MR. McKELVEY: No.

MR. MASTEN: No.

MR. MARINO: No.

CHAIRMAN SCALZO: Second, if there's any undesirable change in the neighborhood character or a detriment to nearby properties. Obviously this is an improvement. After we looked at the neighborhood it's in as well as the architectural plans provided, it appears to be an enhancement to the neighborhood.

MR. LEVIN: I agree.

CHAIRMAN SCALZO: The third, whether the request is substantial. Well of course it's substantial. Again, I believe the architectural firm did the best they could to keep it tucked away.

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

MR. BELL: No.

MR. HERMANCE: No.

MR. LEVIN: No.

MR. McKELVEY: No.

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MR. MASTEN: No.

MR. MARINO: No.

CHAIRMAN SCALZO: It doesn't appear so.

And the the fifth, whether the alleged difficulty is self-created which is relevant but not determinative. Of course it's self-created. It's difficult to put a price on another man's pleasure.

So at this point, if the Board approves, it shall grant the minimum variances necessary and may impose reasonable conditions.

Having gone through the balancing test of the area variance, what's the pleasure of the Board? Do we have a motion of some sort?

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

MR. LEVIN: Motion to approve.

CHAIRMAN SCALZO: Motion to approve from Mr. Bell. We have a second from Mr. Levin. Roll call on that.

MS. JABLESNIK: Mr. Bell?

MR. BELL: Yes.

MS. JABLESNIK: Mr. Hermance?

MR. HERMANCE: Yes.

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MS. JABLESNIK: Mr. Levin?

MR. LEVIN: Yes.

MS. JABLESNIK: Mr. Marino?

MR. MARINO: Yes.

MS. JABLESNIK: Mr. Masten?

MR. MASTEN: Yes.

MS. JABLESNIK: Mr. McKelvey?

MR. MCKELVEY: Yes.

MS. JABLESNIK: Mr. Scalzo?

CHAIRMAN SCALZO: Yes.

The variances are approved. Good luck.

MR. DIBRIZZI: Thank you.

MR. DEGRAW: Thank you very much.

(Time noted: 7:25 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 March 2021.

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

MICHAEL LYNN

1 Lynn Drive, Newburgh
Section 50; Block 1; Lot 33.1
R-1 Zone

----- X

Date: February 25, 2021
Time: 7:25 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: DARRIN SCALZO, Chairman
DARRELL BELL (recused)
GREGORY M. HERMANCE
RICHARD LEVIN
JOHN MASTEN
ANTHONY MARINO
JOHN MCKELVEY

ALSO PRESENT: DAVID DONOVAN, ESQ.
SIOBHAN JABLESNIK

APPLICANT'S REPRESENTATIVE: MICHAEL LYNN

----- X

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

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MICHAEL LYNN

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CHAIRMAN SCALZO: Our next applicant this evening is Michael Lynn, 1 Lynn Drive, Newburgh, seeking area variances, plural, of the maximum allowed square footage, front yard, height and parking of more than four vehicles to construct a 30 by 46 by 18.4 accessory building.

Siobhan, mailings on this?

MS. JABLESNIK: The applicant sent out 39 letters.

CHAIRMAN SCALZO: 39 letters. Okay. Thank you.

Do we have someone here this evening representing this application? Please introduce yourself.

MR. LYNN: I'm Mike Lynn, the property owner.

CHAIRMAN SCALZO: Very good. We never met you before.

MR. LYNN: No problem.

CHAIRMAN SCALZO: All right. I just read off the general description of your property -- of why you're here. Do you have anything that you'd like to add to that?

MR. LYNN: I'm basically looking to

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build a garage so I can house my boat and my truck in there. I need more storage space. I don't want to keep it outside. I bought a new boat last summer and just want to keep it nice.

CHAIRMAN SCALZO: Okay. We all visited the property. I almost didn't realize I was driving -- it was a drive. I felt like it was someone's driveway as I navigated between the other stuff there. As I got back to your lot, there's an awful lot going on.

We do have some correspondence from the public on this one, which I will get to after I allow the public to speak on this.

This is a substantial building. I mean it was kind of a set up in the previous application that I mentioned. The Town's master plan does have nodes or -- not neighborhoods but hamlets. Hamlets. We're in the Hamlet of Gardnertown. They have Leptondale, they have Colden Hill, they have Balmville. This happens to be Orange Lake, which, you know, is predominantly houses that are very tight to each other. You happen to be a little different than that because you kind of navigate your way

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MICHAEL LYNN

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through some of those tight lots. Behind you is Jodi Drive which is a little more sizable lots with larger homes. So it is a little different. You're kind of sort of in between things.

Your application says you're looking to house your boat. I did see a couple of boats up there. Three boats actually, one pontoon and two other boats.

MR. LYNN: That's on another property.

CHAIRMAN SCALZO: Right. That's not your property. I did notice that as I walked and looked at the map.

I also saw four plows. I also saw four trailers. It almost appears as though you're running a business there.

MR. LYNN: Which I'm not. I can explain what's happening there. Two of the trailers are mine. They're personal trailers. My brother lives in front of me in the other house, so I let him keep a couple of his trucks there once in a while when he needs to. I mean it's not like I'm running a business. If they need to be moved because it's some issue -- they're on wheels -- I just tell him he can't put

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MICHAEL LYNN

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his trucks there.

CHAIRMAN SCALZO: Four snowplows I saw there. I saw a little salt shed with the concrete block with a cover.

MR. LYNN: And that's not on my property either. If you look at the property lines, that's actually on the front lot.

CHAIRMAN SCALZO: Is it yours?

MR. LYNN: The salt shed is not mine.

CHAIRMAN SCALZO: The access comes out.

MR. LYNN: The access, correct, is, but the salt shed is actually not on my land.

CHAIRMAN SCALZO: But you don't use it?

MR. LYNN: I don't use it, no. My brother who -- so that piece of property is owned by my mother. My brother lives next to my mother in the front. So there's three parcels that are owned by the family there.

CHAIRMAN SCALZO: Right. I hear you. This building, again it is substantial. I understand, I'd love to have a big building to keep all my toys in. The building is bigger than your house, the footprint. You might have an upstairs/downstairs. Square footage wise it is

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MICHAEL LYNN

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huge. You do have a good size lot.

The building height, did we -- Siobhan, did we get any architectural drawings with this?

MS. JABLESNIK: No.

MR. LYNN: I did submit them. I don't know if they made it to you guys.

To explain that, my boat is about 45 foot when it's on the trailer. It sits about 10'6" high. The standard door heights for the building I was looking at are either 10 foot or 12 foot. To put a 12 foot door in, the building had to be 14 foot to the edge. When you make a 14 foot wall, with the pitch of the roof the highest level is 18 foot, which is 3 feet above what the code is.

CHAIRMAN SCALZO: Whoa. Okay. You explained that quite well.

As far as the footprint, 30 by 46 --

MR. LYNN: So I wanted to put a separate bay next to it to put my tow vehicle, my F-250 in the garage next to it. The boat is 9'3" wide on the trailer. That's why I was going 12 foot wide doors, to make it easy to get in and out without having to bump the door. A 38 foot

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MICHAEL LYNN

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boat on a 45 foot trailer, you have to have room to play to get it in the garage.

CHAIRMAN SCALZO: I can't argue with anything.

As I was standing in your driveway I was looking at the house, Koudounas I guess, behind you. Your application does say you can't see it from there, but I was clearly looking right into their backyard. You probably won't be able to see your building from June to October, --

MR. LYNN: Correct.

CHAIRMAN SCALZO: -- but from November to April -- it's big, man. All right.

I'm going to go through the Board Members because I'm just one guy. You have a whole bunch of people who are going to have some comments here.

I'm going to look down to Mr. Bell. Oh, yes. Mr. Bell has sat here quietly but he's recusing himself from this application. He had mentioned it to me prior to the start of this application. You have to stay way out there, Mr. Bell. We'll come and get you.

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(Mr. Bell left the meeting.)

MR. LYNN: A couple other things, too. One of the variances, it says to put it in the front yard. The way my house is placed on the property, it's 50 foot from the front property line. If I was to put the garage 50 foot from the property line, the property line is not exactly parallel to the front of my house, so it would put it way back in the middle of the lot if I was going 50 foot off the property line.

A couple other points, just so you know.

CHAIRMAN SCALZO: And obviously the survey is from, let's see, 2012, Bill Hildreth. I think he almost lived in front of you.

MR. LYNN: Yup.

CHAIRMAN SCALZO: There's another shed on the property which is not shown on the survey. That's also eight years ago. Is your intent to keep that?

MR. LYNN: I mean I would like to because I was going to -- right now I have the truck in there and it's really tight. I would like to put my tools, my log splitter, my weed

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whacker, my lawnmower. All that stuff is sitting outside right now.

CHAIRMAN SCALZO: Thank you.

I'm going to actually now look to Mr. Levin. Mr. Levin, what comments do you have on this application?

MR. LEVIN: I'm going to pass for now.

CHAIRMAN SCALZO: You're going to take a pass.

Mr. Hermance?

MR. HERMANCE: I did visit the property also. It seems like a significant building, almost not quite twice the square footage allowed but close to it. I was just wondering why you needed it to be as big?

MR. LYNN: So I think -- I actually did the math on the square footage, too. I had originally -- part of the plan, because you guys don't have the plan, was a lean-to on the side that was just open so I could store firewood under it. The actual square footage, if you do length times width, I think it's over 300 foot less square footage than the actual enclosed structure. Again, you don't have the plan.

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MICHAEL LYNN

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There was a proposal to put literally a lean-to roof off the side. I wasn't going to put a concrete pad or anything. It's just for wood storage.

CHAIRMAN SCALZO: Okay.

MR. HERMANCE: How many bays would it end up being?

MR. LYNN: It's two. It's two. The one bay would still be as long as the boat is. You can only put a truck in there. It would be an odd shaped building if I cut the back of one bay off.

CHAIRMAN SCALZO: Mr. Marino, do you have any comments?

MR. MARINO: If you were allowed to build a garage, the building that you want to build, will a lot of the equipment that's outside now be in that building so it wouldn't be visible to the neighbors?

MR. LYNN: Some of it would be. The one machine I keep there for plowing and land maintenance and things like that. The other stuff you're talking about is my brother's stuff. If I need to tell him to not park it there. I

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mean I already talked to my brother about this. He can move the equipment off of there and not park it there any more.

MR. MARINO: There was a comment made about lighting late at night. Would you be willing to have lighting timed so it would go out at a certain time and not shine in people's homes?

MR. LYNN: So the comment that was made about the lighting is a comment that basically -- my lights already are aimed at the ground. It's been very bright lately because of the snow. I have them in the backyard for the dog. Only two face towards the back. And then I have my security lights. I don't leave those on. They're not even on timers or anything. It's not like they're on all the time. My wife puts on the two small lights for the dog. These are on the house. There's not additional lights on the garage. I don't even know why that was a relevant comment to putting up a garage, about lighting on the exterior of my house.

MR. MARINO: Would you be putting up more lighting with the garage?

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MICHAEL LYNN

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MR. LYNN: No.

CHAIRMAN SCALZO: Any lighting on the garage itself?

MR. LYNN: No. Interior, yeah. I'm not putting windows in the garage or anything either. Just two garage doors and a walk in.

CHAIRMAN SCALZO: I kind of have a vision of things without your architecturals. Without what it is, it's really difficult --

MR. LYNN: I should have brought some. I thought they were given to you.

CHAIRMAN SCALZO: You can't just flop them on us. There's definitely an evaluation period. But that's just me.

Mr. McKelvey, do you have comments?

MR. MCKELVEY: He's talking about a lean-to off the building.

MR. LYNN: Yeah.

MR. MCKELVEY: Does that count for square footage?

CHAIRMAN SCALZO: It does.

MR. MCKELVEY: Okay.

CHAIRMAN SCALZO: Mr. Masten?

MR. MASTEN: I have nothing.

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CHAIRMAN SCALZO: Okay. I'll tell you what I'm going to do. I'm going to open this up to any members of the public that wish to speak about this application, and then we're going to revisit it on the Board's end.

So anyone on line here in the Zoom application looking to comment on the application of Mr. Lynn, please raise your hand. Actually, I know we had somebody.

MS. JABLESNIK: Unmute yourself.

MR. HARRIS: Good evening. My name is Roger Harris and I own one of the adjacent properties. I live there. I did send an e-mail to the Town Board with my concerns.

This is a rather large structure, okay. The property I believe has two other structures on it, a Quonset hut and the other garage. This would be a third structure in addition to the house.

I did make some recommendations there if you were going to consider it. I'm just pointing out that this is kind of out of character for the community.

Thank you for your time.

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CHAIRMAN SCALZO: You know, sir, I do have -- thank you for your comments. They're very important. All comments are important. I do have one set of comments here but the name was not from you. It's helpful to the Board to have this so they can actually read it, I don't want to say at their leisure. Obviously we just heard your comments here. I'm not in receipt of your e-mail. Can I ask where you sent it?

MR. HARRIS: To the Town Zoning Board. The e-mail that was --

CHAIRMAN SCALZO: Okay. That's good enough.

MR. HARRIS: -- on the notice.

CHAIRMAN SCALZO: Okay. We'll look for that again. Thank you for your comments.

Michelle, did he state his name for the record?

MS. CONERO: He did. Roger Harris.

CHAIRMAN SCALZO: Very good. Thank you very much.

Do we have anyone else from the public that wishes to speak? I see a hand up.

MR. KOUDOUNAS: Yes. Good evening. My

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MICHAEL LYNN

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name is George Koudounas, and my wife Alexis is with us.

I'm opposing to the structure because from the -- I border Mr. Lynn's property almost through the whole length. I'm right behind the entire property. I'm on Jodi Drive. I have direct visual to them and all the other effects. It's about 155 feet from my house -- my house to the property of Mr. Lynn. So it's way too large of a structure. I'm opposing any structure.

If you see my comments, I sent a letter to the Town, and photos. I assume you've seen the ones I have there why I'm opposing to that.

CHAIRMAN SCALZO: Yes. We have your letter with the eight points. Yes.

MR. KOUDOUNAS: If you have any questions in regard to those points --

CHAIRMAN SCALZO: Hang on one second. Let me just get to one sheet here.

Obviously square footage wise he is more exceeding what the variance -- he's looking for 692 square feet and also three existing. So he's got four vehicles stored. Maximum building height.

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Sir, you're saying you're opposed to any structure at all?

MR. KOUDOUNAS: That's correct, because, you know, the property for the last nine years has been used as a business, heavy equipment, trailers, backhoes, people come and go, you know, any day of the week, any time. Even at night now they have the lights which they shine in my windows. So I don't think any structure will benefit, you know, me or anybody else, but I'm talking for myself. It already looks like a commercial parking lot.

In addition to the foundation of almost 1,400 square feet, which is several hundred feet bigger than the foundation of the existing house, with another foundation for another structure already there.

All this equipment you see in that photo -- I mean of course all the trees -- most of the trees have been cut down already.

When it rains there's a lot of -- besides the visual, the sounds. You know, there's also the environmental impact, you know. Everything drains directly to my property and

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more meadows and created parking lot. Even if item 4, it's going to be coming down to my property.

I'm a professional real estate agent. I know any structure will not add any value to my house. I don't see there is, you know, lakeside -- we have a lake. Everybody has a boat. What happens if after then we have -- how many structures like that are we going to have on the lakeside? You know, it's not -- I'm opposing to any additional structure to that property for all those reasons I sent to the Town in that letter.

When there is the outcome, you know, I just want the Board to know it affects me a lot. I've been in my house for twenty years. I'm a good neighbor. I expect the same in return.

Any addition to that property -- it's only an acre. It's already maximized, whatever it is. I am totally against that.

CHAIRMAN SCALZO: Thank you. Thank you for your comments. Sir, I do want to point out that according to code Mr. Lynn could install a building nearly 700 square feet and still be within the confines of the code. So with regard

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MICHAEL LYNN

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to you not appreciating any building at all, I just wanted to let you know code would allow him to put up a 700 square foot structure.

MR. KOUDOUNAS: I understand.

CHAIRMAN SCALZO: Okay. At this point Mr. Lynn, are there any particular comments that you may have to alleviate some of the concerns of your neighbor?

MR. LYNN: I read that letter as well. I follow the agenda and I saw it posted online, so I read it. I prepared a response to it. My response to that was -- so in the header of the letter he was asking the Board to reject my proposal to protect the residential use and environmental impact. Now, I'm planning on building a garage to accommodate my own residential use of the property and provide dry storage of my recreational boat that I use, and my tow vehicle.

Secondly, I'm not sure how the proposed garage I'm asking to build will have any more significant impact on the environment than the other three existing garages on adjacent properties, which is Mr. Mennerich's, Gillespie

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Drive and 744 Gardnertown Road. Why would mine be different than theirs? It may be a little larger but it's still in the same general area.

CHAIRMAN SCALZO: I'll let you continue. You said yours may be a little larger. I did look at an aerial photograph of that area. The building you proposed would far exceed any other building, a garage. When you talk about character of the neighborhood, you would be setting the new standard, and that's kind of a tough one. So now I'll let you continue.

MR. LYNN: In the letter he had put in there that the property is being used for commercial properties on a daily basis through the storage of multiple pieces of heavy equipment and material seven days a week. This is an assumption on his part. It's a misinterpretation by him. I do not have any heavy equipment. I have a mini-excavator and a small skidsteer. Again, not heavy machinery as claimed by Mr. Koudounas. I use that to maintain my property, handling, moving, processing firewood, because I do heat my house with firewood every year fully. Fill holes in the driveway, land maintenance,

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et cetera. I have a full-time job, you know, so I'm not there seven days a week as it is.

To follow up on his other comments. Yes, his property does border my property. He states that his house is 155 feet from the property line. That seems to be correct. I didn't go out there and measure to verify. I'm not sure how constructing a garage will have direct visuals day and night, but I guess it would have some because you can see the side of the building. The proposed location would be another 100 feet from the side of my house. So it would be approximately 250 feet from where his house is, where he sees.

I'm not sure what he's referring to when he mentions acoustic effects from building a new garage. The building doesn't make noise. You know, so we're here to discuss the building versus --

CHAIRMAN SCALZO: As far as acoustic effects -- and I'm going to speak -- Mr. Koudounas, if I don't capture what you're talking about here, please jump in. The orientation of your garage, which I haven't seen architecturals

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so I don't know how you're intending on entering and exiting the garage. If the garage doors were to be facing your house with no garage doors facing, I'll say the rear of your property, you'd have to swing around to get in there. That's noise pollution. That's headlights that hit his property. But if the garage doors were facing your house, then actually it might provide some type of sound mitigation for him. I don't know. I'll tell you right now I know I need to see architectural.

MR. LYNN: The garage doors would face my existing garage doors. They would face one another.

And then, you know, he also mentioned in comment 3 that he feels like it looks like a commercial parking lot. Again, this is an assumption on his part. I have a very long driveway and I need a -- I have a large turnaround area at the end. So it's easy to turnaround, as any dead-end road or cul-de-sac would be in a residential area. Whether he feels like it's a commercial parking lot or not, I mean I have a turnaround at the end of my driveway.

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And then we talked about the lighting already.

His fourth comment states this is affecting our home, both from a visual perspective and disturbance of our peace and quiet. Again, I'm not sure what this has to do with the construction of a garage. Maybe when the construction is going on. From his house, we're talking, again, a distance of approximately 255 feet through a wooded area. There's other garages, like you said, that are in that area. I'm not sure how -- okay, yes, mine would be bigger.

CHAIRMAN SCALZO: Sure it would. And you know what. Something that's a disadvantage to you is it appears to me there are mostly deciduous trees between you and Mr. Koudounas.

MR. LYNN: In the summer it does fill in.

CHAIRMAN SCALZO: Sure. So you've got, you know, at least seven months. He lives there twelve months a year.

MR. LYNN: Number 5, he said it's going to devalue his property and take away his right

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MICHAEL LYNN

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to enjoy his residential use. By me putting up a garage, I'm not sure how that's devaluing the property by putting my boat and truck in a garage. So that was one of his other concerns. I'm not totally clear why that would cause any devaluation. It's not like it's right on the property line, right up against his house.

CHAIRMAN SCALZO: I'm not a professional appraiser or realtor, so I can't answer that.

MR. LYNN: That's why I said I'm just commenting.

CHAIRMAN SCALZO: Very good. I don't want to cut you off.

MR. LYNN: One more. He states, you know, in his comments -- also, I've lived here twenty years and I love my property. Well I grew up there. I've lived there for forty-four years. My family has been there for sixty years. I was there before Jodi Drive even existed. I don't think any of that is relevant to do with the construction of a building. We all love our property where we live and we all appreciate our homes. I mean I don't know why -- if that was a

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MICHAEL LYNN

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relevant comment or what.

CHAIRMAN SCALZO: I just wanted to give you an opportunity to respond to that.

I'll tell you where -- my position on this is I really think I need to see, as well as the rest of the Board, I need to see your architecturals. I need to see what the layout of your building is. I also need you to consider everything you've heard so far from us. There's going to be six guys saying something here.

MR. LYNN: Yup.

CHAIRMAN SCALZO: We pointed out to you that your building would be the most substantial garage in probably 1,000, maybe even 2,000 feet of you. That's something to consider.

There are some comments in here. I'm not sure what the environmental effect would be. Your driveway actually is not paved. I would hope that since it's pervious, that any runoff would seep into the driveway. I know my feet got dirty when I was walking around your driveway, so it's definitely not paved.

Anyway, my own position, I want to see some architecturals.

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MICHAEL LYNN

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Is there anyone else from the public that wishes to comment on this?

MS. JABLESNIK: You can unmute yourself.

MS. LYNN: My name is Tracy, I'm Mike Lynn's wife. I just wanted to mention a couple things.

In my opinion I just wanted to say that where the building is going to be put -- as you know, our house is back pretty far from the street. We have houses in front of us who are family members, and then there's trees in between us and any other neighbors, although I know in the winter you can see through over to Jodi Drive. But where this building is going to be, I don't think it's something that is going to devalue the neighborhood in any way. It's set back. I think there might be a couple neighbors that would be able to see it, but it's also something that would kind of make everything a lot neater as far as like trailers, or his truck, or the boat, or anything sitting out. I think once they're confined into one nice square building, I think it's actually something that

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MICHAEL LYNN

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would look better instead of worse.

I'd also like to point out that the --
sorry, I just lost my thought for a second. As
far as the pictures that were submitted, I don't
remember how to pronounce your name, I noticed
that they were not taken like from his property.
He had to actually have a drone go up in order to
see the area and take pictures down. So I don't
think -- I mean unless he's standing on the edge
of his property looking through the trees, which
he has done several times and it's made me
nervous, hence we have a dog now --

UNIDENTIFIED SPEAKER: Shut up.

CHAIRMAN SCALZO: All right. Hold on.
Hold on. No.

Siobhan, mute them, please. That's
inappropriate.

MS. LYNN: Okay.

CHAIRMAN SCALZO: Not you. The person
that was interrupting you was inappropriate.

MS. LYNN: Oh, I don't know who that
was.

UNIDENTIFIED SPEAKER: Thank you for
sharing.

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MICHAEL LYNN

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(Interruption in the Zoom proceedings
by unidentified participants.)

MS. LYNN: I think I've said my part.
I appreciate you listening.

CHAIRMAN SCALZO: Thank you very much.
I hate to do this. Does anyone else
from the public wish to speak about this
application?

MS. JABLESNIK: Go ahead.

MR. KOUDOUNAS: I just want to add to
Tracy's comment. Those photos, you can see
everything from my living room, my family room,
the deck, the whole backyard. All the equipment I
can see. It's really to my property -- the
Board, they are welcome to visit my property and
make your own assessment.

CHAIRMAN SCALZO: Very good. And I
appreciate your comments on that.

I do need to steer us back to why we're
here. So we are here for -- the applicant is
seeking variances. Regarding how photos were
taken, I'm really not interested in that tonight.
That's something else for another time, for
another place.

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MICHAEL LYNN

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Anyone else -- any new comments from members of the public?

(No response.)

CHAIRMAN SCALZO: Hearing none, I'm going to go back now to any Members of the Board. Mr. Masten, do you have any comments after what we've heard?

MR. MASTEN: No.

CHAIRMAN SCALZO: Mr. McKelvey?

MR. MCKELVEY: It's just a large building.

CHAIRMAN SCALZO: Mr. Marino?

MR. MARINO: I'm good.

CHAIRMAN SCALZO: Mr. Hermance?

MR. HERMANCE: Nothing further.

CHAIRMAN SCALZO: Mr. Levin?

MR. LEVIN: I'm okay.

CHAIRMAN SCALZO: So nobody else has any other comments.

At this point, the Board and applicants, the public have heard my concerns. I really feel as though I would get a great benefit out of seeing the architectural, which I have not seen yet. So that being said, I will -- I

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MICHAEL LYNN

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don't know that we need to hear any more.

MR. DONOVAN: Mr. Chairman, if I may suggest. If there's something that's going to be submitted that has not --

CHAIRMAN SCALZO: Had a chance to be reviewed by us as well as members of the public, it would probably be wise to leave the public hearing open.

MR. DONOVAN: I couldn't have said it better myself.

CHAIRMAN SCALZO: Thank you, Counselor. In this case I'm going to look -- does the Board have a motion of some sort in this case?

MR. LEVIN: I'll make a motion to leave the public meeting open.

MR. MASTEN: I'll second it.

CHAIRMAN SCALZO: We have a motion to leave the public hearing open by Mr. Levin. We had a second from Mr. Masten. All in favor?

MR. MARINO: Can I ask a question?

CHAIRMAN SCALZO: Sure.

MR. MARINO: For what purpose?

CHAIRMAN SCALZO: I would like to see

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the architecturals, Mr. Marino.

MR. MARINO: And then what?

CHAIRMAN SCALZO: And then what?

MR. MARINO: After you see that.

CHAIRMAN SCALZO: After I see the architecturals. I also am hoping that the applicant has taken in what we were saying here regarding we are going to make a decision based on the application the way it has been submitted. The applicant has also heard that, in my opinion, but I am one of six, that I feel the building is quite large compared to the neighborhood as I can find no other building that size as a garage within that area. Perhaps when we look at the architecturals. Perhaps the applicant may come back next month with a recommendation to perhaps lessen the size of his building.

MR. MARINO: In effect we're holding it over until next month?

CHAIRMAN SCALZO: Yes, we are.

MR. MARINO: That's what I wanted to know.

CHAIRMAN SCALZO: Very good.

All in favor?

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MR. HERMANCE: Aye.

MR. LEVIN: Aye.

MR. MARINO: Aye.

MR. MASTEN: Aye.

MR. McKELVEY: Aye.

CHAIRMAN SCALZO: Aye.

Any opposed?

(No response.)

CHAIRMAN SCALZO: The public hearing is going to remain open. We're going to see you in March.

The meeting minutes will probably be available within the next ten days, two weeks. Read those. Take a look through and please understand the comments that we heard this evening. We look forward to seeing the architecturals and any other ideas you may bring with you.

MR. DONOVAN: Mr. Chairman, apropos to the discussion earlier today, the architecturals I assume are not going to be in the form of a PDF, it's going to be a paper copy. So is the public available -- can they make an appointment to come and view the --

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MS. JABLESNIK: Yes.

MR. DONOVAN: For any members of the public that are listening this evening and have commented thus far, understand you're not going to be re-noticed. This public hearing will be continued to the March meeting. You should contact the Zoning Board of Appeals office to make an appointment to see the architecturalals because they're not in a format where they're going to be available online. You're going to have to make an appointment with Siobhan to come in and view the architecturalals, should you want to, in advance of the next meeting.

CHAIRMAN SCALZO: That's exactly right.

MR. DONOVAN: I thought I should say something because you encouraged me before.

MR. LYNN: I have a quick question. Can you get those from the Building Department, the ones I already put in, or do I have to like get another copy and bring it to you?

MS. JABLESNIK: Do you have another copy?

MR. LYNN: I can probably get one.

CHAIRMAN SCALZO: Were they actually

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MICHAEL LYNN

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prepared by an architectural firm?

MR. LYNN: No, I didn't have them done. I didn't want to spend a lot of money on that until I knew I could even do it.

MS. JABLESNIK: Let me see what the Building Department has.

CHAIRMAN SCALZO: Reach out to Siobhan tomorrow, see what you've got, and she'll help you from there.

MR. LYNN: Thanks.

CHAIRMAN SCALZO: Thank you.

I apologize, folks. Can we take five minutes? Just a short five-minute break.

(Time noted: 7:55 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 March 2021.

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

EDWARD POLLACK

147 Heather Circle, Newburgh
Section 115; Block 2; Lot 20
R-1 Zone

----- X

Date: February 25, 2021
Time: 8:00 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: DARRIN SCALZO, Chairman
DARRELL BELL
GREGORY M. HERMANC
RICHARD LEVIN
JOHN MASTEN
ANTHONY MARINO
JOHN McKELVEY

ALSO PRESENT: DAVID DONOVAN, ESQ.
SIOBHAN JABLESNIK

APPLICANT'S REPRESENTATIVE: EDWARD POLLACK

----- X

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

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CHAIRMAN SCALZO: We actually had a couple of issues go on. We took a short breather, but then we actually lost internet connection here at the Town Hall, which is why you lost us and we lost you. Now we've got you back.

As a continuation, we're now on to applicant Edward Pollock, 147 Heather Circle, seeking an area variance of the combined side yards to build a 10 by 21 upper deck and an 18 by 29 lower deck to the pool.

Siobhan, mailings on this?

MS. JABLESNIK: This applicant sent out 50 letters.

CHAIRMAN SCALZO: 50, 5-0?

MS. JABLESNIK: 5-0.

CHAIRMAN SCALZO: Very good.

Sir, please introduce yourself for the record.

MR. POLLOCK: Ed Pollock. Edward Pollock.

CHAIRMAN SCALZO: Very good. Sir, we did take a spin around your house. It appears your notice was buried by the snow.

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MR. POLLOCK: I took it out because the plow came by again. I didn't want it to get dirty. I'm going to put it on a stick.

CHAIRMAN SCALZO: That's where it's supposed to be.

From what I understand reading the application --

MR. POLLOCK: I'm basically replacing my old deck which is falling apart.

CHAIRMAN SCALZO: Right. What's happened here is now you're the victim of new zoning because one side yard is 30 feet and you currently have 18.6 feet, which you didn't change that, it changed on you. Then combined side yards is 80 feet and you have 63.8. I'll say it again, you didn't change it, it changed on you. What we have is a pre-existing nonconforming condition which really isn't even relative to your pool decks. So his house is not in compliance but it was when it was built. So that's the short story here.

Did I capture that appropriately?

MR. POLLOCK: You did. You did. I remember when I built the deck 29 years ago, it

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EDWARD POLLOCK

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cost me 50 bucks.

CHAIRMAN SCALZO: Very good.

I'm going to look to the Members of the Board for comments. Mr. Bell?

MR. BELL: I looked at it.

CHAIRMAN SCALZO: Like I say, pre-existing nonconforming.

Mr. Levin?

MR. LEVIN: I'm okay.

CHAIRMAN SCALZO: Very good. Mr. Hermance?

MR. HERMANCE: I looked at it also. It's all within the confines of the fenced in yard.

CHAIRMAN SCALZO: Mr. Marino?

MR. MARINO: Nothing else.

CHAIRMAN SCALZO: Mr. McKelvey?

MR. MCKELVEY: Nothing.

CHAIRMAN SCALZO: Mr. Masten?

MR. MASTEN: Nothing.

CHAIRMAN SCALZO: I have nothing else.

At this point I'll open it up to any members of the public that wish to speak about the Pollock application at 147 Heather Circle.

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(No response.)

MS. JABLESNIK: No.

CHAIRMAN SCALZO: Hearing none, going back to the Board for one more opportunity.

MR. BELL: No.

MR. HERMANCE: No.

MR. LEVIN: No.

MR. MCKELVEY: No.

MR. MASTEN: No.

MR. MARINO: No.

CHAIRMAN SCALZO: No. Okay. Very good.

MR. POLLOCK: I want to thank Siobhan for helping me with this. I knew nothing about this stuff. 29 years I didn't have to go through it.

CHAIRMAN SCALZO: She is very helpful to us all. Without her things would not run nearly as smooth.

MR. POLLOCK: You have to be a lawyer to figure this all out.

MR. DONOVAN: We can't figure it out either.

CHAIRMAN SCALZO: We like her, too.

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EDWARD POLLOCK

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Very good.

I'll look to the Board. We're looking to close the public hearing.

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

MR. MARINO: I'll second it.

CHAIRMAN SCALZO: I'm going to say it was Mr. Masten had a motion and Mr. Marino seconded it. All in favor?

MR. BELL: Aye.

MR. HERMANCE: Aye.

MR. LEVIN: Aye.

MR. MARINO: Aye.

MR. MASTEN: Aye.

MR. MCKELVEY: Aye.

CHAIRMAN SCALZO: Aye.

Very good. I saw no one shake their heads.

We're going to move to the members of the public.

MS. JABLESNIK: They said there's no sound.

UNIDENTIFIED SPEAKER: You have your mic on mute.

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MS. JABLESNIK: Thank you.

MR. DONOVAN: You should ask the members of the public --

CHAIRMAN SCALZO: In this case I will ask any members of the public, do they have any comments on this application for Ed Pollock at 147 Heather Circle? If you didn't hear the presentation, the decks that he is looking to replace are within -- are replacements. Why he is here is the zoning changed in the neighborhood and his house is now out of conformance. He did not move his house, the lines just moved in on him.

(No response.)

CHAIRMAN SCALZO: Very good. The public hearing is closed.

At this point we're going to -- it's a Type 2 action under SEQRA. We're going to go through the variance criteria, the five factors to be weighed, the first one being whether or not the benefit can be achieved by other means feasible to the applicant. We had just discussed that the setbacks had changed after the building of the home, so no.

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The second, if there's an undesirable change in the neighborhood character or a detriment to nearby properties. Again it's unnoticed. Nothing is going on there.

Third, whether the request is substantial. No, it's not.

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

MR. BELL: No.

MR. HERMANCE: No.

MR. LEVIN: No.

MR. MCKELVEY: No.

MR. MASTEN: No.

MR. MARINO: No.

CHAIRMAN SCALZO: No, it won't.

The fifth, whether the alleged difficulty is self-created. In this case it is not.

MR. MASTEN: No.

CHAIRMAN SCALZO: If the Board approves, it shall grant the minimum variance necessary.

Having gone through the balancing test of the area variances, what is the pleasure of

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the Board? Do we have a --

MR. MCKELVEY: I'll make a motion we approve.

MR. HERMANCE: Second.

CHAIRMAN SCALZO: We have a motion from Mr. McKelvey. We have a second from Mr. Hermance. Roll call.

MS. JABLESNIK: Mr. Bell?

MR. BELL: Yes.

MS. JABLESNIK: Mr. Hermance?

MR. HERMANCE: Yes.

MS. JABLESNIK: Mr. Levin?

MR. LEVIN: Yes.

MS. JABLESNIK: Mr. Marino?

MR. MARINO: Yes.

MS. JABLESNIK: Mr. Masten?

MR. MASTEN: Yes.

MS. JABLESNIK: Mr. McKelvey?

MR. MCKELVEY: Yes.

MS. JABLESNIK: Mr. Scalzo?

CHAIRMAN SCALZO: Yes.

The motion is carried. The variances are approved. You can keep your house exactly where it is.

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MR. POLLOCK: I can't move my house?

Darn it. I just want to move it back a little.

CHAIRMAN SCALZO: Good luck, sir.

MR. POLLOCK: Thank you very much.

(Time noted: 8:08 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 March 2021.

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

VALLEY CONTRACTING
MICHAEL & SHERRI O'DONNELL

38 Snider Avenue, Walden
Section 31; Block 5; Lot 6
R-1 Zone

----- X

Date: February 25, 2021
Time: 8:08 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: DARRIN SCALZO, Chairman
DARRELL BELL
GREGORY M. HERMANC
RICHARD LEVIN
JOHN MASTEN
ANTHONY MARINO
JOHN MCKELVEY

ALSO PRESENT: DAVID DONOVAN, ESQ.
SIOBHAN JABLESNIK

APPLICANT'S REPRESENTATIVE: MICHAEL & SHERRI O'DONNELL

----- X

MICHELLE L. CONERO
3 Francis Street
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CHAIRMAN SCALZO: Our next applicant this evening is Valley Contracting, Michael and Sherri O'Donnell, 38 Snider Avenue in Walden, seeking area variances of the side yard, combined side yards, minimum building lot coverage and surface coverage to build a new single-family residence.

Siobhan, mailings?

MS. JABLESNIK: This applicant sent out 26 letters.

CHAIRMAN SCALZO: 26 letters. Very good.

Okay. This one is a little different from what we've heard. If you could introduce yourself, please, and tell us why you're here.

MR. O'DONNELL: I'm Mike O'Donnell and my wife Sherri is over there.

So I prepared a little something here. So we're in front of the Zoning Board of Appeals seeking -- this evening seeking an area variance to construct a two-story residence on the west side of Orange Lake --

MS. O'DONNELL: My husband just had major surgery five days ago. He's having some

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difficult --

CHAIRMAN SCALZO: Take your time.

MS. O'DONNELL: Can he sit?

CHAIRMAN SCALZO: Absolutely. There's a microphone there. Just make sure --

MR. O'DONNELL: I don't need to sit. I'm actually more comfortable standing.

CHAIRMAN SCALZO: Sir, actually if you have it prepared in the written word, if you'd like your wife to read it, go right ahead.

MS. O'DONNELL: Do you want me to try? This was bad timing. All the Zoom meetings were at home until my husband had surgery and now we have to come in.

CHAIRMAN SCALZO: Very good. If I could just ask you to introduce yourself.

MS. O'DONNELL: I'm Sherri O'Donnell. Okay. We are in front of the Zoning Board of Appeals this evening seeking an area variance to construct a two-story residence on the west side of Orange Lake. It is waterfront property. What we are proposing is a lovely single-family home with a two-car garage. Along with our architect, Tarryn Kamrowski, we have diligently

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and thoughtfully designed our new home.

For viewer reference, the chart over there, and also each Board Member should have a copy. For viewer reference, highlighted in orange is the building envelop on our property which allows us to build a home without any variances or Zoning approval. The issue here is the envelop is only 20 foot wide and 88 feet long. To design a home to fit within this footprint will not compliment the surrounding homes or the lake itself. The inside dimensions of the home would be more like 17 feet wide. In comparison, the house we were proposing will only compliment the neighborhood and add a nice visual from the lake.

With careful consideration we crafted this home design plan with our neighbors in mind. Although we understand not every concern can be met, we have worked diligently to come up with a plan that considers our neighbors while also fulfilling our desire to build a beautiful lakefront home.

We are no strangers to the area. My wife Sherri and I were born in Newburgh and we

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are small business owners here in the Town. My husband actually learned how to swim in Orange Lake as a child. For many years we have longed to be a part of the Orange Lake community, so when the opportunity came we did not hesitate to purchase this property.

We purchased the property in 2017. In that time we have received Department of Health approvals for a new septic design, demolished the old residence that was uninhabitable, and now we're here for your approval.

Thank you for your time and consideration.

CHAIRMAN SCALZO: Thank you very much.

We were just handed a package of information which corresponds to what we just heard from the applicant.

MS. O'DONNELL: Yes. Kind of, yes. Not kind of. Yes.

CHAIRMAN SCALZO: Typically we like to get this stuff a little earlier than the night of the meeting, that way we have a chance to take a look at it so we don't ask questions like --

MS. O'DONNELL: It's just this. It's

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basically just so you didn't have to look across
the --

CHAIRMAN SCALZO: Right. I don't
recall there being high-rise buildings on the
other side of Orange Lake.

MR. O'DONNELL: That's not
representative --

MS. O'DONNELL: That is actually a 3D
sight line that we had done to show where the
residence will be located and how it will not
impact anyone's view of the lake.

CHAIRMAN SCALZO: Okay. And you bring
up a great point. A few years back we had an
applicant on the other side of the lake, Murphy I
believe was the name, and they were trying to
expand closer to the lake. We ended up denying
that application just because they were pushing
the house closer to the lake than what was
originally there.

What I don't see in front of me is the
old footprint of the old house. Is that on one
of the plans?

MR. O'DONNELL: That's on one of the
original submittals.

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MS. O'DONNELL: That was submitted.

MR. O'DONNELL: That was submitted.

That one right there, actually.

CHAIRMAN SCALZO: As much as I --

MR. O'DONNELL: The bottom left would be the original footprint of the house.

CHAIRMAN SCALZO: Okay. That was way up close.

And we also received correspondence this evening -- earlier today from the Orange Lake Homeowners Association. We are not bound by the Orange Lake Homeowners Association. We welcome their comments. Their comments are always very valuable to us. That not necessarily would prevent us from rendering a determination this evening.

Siobhan, I did get that e-mail but I didn't print it out. Do you happen to have -- ah, I got it right here. Thank you, Counselor.

Typically I don't do this but I will read the Orange Lake Homeowners Association's letter. "Dear Chairman Scalzo and Board Members: In reference to the subject application, the Orange Lake Homeowners Association was provided

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2 by the applicant a package of information
3 concerning the proposed new residence on February
4 15th. Unfortunately the site plan, floor plans
5 and elevations were not on the Town's website.
6 This has complicated the process of polling the
7 neighbors during this time of COVID limitations.
8 We have a board of directors meeting scheduled
9 for March 8th. We would request more time to
10 discuss this application among the board and the
11 neighbors and provide input at your next meeting
12 on March 25th. We understand that this is an
13 inconvenience to delay the application. We feel,
14 based on the scope of the application, the
15 process would be better served by a one-month
16 delay. Thank you for your consideration in this
17 matter." It's signed by Gregory Langer, member
18 of the board of directors.

19 MS. O'DONNELL: Mr. Scalzo, I do
20 believe that there is a new opinion of the board
21 and I'd like to continue the meeting and give
22 them the opportunity to give you their new
23 opinion.

24 CHAIRMAN SCALZO: As I had mentioned to
25 you, we do respect their input, although their

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input is not binding to the Board. So you've already answered the question I was about to ask.

So that being said, I'm going to first look to Members of the Board here for any comments that we may have. Mr. Maston, what do you got?

MR. MASTEN: I have nothing on it.

CHAIRMAN SCALZO: Nothing on it.

MR. MCKELVEY: No.

CHAIRMAN SCALZO: Mr. McKelvey has nothing.

MR. MARINO: No.

CHAIRMAN SCALZO: Mr. Marino has got nothing.

Mr. Hermance?

MR. HERMANCE: I visited the property. It looks like it would be an improvement to the area instead of a detriment.

MS. O'DONNELL: Thank you.

CHAIRMAN SCALZO: Mr. Levin?

MR. LEVIN: I visited it. It's hard to see where the house is going to be on the lot.

MS. O'DONNELL: Especially in the snow.

CHAIRMAN SCALZO: It's going to be

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where that big stump is.

MR. O'DONNELL: That's right. Exactly.

CHAIRMAN SCALZO: Right where the stairs are. They're turned sideways.

Mr. Bell, do you have comments on this?

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

MS. O'DONNELL: Mr. Scalzo, what I'd also like to point out is that, you know, the orange is our building footprint.

MR. O'DONNELL: It's the building envelope.

MS. O'DONNELL: Building envelope. I'm sorry.

CHAIRMAN SCALZO: If you were to build a building, it would be a bowling alley.

MR. O'DONNELL: Exactly.

CHAIRMAN SCALZO: I completely --

MR. O'DONNELL: It would be way up.

MS. O'DONNELL: It would block everyone's view. It certainly would.

CHAIRMAN SCALZO: If you had put it closer to the lake.

MS. O'DONNELL: For sure. And we did, we put a lot of thought and consideration into

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this. If you look at the second page, you'll see that the line of sight goes right past the porch. There's the house and then there is an open portico. The line of sight, if I'm saying it correctly, line of sight, goes past the portico. So there would be no obstruction.

CHAIRMAN SCALZO: So you could see those high-rise buildings on the other side of Orange Lake.

MS. O'DONNELL: Yes. You noticed that.

MR. O'DONNELL: If I may. The house is placed there because of the Board of -- the Department of Health made us design a new system, a septic system on the backside where the road is -- or the front side.

CHAIRMAN SCALZO: To avoid contamination of the lake.

MS. O'DONNELL: That's what's going to happen with anyone that builds on that side, their septic is going to be in the front. As new people build, the homes are going to be obviously getting closer to the lake.

CHAIRMAN SCALZO: Okay. Jonathan Cella designed for you your septic, maintaining all the

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minimum Health Department requirements. I get it.

I don't know if you could -- well, how about this. I've said everything that I want to say, the Board has said. At this point I'm going to open it up to any members of the public that wish to speak about this application.

MR. KUPRYCH: I do.

CHAIRMAN SCALZO: Very good. The floor is yours.

MR. KUPRYCH: Okay. Paul Kuprych, adjacent property, 36 Snider Avenue. So I would be south of what you're seeing on the plans. To the north would be the McCarthy residence.

You were kind of breaking up in the meeting. I just wanted to get a clarification. Is this going to be postponed?

CHAIRMAN SCALZO: At this point we have not made that determination. The applicant has chosen, at this point, on them, they would like to continue. We have not heard everything that we need to hear, so the determination to leave this open has not been determined yet.

MR. KUPRYCH: Okay. I would like to

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ask for a postponement as well, and I'll tell you the reason why. First of all, none of the records are available to the public on the website. So I was in to see Siobhan twice, but, you know, I can only be there for a few minutes. You're looking at these plans. You have a stack of paper, tremendous.

I do disagree -- you know, Mike and Sherri are a lovely couple, okay, and I want them to build a house. I think there has to be consideration for me.

I disagree with them in saying that my line of vision or my sight, my enjoyment of the lake is not going to be interfered with. It will be. Okay. I don't know what you have there, but can you see this?

CHAIRMAN SCALZO: Unfortunately I can not.

MR. KUPRYCH: That's the reason why I would like to bring something down to the Board, so you can see the proximity of my house. With this house it's actually -- the front of the house starts right -- it starts right where the back of my house is. It's actually ahead of the

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back of my house. It projects all the way to the front of the lake. So my house sits closer to the line than the McCarthy house. So my -- you know, I'm going to lose something right there.

I mean if you were to flip the house in the opposite direction -- you can see where there's a cut in the house right there, that's where that garage is. So therefore, you know, McCarthy's view is not as obstructed as mine is.

Also, just so that you know, I mean I've been following this, the original house was 23 feet from the front of Snider Avenue. Okay. This one is 67 feet away from Snider Avenue. Originally when Allyn had the property he wanted to put the house 13 feet from my property. We originally -- the cottage, because it was a cottage, was 57 feet from the edge of my property. We agreed and the ZBA approved his building, but he never got -- he never went through with it. We agreed, talking to Glen Allyn and myself, that the house should be kept 37 feet from my property. Right now they're asking for 24 feet.

Also, just to let you know, you say

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2 there's a lot -- there's nineteen structures on
3 the west side of the lake. Okay. Five of the
4 structures are less than 1,000 feet. Four of the
5 structures are between 1,000 and 1,500 square
6 feet. Two structures are 1,500 to 2,000. Five
7 structures are 2,000 to 2,500. There's three
8 structures that are over 2,500. This house is
9 2,825 which would be the largest house on this
10 side of the lake. If you count the garage, which
11 happens to be 576 square feet. That is the size
12 of the original cottage on the property.
13 Consequently, this area that it's taking up is
14 six times the size of the original house. So it
15 does have a definite impact on properties.

16 Also, all the properties -- most of
17 them -- the majority of the properties on the
18 west side here are sitting back by the road.
19 Okay.

20 MS. O'DONNELL: We don't have a choice.

21 MR. KUPRYCH: The McCarthy property has
22 a cottage right there, but that was built in
23 1953, as well as this cottage was built in 1953.
24 I mean at that time there were no regulations,
25 anybody could do anything.

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2 So I'm also concerned with drainage. I
3 mean the property doesn't perc. What happens is
4 a lot of fill has been brought in so a lot more
5 water is going to be coming down now. There's a
6 tree, a very large oak tree, that was removed.
7 That was right around where the garage is going
8 to be. A little left of the garage was a
9 gigantic oak. I've been here -- my parents had
10 this house built in 1966. I've been here for 53
11 years on and off. I've seen the property flood
12 over the years.

13 The other concern that I have is where
14 that house is situated, there's now going to be a
15 house occupying that space with all the water
16 coming off of the house. Also as the fill is
17 added, more water is going to come down, and I'm
18 concerned with flooding. I don't know if that's
19 addressed but it's a concern that I have. It's
20 very impactful.

21 I began to say that many of the houses
22 on the west side are towards the road. The
23 location of this house would be very odd. All
24 the houses are set back. This house is set
25 forward. Very unusual. You know, I think that,

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you know, everybody wants to have a large house and all, but do we need a large house at this magnitude, a two-bedroom, four and-a-half bath, 2,900 square feet. I mean everybody has the right to have it but it's impactful.

In the application they say that there's not going to be an economic impact. I feel it is going to have an economic impact because when you look out -- right now I'm sitting and behind me is the lake. The house would be right here. When I look out right there, the only thing I'm going to see is a wall that's 30 feet high. I'm going to have a partial view. I expect something but it's just so far up.

MS. O'DONNELL: He has lakefront property.

CHAIRMAN SCALZO: I understand. I just want to let him finish.

Sir, have you concluded your comments?

MR. KUPRYCH: Well I just wanted to say that the McCarthys -- I never talked to the O'Donnells directly on the house itself. Secondhand information, McCarthy said that we wouldn't be impacted by the house. So I never --

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I never had a discussion with them. I just assumed that that was correct. This is impactful. This is impactful.

I would like to look at it. I've had ten days. I had no idea this was going to happen. Ten days, from the 15th to the 25th. I never did get a letter. My brother happened to get a letter and I got his. That's how I knew about it. That's okay. That's not here nor there. This is such a massive project that I think that I would like to make further comments and written comments. I'd like to hire a few people of my own so that we can make additional comments, but I need time for that. I had no idea it was going to be like this.

CHAIRMAN SCALZO: Thank you for your comments.

MR. KUPRYCH: Thank you very much. I appreciate it.

CHAIRMAN SCALZO: Okay. Do we have anyone else from the public that wishes to speak about this application?

MS. JABLESNIK: You can unmute yourself.

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MR. CARUSI: I'm Victor Carusi and I reside at 41 Snider Avenue. Basically if you know the area around Orange Lake, on our side of the lake it just is rolling up. It rolls up the hill. My house resides from the street a little bit higher up.

Now, where he's planning on putting the house, you say it's going to be about 30 feet high. That would block my view of the lake. I'm about the only house that it would block some sort of view from the lake. There is no other house opposite his property. So that height is kind of high to be building a house and blocking the view.

CHAIRMAN SCALZO: Okay. Keep in mind in this case the application is not here for us to review building height. Their proposed plans are within the Town Code. However, earlier in the meeting I had mentioned what's called -- during the Town's master plan they had nodes or --

MR. DONOVAN: Hamlets.

CHAIRMAN SCALZO: -- hamlets -- thank you, Counselor. Orange Lake being its own

1 hamlet, Gardnertown, Leptondale, Colden Park.
2 Obviously each hamlet has its own character
3 associated with it. We're not here to really
4 talk about height, but that may play into the
5 conversation.
6

7 Let me roll on to a couple of different
8 things. The previous member of the public that
9 spoke had mentioned about where the house
10 placement was. Regarding where the septic is,
11 the Orange County Health Department has approved
12 the septic to be in front of the house, and they
13 do that on purpose. Just in case there ends up
14 being a failure, it does not contaminate the
15 lake.

16 There was a drainage swale that's
17 designed with the engineering plans that would
18 capture any drainage runoff from the street. The
19 swale would run down parallel to the house and
20 then towards the lake.

21 There are certain requirements when you
22 design a septic system to maintain a separation
23 between the house and the septic field itself,
24 which is 20 feet. There's also a requirement of
25 a minimum of 10 feet off the front property line.

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2 So if you're 20 feet off the house and 10 feet
3 off the property line, whatever is left between
4 those two is where you can put your septic. So I
5 haven't scaled it on this map, but as far as the
6 front placement of the house, I'd have to really
7 evaluate this harder or have their engineer do it
8 for them really.

9 As far as squeaking it forward, the
10 house itself, well that's another conversation.
11 As I had mentioned, we had an application a few
12 years back on the other side where it was almost
13 very similar to this where the house, they were
14 proposing to push it closer to the lake which was
15 going to obstruct the view shed of their
16 neighbors on either side. The applicant actually
17 worked with their architect to see what they
18 could do to scale back.

19 The information you had provided here
20 is actually very useful. The gentleman that
21 spoke first, he is -- let's see -- Mr. Kuprych,
22 you actually have his house on here with colored
23 lines that show partially that his view is
24 obstructed by your house. And again, you can't
25 put a price on another man's pleasure. So in

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2 this case, the view that he's been used to
3 looking at for how ever many years he's been
4 looking at it, he's not going to have it any
5 more. He does have lakefront property. That
6 would be nice for anybody. But again, with the
7 possibility of either pulling the house forward
8 or working with your architect for perhaps a
9 smaller footprint that still meets your needs.
10 That's just things to consider.

11 What I did not pick up on from my visit
12 to your property yesterday was -- because it was
13 snow covered I didn't get out of my truck and
14 walk down and look at the front line of all the
15 houses as they are on the lake to see how close
16 to the lake all of them were or how far away from
17 the lake they already were. So I'm at a
18 disadvantage now because I didn't do that, and I
19 apologize that I didn't do that. I should have.
20 But again, it was all snow covered and I didn't
21 know how easy it would have been to get in past
22 the fence to do that. So anyway, I feel as
23 though actually I need to go back and look at
24 this with those comments I heard from the public
25 in mind.

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That's just my comments. There's six other people that I'm going to actually turn it over to. Actually, we were still in the public hearing portion.

Do any members of the public still want to jump in on this?

MR. HOWARD: Yes, I would. Paul Howard, 42 Snider Avenue. Good evening.

CHAIRMAN SCALZO: Good evening.

MR. HOWARD: Can you hear me?

CHAIRMAN SCALZO: Yes, we can.

MR. HOWARD: Thank you very much. Good evening. With all due respect, what Mr. Kuprych called what was on that property before is being gracious. That was more of an eyesore. The property prior to being purchased by the O'Donnells was an eyesore for the better part of a decade.

I agree with the revitalization. I fully support the O'Donnells in their pursuit of building their home and becoming neighbors.

When we built our house 23 years ago it was a single-family home that was pretty much dilapidated. We built a two-story home. We also

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took some line of sight from some of the neighbors. But that is not illegal nor against code. I just want to make that point.

Secondly, when we built our house we put a septic system in the back of the house. When we bought the house there was no septic. The septic tank was in front of it. When we purchased the home we put a new septic tank and leachfield which goes into the back portion of our property. Unfortunately the times have changed and a new system -- the new system that the O'Donnells are putting in is forcing them to put the system in the front of their house which is forcing them to offset the house towards the lake a little further, and I fully support that. Thank you.

CHAIRMAN SCALZO: Thank you. Any other members of the public?

These are all great comments, folks. It's nice to hear them. This is very important to the applicant as well as the Board.

Anyone else from the public?

MS. ELLIS: I'll make a comment if I can.

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CHAIRMAN SCALZO: Sure.

MS. ELLIS: I was going to say I just wanted to add in support of the O'Donnells. I know they've been looking forward and complying every time they've been asked to do this, that and the other thing. There's nothing that I can see but the house being to beautify our neighborhood, and I welcome them to come and build whatever they have to build because what was on there before was such an eyesore. How can you compare. Whatever they are going to put on there would beautify our neighborhood, and I support that.

CHAIRMAN SCALZO: Thank you.

Michelle, did you get her name?

MS. CONERO: No, I didn't.

CHAIRMAN SCALZO: Ma'am, could you say your name for the record?

MS. ELLIS: It's Gail Ellis, E-L-L-I-S.

CHAIRMAN SCALZO: Thank you so much.

MR. KUPRYCH: I'll make a comment. I'm in agreement with anyone that the house was a shack and it needed to be replaced. I mean that's not the problem here. The problem is that

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the house was 576 square feet. That's the size of the garage on the new plan. The whole footprint is going to be six times larger than what is there presently, or what was there because the house was taken down.

It's going to be very impactful on the value of my property because, as you pointed out when you saw it, there's an impact on the line of sight. All right. Not that we have a code on that or anything else. But hey, look, everybody is on the lake to relax, enjoy themselves. Everybody is stressed out. This would stress me out even more. So I mean does the house have to be that configuration? Does it have to be that size, four and-a-half bathrooms? Does four and-a-half bathrooms affect the size of the septic system that they're putting in? All of the houses on Copper Rock Road, those gigantic houses are two and-a-half baths, three baths at the most. This is four and-a-half. I mean does that -- look, I'm a novice at this stuff.

CHAIRMAN SCALZO: Septic systems are designed based on bedrooms.

MR. O'DONNELL: We do have a fully

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approved design from the Department of Health. It doesn't matter how many bathrooms. You could have ten bathrooms. It doesn't matter.

CHAIRMAN SCALZO: Septic designs are designed based on bedrooms, not bathrooms.

MS. O'DONNELL: Also I would like to ask the Board to look at the last page.

CHAIRMAN SCALZO: That's with the home sizes?

MS. O'DONNELL: Yes. We have --

MR. O'DONNELL: You don't have to see the address.

MS. O'DONNELL: Right. You have a 2,772 square foot home on a 7,500 square foot lot. Our lot is 17,860 square feet. I mean you can see it. A 2,602 foot home on a 6,550 square foot lot. Our lot is 17,860 feet. Another home, 2,664 square feet on a lot that is 4,525 square feet. Our lot is 17,860.

MR. O'DONNELL: They're not a ranch. They're two-story homes. So we're only going to --

MS. O'DONNELL: These homes that are smaller than our proposed home have four

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bedrooms, two and-a-half baths, three bedrooms.
I mean it's proportional to what is currently at
the lake.

CHAIRMAN SCALZO: Okay. I was looking
at your house plans and the offset to the one
side before we got into this. The one thing I
did notice is your side yard is 8.37 feet on the
-- if you're on the road facing the lake --
facing the house. That's awfully tight.

MR. O'DONNELL: I think the original
footprint was already close. I think we might be
2 foot closer. I think the original house was 10
feet -- 10.3 feet away from the property line.

MS. O'DONNELL: It's 2 feet closer.

MR. O'DONNELL: That's the side where
the garage is proposed.

CHAIRMAN SCALZO: The drive-through
garage.

MR. O'DONNELL: Right. Exactly.
Because, you know, we need to access the lake.
We want to enjoy the lake. That's what we're
here for.

CHAIRMAN SCALZO: Sure.

MR. KUPRYCH: May I make another

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comment?

CHAIRMAN SCALZO: Absolutely.

MR. KUPRYCH: All right. Sherri has to realize the houses that she's talking about, the three comparisons, they've been there. The one house she's talking about, Natali's house which is the furthest northern house on the lake. And besides, on the side of this is a swamp. I mean it's a very big house but it's there. The other one is Art Fowler's house up the street. It was already in existence. He just built on that footprint. The third house that she's talking about -- who could that be? Let's see. I don't know. I can't find -- oh, no. Bear with me one second.

MR. O'DONNELL: Irregardless. I mean it's still going to compliment what's there. We're not asking for a palace. The average home size, is it 2,500? Is it 3,000 square feet? We live in a house now that's comparable to the same size.

MR. KUPRYCH: -- built on the footprint of the existing structure. So I mean they're asking for a variance. I want to work with them

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but I think that it has to be reworked a little bit.

CHAIRMAN SCALZO: All right. Let me ask you, sir --

MS. CINDY O'DONNELL: If I could jump in for a moment.

CHAIRMAN SCALZO: Hang on. Actually, I'll come back to him. Young lady, you had comments.

MS. CINDY O'DONNELL: Yes, please. So hi, my name is Cindy O'Donnell. I'm the designer for the O'Donnell property. I have an education and a degree in interior design and I did all the drawings and the diagrams for the residence. I took from several studies on the property and the neighboring properties for the plot plan to show that the studies are accurate in terms of the view from the neighbors' residences to either side and behind. I've also performed the studies to show that the sunlight won't be compromised through the structure.

I'd also like to mention how the Repose earlier did have drainage come from his property onto the O'Donnell residence property which

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hasn't been removed. It seems like the drainage problem has always been an issue for him regardless of the neighboring structures.

And also, the projected residence would not be projected out into the view of the site any further than the McCarthy residence is already projected.

And lastly, from an architectural and economical standpoint, this home would only bring the neighborhood more value to the neighboring properties and itself.

And yeah, I hope that helps alleviate some of the neighbors' concerns.

CHAIRMAN SCALZO: Thank you very much.

I lost what I was going to say.

MR. DONOVAN: Any other members of the public.

CHAIRMAN SCALZO: Pardon me, David?

MR. DONOVAN: Any other members of the public.

CHAIRMAN SCALZO: That's what I was going to say.

Do any other members of the public wish to speak about this application?

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MR. KUPRYCH: Paul Kuprych again.

MR. DONOVAN: Any other members of the public.

MR. KUPRYCH: If you could keep this open for further comment. I'd like to produce further comments.

CHAIRMAN SCALZO: Sir, we're --

MR. KUPRYCH: I mean not tonight, of course, but in the future. This has been short and sweet in terms of being notified to react to this. I want the O'Donnells to have a house to live in but I think we should have it shrunk a little bit.

CHAIRMAN SCALZO: And we appreciate your comments completely. Our notification process followed all regulations that we were supposed to. I apologize that you don't feel as though you had enough time to review it.

Dave, am I --

MR. KUPRYCH: The letter was sent out -- the letter was sent --

MR. DONOVAN: That doesn't matter. This satisfied every legal requirement. You got the same notice everybody else got. No different

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from anybody else. The law has been followed.

MR. KUPRYCH: Right. Okay. Well you know what, without having access to anything online where we could see this, it made it very difficult for anybody to take a look at the plans. You had to run down to the Town to take a look at it and you had a piece of glass in front of you. I understand it. They can layout things but you really can't -- I mean you're there for a few minutes.

CHAIRMAN SCALZO: Sir, we actually --

MR. KUPRYCH: If we had seen it on I think -- I think that's the reason why I got the letter from the Orange Lake Civic Association, so that they can also take a look at what's going on.

CHAIRMAN SCALZO: Right. While we are not bound by the Orange Lake Homeowners Association, we do appreciate their comments as well. We did have actual other residents from your neighborhood come down and look at the plans. So it is possible. That's how it works. We have met the requirements. While I can appreciate, and we have -- all of your comments

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are part of the record.

MR. KUPRYCH: Just so that you realize, the three people that are going to be impacted the most are the McCarthy's, the Kuprych's and the Carusi's.

MR. O'DONNELL: If I could clarify that.

MR. KUPRYCH: I mean it's impactful. The three of us are the closest to the property.

CHAIRMAN SCALZO: Correct. And yes, the maps do show your property. You're the reputed owner of the lot. They show an outline of your dwelling as well as the McCarthy's. So we do have that information in front of us. There are also other information that was provided on that with lines of sight. So I do understand. If you heard my comments earlier, I did recognize what you're saying. So thank you for your comments.

MR. KUPRYCH: I didn't see your records when I came down to the Town. It might have been there but I didn't see it. So in terms of line of sight, I can visualize what's going to happen because it's a simple thing to measure where the

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house is going to be and what's there that's not there now.

CHAIRMAN SCALZO: Okay. Again sir, I believe we definitely have the idea of what -- where you're headed here.

Is there anyone else -- any other member of the public that wishes to speak about this application?

MS. JABLESNIK: You can unmute yourself.

MR. HOWARD: Thank you. Paul Howard. I just want to say if someone buys a piece of property on the lake and tears down an existing structure, they're going to build something there. It's unapproachable. If you had any questions, you had over a year already since he's had that property, trying to make the best of it, to come to an agreement or conclusion. That's all I have to say.

CHAIRMAN SCALZO: Thank you very much. Any other members of the public with new comments?

MS. JABLESNIK: Go ahead, Robert's iPad.

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ROBERT'S iPad: I'm kind of new to the neighborhood but I've seen the O'Donnells down there, and they are only looking to improve it, which is great for everybody in the neighborhood.

As far as building bigger, I've been in Newburgh my whole life. Every house out here on this lake started out as a little shack. If you look around, very few of them are still that way. My house started out as a little shack. I've seen the pictures of it when it was original. It's not like that now. Most people's houses aren't.

Also, the O'Donnells own a business around the corner which they keep very nice and I see no problem.

As far as line of sight, I mean you can plant a tree next to somebody's house and that could ruin your view, too. You don't really control what's in front of your house as far as your view is concerned.

That's all I have to say. Thank you.

CHAIRMAN SCALZO: Thank you. Any other members of the public, new comments?

MS. TRIFILO: I'd also like to say I

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2 would love to see this project go through. We
3 were here in 2019. It's a lot that really could
4 use a house. I think it would be a beautiful
5 home. They're great people. They're great for
6 the community. I really would like to see this
7 project go forward.

8 CHAIRMAN SCALZO: Thank you very much.
9 Your name?

10 MS. TRIFILO: Diane Trifilo and Robert.

11 MR. TRIFILO: We're at 10 Snider.

12 CHAIRMAN SCALZO: Any other members of
13 the public that have new comments?

14 MS. ALEXANDRA O'DONNELL: Good evening.
15 Can you hear me?

16 CHAIRMAN SCALZO: Yes.

17 MS. ALEXANDRA O'DONNELL: Hi. My name
18 is Alexandra O'Donnell. I'm speaking on behalf
19 of my parents, Michael and Sherri O'Donnell. I'm
20 speaking because I'm actually in the process of
21 purchasing a property on Third Street which is
22 perpendicular to Snider Avenue.

23 I can tell you as someone who is really
24 looking forward to enjoying the Orange Lake
25 community that, you know, my parents have put

1 through an incredible house plan that they have
2 designed with so much care in mind, and it really
3 surprises me to see any opposition knowing how
4 thoughtful my parents have been. I think that
5 that's even been admitted -- you know, a
6 testament to their good character has been
7 admitted even with the opposition. So it is very
8 surprising to me to see so much opposition for
9 what is going to be a beautiful house of adequate
10 size.
11

12 My parents have three daughters. We
13 are all going to have grandchildren and we want
14 this to be a place that we're going to also
15 enjoy.

16 So I just wanted to speak on behalf of
17 my parents and say that I fully support this, and
18 not just because they're my parents. I've seen
19 their plans. I've seen the renderings that my
20 sister has done. I've seen the drawings. I've
21 seen lines of sight. I really feel this is just
22 an incredible benefit to the Orange Lake
23 community. I can not see any negative aspect of
24 this. I know that my parents have done their due
25 diligence in the septic design, in the height.

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They have done everything that they have needed to do. So I fully support them, especially as a member of -- a future member of the Orange Lake community. Thank you.

CHAIRMAN SCALZO: Thank you.

Do you have any other family members?

MS. O'DONNELL: We have one more daughter but she's very shy.

MR. FOWLER: Can you hear me?

CHAIRMAN SCALZO: Yes.

MR. FOWLER: Arthur Fowler, I live at 6 Snider Avenue. So I have two perspectives on this project. One is as a neighbor and one is a member of the Orange Lake Homeowners Association. I know you have a letter from the association, so I won't go further into that.

As a neighbor, I'm looking forward to this project as well.

As a board member, I'm sensitive to the concerns of the neighbors because that's what we consider as well. But as shepherds of the lake, I think they've done everything to protect the lake from their septic design, all the due diligence they've done on the property. I've

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2 known Mike for a number of years and he does a
3 good job at what he does. If the folks don't
4 know it, he's an expert on septic systems. I
5 think this project would be good for the lake. I
6 think it would be good for the community. Again,
7 I'm sensitive to the concerns of the neighbors.
8 I don't know if Noel is on here but I'll let him
9 speak for himself if he is. He's on the other
10 side of the property.

11 There's no doubt that these are good
12 people and this is a good project. We've just
13 got to get through this.

14 CHAIRMAN SCALZO: Thank you for your
15 comments.

16 Are there any other members of the
17 public that wish to speak about this application?

18 MR. KUPRYCH: Paul Kuprych again.
19 Listen, I agree with Art Fowler, he's a good guy.
20 I just think it has to be tweaked a little bit.
21 I'm not objecting to them building a house on the
22 property. It's going to be an improvement on the
23 property. I just think that it has to be tweaked
24 to take into consideration the next door
25 neighbors.

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Also, the reason I think Noel is not on this conference is because he and his wife have been diagnosed with COVID-19.

MR. O'DONNELL: I spoke with them today.

MR. KUPRYCH: I don't know if that's the reason why they're not on, but they're not on and I wish him the best.

MR. DONOVAN: So much for privacy.

CHAIRMAN SCALZO: You might have violated a HIPAA rule there.

It has finally come back to me, the question that I had for you, Mr. Kuprych.

MR. KUPRYCH: Yes.

CHAIRMAN SCALZO: I hear your concerns.

MR. KUPRYCH: Thank you.

CHAIRMAN SCALZO: What is your opinion of what would be reasonable?

MR. KUPRYCH: Well, okay. That's a good question. Originally we had -- I had agreed to a 37 foot setback. That would definitely be an improvement.

MR. O'DONNELL: Not with us.

CHAIRMAN SCALZO: A 37 foot setback

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from the side yard?

MR. O'DONNELL: From the road.

MR. KUPRYCH: If he made the house a little bit smaller, that would be an improvement. Pushing the house further back from the lakefront and giving me -- it's just a matter -- when you come down to see it yourself, you're going to walk the property, you will see the positions of McCarthy and the Kuprych, and then you can see where the house is going to be, and then you can see what I'm talking about. I want to support them on this project but at the same time I want them to be considerate of me as well.

CHAIRMAN SCALZO: Very good. All right.

(Phone ringing.)

CHAIRMAN SCALZO: So I'm going to let Mr. Marino turn his phone off.

MR. MARINO: I have to take the call, it's my wife.

CHAIRMAN SCALZO: You want to step out. Okay. No problem.

(Mr. Marino left the room.)

CHAIRMAN SCALZO: So sir, by trade I'm

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a professional engineer. I design septic systems. When you talk about a 37-foot offset from the road, mathematically that doesn't work with this plan. If the Orange County Health Department required them to have it in the front of the house -- I'm looking at the laterals.

MR. KUPRYCH: The side line, it's 24 presently. I'm asking for a side line of 24 to 36. Sorry for the -- yeah, I understand that the septic system needs a field or whatever.

CHAIRMAN SCALZO: Right. The septic system, that's the controlling factor from what I'm looking at with the site.

MR. KUPRYCH: Also, another comment. The O'Donnells' daughter that said she bought a house on Third Street --

CHAIRMAN SCALZO: Please, sir. I don't know how that's relevant to this.

MR. KUPRYCH: I didn't know whether it was the -- maybe they could step in and answer the question. Is it the --

MR. O'DONNELL: What relevance does that have to anything?

MR. KUPRYCH: I don't know whether she

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meant Third Street or she meant another street.

MR. O'DONNELL: Call me later and I'll let you know.

CHAIRMAN SCALZO: Okay. With regard to the offset being 24.08 feet, I do also see that that is the larger side. Obviously it's not going to meet the building envelop. Orange Lake, original development from my 1904 atlas, was all summer cottages. The building envelopes that were that size, they were that size. It's unrealistic to ask someone to build inside those envelopes these days, especially with the character of the neighborhood being what it is.

So from what I understand, your main concern here is the side yard setback?

MR. KUPRYCH: Yes.

CHAIRMAN SCALZO: Okay. I don't know -- I hear you. I understand that. All the Members of the Board also heard your comments.

MR. KUPRYCH: Okay. You saw it in the visual too that you have that I didn't see, the graphic. You can see how I am affected by that. It would help. It would help a bit.

The reason why I asked regarding the

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property is I didn't know whether she bought the property directly behind --

MR. O'DONNELL: It doesn't matter.

MR. KUPRYCH: -- the O'Donnells' house up on the hill.

CHAIRMAN SCALZO: I appreciate you asking and wanting to know, but I'm sure that's something that can be found out at another time.

MR. KUPRYCH: Okay.

CHAIRMAN SCALZO: So any other new comments from the public?

(No response.)

(Mr. Marino rejoined the meeting.)

CHAIRMAN SCALZO: It appears not. Okay. Now I'm going back to the Board. We've heard a lot of information. I'm sure there's got to be a question or two from the Board regarding this application. I'm going to look to Mr. Masten.

MR. MASTEN: There's a lot of information thrown at us. I need to decipher it all.

CHAIRMAN SCALZO: Okay. I'm going to come back to you then.

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MR. MCKELVEY: I think they've asked -- they would like to see it held over, too, to March.

MR. O'DONNELL: No, we would not. We've owned this four years and --

CHAIRMAN SCALZO: Mr. Marino, do you have any comments?

MR. MARINO: I'm ready to vote on it.

CHAIRMAN SCALZO: Mr. Hermance, do you have comments?

MR. HERMANCE: No. No comments.

CHAIRMAN SCALZO: Mr. Levin?

MR. LEVIN: What do you do for a living?

MS. O'DONNELL: We own Valley Contracting, it's an excavating company, and Valley Septic. I can tell you that we are putting in a state-of-the-art aerobic septic system that filters the water to drinking water quality.

CHAIRMAN SCALZO: It's an Eljen system?

MR. O'DONNELL: Eljen, aerobic, Norweco. And I can install it.

CHAIRMAN SCALZO: Very good.

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MS. O'DONNELL: Drainage is not an issue. It's what we do for a living. In fact, that's Mike's specialty is erosion control and drainage.

CHAIRMAN SCALZO: Mr. Bell, do you have comments on this?

MR. BELL: The question I have is that hearing when -- it was mentioned about his view. How much of that view in footage -- how much of that view is changing for him?

MR. O'DONNELL: It might be in the plan. As far as when my daughter Cindy was on, minimal is -- percentage wise, I have no idea really what the percentage would be.

MS. O'DONNELL: Like the second page here, this is the line of sight. This is Mr. Kuprych's house.

MR. BELL: His house is right here?

MS. O'DONNELL: Yes.

MR. O'DONNELL: So this would be -- this would be from Mr. Kuprych's house.

CHAIRMAN SCALZO: It's kind of tough to -- what you're doing there is -- I can't even see from here. We can't expect the public to see --

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MS. O'DONNELL: We're just showing him the map that we gave everyone, the line of sight, the second page.

CHAIRMAN SCALZO: Right. Again, that's information that's provided here. In this new format it's very difficult for anyone to comment.

MR. O'DONNELL: We did -- I mean it wasn't required to submit for the application but we thought it would be good to provide that.

CHAIRMAN SCALZO: A supplemental visual?

MS. O'DONNELL: Yes. Exactly.

MR. O'DONNELL: Exactly.

MR. BELL: Okay.

MR. O'DONNELL: But again, like I said, 0, 10 percent, 20, I don't know. It's not -- you can see from up there.

MS. O'DONNELL: Besides the fact that there's no view restrictions.

CHAIRMAN SCALZO: You've got to be careful with that. I mentioned it earlier with regard to the Town's master plan, the hamlets. There is a character of the neighborhood criteria that we're going to go through. The character of

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2 the neighborhood is exactly what most of these
3 conversations have been about. So, you know, as
4 far as your building envelop; sure, your building
5 envelop shows you can build probably right up to
6 the edge of the lake. That's not the character
7 of the neighborhood. So we wouldn't necessarily
8 have anything to say about it because if you were
9 completely within that building envelop, then you
10 wouldn't be here.

11 MS. O'DONNELL: Which we would end up
12 having to do --

13 CHAIRMAN SCALZO: I don't know --

14 MR. O'DONNELL: If I may, too. To get
15 back to Mr. Kuprych's point saying that our new
16 footprint would be before -- behind his, closer
17 to the lake. He also said that the McCarthy's is
18 also behind ours. You can see the representation
19 there is his house -- if we're looking from the
20 lake I'm saying, his house is closer to the road
21 than ours.

22 CHAIRMAN SCALZO: It appears that the
23 McCarthy house is almost the same.

24 MR. O'DONNELL: It's almost the same.
25 That little green rectangle is a cottage --

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MS. O'DONNELL: That actually blocks our view and his view.

MR. O'DONNELL: -- which is on the lake.

CHAIRMAN SCALZO: Is that a habit --

MR. O'DONNELL: It's habitable. I mean we're kind of -- I know we might be in front of his, but, you know, we're equal to our neighbor. And then Paul Howard is on the other side of them. So those are in line, those houses. Mr. Kuprych is back, closer to Snider Avenue, along with a couple others. As you go down further south, they all move forward and they are all on the lake. We're not out of the character requesting this footprint.

CHAIRMAN SCALZO: Thank you.

Any Members of the Board, anything else?

(No response.)

CHAIRMAN SCALZO: I don't have anything else. So at this point --

MR. KUPRYCH: Can I just say one final thing? It would be the only house on the west side of the lake that has a 67 foot front yard.

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No other house on the west side of the lake has a 67 foot front yard.

MR. O'DONNELL: That's because of the septic design.

MR. KUPRYCH: I mean the house is way up. It's way up. The reason why Noel McCarthy is not impacted so much on the thing is because the garage is on his side and the house is like an L, so therefore that portion of the house isn't up, which is fine. I don't have any problem with that. I mean I'm asking for 13 feet. Why don't you push the house back 13 feet. It's 24 now. Reduce the size of the house.

CHAIRMAN SCALZO: Thank you for your comments.

MR. KUPRYCH: Thank you.

CHAIRMAN SCALZO: All right. At this point I'm going to look to the Board for a motion to either close or not close the public hearing.

MR. MARINO: Darrin, can I ask a question?

CHAIRMAN SCALZO: Sure, Tony.

MR. MARINO: If we didn't close the public hearing, we are in effect waiting for next

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month, getting more information in?

CHAIRMAN SCALZO: Correct. I'll throw it back to you. What information is it that you're waiting for?

MR. MARINO: I'm not. I think what we're waiting for is to see the design of the house, if the size of it could be changed a bit.

CHAIRMAN SCALZO: My comments earlier, the only thing that -- and there are seven of us, therefore the vote -- majority vote is here. My own opinion is I wouldn't mind looking at it. I didn't walk through the snow. I didn't look at the front lines of the house. That's just me. If you gentlemen feel as though you've heard enough, then that's why I'm looking to the Board to make a motion to close the public hearing or leave it open.

MR. O'DONNELL: If I may, too. To downsize it to appease Mr. Kuprych is unacceptable to us. We can not downsize it that much. I mean you're talking how many feet? We designed this because -- you know, we designed it. We found -- excuse me. So we designed it the way we like it and really need it for us and

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our family.

CHAIRMAN SCALZO: You're going to live there.

MR. O'DONNELL: We're living there. This is our forever home now. I mean I'm 51. I'm probably going to die there. So I don't want to -- I really -- it doesn't make sense to me to downsize it.

MS. O'DONNELL: We have three daughters.

MR. O'DONNELL: We have three daughters. We're going to have grandchildren. You only heard from two. I mean it's comparable to the house we live in now. We raised our three daughters there.

MS. O'DONNELL: It's comparable to other homes on the lake with smaller lots.

CHAIRMAN SCALZO: Thank you. Now let me get back to my business here with my Board. We're still looking for -- Mr. Bell, you had a comment?

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

CHAIRMAN SCALZO: We have a motion to

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close the public hearing from Mr. Bell.

MR. MARINO: I'll second it.

CHAIRMAN SCALZO: We have a second from Mr. Marino. Roll call.

MS. JABLESNIK: Mr. Bell?

MR. BELL: Yes.

MS. JABLESNIK: Mr. Hermance?

MR. HERMANCE: Yes.

MS. JABLESNIK: Mr. Levin?

MR. LEVIN: Yes.

MS. JABLESNIK: Mr. Marino?

MR. MARINO: Yes.

MS. JABLESNIK: Mr. Masten?

MR. MASTEN: Yes.

MS. JABLESNIK: Mr. McKelvey?

MR. MCKELVEY: Yes.

MS. JABLESNIK: Mr. Scalzo?

CHAIRMAN SCALZO: No, only because I wanted to get out there and look. However, the public hearing is closed. Correct?

MR. DONOVAN: That is correct. You don't get a super vote.

CHAIRMAN SCALZO: No, it's not a super vote.

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Okay. At this point you guys can sit down.

We're going to go through the variance criteria. This is a Type 2 action under SEQRA. Counselor, that is correct?

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

CHAIRMAN SCALZO: Thank you very much.

O'Donnells, you don't have to go back to the microphone. Before we go through any of this criteria, is it your position that you are not willing to make any changes to the plans and the application as we see them today? Would you shove it forward as much as you can to get any closer to the road?

MR. O'DONNELL: Absolutely. Up to the inch. We'll put it as close as we can. There are setbacks, as you know, for the septic.

CHAIRMAN SCALZO: I am fully aware of those.

MR. O'DONNELL: We'll push it as far as we can. Even in the design, I expressed that to the engineer/architect that that's where we wanted it, to keep it up away as far as we can.

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CHAIRMAN SCALZO: All right. If we were to condition any action this evening on a certification from your engineer that how far forward you could push it as it's laid out right here at 61.49 feet, if there is any wiggle room --

MR. O'DONNELL: Absolutely.

CHAIRMAN SCALZO: -- to get it closer to Snider Avenue, --

MS. O'DONNELL: Absolutely.

CHAIRMAN SCALZO: -- you would be willing to accept that as a condition?

MR. O'DONNELL: Yes.

MS. O'DONNELL: Absolutely, yes.

CHAIRMAN SCALZO: All right. I guess we're going to go through the criteria.

In this case; Siobhan, we are done with the public hearing portion. Is there a way to mute them all or no?

MS. JABLESNIK: They're all muted.

CHAIRMAN SCALZO: Very good. Okay.

Mr. Levin, you had a comment?

MR. LEVIN: Would we have to reopen the meeting?

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CHAIRMAN SCALZO: No. When we get to that last portion of the criteria, we can grant the minimum variance necessary. We don't necessarily have to give them what they're asking for. We can give them what we see as appropriate.

MR. LEVIN: Okay.

CHAIRMAN SCALZO: As I said, this is a Type 2 action under SEQRA. We're discussing the five factors, the first one being whether or not the benefit can be achieved by other means feasible to the applicant.

Mr. Bell, do you feel that way?

MR. BELL: Repeat that again. I'm sorry.

CHAIRMAN SCALZO: Whether or not the benefit can be achieved by other means feasible to the applicant. I'm going to poll every Member on these.

MR. BELL: No. I'm in agreement with if he can -- if they can, you know, push back a few inches, you know, as they see fit, I'm good.

CHAIRMAN SCALZO: Mr. Levin, --

MR. LEVIN: I feel the same way.

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CHAIRMAN SCALZO: -- do you feel as though the benefit can be achieved by other means feasible to the applicant?

MR. LEVIN: They have to -- they can't show us because we're not going to be here at the next meeting -- they won't be here. If you push it back, I'm in agreement to it.

CHAIRMAN SCALZO: Very good. Mr. Hermance, the same question?

MR. HERMANCE: Yes.

CHAIRMAN SCALZO: Mr. Marino?

MR. MARINO: If they are willing to make the adjustments that they're able to make, I'm fine with that. I'm okay with it.

CHAIRMAN SCALZO: Mr. McKelvey?

MR. MCKELVEY: I agree.

CHAIRMAN SCALZO: Mr. Masten?

MR. MASTEN: I agree, too.

CHAIRMAN SCALZO: Very good. The second question, if there is an undesirable change in the neighborhood character or a detriment to nearby properties.

I'm going to go to you this time, Mr. Masten.

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MR. MASTEN: No. There would be no change.

CHAIRMAN SCALZO: Mr. McKelvey, what do you think?

MR. MCKELVEY: No change.

CHAIRMAN SCALZO: Mr. Marino?

MR. MARINO: No change. Improvement.

CHAIRMAN SCALZO: Mr. Hermance, what do you think?

MR. HERMANCE: I think it would be an improvement. No change.

CHAIRMAN SCALZO: Mr. Levin?

MR. LEVIN: Improvement to the neighborhood.

CHAIRMAN SCALZO: Mr. Bell?

MR. BELL: It would be an improvement.

CHAIRMAN SCALZO: All right. I'm going to do this like my fantasy draft. I'm coming back the other way. Third it is whether the request is substantial. Mr. Bell?

MR. BELL: No. For them yes, but not --

CHAIRMAN SCALZO: The 100 foot road frontage, it's actually one of the -- probably

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one of the larger road frontages on Snider.

Mr. Levin?

MR. LEVIN: I don't think it is.

CHAIRMAN SCALZO: Is it substantial?

MR. LEVIN: No, I don't think so.

CHAIRMAN SCALZO: Mr. Hermance?

MR. HERMANCE: No.

CHAIRMAN SCALZO: Mr. Marino?

MR. MARINO: No.

CHAIRMAN SCALZO: Mr. McKelvey?

MR. MCKELVEY: No.

CHAIRMAN SCALZO: Mr. Masten?

MR. MASTEN: No.

CHAIRMAN SCALZO: The fourth, whether the request will have adverse physical or environmental effects. It appears with the engineer's swale diversion of the drainage, that is certainly one factor of the environment that will be mitigated.

So I'm going to go back to Mr. Masten. Do you have any comments on that?

MR. MASTEN: No, I don't.

CHAIRMAN SCALZO: Mr. McKelvey?

MR. MCKELVEY: No.

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CHAIRMAN SCALZO: Mr. Marino?

MR. MARINO: No.

CHAIRMAN SCALZO: Mr. Hermance?

MR. HERMANCE: No.

CHAIRMAN SCALZO: Mr. Levin?

MR. LEVIN: No.

CHAIRMAN SCALZO: Mr. Bell?

MR. BELL: No.

CHAIRMAN SCALZO: And the fifth,
whether the alleged difficulty is self-created
which is relevant but not determinative.
Obviously we know it's self-created. However,
Orange Lake lots are very restrictive. That's
just my comment.

I'm going to go back to Mr. Bell. Mr.
Bell, difficulty self-created, relevant but not
determinative, any final comments on that?

MR. BELL: No.

CHAIRMAN SCALZO: Mr. Levin?

MR. LEVIN: No.

CHAIRMAN SCALZO: Mr. Hermance?

MR. HERMANCE: No.

CHAIRMAN SCALZO: Mr. Marino?

MR. MARINO: No.

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CHAIRMAN SCALZO: Mr. McKelvey?

MR. MCKELVEY: No.

CHAIRMAN SCALZO: Mr. Masten?

MR. MASTEN: No.

CHAIRMAN SCALZO: Very good. If the Board approves, it shall grant the minimum variance necessary and may impose reasonable conditions.

Having gone through the balancing test of the area variance, what is the pleasure of the Board? Does the Board have a motion of some sort, keeping in mind that we shall grant the minimum variance necessary if we're granting anything. We have that option.

MR. MARINO: I would make a motion that we grant the variance with the willingness of the O'Donnells to make the adjustments that are possible.

CHAIRMAN SCALZO: To push the house closer to Snider?

MR. MARINO: Whatever would make everyone happy.

CHAIRMAN SCALZO: Well I don't know if that's going to happen.

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MR. MARINO: Bad choice of words. Just so that everybody is satisfied with the end result.

MR. DONOVAN: That may not be possible either. My suggestion -- the Chairman indicated earlier an engineer's certification that the house is moved as far as possible away from the lake, towards Snider Avenue to accommodate the separation distances required for the sanitary disposal system. Is that accurate, Mr. Chairman?

CHAIRMAN SCALZO: Very accurate.

MR. MARINO: That's what I was trying to say.

MR. DONOVAN: Is that the condition to your motion?

MR. MARINO: Yes.

CHAIRMAN SCALZO: Very good. So we have a motion from Mr. Marino.

MR. BELL: I'll second it.

CHAIRMAN SCALZO: We have a second from Mr. Bell. Roll call on that.

MS. JABLESNIK: Mr. Bell?

MR. BELL: Yes.

MS. JABLESNIK: Mr. Hermance?

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MR. HERMANCE: Yes.

MS. JABLESNIK: Mr. Levin?

MR. LEVIN: Yes.

MS. JABLESNIK: Mr. Marino?

MR. MARINO: Yes.

MS. JABLESNIK: Mr. Masten?

MR. MASTEN: Yes.

MS. JABLESNIK: Mr. McKelvey?

MR. MCKELVEY: Yes.

MS. JABLESNIK: Mr. Scalzo?

CHAIRMAN SCALZO: No. Although the motion is carried.

MR. O'DONNELL: Thank you. So when we make the changes do we submit to --

CHAIRMAN SCALZO: The meeting minutes will be reviewed by the Building Department. They'll see what it is that we're requiring of you. The Building Department at that point will accept your engineer's certification.

MR. O'DONNELL: Thank you very much.

MS. O'DONNELL: Thank you.

(Time noted: 9:12 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 March 2021.

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

ROBERT DORRMAN

Weaver Road, Newburgh
Section 11; Block 1; Lot 93
AR Zone

----- X

Date: February 25, 2021
Time: 9:13 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: DARRELL BELL
RICHARD LEVIN
JOHN MASTEN
ANTHONY MARINO
JOHN McKELVEY

ALSO PRESENT: DAVID DONOVAN, ESQ.
SIOBHAN JABLESNIK

APPLICANT'S REPRESENTATIVE: CHARLES BROWN

----- X

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

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CHAIRMAN SCALZO: Before we get started, this application borders the New York State Thruway Authority, therefore Mr. Hermance and myself need to recuse ourselves from this application.

Counselor, if you could take over.

MR. DONOVAN: Good evening, Mr. Brown. I have now taken over for Chairman Scalzo.

Siobhan, could you give us the mailings for this application?

MS. JABLESNIK: This applicant sent out 25 letters. They were also mailed to the County and we haven't received that back.

MR. DONOVAN: Charlie, you know we can't take action because we haven't heard from the County.

MR. BROWN: Understood. This is a two-lot subdivision that's currently before the Planning Board. We're proposing a house on the larger lot. The house location is wetlands all the way around it. Where we did the soil testing, where the septic design is, we can't move the house.

There's currently three wooden

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structures on the property. One is a privy, one is a barn and the other is a shed. Because of the layout and the way the road is, they're all in front of the residence, which is the variance that we're asking for.

The lot is very large, roughly 25 acres. Again, he's bordering on the Thruway. The property above it on the map is vacant, so there will be no impact to the neighbors, the neighborhood or the environment. Again, they're all existing so it's not self-created.

MR. DONOVAN: So Charlie, do I have it correct that the variance is necessitated by the subdivision and so --

MR. BROWN: No. By the location of the house that's shown for the subdivision.

MR. DONOVAN: The new house or the old house?

MR. BROWN: The new house. The proposed house.

MR. DONOVAN: Thank you. So I will turn to Members of the Board. I'll start with Mr. Bell. Any comments?

MR. BELL: None.

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MR. DONOVAN: Mr. Levin?

MR. LEVIN: I haven't heard enough
about the whole thing.

MR. DONOVAN: Say it again.

MR. LEVIN: I wanted to hear more about
what you're actually doing.

MR. BROWN: That's the next one.

MS. JABLESNIK: That's the last
application that you're on. This is for the next
application.

MR. LEVIN: I apologize.

MS. JABLESNIK: That's all right.

MR. LEVIN: I'm sorry.

MR. DONOVAN: Mr. Levin, I'll come back
to you.

Mr. Marino?

MR. MARINO: No.

MR. DONOVAN: Mr. McKelvey?

MR. MCKELVEY: No.

MR. MASTEN: No.

MR. DONOVAN: Siobhan, while Mr. Levin
catches up, because we have a busy agenda --

MR. LEVIN: I'm okay.

MR. DONOVAN: Are you okay? Any

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ROBERT DORRMAN

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questions?

MR. LEVIN: No.

MR. DONOVAN: Siobhan, any members of the public?

MS. JABLESNIK: If any members of the public want to speak about the application, you can unmute yourself.

(No response.)

MS. JABLESNIK: No.

MR. DONOVAN: All right. So unfortunately, because we haven't heard back from the Orange County Department of Planning and their thirty-day period hasn't passed, the Board can't close the public hearing or take any action tonight.

I just need a motion to continue the public hearing to the March meeting.

MR. MCKELVEY: I'll make that motion.

MR. MASTEN: I'll second it.

MR. DONOVAN: Roll call, Siobhan.

MS. JABLESNIK: Mr. Bell?

MR. BELL: Yes.

MR. JABLESNIK: Mr. Levin?

MR. LEVIN: Yes.

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MS. JABLESNIK: Mr. Marino?

MR. MARINO: Yes.

MS. JABLESNIK: Mr. Masten?

MR. MASTEN: Yes.

MS. JABLESNIK: Mr. McKelvey?

MR. MCKELVEY: Yes.

MR. BROWN: This is also off the State highway.

MR. DONOVAN: It went to the Thruway Authority. That's why they're recused.

MR. BROWN: He had to recuse himself for Middler that was on 300.

MR. DONOVAN: Only if it's the New York State Thruway. They're required by their employer to do that. That's where they work.

(Time noted: 9:20 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 March 2021.



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

JOSE LEMA

61 South Plank Road, Newburgh
Section 71; Block 5; Lot 5
R-3 Zone

----- X

Date: February 25, 2021
Time: 9:20 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: DARRIN SCALZO, Chairman
DARRELL BELL
GREGORY M. HERMANCE
RICHARD LEVIN
JOHN MASTEN
ANTHONY MARINO
JOHN MCKELVEY

ALSO PRESENT: DAVID DONOVAN, ESQ.
SIOBHAN JABLESNIK

APPLICANT'S REPRESENTATIVE: CHARLES BROWN

----- X

MICHELLE L. CONERO
3 Francis Street
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JOSE LEMA

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CHAIRMAN SCALZO: Our next applicant this evening is Jose Lema. That's you as well, Charlie?

MR. BROWN: Yes.

CHAIRMAN SCALZO: Very good. 61 South Plank Road, Newburgh, seeking area variances of maximum lot building coverage, maximum lot surface coverage and maximum allowed square footage of accessory structures to keep a 35 by 16 accessory building and paved courts. I don't know if I've read the word maximum in one description so many times.

Siobhan, mailings?

MS. JABLESNIK: This applicant sent out 53 letters. They also went to the County and we have not received.

CHAIRMAN SCALZO: Okay, then. Obviously, Charlie, you've been informed GML-239 has not been received from the County yet. We encourage you to present and --

MR. BROWN: This is on New York State Route 52. The applicant is combining two lots which has kicked us into that request for a variance because they're modifying the lots --

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JOSE LEMA

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combining the lots. It's a modification.

All the lots in this neighborhood are undersized. The amount of impervious is pretty consistent throughout the neighborhood.

When we combine the lots we're going to conform to the area and width required by zoning for the zone, which they don't now.

The items are all for preexisting items.

CHAIRMAN SCALZO: Charlie, let me ask you a question.

MR. DONOVAN: Do we need the microphone for Charlie?

MR. LEVIN: Charlie, I can't hear you.

MR. DONOVAN: Sorry, Charlie, to make you walk over there.

MS. JABLESNIK: You can take the microphone with you.

MR. BROWN: I'm over here now.

CHAIRMAN SCALZO: So with this in front of me, that big dark line in the middle that says property line to be removed, --

MR. BROWN: Correct.

CHAIRMAN SCALZO: -- is your intent to

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JOSE LEMA

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file this with the County as a consolidation?

MR. BROWN: Yes.

CHAIRMAN SCALZO: Okay. That helps me understand this a lot better, because without that -- I was talking to one of the guys in Code Compliance and they said no, sometimes it doesn't necessarily need to be filed with the County as a consolidation. There would be a whole slew of other variances required if that was the case.

MR. DONOVAN: Correct. I guess you could go to the assessor and combine the lots and they would notify the County. Filing the map probably makes your life easier.

CHAIRMAN SCALZO: Okay. That certainly helps me.

There are some dimensions that are very difficult to meet here. They're carrying those dimensions out to the -- let's see -- ten thousandths of a foot.

MR. BROWN: That was the surveyor.

CHAIRMAN SCALZO: That's something.

MR. BROWN: I would like to also mention that the actual property line is 25 feet from the edge of pavement of Route 52. So, you

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JOSE LEMA

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know, it looks closer on the map than it actually is to the road itself.

CHAIRMAN SCALZO: Okay. We do have some correspondence on this. I don't know if you got a look at that.

MR. BROWN: No, I didn't.

CHAIRMAN SCALZO: Let's see. It is a concerned resident. They did not sign it as a -- we don't know exactly who it is. They're writing regarding the application for area variances, maximum lot building coverage for the variances that are being -- the particular person is opposed to the application for the following reasons. The activity on the paved courts includes parties virtually every weekend during warm weather months in which the parties are packed with cars and people. This is a disturbance to the neighborhood. I don't believe we can act on that in our capacity here on the ZBA.

Lights for the paved courts around the perimeter of this property are approximately on 20 foot poles and the light pollutes surrounding property at nighttime and is a nuisance. That's

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a quality of life issue. That's a character of the neighborhood issue. I don't know how much light emits from the gas station at the corner towards that, but, you know, perhaps that's something your client -- if there's an adjustment that could be made.

MR. BROWN: I'm sure we can shield them so that the light doesn't spill over the property line. We do that on commercial jobs all the time.

CHAIRMAN SCALZO: Noise from activity on courts. Loud music and parties causes loud noise, activity on the paved court. I'm sure your client is following all code when it comes to noise ordinances. So again, this is not something the ZBA can act on but it's just a concern that someone is presenting to us.

The activity on paved courts and use of the property for weekly parties results in trespassing on neighborhood properties. That's just not being a good neighbor. Hopefully your client is hearing this and they can certainly be mindful of the neighborhood.

Let's see. Do we have another one?

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Yes, we do. The Yakmans, 61 South Plank Road. Very happy -- when they moved in they were very happy to see kids playing outside and adults also playing volleyball, getting exercising and having fun. Although this is still occurring, many things have been added in the equation, causing distress and loss of quality of life for the neighbors. This other person who actually did sign it, which is online, you'll be able to read the same letter I'm reading. Many tall light poles have been added that are left on until late into the night, shining into bedrooms. Really perhaps there is maybe some mitigating factors.

Charlie, this has nothing to do with our -- this isn't why you're here. I'm just letting you know so perhaps -- as a show of goodwill, perhaps your client may want to consider some of these.

Some of those poles are attached to our fences in the backyard, causing the fences to move and potentially fail in the future. Poles have been put on our property with no permission asked. While we understand why they put the poles up, to put up netting to combat volleyballs

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going over the fence, they should not be on our property unless requested, and should not be touching the fence.

If your client is creating any encroachments, I would recommend they remove them, unless their property survey indicates that they are not. In that case, they wouldn't have to do anything.

MR. BROWN: If the netting is considered a fence, it can't be over 6 feet unless it's off the property line.

CHAIRMAN SCALZO: Say that again.

MR. BROWN: If the netting is considered a fence, it can't be right on the property line. I guess it's either 6 or 8 feet max.

CHAIRMAN SCALZO: Right. So what you're saying is the netting needs to be inside your client's lot.

MR. BROWN: Correct.

CHAIRMAN SCALZO: The way this letter is reading, it appears as though it's not.

MR. BROWN: I'll verify that.

CHAIRMAN SCALZO: Okay. Snow is plowed

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up against the fence at 16 Brookside causing the fence to move, which they attached photos of. It appears a sound system has been installed. No one has any problem with parties at times but music and large gatherings happen almost every weekend, as soon as the weather gets warmer, lasts for many months past Labor Day. While no one wants to see anyone have to take the pavilion down or not have fun and exercise, we do think the lights and music issues could be addressed.

So you get through all that stuff, and really what it comes down to is they don't want lights shining in their houses. Perhaps the music can be turned down within -- to meet code for noise ordinances.

MR. BROWN: Correct.

CHAIRMAN SCALZO: So moving on from there. We're going back to the maximum lot building coverage. So even with the lots being combined, we're still over.

MR. BROWN: Yeah. Each lot is over. It's a percentage of the lot. So if each lot is over, you combine them, it's still over.

CHAIRMAN SCALZO: All right. Makes

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perfect sense.

Maximum lot surface coverage. The lot surface coverage does include the paved courts; --

MR. BROWN: Yes.

CHAIRMAN SCALZO: -- correct?

MR. BROWN: Yes.

CHAIRMAN SCALZO: All right. And the maximum lot square footage of accessory structures.

Siobhan, this was one of those interesting ones where -- was there a building permit applied for, not approved, but yet they went ahead and did it?

MS. JABLESNIK: So I've been told.

MR. BROWN: That's for the --

CHAIRMAN SCALZO: We're asking for forgiveness and not for permission, and not the way normal people do. You actually knew the process and disregarded the process. That's what I'm getting out of this.

MR. BROWN: I guess that would apply to this covered open porch with a concrete patio and a framed building. That's the only thing that

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JOSE LEMA

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was added. Everything else was existing. So the answer to your question, yes.

CHAIRMAN SCALZO: Okay. Well now that that's out of the bag, I'm going to look to the Members of the Board here, and then we'll open it up to the public.

Mr. Masten, do you have any comments on this?

MR. MASTEN: No. Just what some of the neighbors are saying. Like you say, a lot of it has to be pertaining to the Planning Board.

CHAIRMAN SCALZO: I don't believe this is going to end up in front of the Planning Board.

MR. MASTEN: Like the lights and stuff, they could be relocated.

CHAIRMAN SCALZO: This is not a site plan, Mr. Masten. This is not going to be -- I believe we're the end of the line here.

MR. DONOVAN: Actually the Building Department --

CHAIRMAN SCALZO: Yeah. As far as --

MR. MASTEN: That's what I was getting at.

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CHAIRMAN SCALZO: Okay. That's all you've got there, Mr. Masten?

MR. MASTEN: No.

CHAIRMAN SCALZO: What do you got?

MR. MASTEN: No I said.

CHAIRMAN SCALZO: Okay. Mr. McKelvey?

MR. MCKELVEY: They can bring the lighting back off the -- without shining in on people's houses.

MR. BROWN: They have a shield you can put on as well to block --

MR. MCKELVEY: They should do that.

CHAIRMAN SCALZO: Again, I was just reading the correspondence from -- is that within our --

MR. DONOVAN: So I mean you get to will it have an adverse impact on the character of the neighborhood. It's not necessarily a code issue but there is a character of the neighborhood issue.

CHAIRMAN SCALZO: Okay. So that's the approach we're taking. All right. Very good.

Mr. Marino?

MR. MARINO: I think the Town now has

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JOSE LEMA

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an ordinance where by a certain time of the night parties or music has to sort of come to an end. It was like 10:00 in the evening.

CHAIRMAN SCALZO: It could be. When I was an younger man 10:00 didn't bother me. Now that I'm an old guy, you know, 8:30 bothers me.

MR. MARINO: My question is is this just family and friends getting together for someone's birthday or a party of some type or is this kind of a commercial activity coming into the neighborhood where they're going to have leagues and games every weekend?

MR. BROWN: I wasn't aware of the question, so I don't have the answer to that.

MR. MARINO: Is it just family and friends just getting together and playing volleyball or other activities like that or is this going to be a league where they'll have games every weekend against each other, a lot of noise and traffic?

MR. McKELVEY: Even during the week.

MR. BROWN: We have to hold this public hearing open anyway.

CHAIRMAN SCALZO: That's correct.

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JOSE LEMA

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MR. BROWN: I can have the answer for you.

CHAIRMAN SCALZO: Very good. Very good.

MR. MARINO: That's fine.

CHAIRMAN SCALZO: That's a great question, Tony.

Mr. Hermance?

MR. HERMANCE: So this pavilion was originally rejected and it was built anyway. Is that what they are saying?

MR. BROWN: I'm assuming there was never a permit applied for, they just built it, probably not knowing that you need a permit for something like this. Again, at next month's public hearing I'll have an answer on that.

MR. HERMANCE: Okay. Nothing further.

CHAIRMAN SCALZO: Mr. Levin?

MR. LEVIN: I'm okay.

CHAIRMAN SCALZO: Mr. Bell?

MR. BELL: He asked my same question. I was wondering if it was built without the permit, which it was. Okay.

CHAIRMAN SCALZO: Very good. Are there

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JOSE LEMA

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any members of the public that want to speak about this application at 61 South Plank Road in Newburgh?

(No response.)

CHAIRMAN SCALZO: It does not appear so.

I'll look to the Board for any other questions. Keep in mind we need to keep the public hearing open on this, so we'll have another opportunity to speak about it.

At this point I'll look to the Board for a motion to keep the public hearing open.

MR. MCKELVEY: I'll make that motion.

MR. MASTEN: Second.

CHAIRMAN SCALZO: We have a motion from Mr. McKelvey. I thought I heard Mr. Masten second it. All in favor?

MR. BELL: Aye.

MR. HERMANCE: Aye.

MR. LEVIN: Aye.

MR. MARINO: Aye.

MR. MASTEN: Aye.

MR. MCKELVEY: Aye.

CHAIRMAN SCALZO: Aye.

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Opposed?

(No response.)

CHAIRMAN SCALZO: Nothing.

MR. BROWN: See you next month.

(Time noted: 9:35 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 March 2021.

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

JOHN MATARAZA

1460 Route 300, Newburgh
Section 63; Block 1; Lot 27
B Zone

----- X

Date: February 25, 2021
Time: 9:35 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: DARRIN SCALZO, Chairman
DARRELL BELL
GREGORY M. HERMANCE
RICHARD LEVIN
JOHN MASTEN
ANTHONY MARINO
JOHN McKELVEY

ALSO PRESENT: DAVID DONOVAN, ESQ.
SIOBHAN JABLESNIK

APPLICANT'S REPRESENTATIVE: JOHN MATARAZA

----- X

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

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JOHN MATARAZA

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CHAIRMAN SCALZO: All right. Our final applicant this evening is John Mataraza.

Mr. Mataraza, you got to sit through the exciting evening.

MR. MATARAZA: It was wonderful.

CHAIRMAN SCALZO: I almost think we should handle holdover business first sometimes.

MR. MATARAZA: I was thinking of that.

MR. MARINO: Not a bad idea.

CHAIRMAN SCALZO: A lot of the things could have been in and out.

Mr. Mararaza, we only held you open last month because of the GML-239, because we had not heard back from the County. I don't know if we've heard back from the County.

MS. JABLESNIK: Yes.

CHAIRMAN SCALZO: We have, and it is most likely a Local determination, which we would have assumed anyway.

I thought you presented yourself very well last month. We had asked any questions that we had. You had support from your neighbors for your front porch. I had no other comments.

Does anyone need to hear Mr. Mataraza

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 speak about his application again or do we all
remember it? Mr. Bell was not here but Mr. Bell
did take a spin by and look at the lovely place
there on 300. He has read our meeting minutes
from last month, so he's aware of what we've
discussed.

 At this point I'll look to the Board --
do any members of the public wish to speak about
this application?

 (No response.)

 CHAIRMAN SCALZO: No. So I'll look to
the Board for a motion to close the public
hearing.

 MR. HERMANCE: I'll make a motion to
close.

 MR. LEVIN: I'll second it.

 CHAIRMAN SCALZO: We have a motion from
Mr. Hermance. We have a second from Mr. Levin.
All in favor?

 MR. BELL: Aye.

 MR. HERMANCE: Aye.

 MR. LEVIN: Aye.

 MR. MARINO: Aye.

 MR. MASTEN: Aye.

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MR. MCKELVEY: Aye.

CHAIRMAN SCALZO: Aye.

Opposed?

(No response.)

CHAIRMAN SCALZO: No. Therefore we are going to go through -- it's a Type 2 action under SEQRA. We're going to go through the five factors, the first one being whether or not the benefit can be achieved by other means feasible to the applicant. He could not do it but then he wouldn't be able to sit on his front porch and enjoy the beauty of Route 300. It will actually -- it's going to make the front of the house look very nice.

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

The third, whether the request is substantial. I know it's not. Route 300, any barrier you can get from that is great, although the stonewall is lovely too.

The fourth, whether the request will

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have adverse physical or environmental effects.
No.

And the fifth, whether the alleged difficulty is self-created, relevant but not determinative. Of course it's self-created, but the other factors sort of outweigh that.

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

MR. McKELVEY: I'll make a motion we approve.

MR. MARINO: Second.

CHAIRMAN SCALZO: We have a motion for approval from Mr. McKelvey. We have a second from Mr. Marino. Roll call.

MS. JABLESNIK: Mr. Bell?

MR. BELL: Yes.

MS. JABLESNIK: Mr. Hermance?

MR. HERMANCE: Yes.

MS. JABLESNIK: Mr. Levin?

MR. LEVIN: Yes.

MS. JABLESNIK: Mr. Marino?

MR. MARINO: Before I vote I just have to say I feel sorry for Mr. Matarazo. He sat through two meetings.

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MR. MATARAZA: It was quite enlightening.

MR. DONOVAN: His presentation this evening was impeccable.

MR. MATARAZA: I'll tell you this. As people who serve on boards of education, they don't get paid. I hope you guys get paid.

CHAIRMAN SCALZO: A dollar is a dollar.

MR. MARINO: I'm voting yes.

CHAIRMAN SCALZO: It's part of my retirement.

MS. JABLESNIK: Mr. Masten?

MR. MASTEN: Yes.

MS. JABLESNIK: Mr. McKelvey?

MR. MCKELVEY: Yes.

MS. JABLESNIK: Mr. Scalzo?

CHAIRMAN SCALZO: Yes. The motion is carried. The variances are approved.

Good luck, sir. We've had snow so it's not like you were ready to go.

MR. MATARAZA: I was nodding off.

CHAIRMAN SCALZO: Very good. There is no other Board business. Our other SNK Petroleum Wholesalers has asked for a deferment.

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If there's no other Board Business, I look for a motion to adjourn.

MR. MARINO: Can I just offer my apology for my cellphone going off. My wife is partially handicap. When she calls me, if I'm out I've got to get the phone to make sure she's okay.

CHAIRMAN SCALZO: No problem, Tony. Milk and bread on the way home.

MR. MARINO: Thank you. Yes.

CHAIRMAN SCALZO: All in favor of adjournment?

MR. BELL: Aye.

MR. HERMANCE: Aye.

MR. LEVIN: Aye.

MR. MARINO: Aye.

MR. MASTEN: Aye.

MR. McKELVEY: Aye.

CHAIRMAN SCALZO: Aye.

(Time noted: 9:40 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 March 2021.

Michelle Conero

MICHELLE CONERO