

1
2 STATE OF NEW YORK : COUNTY OF ORANGE
TOWN OF NEWBURGH ZONING BOARD OF APPEALS

3 -----X
In the Matter of:

4 JEAN LUBERA and FRANK TIRABOSCO

5 71 Williams Avenue, Newburgh
6 101-5-6
7 R2 Zone
-----X

8 INITIAL APPEARANCE

9
10 Date: March 25, 2021
Time: 7:00 p.m.

11 Place: Town of Newburgh
12 Town Hall
13 1496 Route 300
Newburgh, New York 12550

14 BOARD MEMBERS: DARRIN SCALZO, Chair
15 JOHN H. MCKELVEY, Vice Chair
16 DARRELL W. BELL (via Zoom)
17 JOHN D. MASTEN
RICHARD D. LEVIN
ANTHONY MARINO
GREG HERMANCE, SR.

18 ALSO PRESENT: DAVID A. DONOVAN, ESQ., Board Counsel
19 SIOBHAN JABLESNIK, Board Secretary

20 APPLICANT: JEAN LUBERA and FRANK TIRABOSCO

21
22 Reported by: Kari L. Reed

23 MICHELLE L. CONERO
24 3 Francis Street
Newburgh, New York 12550
25 (845) 541-4163

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Proceedings

CHAIR SCALZO: I'd like to call the meeting of the Zoning Board of Appeals to order. The order of business this evening are the public hearings. 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 they may have, and then any questions or comments from the public will be entertained. We are running a hybrid meeting. The applicants and representation are here with us in person. The public has the opportunity to comment from the Zoom platform. The Board will consider the applications in the order heard and try to render a decision this evening, but may take up to 62 days to reach a determination.

I would ask that if you have a cell phone to please turn it off or put it on silent. And when speaking, speak directly into the microphone. This is being recorded. People wearing masks, it makes it exceptionally difficult to hear them. So not everyone talks as loud as me, but I'm going to ask you to.

Roll call, please.

1 Proceedings

2 MS. JABLESNIK: Darrell Bell is
3 participating via Zoom.

4 Greg Hermance?

5 MR. HERMANCE: Here.

6 MS. JABLESNIK: Richard Levin?

7 MR. LEVIN: Present.

8 MS. JABLESNIK: Anthony Marino?

9 MR. MARINO: Here.

10 MS. JABLESNIK: John Masten?

11 MR. MASTEN: Here.

12 MS. JABLESNIK: John McKelvey?

13 MR. MCKELVEY: Here.

14 MS. JABLESNIK: Darrin Scalzo?

15 CHAIR SCALZO: Here.

16 MS. JABLESNIK: Also present is David
17 Donovan, our attorney, and our stenographer this
18 evening is Kari Reed.

19 CHAIR SCALZO: welcome, good evening.

20 Okay. If you could all please rise for
21 the Pledge, Mr. Marino, you're closest, you can
22 lead us, please.

23 (Pledge of Allegiance.)

24 CHAIR SCALZO: Okay, our first
25 applicant this evening is Jean Lubera and Frank

1 Proceedings

2 Tirabosco, 71 Williams Avenue in Newburgh,
3 seeking area variances of lot depth and rear yard
4 setback to build a new two story single family
5 residence.

6 MS. JABLESNIK: This applicant sent out
7 50 notices.

8 CHAIR SCALZO: Five zero?

9 MS. JABLESNIK: Five zero.

10 CHAIR SCALZO: Thank you very much.
11 That's a lot of mailings. Very good. So we --

12 MR. MCKELVEY: Do you mean to pull that
13 mic down?

14 CHAIR SCALZO: Yeah, when we get there.
15 The members of the Zoning Board of Appeals are
16 obligated by position to go and visit every site.
17 So we have all seen it. I saw it once earlier in
18 the week and then I saw it again today, and boy
19 it looks a lot different without the trees,
20 that's for sure.

21 MR. TIRABOSCO: Yeah.

22 CHAIR SCALZO: So, as I say, you're
23 seeking area variances for lot depth and a rear
24 yard setback to build a two story single family
25 residence. We have your application, we have

1 Proceedings

2 your survey, and we have your proposed plans. Is
3 there anything that you would like to add to
4 that?

5 MS. LUBERA: We -- no. I mean, we
6 lived on Williams Avenue for seven years, we
7 actually just built our house on Williams Avenue
8 to stay on the block and built this house because
9 it's just a wonderful neighborhood. It's, the
10 block, the lot is about the same size as all the
11 other islands, and as you go around, around the
12 circle they're all the same lot depth, 100 feet.
13 So we just saw an opportunity to have a little
14 bit of a larger home than what we had, we had a
15 small house on the block.

16 CHAIR SCALZO: Very good. As I say, we
17 have all cruised around the neighborhood, and I
18 can concur. The inside island, it's not a lot of
19 depth but it's awful lot of width.

20 Looking at, we did receive some
21 correspondence today on this, Siobhan, I'm sorry
22 if I might have misplaced it.

23 MS. JABLESNIK: I believe it was right
24 here.

25 CHAIR SCALZO: We had it from one

1 Proceedings

2 neighbor, which actually we'll get to that when
3 we get to the public hearing portion, opening it
4 to the public. But you can hand that to me now
5 if you'd like. Thank you, very good.

6 One of the things that I had happened
7 to notice when I was out there is you are
8 looking -- you're meeting your front yard setback
9 but you're severely encroaching on your rear yard
10 setback, right. The homes that are, the brick
11 house to the right and then the other homes
12 further away, they appear to be closer to the
13 road than the 50 foot setback. Have you
14 investigated that at all? I know I live in my
15 back yard. And you're really reducing your back
16 yard by doing that.

17 MS. LUBERA: well, we, I mean, we're
18 open to doing the front yard, yes.

19 CHAIR SCALZO: Sure. Your application
20 says that you're going to hold the front and
21 you're looking for relief on the back, all right,
22 so that's an option.

23 MS. LUBERA: It was only because we
24 thought there were going to be other houses. We
25 thought they were all 40 feet from the front, so

1 Proceedings

2 that was -- we were trying to keep with what was
3 already in the neighborhood.

4 CHAIR SCALZO: Okay. That's, I'm
5 actually going to open this up to any members of
6 the Board here. I'll start with Mr. Marino.
7 Mr. Marino, do you have any comments on this
8 application?

9 MR. MARINO: I would just ask if you
10 give us the dimensions of the actual lot if you
11 were granted the variance, what would it be,
12 front and rear.

13 CHAIR SCALZO: Mr. Marino, from the
14 plans that we have in front of us the lot is 185
15 feet wide and it is 100 feet deep.

16 MR. MARINO: Thank you.

17 CHAIR SCALZO: Thank you. The
18 architecturals are very nice. There is one house
19 down at the end, it's not the loop, it's a
20 cul-de-sac there, but that would probably be the
21 most similar to what you're looking to do.
22 Although the two story, there are no other two
23 stories directly next to you.

24 MS. LUBERA: To the right there is.
25 There's a --

1 Proceedings

2 CHAIR SCALZO: The brick house is a two
3 story?

4 MR. TIRABOSCO: No.

5 MS. LUBERA: No. The other side is a
6 bi-level ranch.

7 CHAIR SCALZO: Oh, okay.

8 MS. LUBERA: And across the street from
9 them is --

10 CHAIR SCALZO: A bi-level ranch is a
11 story and a half to me.

12 MS. LUBERA: Sorry, sorry.

13 CHAIR SCALZO: That's okay.

14 MR. DONOVAN: That's another story.

15 CHAIR SCALZO: Mr. McKelvey, do you
16 have comments on the application?

17 MR. MCKELVEY: No.

18 CHAIR SCALZO: Very good.

19 Mr. Levin.

20 MR. LEVIN: I thought it was
21 interesting, I was there when you were taking
22 down trees or doing something, and I was scooting
23 around trying to get out of the way. I think
24 it's lovely out there, I do.

25 CHAIR SCALZO: Okay. Any comments with

1 Proceedings

2 regards to the variances that they're requesting?

3 MR. LEVIN: No.

4 CHAIR SCALZO: Mr. Hermance?

5 MR. HERMANCE: I had the same thoughts
6 of possibly moving the house towards the front of
7 the lot more because, as you can see, the
8 neighbor's house is close to the property line
9 too. With the two story house you might be
10 looking right in on them, so.

11 MR. TIRABOSCO: Yeah, we would
12 definitely be interested in moving it forward.
13 The only reason we applied for the rear variance
14 is because we thought that would be simpler and
15 easier to conform with everyone else.

16 CHAIR SCALZO: I understand. Okay,
17 very good.

18 Mr. Masten?

19 MR. MASTEN: I have nothing.

20 CHAIR SCALZO: Nothing, nothing to add.
21 Okay. Now, and again, I just rendered
22 an opinion here about the front yard setback.
23 The application does not request that. So I kind
24 of stepped out of my lane, if you will,
25 counselor, but I guess we can get to that in a

1 Proceedings

2 short bit.

3 All right, so at this time I'd like to
4 open it --

5 MR. HERMANCE: What about Mr. Bell?

6 CHAIR SCALZO: Oh, geez, Mr. Bell, I'm
7 sorry, I didn't see you. The box is very small
8 where you are.

9 MR. BELL: Well, actually you covered,
10 actually you covered the question that I sort of
11 had, I was trying to see if it could come forward
12 in some sort of way.

13 CHAIR SCALZO: Okay. Thank you very
14 much, Mr. Bell.

15 At this time, actually, before I open
16 it up to the public, we did receive one piece of
17 correspondence here from Howell Brown, who
18 indicates that a variance request was previously
19 rejected for this property a few years ago. What
20 circumstances or zoning laws have changed that
21 would make approval this time possible? And we
22 had pulled the original application from this, I
23 believe it was 2007 or 2008. This was not
24 denied. It was actually withdrawn by the
25 applicant. So there was no determination or

1 Proceedings

2 decision made for this application in 2007 or
3 2008, whatever year it was.

4 That being said, now I'll open it up to
5 any members of the public that wish to comment on
6 this application.

7 And Siobhan, if you could instruct
8 them, please. Raise your hands and we'll call on
9 you.

10 MS. JABLESNIK: Are any members of the
11 public here to speak about this application, 71
12 Williams Avenue?

13 (No response.)

14 MS. JABLESNIK: No, nothing. No.

15 CHAIR SCALZO: Okay. Well,

16 MR. DONOVAN: So Mr. Chairman, relative
17 to the issue of whether or not they could slide
18 the house forward, obviously that would result in
19 another variance.

20 CHAIR SCALZO: Correct.

21 MR. DONOVAN: Which would be a front
22 yard as well as a rear yard variance. Now, we've
23 advertised for a yard variance so I don't have an
24 issue adding one if the Board thought that that
25 was or the applicants were agreeable to that.

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2 what I don't know, and I haven't been to the
3 site, is there any topographic issues?

4 CHAIR SCALZO: It's a very flat lot.
5 Actually, you know, one question, because it's a
6 flat lot, I don't know if you have a full
7 basement planned or not, but I'd really be
8 curious as to where you're going to drain your
9 footing drains.

10 MR. TIRABOSCO: You should have the
11 plans there.

12 MS. LUBERA: Our, I was going to say,
13 can we have our architect speak with you? I
14 don't know.

15 MR. LICHWICK: Yes, there is.

16 MR. DONOVAN: Do you want to tell us
17 who you are so the stenographer can get it?

18 MR. LICHWICK: Hi, I'm Jason Lichwick.
19 I'm the architect for Jean and Frank.

20 We do have, though it appears to be a
21 very flat lot in the front, from the road it does
22 drop back quite a bit towards the rear of the
23 property. So the back of the house will be
24 sticking up out of the ground quite a bit. So we
25 plan to have, the site engineer has designed it

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2 so that we can drain all of -- keep the water
3 flowing in the exact way that it's been flowing
4 all this time.

5 CHAIR SCALZO: Thank you. Now, you
6 mentioned that you're going to have the
7 foundation stick out of the ground quite a bit.
8 That isn't going to raise any issues as far as
9 building height, is it?

10 MR. LICHWICK: No. No. Yeah, like
11 four feet.

12 CHAIR SCALZO: Okay, that's --

13 MR. LICHWICK: Yes.

14 CHAIR SCALZO: -- that's reasonable.

15 Counsel, the other issue, before I open
16 my big fat mouth, if we were to consider any type
17 of front yard variance, we don't know how much
18 variance that we would need to bring.

19 MR. DONOVAN: Right.

20 CHAIR SCALZO: So I venture to say we
21 should just stay right where we are.

22 MR. DONOVAN: Well, you don't -- you
23 know what you have, and I don't know whether we
24 would have, just in case, anything with the
25 sanitary system or not.

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2 CHAIR SCALZO: The sanitary system
3 is --

4 MR. DONOVAN: Clay.

5 CHAIR SCALZO: Yeah, that's not -- that
6 wouldn't be an issue. Help me out folks. It
7 appears you have a porch.

8 MR. TIRABOSCO: Yes.

9 MR. LICHWICK: Yes.

10 CHAIR SCALZO: Okay. And the offset to
11 the front is the porch but not to the actual
12 house itself?

13 MR. LICHWICK: Correct.

14 CHAIR SCALZO: Okay.

15 MR. LICHWICK: Yeah. So if I can just
16 add, when we -- we originally FOIL'd this project
17 in that previous application that was just
18 discussed and we saw at the time that the Board
19 was pushing for that applicant to push that back
20 and maintain the 40 feet in the front. So that's
21 why we maintained that 40 feet. We have no issue
22 if you guys are willing to allow us to move it
23 forward. That would definitely give us more of a
24 back yard.

25 CHAIR SCALZO: What's the dimension of

1 Proceedings

2 your porch?

3 MR. LICHWICK: It's six feet deep.

4 CHAIR SCALZO: Okay. Again, I brought
5 this up, I didn't -- I don't want to coach you at
6 all. I'll look to the members of the Board. Any
7 further comments before we look to close the
8 public hearing?

9 MR. LEVIN: No, I have none, no.

10 CHAIR SCALZO: Then I'll look to the
11 Board for a motion to close the public hearing.

12 MR. LEVIN: I'll make a motion to close
13 the public hearing.

14 MR. MCKELVEY: I'll second it.

15 CHAIR SCALZO: We have a motion from
16 Mr. Levin, we have a second from Mr. McKelvey.
17 All in favor?

18 (Chorus of ayes.)

19 CHAIR SCALZO: Opposed?

20 (No response.)

21 CHAIR SCALZO: Very good. All right.
22 wow. All right, so, you know, we're going to
23 approach this exactly as it was, as the
24 application is presented.

25 MR. LICHWICK: Okay.

1 Proceedings

2 CHAIR SCALZO: In this case this is a
3 Type II action under SEQR, is that right,
4 counselor?

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

7 CHAIR SCALZO: All right. We will go
8 through the area variance criteria and discuss
9 the five factors we are weighing, the first one
10 being whether or not the benefit can be achieved
11 by other means feasible to the applicant. Well,
12 the footprint could be smaller, that could be a
13 way to do it; however, I don't know what that
14 would do to the way the house looks. Any
15 comments from the Board?

16 MR. LEVIN: No.

17 MR. MCKELVEY: No.

18 CHAIR SCALZO: Second, if there's an
19 undesirable change in the neighborhood character
20 or a detriment to nearby properties. As I say,
21 when I was driving down Williams it appears that
22 there's a house down at the bottom of the street
23 that probably would be similar to what they're
24 looking to do here.

25 Mr. Marino, do you concur?

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2 MR. MARINO: I do, yes.

3 CHAIR SCALZO: Yeah, Mr. McKelvey?

4 MR. MCKELVEY: Yes.

5 CHAIR SCALZO: Mr. Levin?

6 MR. LEVIN: Yes.

7 CHAIR SCALZO: Mr. Hermance?

8 MR. HERMANCE: Yeah.

9 CHAIR SCALZO: Mr. Masten?

10 MR. MASTEN: I do.

11 CHAIR SCALZO: Third, whether the
12 request is substantial. Yes, it is. However,
13 with the layout, the lot layout only being 100
14 feet deep, having a front yard setback of 40
15 feet, and a rear yard of, I can't recall what it
16 is off the top of my head.

17 MR. DONOVAN: Wait a minute, 16.

18 CHAIR SCALZO: Well, that's what's
19 the -- yeah, the building envelope itself.
20 However, the rear yard, is that --

21 MR. DONOVAN: The memo.

22 CHAIR SCALZO: The bulk table
23 requirements are there.

24 MR. DONOVAN: It's 40.

25 CHAIR SCALZO: Forty, okay. So yeah,

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2 that's -- it is substantial.

3 Fourth, whether the request will have
4 adverse physical or environmental effects. Well,
5 that doesn't appear to.

6 MR. LEVIN: I don't believe so.

7 MR. BELL: No.

8 MS. JABLESNIK: He said no.

9 CHAIR SCALZO: That's Darrell. Thank
10 you, Mr. Bell.

11 And the fifth, whether the alleged
12 difficulty is self created, this is relevant but
13 not determinative. Of course it's self created;
14 however, you can't zone yourself out of a,
15 building on a lot in this case. They are
16 constrained by the lot depth. If the lot was
17 completely rotated where they had that depth
18 available to them somewhere else. And while this
19 is not a hamlet or a neighborhood like say Orange
20 Lake is, that inside loop on Williams, every one
21 of those homes are facing the same challenge.

22 Having gone through the balancing test
23 of the area variance, does the Board have a
24 motion of some sort?

25 MR. MASTEN: I'll make a motion to

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approve.

CHAIR SCALZO: We have a motion from
Mr. Masten.

MR. LEVIN: I'll second.

CHAIR SCALZO: We have a second from
Mr. Levin. Roll call on that? Mr. Hermance had
his hand up but you can't hear that.

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?

CHAIR SCALZO: Yes.

The motion is carried. Good luck.

MS. LUBERA: Thank you.

(Time noted: 7:24 p.m.)

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Proceedings

C E R T I F I C A T E

STATE OF NEW YORK)
) SS:
COUNTY OF ORANGE)

I, KARI L. REED, a Shorthand Reporter
(Stenotype) and Notary Public with and for the
State of New York, do hereby certify:

I reported the proceedings in the
within-entitled matter and that the within
transcript is a true record of such proceedings.

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

IN WITNESS WHEREOF, I have hereunto set
my hand this 11th day of April, 2021.

Kari L. Reed

KARI L. REED

1
2 STATE OF NEW YORK : COUNTY OF ORANGE
TOWN OF NEWBURGH ZONING BOARD OF APPEALS

3 -----X
In the Matter of:

4 GREGORY RACITI

5 2 Shire Ridge Way
6 11-1-92.82
7 R1 Zone
-----X

8 INITIAL APPEARANCE

9 Date: March 25, 2021
10 Time: 7:25 p.m.

11 Place: Town of Newburgh
12 Town Hall
13 1496 Route 300
Newburgh, New York 12550

14 BOARD MEMBERS: DARRIN SCALZO, Chair
15 JOHN H. MCKELVEY, Vice Chair
16 DARRELL W. BELL (via Zoom)
17 JOHN D. MASTEN
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ANTHONY MARINO
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18 ALSO PRESENT: DAVID A. DONOVAN, ESQ., Board Counsel
19 SIOBHAN JABLESNIK, Board Secretary

20 APPLICANT: GREGORY RACITI

21
22 Reported by: Kari L. Reed

23 MICHELLE L. CONERO
24 3 Francis Street
Newburgh, New York 12550
25 (845) 541-4163

1 Proceedings

2 CHAIR SCALZO: Our second applicant
3 this evening is Gregory Raciti.

4 MR. RACITI: You got it.

5 CHAIR SCALZO: Very good. 2 Shire
6 Ridge Way, seeking an area variance of the front
7 yard to keep a 10' by 16' shed.

8 Mailings on that, Siobhan?

9 MS. JABLESNIK: This applicant sent out
10 20 notices.

11 CHAIR SCALZO: Twenty. You're not the
12 winner so far.

13 MR. RACITI: Not yet.

14 MS. JABLESNIK: Two zero.

15 CHAIR SCALZO: It's going to be tough
16 to beat the 50.

17 MR. RACITI: I'll try.

18 CHAIR SCALZO: Very good. Area
19 variance for the front yard to keep a 10' by 16'
20 shed.

21 MR. RACITI: That's correct.

22 CHAIR SCALZO: As I mentioned, we have
23 all been to the site.

24 MR. RACITI: That's incorrect.

25 MR. MARINO: Where you are hiding it?

1 Proceedings

2 CHAIR SCALZO: There is no shed there.

3 MR. RACITI: The shed is hiding at a
4 place where I bought it from, and it's waiting
5 there.

6 CHAIR SCALZO: Very good. And you are
7 plagued with being on a corner lot.

8 MR. RACITI: Yes.

9 CHAIR SCALZO: So you have two front
10 yards.

11 MR. RACITI: Yes. My ignorance, I did
12 not realize actually when I had purchased the
13 shed and I applied for the building permit I
14 thought I was all good, and then when it got
15 rejected I realized that being on a corner lot
16 means you have two front yards. So I am
17 learning during this whole process.

18 CHAIR SCALZO: Very good. If I have
19 captured exactly why you're here and that's
20 sufficient we can move forward, if you'd like to
21 add anything to it?

22 MR. RACITI: Nothing other than, you
23 know, the reason we had chosen that spot, it's
24 really the, it makes the most sense to put
25 things like a snow blower, portable generator.

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2 otherwise, the only other proposed place it
3 could be would be really all the way on the
4 other side of the yard where it would be more
5 visible to the rest of the neighbors and really
6 not an efficient spot to have that kind of
7 equipment, right. where it's proposed right now
8 is right on the edge of the driveway.

9 CHAIR SCALZO: Very good. Thank you,
10 sir. We, last month we had a very similar
11 corner lot, actually the gentleman was
12 surrounded on three sides by streets.

13 MR. RACITI: Oh wow. That's worse.

14 CHAIR SCALZO: So he was kind of --
15 it's tough to get away from a front yard
16 application on that, that's for sure. Ten by 16
17 doesn't seem outrageous.

18 MR. RACITI: No.

19 CHAIR SCALZO: It's going to be to the
20 right of the basketball hoop or --

21 MR. RACITI: That's correct.

22 CHAIR SCALZO: And, you know, as you're
23 pulling in you have to look up, you know, it's
24 quite the topography to even see where your shed
25 is going to be.

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2 MR. RACITI: Exactly. I had a
3 topographic map, it's about 16 foot, 16, 18 foot
4 elevation from the street.

5 CHAIR SCALZO: Sure. And then with the
6 trees there you won't even see it.

7 MR. RACITI: Correct.

8 CHAIR SCALZO: I have no other comments
9 to that. I am going to look to Mr. Masten, do
10 you have any comments on that?

11 MR. MASTEN: I have no comments.

12 CHAIR SCALZO: No. How about Mr.
13 Hermance?

14 MR. HERMANCE: No. I thought I was
15 going crazy when I couldn't see the shed.

16 MR. RACITI: No, you're not going
17 crazy.

18 MR. HERMANCE: But I got looking at the
19 rest of the back and realized it's not on site
20 yet.

21 MR. RACITI: Correct.

22 MR. HERMANCE: So I have no other
23 comments.

24 CHAIR SCALZO: Very good.

25 Mr. Bell, do you have any comments on

1 Proceedings

2 this?

3 MR. BELL: No. I'm glad we cleared up
4 that there was no shed. No.

5 MR. RACITI: I'm a magician.

6 CHAIR SCALZO: Very good, thank you.
7 Mr. Levin.

8 MR. LEVIN: I walked all over the lot
9 looking for the shed, every place.

10 CHAIR SCALZO: Right now it's a
11 miniature.

12 MR. LEVIN: But it's a big lot. It's a
13 big lot and I think it will fit in there nicely.

14 CHAIR SCALZO: Very good.
15 Mr. McKelvey?

16 MR. MCKELVEY: No.

17 CHAIR SCALZO: No. How about
18 Mr. Marino?

19 MR. MARINO: I'm good with it.

20 CHAIR SCALZO: Very good. We have
21 gotten no comments, written comments from the
22 public. So at this time I'd like to open it up
23 to any members of the public that wish to speak
24 about this application. Any member of the
25 public here to speak about the 2 Shire Ridge Way

1 Proceedings

2 shed application?

3 (No response.)

4 CHAIR SCALZO: Very good. Siobhan, if
5 you can mute them, please.

6 At this point any last comments from
7 any members of the Board?

8 (No response.)

9 CHAIR SCALZO: No one is nodding or
10 shaking, so we are going to look to the Board
11 for a motion to close the public hearing.

12 MR. MCKELVEY: I'll make a motion.

13 MR. LEVIN: I'll second it.

14 CHAIR SCALZO: We have a motion from
15 Mr. McKelvey, we have a second from Mr. Levin.
16 All in favor?

17 (Chorus of ayes.)

18 CHAIR SCALZO: Those opposed?

19 (No response.)

20 CHAIR SCALZO: Very good. The public
21 hearing is now closed.

22 This is a Type II action under SEQRA,
23 correct, counselor?

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

1 Proceedings

2 CHAIR SCALZO: Thank you, sir. And we
3 are going to go through the variance criteria.
4 First of all whether or the benefit can be
5 achieved by other means feasible to the
6 applicant. The applicant is plagued with two
7 front yards. He could put it in another spot,
8 but he would kind of lose the convenience factor
9 of being able to snow blow his driveway, which
10 is where that shed is going to be, at the end of
11 it.

12 Second, is there's an undesirable
13 change to neighborhood character or detriment to
14 nearby properties. I did see sheds on other
15 lots in there.

16 MR. LEVIN: No.

17 MR. MCKELVEY: It's a nice, neat shed.

18 CHAIR SCALZO: Oh, yeah.

19 Third, whether the request is
20 substantial. No. Again, he's plagued with two
21 front yards.

22 Fourth, whether the request will have
23 adverse physical or environment effects.

24 MR. LEVIN: No.

25 CHAIR SCALZO: No. And the fifth,

1 Proceedings

2 whether the alleged difficulty is self created,
3 which is relevant but not determinative. It is
4 self created because he bought a corner lot.
5 But he could throw it back in the left rear
6 corner and then snow blow trails all the way out
7 to the driveway and then snow blow the driveway
8 and everything else.

9 MR. RACITI: Always a possibility, not
10 convenient but a possibility.

11 CHAIR SCALZO: Sure. Having gone
12 through the balancing tests, the area variances,
13 does the Board have a motion of some sort?

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

16 MR. MARINO: I'll second that.

17 CHAIR SCALZO: We have a motion from
18 Mr. McKelvey, we have a second from Mr. Marino.
19 Can you roll that please, Siobhan?

20 MS. JABLESNIK: Mr. Bell?

21 MR. BELL: Yes.

22 MS. JABLESNIK: Mr. Hermance?

23 MR. HERMANCE: Yes.

24 MS. JABLESNIK: Mr. Levin?

25 MR. LEVIN: Yes.

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Proceedings

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?

CHAIR SCALZO: Yes.

The variances are approved. Good luck.

MR. RACITI: Thank you very much, I
appreciate it.

(Time noted: 7:31 p.m.)

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Proceedings

C E R T I F I C A T E

STATE OF NEW YORK)
) SS:
COUNTY OF ORANGE)

I, KARI L. REED, a Shorthand Reporter
(Stenotype) and Notary Public with and for the
State of New York, do hereby certify:

I reported the proceedings in the
within-entitled matter and that the within
transcript is a true record of such proceedings.

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

IN WITNESS WHEREOF, I have hereunto set
my hand this 11th day of April, 2021.

Kari L. Reed

KARI L. REED

1
2 STATE OF NEW YORK : COUNTY OF ORANGE
TOWN OF NEWBURGH ZONING BOARD OF APPEALS

3 -----X
In the Matter of:

4 COMMERCIAL INDUSTRIAL COMMERCIAL CORP
5 FOR CPK UNION
6 1217 Route 300, Newburgh
96-1-11.1
7 IB Zone
-----X

8 AREA VARIANCE

9
10 Date: March 25, 2021
Time: 7:31 p.m.

11 Place: Town of Newburgh
12 Town Hall
1496 Route 300
13 Newburgh, New York 12550

14 BOARD MEMBERS: DARRIN SCALZO, Chair
15 JOHN H. MCKELVEY, Vice Chair
16 DARRELL W. BELL (via Zoom)
17 JOHN D. MASTEN
RICHARD D. LEVIN
ANTHONY MARINO
GREG HERMANCE, SR.

18 ALSO PRESENT: DAVID A. DONOVAN, ESQ., Board Counsel
19 SIOBHAN JABLESNIK, Board Secretary

20 APPLICANT'S REPRESENTATIVE: JOSEPH FLYNN and NICK
21 CITERA

22 Reported by: Kari L. Reed
23 -----

24 MICHELLE L. CONERO
25 3 Francis Street
Newburgh, New York 12550
(845) 541-4163

1 Proceedings

2 CHAIR SCALZO: All right. Our next
3 applicant is Commercial Industrial Commercial
4 Corp for CPK Union, 1217 Route 300, Newburgh,
5 seeking an area variance of the front yard to
6 build a 23' by 14' addition. Mailings on this,
7 Siobhan?

8 MS. JABLESNIK: This applicant sent out
9 eleven notices.

10 CHAIR SCALZO: Eleven?

11 MS. JABLESNIK: Eleven.

12 CHAIR SCALZO: Well, I guess in that
13 big commercial strip there --

14 MS. JABLESNIK: They got off easy.

15 CHAIR SCALZO: -- not a lot. So
16 because this is commercial in nature, I'm
17 actually going to let you present completely.
18 So if you could start by introducing yourselves.

19 MR. FLYNN: Hi. My name is Joseph
20 Flynn. I'm the general contractor. This is
21 Nick.

22 MR. CITERA: Hi. I'm one of the
23 owners.

24 MR. FLYNN: This is an addition to
25 Cosimo's Restaurant.

1 Proceedings

2 CHAIR SCALZO: Correct.

3 MR. FLYNN: So the bar area is tight.
4 I'm sure everybody here has been there a few
5 times. It's very tight. They'd like to push it
6 out to, I forget what the dimension was, but
7 just to create a little bit more space inside
8 the bar area.

9 CHAIR SCALZO: Okay. Very good. I'm
10 sorry, I stopped you.

11 MR. FLYNN: No, that's fine.

12 CHAIR SCALZO: If you want to continue
13 go right ahead.

14 MR. FLYNN: No, that's it.

15 CHAIR SCALZO: Very good.

16 Pushing it out where the bar area is,
17 how far out past from the current seating area
18 will that be?

19 MR. FLYNN: Oh, the exterior seating
20 area?

21 CHAIR SCALZO: Yes.

22 MR. FLYNN: It will be within that
23 area.

24 CHAIR SCALZO: Okay. So you're not
25 going to exceed that limit at all?

1 Proceedings

2 MR. FLYNN: No.

3 CHAIR SCALZO: All right. I really, I
4 mean it's already there --

5 MR. FLYNN: Right.

6 CHAIR SCALZO: -- sort of. So I had no
7 comments on this, so I am going to jump to
8 Mr. Bell. Do you have any comments on this?

9 MR. BELL: Well, the only comment, the
10 only question I had is that if you're coming
11 out, so we're talking about coming out the
12 doors; correct?

13 CHAIR SCALZO: Not the double doors.
14 You're going to break through the masonry wall?

15 MR. FLYNN: The bar, the bar area
16 itself, yes.

17 CHAIR SCALZO: Okay. And --

18 MR. BELL: Oh, I see. The bar area is
19 where the window, where the window is.

20 MR. FLYNN: Yes.

21 MR. BELL: Okay. Okay. Now, when you
22 come out there, what is the walkway going to
23 appear to be like for those who need to get past
24 the other businesses area? Are they going to
25 have to walk out to the drive area or how is

1 Proceedings

2 that going to be?

3 MR. FLYNN: Yes, if you'd like to.

4 MR. CITERA: It's going to be two
5 separate patios. So the bump out will be like
6 in the middle, and then there will be a little
7 patio area to the right and a little patio area
8 to the left.

9 MR. BELL: Okay. I didn't visualize
10 it, okay. All right, thank you.

11 MR. CITERA: Yeah.

12 CHAIR SCALZO: Mr. Masten?

13 MR. MASTEN: I have no questions on
14 that.

15 CHAIR SCALZO: Okay. Mr. Hermance?

16 MR. HERMANCE: No, I have no questions.

17 CHAIR SCALZO: No. Mr. Marino?

18 MR. MARINO: You mixed it up there.

19 Nothing.

20 CHAIR SCALZO: Mr. McKelvey?

21 MR. MCKELVEY: No questions.

22 CHAIR SCALZO: Mr. Levin?

23 MR. LEVIN: I assume this is not going
24 to limit outdoor dining?

25 MR. FLYNN: No.

1 Proceedings

2 MR. CITERA: It's going to be about the
3 same.

4 MR. FLYNN: Yeah, the outdoor dining
5 will be the same.

6 CHAIR SCALZO: Will there be an
7 entrance to the bar from the exterior?

8 MR. CITERA: No.

9 CHAIR SCALZO: Only to the dining area?

10 MR. CITERA: The entrance -- yeah. The
11 way it is now, the same entrance will be in
12 place.

13 CHAIR SCALZO: Okay. And the stone
14 wall that's currently separating the parking and
15 the drive through area, will that remain?

16 MR. CITERA: It's going to get all
17 redone.

18 CHAIR SCALZO: Okay. But there will be
19 a positive barrier?

20 MR. FLYNN: Oh, yeah.

21 CHAIR SCALZO: Yeah, I don't have
22 anything more on this.

23 MS. JABLESNIK: This application went
24 to the county and we did receive --

25 CHAIR SCALZO: Okay then.

1 Proceedings

2 MS. JABLESNIK: Sorry.

3 CHAIR SCALZO: Thank you, Siobhan.
4 It's been a long week but you got the key
5 information.

6 MS. JABLESNIK: We are still good now
7 though.

8 CHAIR SCALZO: All right.

9 So what Siobhan just said was anything
10 that's on a state or county highway needs to be
11 reviewed by the county. It's General Municipal
12 Law 239, and we have to give them the
13 opportunity to comment. They have 30 days to do
14 it.

15 MR. FLYNN: Okay.

16 CHAIR SCALZO: We have not heard back
17 from the county yet; therefore, we cannot close
18 the public hearing and we cannot vote on your
19 application this evening. So, well, we are here
20 and you have presented, so we know you're going
21 to be back, but if there are any comments from
22 the public that may come in, we'll give you an
23 opportunity to think about them and address them
24 at the next month's meeting.

25 So at this point I'd like to open it up

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Proceedings

to any members of the public that wish to speak about the application here at the Cosimo's facility on Route 300 and Orr Avenue.

(No response.)

CHAIR SCALZO: We got nothing.

MS. JABLESNIK: No.

CHAIR SCALZO: Very good, okay. In this case I'll look to the Board for a motion to keep the public hearing open to the April meeting.

MR. LEVIN: I'll make a motion to keep it open.

MR. MASTEN: I'll second it.

CHAIR SCALZO: We have a motion from Mr. Levin, we have a second from Mr. Masten. All in favor?

(Chorus of ayes.)

CHAIR SCALZO: Thank you, Mr. Bell. We will see you gentlemen next month.

MR. FLYNN: Thank you.

MR. CITERA: Thank you.

CHAIR SCALZO: Thank you.

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

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C E R T I F I C A T E

STATE OF NEW YORK)
) SS:
COUNTY OF ORANGE)

I, KARI L. REED, a Shorthand Reporter
(Stenotype) and Notary Public with and for the
State of New York, do hereby certify:

I reported the proceedings in the
within-entitled matter and that the within
transcript is a true record of such
proceedings.

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

IN WITNESS WHEREOF, I have hereunto set
my hand this 12th day of April, 2021.

Kari L. Reed

KARI L. REED

1
2 STATE OF NEW YORK : COUNTY OF ORANGE
TOWN OF NEWBURGH ZONING BOARD OF APPEALS

3 -----X
In the Matter of:

4 RADHIKA REAL ESTATE

5 179 S. Plank Road
6 60-3-14.2
7 B Zone
-----X

8 INTERPRETATION OF THE ORDINANCE

9 Date: March 25, 2021
Time: 7:37 p.m.

10 Place: Town of Newburgh
11 Town Hall
12 1496 Route 300
Newburgh, New York 12550

13 BOARD MEMBERS: DARRIN SCALZO, Chair
14 JOHN H. MCKELVEY, Vice Chair
15 DARRELL W. BELL (via Zoom)
16 JOHN D. MASTEN
17 RICHARD D. LEVIN
ANTHONY MARINO
GREG HERMANCE, SR.

18 ALSO PRESENT: DAVID A. DONOVAN, ESQ., Board Counsel
SIOBHAN JABLESNIK, Board Secretary

19 APPLICANT'S REPRESENTATIVE: JONATHAN MILLEN and
20 MAMTA PATEL

21
22 Reported by: Kari L. Reed

23 MICHELLE L. CONERO
24 3 Francis Street
Newburgh, New York 12550
25 (845) 541-4163

1 Proceedings

2 CHAIR SCALZO: Our next applicant is
3 Radhika Real Estate, 179 South Plank Road,
4 Newburgh. They are seeking an interpretation of
5 the ordinance for a new occupancy.

6 Siobhan, mailings on this?

7 MS. JABLESNIK: This applicant sent out
8 32 notices. And they also went to the county
9 and we haven't received.

10 CHAIR SCALZO: All right.

11 So Mr. Millen, I don't know if you
12 heard what Siobhan just said, we have not heard
13 back from the county yet. So while I would
14 still like you to present, we cannot vote on
15 this application this evening due to not hearing
16 back from the county per the GML 239.

17 MR. MILLEN: Okay. So the question
18 would be what we do this evening. Does that
19 mean getting contacted by the county and getting
20 an approval?

21 CHAIR SCALZO: So I apologize, I
22 referred to you as Mr. Millen because I know
23 you, but if you can just state your name for the
24 recording, please?

25 MR. MILLEN: Jonathan M. Millen,

1 Proceedings

2 licensed land surveyor.

3 CHAIR SCALZO: Thank you. I apologize.

4 MR. MILLEN: No problem.

5 CHAIR SCALZO: So reading the
6 application also, it's a former carpet place and
7 now they're looking to cut stone, instead of cut
8 carpet they want to cut stone, is that -- I
9 don't want to say -- I don't to oversimplify it.

10 MR. MILLEN: well, it had been, it had
11 been used as a granite top facility for some
12 years before, almost ten years. Currently they
13 never went through the process to get a building
14 permit that acknowledged that that's what their
15 purpose was, what they were doing there, but
16 they had been doing it for some time before.

17 CHAIR SCALZO: Okay.

18 Counselor, if I could lean on you in
19 this case, where I'm going with this is they're
20 seeking an interpretation.

21 MR. DONOVAN: Yeah, I don't understand
22 what you're asking for the Board to interpret
23 though.

24 MR. MILLEN: Okay. So what we're
25 saying is that we are not manufacturing

1 Proceedings

2 countertops. The countertops are manufactured
3 somewhere else. Just like carpet, just like
4 glass, just like anything out of these
5 businesses that are in these zones are doing.

6 MR. DONOVAN: All right, so that part I
7 have, all right. Code compliance has indicated
8 that you're manufacturing so you're not
9 permitted, is that kind of what they're saying?

10 MR. MILLEN: well, we don't think we're
11 manufacturing.

12 MR. DONOVAN: I know. I didn't ask
13 that question.

14 MR. MILLEN: Okay.

15 MR. DONOVAN: Is that what code
16 compliance said to you?

17 THE ARBITRATOR: Pardon me?

18 MR. DONOVAN: Did code compliance
19 say --

20 MR. MILLEN: Yeah.

21 MR. DONOVAN: -- you're not permitted
22 because we think you do manufacturing.

23 MR. MILLEN: That is correct.

24 MR. DONOVAN: So you're asking the
25 Board to interpret, and the interpretation that,

1 Proceedings

2 I can't make the case for you, but if you say
3 you're not manufacturing, then you need to tell
4 the Board what category you fit into. For
5 example, retail sales, personal service,
6 business, professional, research, eating and
7 drinking place. So by this Board just saying
8 that you are not manufacturing doesn't mean that
9 you're a permitted use. You would have to say,
10 you'd have to convince the Board that we are one
11 of these permitted uses in the B district.

12 MR. MILLEN: Okay. So what we are
13 saying is, just like the carpet that is in the B
14 zone right now that's in business, is selling
15 carpet that is currently manufactured and then
16 being cut to size and put in, we're not doing
17 anything different than that. So I don't know.

18 MR. DONOVAN: So what category do you
19 fit into?

20 MR. MILLEN: I guess it would just be
21 retail sales.

22 MR. DONOVAN: I don't want you to
23 guess.

24 CHAIR SCALZO: And again, Mr. Millen,
25 because we haven't heard back from the county,

1 Proceedings

2 you're going to have the opportunity to find
3 that information that counselor's -- that's,
4 that's how we're going to go forward.

5 MR. MILLEN: Okay, I'm sorry, what
6 would the county be allowed to request?

7 MR. DONOVAN: So what I'm going to ask
8 you to do is take a look at the Town Code and
9 the permitted uses in the B zoning district,
10 okay, and there's a number of them, and then,
11 again, I can't give you advice or tell you what
12 to do, but it might not be a bad idea to say we
13 fit into whatever specific category and we want
14 the Board to issue an interpretation that we are
15 use X, which is a permitted use in the B zone,
16 we're not manufacturing but we are permitted use
17 X, whatever that is; and therefore, we're
18 entitled to get, make our applications to code
19 compliance.

20 MR. MILLEN: Okay.

21 MR. DONOVAN: All right?

22 MR. MILLEN: Mm-hmm.

23 CHAIR SCALZO: Very good, okay. But as
24 I had mentioned, Mr. Millen, we cannot close the
25 public hearing this evening.

1 Proceedings

2 MR. MILLEN: Right.

3 CHAIR SCALZO: But since you did
4 present, at this point we are going to open it
5 up to any members of the public that wish to
6 comment on this application.

7 Are they unmuted? I see a hand up.

8 MS. JABLESNIK: Go ahead, you can
9 unmute yourself. You have to unmute yourself.

10 CHAIR SCALZO: You have to unmute
11 yourself, sir.

12 MR. PATEL: Can you hear me now?

13 CHAIR SCALZO: Yes, we can.

14 MR. PATEL: Okay. Good evening, and
15 thank you, Mr. Millen. He represents us.
16 Unfortunately I was called in for a meeting so I
17 couldn't represent myself.

18 We keep going back and forth with this
19 building plan, and despite our requests that
20 explaining, as I said, we were told that this is
21 not manufacturing and this is retail, they had
22 said that they have already sent this
23 application to the zoning department, so we have
24 no choice but just to come here and that's where
25 we are.

1 Proceedings

2 CHAIR SCALZO: Okay. And sir, for the
3 record your name, I'm sorry if you stated it?

4 MR. PATEL: I'm Mamta Patel.

5 CHAIR SCALZO: Very good, thank you.

6 You know, I never asked the members of
7 the Board if they had any comments on this.
8 We'll start with, Mr. Marino, do you have any
9 comments on this application?

10 MR. MARINO: Not at all.

11 CHAIR SCALZO: No. Mr. McKelvey?

12 MR. MCKELVEY: No.

13 CHAIR SCALZO: Mr. Levin?

14 MR. LEVIN: Just one question. You
15 said you're not cutting stone at the premises at
16 this point, it's off at a different location,
17 right?

18 MR. MILLEN: No, what I'm saying is
19 that the intended use is to have manufactured
20 granite tops that are delivered to this site and
21 then cut depending on the installation that's
22 required.

23 MR. LEVIN: Cutting at this site?

24 MR. MILLEN: Yes.

25 MR. LEVIN: Okay.

1 Proceedings

2 CHAIR SCALZO: Very good.

3 Mr. Hermance?

4 MR. HERMANCE: So with that said,
5 there's going to be byproduct from cutting the
6 granite as opposed to just cutting carpet with
7 how are they going to be dealing with that, is
8 there a dust collection system or wet slurry?

9 MR. MILLEN: I can't comment on that
10 because I'm not aware of the method that they're
11 using.

12 CHAIR SCALZO: Right. And
13 Mr. Hermance, the, if, depending on how this
14 goes, should it make it that far, the Building
15 Department would be the ones to --

16 MR. HERMANCE: Oh, they would.

17 CHAIR SCALZO: Code compliance would
18 ensure that they meet all the requirements of
19 whatever the code.

20 MR. HERMANCE: Okay.

21 CHAIR SCALZO: Very good. Mr. Masten?

22 MR. MASTEN: I'll make a decision when
23 we get the information from the Building
24 Department and such.

25 CHAIR SCALZO: Very good, okay.

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Proceedings

I had already had it open to the public, we heard nothing there. Well, Mr. Millen, do you have anything else to add?

MR. MILLEN: No. I understand that we will come up with a protected, permitted use and offer an interpretation.

MR. DONOVAN: Yeah, It's just got to, like again, I don't want to tell you what to do, but if you put a paragraph together that explains why you fit into a permitted use category, the B zone, get it to the Board, you know, ten days, what's the cut off, Siobhan?

MS. JABLESNIK: Yes, like exactly two weeks before the next meeting, so I think that would be April 8th.

MR. MILLEN: Okay.

CHAIR SCALZO: Right. And Mr. Millen, because of a past use doesn't necessarily make this --

MR. MILLEN: No, I get it.

CHAIR SCALZO: So yeah, it's got to be independent. Very good.

MR. MILLEN: I was just trying to be clear that it had been used for that for a long

1 Proceedings

2 time before.

3 MR. DONOVAN: But I think you have the
4 picture.

5 MR. MILLEN: Other than your comment
6 that it was intended to be used in a new fashion
7 but it had already been used in that manner.

8 CHAIR SCALZO: Okay. Very good.

9 MR. MILLEN: My only comment would be
10 something like a carpet or a glass manufacturer,
11 then the subject can go before the Board because
12 they're also, you know, manufacturing. I don't
13 see the distinction between bringing something
14 that's already manufactured and then cut it to
15 size, other than your comment on how they're
16 dealing with the dust and that sort of thing
17 coming from it. But these other companies that
18 are essentially cutting things to size for
19 installation, glass, steel, carpet, were not
20 being told they were not within in the zoning
21 requirements.

22 MR. DONOVAN: Right. Well, I think
23 code compliance has indicated that carpet wasn't
24 approved. Neither here nor there, right?

25 MR. MILLEN: All I'm getting at is I

1 Proceedings

2 would have been curious to see what use they
3 decided on they were doing in order to be not in
4 compliance with the zoning.

5 MR. DONOVAN: Okay.

6 MR. MILLEN: So far this is not --

7 MR. DONOVAN: I'm just suggesting to
8 you that the argument to make is we are
9 permitted use A because.

10 MR. MILLEN: Yes.

11 MR. DONOVAN: All right?

12 MR. MILLEN: I understand.

13 MR. DONOVAN: Very good.

14 MR. MILLEN: All right.

15 CHAIR SCALZO: Thank you. So I look to
16 the Board now for a motion to keep the public
17 hearing open to the April meeting.

18 MR. MCKELVEY: I'll make that motion.

19 MR. LEVIN: I'll second it.

20 CHAIR SCALZO: Oh, I got Mr. Hermance.
21 So I got Mr. McKelvey made the motion, Mr.
22 Hermance had his hand up.

23 MS. JABLESNIK: Hold on, Mr. Patel
24 wanted to say something.

25 CHAIR SCALZO: Yes. Mr. Patel?

1 Proceedings

2 MS. JABLESNIK: You have to unmute
3 yourself.

4 MR. PATEL: Okay, thank you. So I just
5 wanted to reiterate we did try writing a letter
6 to the Building Department for a permit, and
7 then the initial application was rejected on
8 exactly maintaining what we just told them,
9 because you can't say that this is not
10 manufacturing stone. But it's already
11 manufactured stones, they are just coming in and
12 cut to the size and the cuts that they want.
13 And they still rejected us a second time. So
14 yes, we did try explaining what we are doing,
15 and they said that -- we are requesting because
16 of that.

17 CHAIR SCALZO: I'm not sure how to
18 respond to that, but we, and just, Mr. Millen,
19 you're aware of how we need to move forward?

20 MR. MILLEN: Yes. I think Dr. Patel is
21 mentioning that they have gone through some
22 effort in trying to explain what they were
23 doing. But it's clear what we have to do now.

24 CHAIR SCALZO: Very good.

25 MR. DONOVAN: I believe you say this.

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Proceedings

That's the way it works.

MR. MILLEN: Okay.

CHAIR SCALZO: Okay. So we had a motion from Mr. McKelvey, we had a second from Mr. Hermance. All in favor of leaving the public hearing open to April?

(Chorus of ayes.)

CHAIR SCALZO: Opposed?

(No response.)

CHAIR SCALZO: No response.

Mr. Millen, we will see you in April.

MR. MILLEN: Okay. Thank you very much for your time.

CHAIR SCALZO: Thank you.

(Time noted: 7:47 p.m.)

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C E R T I F I C A T E

STATE OF NEW YORK)
) SS:
COUNTY OF ORANGE)

I, KARI L. REED, a Shorthand Reporter
(Stenotype) and Notary Public with and for the
State of New York, do hereby certify:

I reported the proceedings in the
within-entitled matter and that the within
transcript is a true record of such
proceedings.

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

IN WITNESS WHEREOF, I have hereunto set
my hand this 12th day of April, 2021.

Kari L. Reed

KARI L. REED

1
2 STATE OF NEW YORK : COUNTY OF ORANGE
TOWN OF NEWBURGH ZONING BOARD OF APPEALS

3 -----X
In the Matter of:

4 DANIEL AND WENDY SCHLISSEL
5 22 Curtin Lane, Marlboro
6 8-1-43.44
AR Zone
-----X

7
8 AREA VARIANCE

9 Date: March 25, 2021
Time: 7:48 p.m.

10 Place: Town of Newburgh
11 Town Hall
12 1496 Route 300
Newburgh, New York 12550

13 BOARD MEMBERS: DARRIN SCALZO, Chair
14 JOHN H. MCKELVEY, Vice Chair
15 DARRELL W. BELL (via Zoom)
16 JOHN D. MASTEN
17 RICHARD D. LEVIN
ANTHONY MARINO
GREG HERMANCE, SR.

18 ALSO PRESENT: DAVID A. DONOVAN, ESQ., Board Counsel
SIOBHAN JABLESNIK, Board Secretary

19 APPLICANT'S REPRESENTATIVE: DANIEL and WENDY
20 SCHLISSEL

21
22 Reported by: Kari L. Reed

23 MICHELLE L. CONERO
24 3 Francis Street
Newburgh, New York 12550
25 (845) 541-4163

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Proceedings

CHAIR SCALZO: Our next applicant this evening is Daniel and Wendy Schlissel, 22 Curtin Lane in Marlboro, seeking an area variance to the rear yard to build an 18' by 24' deck. Mailings, Siobhan?

MS. JABLESNIK: This applicant sent out 18 notices.

CHAIR SCALZO: Eighteen notices, very good.

AS I had mentioned earlier in the meeting, more than once, we've all visited, seen the property, we know what it looks like. There currently is a deck there where the applicants informed me while I was at the site that they are just looking to expand that deck dimensions, four feet out towards the rear yard and I can't remember how many feet off to the other side of the house. However, anyway, they're just looking to enlarge the existing deck, a repair, replace sort of thing, if I have captured what your application is, what your intent is here, great. If not, if you'd like to expand on that, go right ahead. But please introduce yourselves.

1 Proceedings

2 MS. SCHLISSEL: Hi. I'm Wendy
3 Schlissel.

4 MS. SCHLISSEL: I'm Dan Schlissel. And
5 yes, you have captured everything.

6 CHAIR SCALZO: Very good. All right.
7 I stood in your back yard and saw no neighbors,
8 so I can't imagine that the character of the
9 neighborhood would change much. You're pretty
10 isolated up there.

11 MR. MARINO: Great rocks.

12 CHAIR SCALZO: Oh, great rocks, you
13 know, everybody talks about your rocks, you
14 know, so you might shine some lights them.

15 MS. SCHLISSEL: Okay.

16 CHAIR SCALZO: But Mr. Marino, do you
17 have anything else?

18 MR. MARINO: No. Good location.

19 CHAIR SCALZO: Yes. Mr. McKelvey?

20 MR. MCKELVEY: Shine a light on the
21 rocks.

22 CHAIR SCALZO: Yeah, everyone likes
23 that idea I guess. Mr. Levin --

24 MR. LEVIN: No.

25 CHAIR SCALZO: -- anything about the

1 Proceedings

2 rocks?

3 MR. LEVIN: No.

4 CHAIR SCALZO: Mr. Hermance?

5 MR. HERMANCE: No.

6 CHAIR SCALZO: No. Mr. Masten?

7 MR. MASTEN: Nothing.

8 CHAIR SCALZO: Mr. Bell?

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

10 CHAIR SCALZO: No, very good, okay.

11 It's pretty straightforward here.

12 We're going to open it up to any members of the
13 public that wish to speak about the Daniel and
14 Wendy Schlissel at 2 Curtin Lane application,
15 anybody wants to speak, raise your hand, turn
16 your mic on, unmute yourselves. Have at it.

17 (No response.)

18 CHAIR SCALZO: Okay, hearing none, I
19 look to the Board for one last opportunity to
20 speak about this application. I see a lot of
21 shaking heads. Okay, very good. I look to the
22 Board for a motion to close the public hearing.

23 MR. MASTEN: I make a motion to close
24 the public hearing.

25 MR. MARINO: I'll second that.

1 Proceedings

2 CHAIR SCALZO: We have a motion from
3 Mr. Masten, we have a second from Mr. Marino.
4 All in favor?

5 (Chorus of ayes.)

6 CHAIR SCALZO: Opposed?

7 (No response.)

8 CHAIR SCALZO: The public hearing is
9 closed. This is a Type II action under SEQRA.
10 I'm going to go through the variance criteria,
11 the first one being whether the benefit can be
12 achieved by other means feasible to the
13 applicant. Well, you know, the house is where
14 the house is, and, you know, they want to expand
15 a little more. The only other means feasible
16 would be to keep that the same. But having -- I
17 got no comments. I don't believe it's a big
18 deal.

19 Second, if there's an undesirable
20 change to the neighborhood character or
21 detrimental to the nearby properties. Standing
22 where the deck is, I couldn't really see any
23 other homes very well.

24 The third, whether the request is
25 substantial.

1 Proceedings

2 MR. LEVIN: No.

3 CHAIR SCALZO: It does not appear so.
4 You're not even going to crest, you're not even
5 going to get to the stone wall, it's -- or the
6 rock face, not even the -- there's a stone wall
7 further up behind you.

8 MS. SCHLISSEL: Correct.

9 CHAIR SCALZO: Assuming that's your
10 property.

11 MS. SCHLISSEL: Yes.

12 CHAIR SCALZO: Fourth, whether the
13 request will have adverse physical or
14 environmental effects. Nothing more there
15 either.

16 And the fifth, whether the alleged
17 difficulty is self created, which is relevant
18 but not determinative. Of course it's self
19 created, but, you know, if you're going to live
20 there and you want to have a bigger deck to
21 grill on, so, I have nothing. So I'll look to
22 the Board, does the Board have a motion of some
23 sort?

24 MR. HERMANCE: I'll make a motion to
25 approve.

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Proceedings

MR. MASTEN: I'll second.

CHAIR SCALZO: We have a motion for approval from Mr. Hermance, we have a second from Mr. Masten. Can you roll that, please, Siobhan?

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?

CHAIR SCALZO: Yes. Motion is carried, variances are approved. Good luck.

MS. SCHLISSEL: Thank you so much.

MR. SCHLISSEL: Thank you.

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

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C E R T I F I C A T E

STATE OF NEW YORK)
) SS:
COUNTY OF ORANGE)

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

IN WITNESS WHEREOF, I have hereunto set
my hand this 13th day of April, 2021.

Kari L. Reed

KARI L. REED

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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
50-1-33.1
R1 Zone

-----X

SECOND APPEARANCE

Date: March 25, 2021
Time: 7:53 p.m.

Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, New York 12550

BOARD MEMBERS: DARRIN SCALZO, Chair
JOHN H. MCKELVEY, Vice Chair
JOHN D. MASTEN
RICHARD D. LEVIN
ANTHONY MARINO
GREG HERMANCE, SR.

ALSO PRESENT: DAVID A. DONOVAN, ESQ., Board Counsel
SIOBHAN JABLESNIK, Board Secretary

APPLICANT'S REPRESENTATIVE: MICHAEL LYNN

Reported by: Kari L. Reed

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

1 Proceedings

2 CHAIR SCALZO: All right. We're moving
3 on to applications that were held over from the
4 February 25th meeting, the first one being
5 Michael Lynn, 1 Lynn Drive in Newburgh. Seeking
6 area variances for maximum allowed square
7 footage, front yard, height and parking of more
8 than four vehicles to construct a 30 by 46 by
9 18.4 accessory building.

10 AS I had mentioned, this is a
11 continuation from the February meeting. I had
12 asked myself for the architectural, which did
13 come in. We got correspondence from the
14 applicant we got correspondence from someone
15 who had been noticed before. Siobhan, do you,
16 I know you handed it to me, but do you happen
17 to have one with you?

18 MS. JABLESNIK: Just the one from
19 today.

20 CHAIR SCALZO: Just the one from today?

21 MS. JABLESNIK: Yeah.

22 CHAIR SCALZO: Very good. I will get
23 to these.

24 Mr. Lynn, you put together some very
25 nice stuff here for comparison sake.

1 Proceedings

2 MR. LYNN: Mm-hmm.

3 CHAIR SCALZO: It was pretty easy to
4 follow. The initial sheet which, Siobhan, was
5 this stuff posted on the website?

6 MS. JABLESNIK: Yes, it's on the
7 website.

8 CHAIR SCALZO: Very good. So the
9 public has had an opportunity to look at this.
10 The first sheet is a color photo with the door,
11 it shows the applicant's dwelling as -- which
12 also includes the proposed accessory structure,
13 the proposed new garage. There are indications
14 with three arrows of other existing garages.
15 The second page shows the dimensions of the
16 structure, including the lean-to or wood shed as
17 the applicant has referred to it in the last
18 meeting. Actually the next, the following pages
19 are all also architectural or at least
20 renderings so we can see what it is that we're
21 looking at.

22 I'm sorry, I'm going to stop right
23 here. Mr. Bell actually had recused himself
24 from this application at the last meeting. So
25 Mr. Bell, you're out of this one. Because he's

1 Proceedings

2 in a Zoom platform, counselor, what do we do,
3 just have him mute himself or --

4 MR. DONOVAN: He can just stay where he
5 is.

6 CHAIR SCALZO: You can stay right,
7 don't change, stay how you are. So but
8 Mr. Bell, we will not solicit comments and you
9 will not be asked for any voting privileges or
10 Board voting privileges for this application.

11 Mr. Lynn also, moving on to the next
12 page, he, and again, great job, with an orange
13 box 324 Lakeside Road is a 36 by 40 accessory
14 building, approximately 630 feet from 1 Lynn
15 Drive, didn't require a variance, but it was
16 built in 1900 according to county records, and
17 that's -- that's the preexisting nonconforming.

18 MR. LYNN: That's for comparison.

19 CHAIR SCALZO: Sure.

20 And then second, he mentions a 50 by 40
21 by 20 structure at 2 Black Angus Court, built in
22 2014, less than 2,000 feet from Lynn. And then
23 364 Lakeside Road, which is approximately 21 --
24 2,000 feet, built in 2017, required variances
25 for storage of more vehicles, height and side

1 Proceedings

2 yards.

3 So the -- I did a little digging, I
4 asked Siobhan to check out some things for me,
5 which she did. Just to confirm, your structure
6 proposed as it is in the application, the
7 building itself is 1,380 square feet and the
8 lean-to is 312 square feet.

9 MR. LYNN: That sounds correct.

10 CHAIR SCALZO: Correct?

11 MR. LYNN: Yeah.

12 CHAIR SCALZO: All right. The lean-to.

13 MR. DONOVAN: Can I interrupt just for
14 a second?

15 CHAIR SCALZO: Yes, sir.

16 MR. DONOVAN: If, see the stenographer
17 working hard over there? Let the chairman
18 finish the question and then respond, so the
19 stenographer can hear.

20 CHAIR SCALZO: I'm sorry, I tend to
21 get, once I get rolling I speak faster. I will
22 slow it down.

23 All right, taking them one by one, and
24 there's in this case six of us because Mr. Bell
25 is not going to be participating in this

1 Proceedings

2 application. So I'm going to just give my
3 observations and then I'm going to let the Board
4 throw out theirs as well.

5 As far as comparisons, the structure
6 built in 1900, that's, I kind of disregard that
7 because it was preexisting, nonconforming,
8 although it is a garage, so, or a building that
9 people do see, all right. The structure at
10 Black Angus Court, I pulled the meeting minutes
11 from that. And while it is quite a large
12 structure, it actually replaced two structures
13 that were larger than it. So when this
14 gentleman -- actually I have that, that was
15 Jamie Inoning on Black Angus. And the applicant
16 testified at a public hearing that the proposed
17 accessory structure would not result in any
18 undesirable change in the neighborhood, nor any
19 detriment to any nearby properties in the
20 neighborhood. The Board notes that the
21 applicant's testimony that the accessory the
22 structures he recently removed were more than
23 double the size of the structure he now
24 proposes. So the reason why this gentleman got
25 that variance for that building is because he

1 Proceedings

2 actually reduced the size of what was already
3 there.

4 MR. LYNN: So I would just, again, the
5 reason I put comparables up is because last time
6 when we had this session it was brought to my
7 attention by yourself that there were no
8 comparable structures of that size anywhere
9 within 2,000 feet if you read the last minutes
10 meeting. But I wanted to bring to your
11 attention during my research that there are
12 within the neighborhood, and I have a bunch of
13 other ones that I found more recently on
14 Lakeside Road, that are comparable size. Again,
15 just for the comparison of the fact you said
16 there was nothing in the vicinity even close.
17 So that's why I, again, just to bring it to the
18 Board's attention.

19 CHAIR SCALZO: And that's excellent.
20 The one that's closest to you I think is 24 by
21 24. I can't remember the name of the homeowner
22 there. But so you did follow instructions, you
23 go read the minutes and that's great. Sometimes
24 applicants wouldn't follow up as much as you
25 did, which is fantastic.

1 Proceedings

2 You also mentioned a couple more that
3 were down the street. One was at 364 Lakeside.
4 The gentleman was Hustins. That is a
5 substantial structure, it is closer to you. The
6 Board had one no vote for that application, and
7 I'll let you guess who that no vote was.

8 There was an application right next to
9 that, Mr. Abrams, who was looking for a,
10 actually, I believe it was Charlie Brown, who's
11 sitting in the back of the room, who was
12 representing him, he did not get his variances
13 because he had a substantial pole barn that he
14 was looking to put up. So I'm just looking to
15 give you a --

16 MR. LYNN: No, I know there's both,
17 there's both sides.

18 CHAIR SCALZO: Sure.

19 MR. LYNN: Again, I wanted to bring to
20 your attention what I found based on what you
21 asked for last time.

22 CHAIR SCALZO: And you follow
23 instructions and that's fantastic.

24 So that was -- those were my
25 observations. Just with the size, I'm not

1 Proceedings

2 opposed to a structure in there, it's just your
3 structure is very large. So that's why at last
4 month's meeting I had asked if you were married
5 to that as it sat in the application, and you
6 indicated that you were. Therefore, I was just
7 trying to put a little perspective on that. And
8 the other garages, yes, Black Angus, great
9 example because it is very close. The one at
10 364, great example. Those are my opinions.
11 You've got five other guys that you need to get
12 on board.

13 So in this case I'm going to let you
14 talk in a minute, but I'm actually going to look
15 to the Board for a couple of comments, and then
16 we'll let you address them all. So I am going
17 to go down to Mr. Masten.

18 MR. MASTIN: I have no comments.

19 CHAIR SCALZO: No, okay, very good.
20 How about Mr. Hermance?

21 MR. HERMANCE: That's what I was going
22 to ask you before, if he is still committed to
23 the height, because it is a significant request
24 for the variance.

25 CHAIR SCALZO: well, height is -- well,

1 Proceedings

2 height I understand. I don't want to say I
3 accept it but I understand it because of the
4 size of the doors. And with those doors at,
5 they're ten foot tall?

6 MR. LYNN: Twelve.

7 CHAIR SCALZO: Twelve foot. So
8 you're -- you know, I understand that. Again,
9 not that I need to accept that but I understand
10 why you're doing what you're doing. It's the,
11 and I'll say the square footage, could you get
12 away with a single door, so narrowing that down.
13 You have the ability to meet what code for
14 coverage, you have that ability, it's just
15 you're way over.

16 MR. LYNN: Right. So do you want me to
17 speak now or --

18 CHAIR SCALZO: Well, hang on one
19 second.

20 Mr. Hermance, were you done?

21 MR. HERMANCE: Right, it was the height
22 and the width, and the lean-to adds to the
23 square footage also.

24 MR. LYNN: Yeah.

25 MR. HERMANCE: So like Mr. Scalzo was

1 Proceedings

2 saying, you could probably easily meet the
3 requirements by a few adjustments. That's my
4 only comments.

5 CHAIR SCALZO: Thanks, Mr. Hermance.

6 Mr. Levin, did you have anything?

7 MR. LEVIN: Nothing.

8 CHAIR SCALZO: Mr. McKelvey?

9 MR. MCKELVEY: No.

10 CHAIR SCALZO: And Mr. Marino, I'm
11 going to start with you.

12 MR. MARINO: Yeah. Are there any
13 buildings of any size on the property now that
14 will be coming down if you get the area of the
15 building you want to put up?

16 MR. LYNN: Well, right now so I only
17 have the house and the smaller garage is there.
18 I didn't intend on taking it down because I was
19 still going to use it for storage of like my
20 yard tools and stuff. I think I did say that at
21 the last meeting.

22 CHAIR SCALZO: You did, yeah.

23 MR. MARINO: So nothing is coming down;
24 correct?

25 MR. LYNN: Correct.

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Proceedings

MR. MARINO: And the building you're proposing is going to be further back by your property by your house?

MR. LYNN: Well, off to the side of my house.

MR. MARINO: Off to the side.

MR. LYNN: Yeah. So here, facing the house and to the right side.

CHAIR SCALZO: I saw that today, all right.

MR. LYNN: So you were asking if I was totally married to the exact design, and I was thinking about this over the, you know, we had a month between then and now. For me to drop the side lean-to, I mean, that takes 300 square foot off the footprint and, I mean, that -- you know, I don't know how small you're trying to -- the reason I wanted to keep the width is again, as I stated before, I want to be able to put the truck in there and the boat in there at the same time, so. Side by side would be nice.

CHAIR SCALZO: Okay. Your truck and boat trailer, total length on it?

MR. LYNN: So the trailer is 45 feet

1 Proceedings

2 from end to end.

3 CHAIR SCALZO: Wow.

4 MR. LYNN: It's a 38 foot boat, so.
5 Oh, and then my truck. The boat trailer, the
6 boat is 9.3 on the trailer wide, so, and then
7 the truck's a Ford 250. That's why I wanted the
8 doors. If you look at it, it was only a ten
9 foot wide door that I put on there. So we need
10 two ten feet wide, a 12 foot wide and 24 foot of
11 door space, and then just to make the building
12 have enough front edge of the building to fit
13 the door for a walk in on the front. That was
14 where the width came from.

15 And I was also thinking about if I was
16 to put the walk in to the side, I might be able
17 to reduce the width down and still fit the ten
18 foot and 12 -- ten foot wide for the truck and
19 the 12 foot for the boat wide. That would go
20 down to 28 by -- 28 by 46. Again, you know,
21 thinking about what you were saying the last
22 time, is there a way I can still achieve what
23 I'm trying to do without -- you know, with
24 reducing the footprint.

25 CHAIR SCALZO: And that's -- okay. And

1 Proceedings

2 you're also, because the lean-to kind of kills
3 you, because that is also an additional 320 --

4 MR. LYNN: Yeah, yeah.

5 CHAIR SCALZO: -- square feet. Is the
6 lean-to, I know you said it's for wood, but I
7 didn't, you know, I didn't pay much attention to
8 it, but I didn't see wood when I was there last
9 time.

10 MR. LYNN: Oh, yeah, because I didn't
11 get my wood ready for this year. I have last
12 year's wood. So I've got to get ready for next
13 year.

14 CHAIR SCALZO: You've got to season
15 that stuff.

16 MR. LYNN: Exactly. Get it split in
17 the spring, it sits all summer and dries and
18 it's good for the fall.

19 CHAIR SCALZO: I think, you know what,
20 obviously you paid attention last month and
21 that's worth it. What I'm looking at here is
22 you said a bunch of things about what you may be
23 willing to do. So we're going to, we're not
24 there yet but we're going to get there.

25 I do have some written correspondence

1 Proceedings

2 here which was from Alexis and George Koudounas
3 over on Jodi Drive. They have questions, and
4 let's see. Number six, if an area variance is
5 requested it will not be in an area visible to
6 the street or other houses. At the initial ZBA
7 meeting on February 25th Mr. Lynn stated and
8 emphasized that the structure would not be
9 visible to our home on Jodi Drive, as it would
10 be in front of his home. The plans that were
11 submitted March 11th and posted online show the
12 structure would be on the side of the home at 1
13 Lynn and 100 feet away, with the doors from the
14 new structure facing the garage and the home,
15 which would place it in direct view of our home.

16 Now, having been to the site, I could
17 look right in at the Koudounas's back yard, I
18 believe that's them.

19 MR. LYNN: Yeah, they have the --

20 CHAIR SCALZO: Or are they behind your
21 shed?

22 MR. LYNN: They're -- yeah, they --
23 well, the shed and -- the shed is slightly
24 behind the house, so they're the next lot behind
25 my lot, so.

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Proceedings

CHAIR SCALZO: Okay. And then the second, you had mentioned your boat, and the question of the dimensions of the boat. And the purpose of the open area overhang. So we know the open area overhang, it's your intent to now store your wood there. And you just gave us the 40, I'm sorry, 38 foot length of the trailer?

MR. LYNN: Well, the trailer -- the boat on the trailer is 45, that's why the length is 36 on the building.

CHAIR SCALZO: Okay. And then the third question, located in an area that is not in the line-of-sight of other homes. The structure will be in direct view from our property and home and will be viewable from several rooms, including living room, bedroom, bathroom as well as the back yard. There are no specifications in the post building diagrams of the property setbacks. Now, this does not show a survey and placement of the proposed structure on the survey. I thought we had one.

MR. LYNN: I did submit it, everybody on the Board got one.

CHAIR SCALZO: Yeah. And then the

1 Proceedings

2 changing the landscape with the construction of
3 an oversize structure, it has a larger footprint
4 than the home on Lynn.

5 All right, so I've done an awful lot of
6 talking, now I'll let you talk.

7 MR. LYNN: So when you were asking
8 about, I think -- I think maybe you were, when
9 you said behind my shed was there, so that would
10 be where Koudounas is, behind it. But it's the
11 other house to my right that isn't -- that would
12 be -- I don't know, it's hard to say if you were
13 there. There's two, there's two houses on each
14 side. They're both through wooded areas and
15 they're both pretty far away. So I have to, I
16 mean, I have the dimensions from, I used Google
17 Earth and you can measure things out on there
18 because it's satellite images. So
19 approximately, the new garage, the new proposed
20 garage is approximately 293 feet from
21 Koudounas's house. So that's the distance. I
22 mean, whether you see the side of a house or the
23 side of a garage, it's the side of a building.
24 I mean, that's what it is. I don't know what
25 more to do with that, I mean.

1 Proceedings

2 CHAIR SCALZO: I wonder --

3 MR. LYNN: If somebody -- you know, you
4 will see it I guess somehow, you can see my
5 house, you can see the siding on the house, it's
6 siding on the garage.

7 CHAIR SCALZO: Sure. Very good. I'm
8 going to actually look to the Board and just
9 kind of continue a little bit.

10 Mr. Marino, do you have anything?

11 MR. MARINO: Just one last question.
12 When you come down the driveway past your
13 brother's house, when you get to the back yard
14 there's a sharp right, there's a house right
15 there. Who lives there?

16 MR. LYNN: The -- let's see,
17 immediately -- oh, on the side, that would be
18 Mark and Maribel Garris.

19 MR. MARINO: All right. So they're not
20 the ones --

21 MR. LYNN: No.

22 MR. MARINO: Okay.

23 CHAIR SCALZO: Just so I'm clear,
24 because at one point when I stood where I think
25 your metal building is going to go and I was

1 Proceedings

2 looking directly south, I thought that was the
3 house that Koudounas has. Am I wrong, is it
4 both your back deck and your house now, is that
5 where their home is?

6 MR. LYNN: Yeah. So off the back deck
7 of my house, yes, you would be in that direction
8 off the back deck of my house, correct.

9 CHAIR SCALZO: Okay. So but on the map
10 prepared by Bill Hildris it's showing Koudounas
11 owns both sides.

12 MR. LYNN: Yeah, he has a strip between
13 the other house and my property.

14 CHAIR SCALZO: Okay.

15 MR. LYNN: But his house is not on that
16 one side. I can point it out to you on the map
17 if you want.

18 CHAIR SCALZO: Oh, no, I got it now.
19 It's just the tax map and just that one section
20 of the tax map, if it was expanded a little bit
21 I would be able to understand a little better.
22 Yeah, that's there. Thank you, Mr. Marino.

23 Mr. McKelvey?

24 MR. MCKELVEY: Nothing.

25 CHAIR SCALZO: Mr. Levin?

1 Proceedings

2 MR. LEVIN: Nothing.

3 CHAIR SCALZO: Mr. Hermance?

4 MR. HERMANCE: I think you may have
5 already answered this, but do you plan on
6 running electric to this garage?

7 MR. LYNN: Yeah, electric, yes.
8 Nothing else.

9 MR. HERMANCE: And the lighting would
10 be?

11 MR. LYNN: Interior only.

12 MR. HERMAN: Nothing on the exterior?

13 MR. LYNN: No.

14 MR. HERMANCE: Okay, that's all I have.

15 CHAIR SCALZO: All right. I'm going to
16 go back to the one that he approved in June of
17 2017. My predecessor, Jim Manley, always
18 brought up some great points. And one of the
19 concerns that he had, that still applies to this
20 today and us here, always his concern, not
21 necessarily with the individual that's going to
22 use the garage today, is what happens tomorrow
23 in the future. Because once it's built and
24 they're -- and this individual decides they're
25 going to retire and move to Florida, sells

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1
2 whatever it is that you are going to keep in
3 there, your boat, or maybe you take it with you,
4 who knows, next thing you know somebody comes in
5 and decides that they want to run a business out
6 of it. So, you know, you're standing here today
7 asking for this relief for a variance, and we
8 would be remiss to not think of when you're
9 gone. Because when you're, you know, you got it
10 here, not that you're setting a precedent should
11 this go the way you want, but now it's the next
12 guy that comes in that's going to point at your
13 shed and say well, you gave it to him. So
14 that's part of it. The other part, again, is
15 when you leave, what that could be used for.
16 And it becomes an enforcement issue for the town
17 code compliance and it becomes difficult for
18 them to maintain as well. So that's yet another
19 consideration here.

20 Mr. Hermance, were you done with
21 your --

22 MR. HERMANCE: Yes, I was done.

23 CHAIR SCALZO: And actually you and I
24 both in the last meeting, and this does not
25 necessarily apply to your application, but we

1 Proceedings

2 noticed this little block with this salt --

3 MR. LYNN: With a roof over it.

4 CHAIR SCALZO: Yeah, well, a torn roof
5 over it. Maybe it's -- I didn't go back to the
6 site, but, and you indicated that it's not
7 yours.

8 MR. LYNN: Correct. It's not my
9 property either.

10 CHAIR SCALZO: It's not your property
11 either, but to access that you have to drive
12 over your property.

13 MR. LYNN: Yeah.

14 CHAIR SCALZO: So it becomes an -- I
15 don't know if you want to hang no trespassing
16 signs and let your brother know he can't do that
17 anymore.

18 MR. LYNN: Well, just to address that
19 since you brought that up, I've talked to him
20 and he is moving it out of there just because he
21 knows, you know, we talked about it now, you
22 know, he's going to take it out of there, so.
23 But yeah, that will be out of there. It's not
24 even on my property.

25 CHAIR SCALZO: No, no.

1 Proceedings

2 MR. LYNN: Again, it's family. So I
3 talked to him and he --

4 CHAIR SCALZO: It's -- yeah, I
5 understand.

6 Mr. Masten?

7 MR. MASTEN: I have no questions on it.

8 CHAIR SCALZO: Okay. At this point
9 we're going to open it up to any members of the
10 public to speak about this application. If
11 anybody wants to speak on the Lynn Drive
12 application, please raise your hand and we will
13 get to you.

14 MS. JABLESNIK: Okay.

15 MR. GARRIS: Hello?

16 CHAIR SCALZO: Okay, I heard somebody.

17 MR. GARRIS: Do you hear me?

18 CHAIR SCALZO: Yes.

19 MR. GARRIS: Hi. I'm Mark Garris.

20 MS. GARRIS: I'm Maribel Garris. We're
21 the property owners at 310 Lakeside Road. This
22 May will be seven years.

23 we have absolutely no problem on them
24 building a garage on their property. We feel
25 that building a garage would actually contain

1 Proceedings

2 most of their items and give a neat appearance
3 to the property and surrounding areas. His
4 equipment is not for commercial use but for
5 personal property maintenance, which in fact
6 Mike actually uses -- uses it for our property
7 maintenance as well. Our homes are actually 75
8 feet exact from each other. We would actually
9 be the neighbors who would be the most affected.
10 And we have never experienced any loud noises or
11 light inconveniences at inconsiderate times. We
12 feel that in no way will building a garage
13 impede on our property value nor diminish our
14 ability to enjoy our property to the fullest.

15 I'd like to add that when you purchase
16 a property, it will be assumed that you will
17 live there for 30 years. And it would be really
18 nice if everyone would be civil and neighborly
19 to each other, one another. Since we've lived
20 here our experience with the Lynn family has
21 been nothing but positive and a pleasure to have
22 them as neighbors. Ultimately if the Lynns want
23 to build a garage, then they should be able to
24 do so to protect their personal property. And
25 we definitely don't see it as an eyesore.

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2 Mike is a firefighter who belongs to
3 our local firehouse, assisting with saving
4 lives and giving his personal time to help keep
5 people in our community safe. And if he wants
6 to build a garage, then we are all for it. We
7 absolutely see no problem in it. We're so
8 close where we can see his home, and it's not a
9 problem to us. I think that it would actually
10 benefit our properties. You know, they keep it
11 very neat and clean. We have absolutely no
12 problem with him building a garage there.

13 CHAIR SCALZO: Thank you very much. I
14 just want to go back to something that you
15 started off your conversation with, Mr. Lynn cut
16 your lawn. Is that something that he does
17 because he's a volunteer or does he charge you
18 to cut his lawn, is he running a business out of
19 there?

20 MS. GARRIS: No, no. He never charges
21 us, ever.

22 CHAIR SCALZO: I wish you lived next to
23 me.

24 MS. GARRIS: He'll plow for us. That's
25 what neighbors are supposed to do for each

1 Proceedings

2 other, help each other out.

3 CHAIR SCALZO: Thank you very much for
4 clarifying that.

5 MS. GARRIS: Mm-hmm.

6 CHAIR SCALZO: Okay. Anyone else from
7 the public wish to speak about this application?
8 If I can see you and you're on video and you'd
9 like to speak, please raise your hand.

10 I'm not seeing anything.

11 UNIDENTIFIED SPEAKER: Test.

12 CHAIR SCALZO: We got something. We
13 heard somebody say test.

14 (No response.)

15 CHAIR SCALZO: Okay. Why don't we
16 leave that open for a second there, Siobhan.
17 And any other comments from the Board here?

18 (No response.)

19 CHAIR SCALZO: All right, Mr. Lynn, I'm
20 going to go back to you then. You had mentioned
21 your willingness to start tearing this thing
22 down a little bit.

23 MR. LYNN: Yeah.

24 CHAIR SCALZO: So what are we talking
25 about here?

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2 MR. LYNN: So what I was saying was
3 when I looked at it, like you said, you take the
4 lean-to, cut that off, that cuts off the width
5 about 300 something square foot, all right. And
6 I looked at the front of the building and said
7 okay, well, I could squeeze another two foot
8 down off the front of the building and still
9 retain the side doors I need by moving the walk
10 in to the side of the building rather than on
11 the front of the building. That would allow me
12 to squeeze the size of the width of the building
13 down. which I think would bring me down to
14 maybe like 1,100 and change square foot or
15 something like that.

16 CHAIR SCALZO: All right.

17 MR. LYNN: I think that's what I
18 calculated out.

19 CHAIR SCALZO: You know what, though,
20 can you give me what the front dimensions of the
21 garage doors are now without the access door,
22 what would that dimension be?

23 MR. LYNN: Without, you're saying like
24 what is on your plan there?

25 CHAIR SCALZO: Yeah, because I'm

1 Proceedings

2 looking at the 12 foot door, the ten foot door,
3 and then I'm assuming a 36 inch access door.

4 MR. LYNN: Thirty-six, yeah, so it was
5 30 wide.

6 CHAIR SCALZO: Oh.

7 MR. LYNN: Thirty foot was the whole --

8 CHAIR SCALZO: All right, so it was 30.

9 MR. LYNN: Yeah.

10 CHAIR SCALZO: So you're looking at
11 your, I'll say your offer, 30 less three, is
12 that what we're talking about here?

13 MR. LYNN: Two foot, two foot width,
14 because that would still leave enough room to
15 fit the other two doors, because you go a ten
16 foot and a 12 foot, you've got 24 foot, right,
17 so if the building is 28, that gives you just
18 enough room between the outside of the building
19 and in between the two doors to fit it.

20 CHAIR SCALZO: All right. And then
21 your depth needs to remain the same.

22 MR. LYNN: Yeah, correct.

23 CHAIR SCALZO: Which is, I'm sorry,

24 40 --

25 MR. LYNN: Forty-six.

1 Proceedings

2 MR. DONOVAN: I've got 1,388.

3 MR. LYNN: Forty-six times 28 is 1,288.

4 CHAIR SCALZO: You did the math?

5 MR. DONOVAN: 1,288?

6 MR. LYNN: Right, 46 times 28 is 1,288.

7 MR. DONOVAN: I just rounded up.

8 That's how I make money.

9 CHAIR SCALZO: You know what, and your,
10 your offer is to at this point not construct the
11 lean-to?

12 MR. LYNN: Correct, yeah.

13 CHAIR SCALZO: Okay. I appreciate your
14 willingness to make adjustments. I have no more
15 comments.16 So at this point, Mr. Masten, do you
17 have anything else?

18 MR. MASTEN: I have nothing else.

19 CHAIR SCALZO: Mr. Hermance?

20 MR. HERMANCE: I have nothing else.

21 CHAIR SCALZO: Mr. Levin, Mr. McKelvey?

22 MR. MCKELVEY: Nothing.

23 CHAIR SCALZO: Mr. Marino?

24 MR. MARINO: Nothing. I'm good with
25 the adjustments.

1 Proceedings

2 CHAIR SCALZO: One last opportunity to
3 the public.

4 MR. HARAS: Yes. My name is Robert
5 Haras. Are you hearing that?

6 CHAIR SCALZO: Yes.

7 MR. HARAS: I reside at 316 Lakeside
8 Road. And, you know, I calculated the square
9 foot of the building with the lean-to as
10 presented is like 1,692 feet. This is larger
11 than the footprint of my house.

12 CHAIR SCALZO: That's correct.

13 MR. HARAS: All right. I was informed
14 by the town last week that the town allows for
15 up to 700 square feet of additional building in
16 an R1 zone. I understand the owner's desire to
17 put up a new building, all right. But, you
18 know, his house was constructed, you know, with
19 the existing zoning that was in effect. The
20 property already has a detached garage of about
21 200 square feet. And there's no demonstrated
22 hardship that has been indicated in the
23 application. And, you know, these are not minor
24 variances, you know. The variances requested
25 are multiple and substantial, all right. I

1 Proceedings

2 mean, I suggest that the owner construct a
3 building that would blend into the community and
4 conform to the existing town codes. Either that
5 or for the town to revisit the zoning
6 classification and amend the zoning to allow for
7 these large structures. Thank you for your
8 attention.

9 CHAIR SCALZO: Thank you. Sir, did you
10 hear, the applicant has offered to reduce the
11 size of the structure to 28 by 46 and the
12 lean-to would not be installed? He's looking at
13 a total of 1,288 square feet. At this point
14 that's the discussion that's occurred during
15 this public hearing, or did you hear those
16 comments from the applicant?

17 MR. HARAS: Yes, sir, I heard that.
18 I'm just thinking that, you know, he should just
19 comply with the town, with the existing town
20 codes. That's my comment.

21 CHAIR SCALZO: Okay. The maximum
22 square foot is 1,000, but that's all accessory
23 structures. Now, he has an additional shed
24 there existing, 312. He's proposing, well, now
25 it's 1,288 instead of 1,692. So give me one

1 Proceedings

2 second here.

3 Yeah, instead of -- his variance
4 percentage dropped 9.2 percent.

5 Anyone else from the public wish to
6 speak about this application?

7 MS. JABLESNIK: Go ahead, you can
8 unmute yourself.

9 CHAIR SCALZO: Yes. Siobhan, who is
10 it, do we know?

11 MS. JABLESNIK: George Koudounas.

12 CHAIR SCALZO: Mr. Koudounas.

13 MR. KOUDOUNAS: Yes. I just want to
14 agree with Mr. Haras with what he says. And I'm
15 just asking the Board to enforce the zoning and
16 with the town. This has been our, you know,
17 information, what we have seen about it, and
18 we're asking you to respect and enforce the
19 zoning, whatever it is. Thank you.

20 CHAIR SCALZO: Thank you.

21 Mr. Lynn, we heard from Mr. Koudounas,
22 we also heard from Mr. Haras.

23 MR. LYNN: Yes. I'd like to address
24 his comments.

25 CHAIR SCALZO: But let me ask you this,

1 Proceedings

2 and if Mr. Haras is still on, where is Mr. Haras
3 in relation to you?

4 MR. LYNN: He is -- so I'm prepared
5 because I read his letter -- that he's pretty
6 far off from where -- he's about 500 feet from
7 where the new garage location would be. He has
8 no visibility of the new building that would be
9 put up at all, unless he was to go all the way
10 to the back edge of his property and just sit
11 there and look across my lawn. So that's the
12 answer to that question. I could show you on
13 the map if you want me to walk up there.

14 CHAIR SCALZO: Is it on here on this or
15 is it on the --

16 MR. LYNN: He's here.

17 CHAIR SCALZO: Okay.

18 MR. LYNN: And this is right where the
19 garage is.

20 CHAIR SCALZO: I understand.

21 MR. LYNN: A 500 foot diagonal.

22 CHAIR SCALZO: So he's at the front of
23 Lynn Drive?

24 MR. LYNN: No, he's on Lakeside Road,
25 next to my mother's house. My mother's house

1 Proceedings

2 and my brother's house are on the side of Lynn
3 Drive, the next one over.

4 CHAIR SCALZO: All right. Close to
5 Jodi Drive?

6 MR. LYNN: Correct.

7 CHAIR SCALZO: All right, thank you.

8 Any other members of the public wish to
9 speak about this application? Oh, I see a hand
10 up, Siobhan. Who is that?

11 MS. JABLESNIK: Maribel.

12 Go ahead.

13 MS. GARRIS: Okay. I'd like to say
14 again that we're the closest neighbors, we're
15 the closest neighbors to the Lynns. It's about
16 75 feet.

17 CHAIR SCALZO: Okay, thank you.

18 MS. GARRIS: So I can't understand why
19 anyone else would have a problem.

20 CHAIR SCALZO: No, I --

21 MS. GARRIS: That's all.

22 CHAIR SCALZO: Your comments will be
23 noted in the meeting minutes. Thank you.

24 Anyone else in the public have any new
25 comments to this application?

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2 (No response.)

3 CHAIR SCALZO: No. Hearing none, I
4 look to the Board for any last comments.

5 MR. LEVIN: Darrin, could you show us
6 where his house is?

7 CHAIR SCALZO: Yes. You're talking
8 about the gentleman that spoke --

9 MR. LEVIN: Yes.

10 CHAIR SCALZO: -- a moment ago? Okay.
11 This is the access driveway into the applicant's
12 property. The gentleman that spoke is here.
13 Over where, right, yup, not this house but the
14 one next to it that you can't see off the map.

15 MR. LEVIN: Oh, okay.

16 CHAIR SCALZO: You can't see this.

17 Very good. All right, so at this point
18 I'll look to, if the Board feels as though they
19 have enough information here --

20 MR. LYNN: I wanted to make another
21 comment just based on what Mr. Haras had to say.
22 Because here's an individual who lives very --
23 fairly close, and he's quick to stop me and say
24 that I don't need an accessory structure when on
25 his property he has two additional accessory

1 Proceedings

2 structures --

3 CHAIR SCALZO: I'm going to stop you
4 there.

5 MR. LYNN: -- almost 2,000 square feet.
6 I just want to make the point that a guy who is
7 telling me that I don't need something on my
8 property has ample space and structures already
9 existing on his.

10 CHAIR SCALZO: Thank you for your
11 comments. It's -- he's not here in front of us
12 but you are.

13 Okay. So I look to the Board if we
14 have enough information as though you feel we
15 can close the public hearing? Does the Board
16 have a motion?

17 MR. LEVIN: Close the public hearing.

18 MR. MASTEN: I'll second it.

19 CHAIR SCALZO: All right, we have a
20 motion from Mr. Levin to close to the public
21 hearing, we have a second from Mr. Masten. All
22 in favor?

23 (Chorus of ayes.)

24 CHAIR SCALZO: Opposed?

25 (No response.)

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2 CHAIR SCALZO: Very good. All right,
3 Siobhan, if you can mute them.

4 MS. JABLESNIK: Yes, they're muted.

5 CHAIR SCALZO: They're muted, okay,
6 very good.

7 All right. Here we go. Again, Type II
8 action under SEQRA, counselor.

9 MR. DONOVAN: Correct, Mr. Chairman.

10 CHAIR SCALZO: I will go through the
11 five factors. The first one being whether or
12 not the benefit can be achieved by other means
13 for the applicant. Well, the applicant has
14 offered to reduce the size of what his initial
15 application had shown. It's still substantial.

16 Mr. Marino?

17 MR. MARINO: No, I'm good with it, he's
18 reduced it.

19 CHAIR SCALZO: Mr. McKelvey, Mr. Levin?

20 MR. MCKELVEY: I'm good.

21 Mr. Hermance, Mr. Masten? No.

22 Second, if there's an undesirable
23 change in the neighborhood character or a
24 detriment to the nearby properties. Well, we've
25 had mixed comments from neighbors. Some feel as

1 Proceedings

2 though it would not change the neighborhood
3 character, others feel as though it may.

4 The third, whether the request is
5 substantial. By code at 60 percent over it is
6 substantial.

7 The fourth, whether the request will
8 have adverse physical or environmental effects.
9 For that I really don't think so.

10 MR. LEVIN: No.

11 MR. MARINO: No.

12 CHAIR SCALZO: No. And the fifth,
13 whether the alleged difficulty is self created,
14 which is relevant but not determinative. Of
15 course it's self created, but it's not relevant
16 or determinative.

17 There, having gone through the factors,
18 does the Board have, and we may impose
19 reasonable conditions, does the Board have any
20 motions to make?

21 MR. MARINO: Let me just ask a
22 question. What we might be voting on would be
23 the compromises or the cuts that Mr. Lynn is
24 willing to make; is that correct?

25 CHAIR SCALZO: Mr. Marino --

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2 MR. MARINO: It doesn't have to be the
3 original request?

4 CHAIR SCALZO: -- it can be exactly as
5 you frame it. You know, we can -- it could
6 stand as the application sits or it can be
7 justified by what the applicant offered to
8 reduce it by.

9 MR. MARINO: Okay. I am willing to
10 support what he's willing to reduce it by.

11 CHAIR SCALZO: The reduction?

12 MR. MARINO: Yes.

13 MR. DONOVAN: Is that just a statement
14 of support or is it a motion?

15 MR. MARINO: I'll make a motion to that
16 effect.

17 CHAIR SCALZO: All right. So
18 Mr. Marino has made a motion for approval with
19 the reduction that the applicant has indicated
20 during his testimony.

21 MR. MASTEN: I'll second it.

22 MR. DONOVAN: And if I can, just for
23 clarification, so it's 1,288 square feet?

24 CHAIR SCALZO: That's correct.

25 MR. DONOVAN: With removal of the, for

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lack of a better phrase, the lean-to, and
reducing the width of the building to 28 feet?

CHAIR SCALZO: Correct. That is the
motion as it stands.

So we have a motion from Mr. Marino, we
have a second from Mr. Masten. Siobhan, can you
roll, please?

MS. JABLESNIK: Mr. Hermance?

MR. HERMANCE: No.

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?

CHAIR SCALZO: No.

So what have we got, 4-2?

MS. JABLESNIK: Yes.

CHAIR SCALZO: Correct?

MR. DONOVAN: Correct.

CHAIR SCALZO: The motion still passes;

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correct?

MR. DONOVAN: That's correct. It's a seven member board, four votes affirmative carries the motion, the variance is approved.

CHAIR SCALZO: Good luck.

MR. LYNN: All right. Thank you.

(Time noted: 8:31 p.m.)

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C E R T I F I C A T E

STATE OF NEW YORK)
) SS:
COUNTY OF ORANGE)

I, KARI L. REED, a Shorthand Reporter
(Stenotype) and Notary Public with and for the
State of New York, do hereby certify:

I reported the proceedings in the
within-entitled matter and that the within
transcript is a true record of such
proceedings.

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

IN WITNESS WHEREOF, I have hereunto set
my hand this 14th day of April, 2021.

Kari L. Reed

KARI L. REED

1
2 STATE OF NEW YORK : COUNTY OF ORANGE
TOWN OF NEWBURGH ZONING BOARD OF APPEALS

3 -----X
4 In the Matter of:

5 ROBERT DORRMANN

6 Weaver Road
11-1-93
AR Zone

7 -----X
8 SECOND APPEARANCE

9 Date: March 25, 2021
10 Time: 8:31 p.m.

11 Place: Town of Newburgh
Town Hall
12 1496 Route 300
13 Newburgh, New York 12550

14 BOARD MEMBERS: JOHN H. MCKELVEY, Vice Chair
15 DARRELL W. BELL (via Zoom)
16 JOHN D. MASTEN
RICHARD D. LEVIN
17 ANTHONY MARINO

18 ALSO PRESENT: DAVID A. DONOVAN, ESQ., Board Counsel
19 SIOBHAN JABLESNIK, Board Secretary

20 APPLICANT'S REPRESENTATIVE: CHARLES BROWN
21

22 Reported by: Kari L. Reed
23 -----

24 MICHELLE L. CONERO
3 Francis Street
Newburgh, New York 12550
25 (845) 541-4163

1 Proceedings

2 MS. JABLESNIK: Step up to the mic,
3 Charlie.

4 MR. BROWN: Good evening.

5 CHAIR SCALZO: Hang on one second
6 there, Charlie.

7 MR. BROWN: Yup.

8 CHAIR SCALZO: I have to get my stuff
9 in order here.

10 All right, we are on to Robert
11 Dorrman; correct?

12 MR. BROWN: That's correct.

13 CHAIR SCALZO: Okay.

14 MR. BROWN: This one was here before
15 the Board last month.

16 MR. DONOVAN: Hold on one second,
17 Charlie.

18 MR. BROWN: Yup.

19 CHAIR SCALZO: No, Mr. Hermance and I
20 both need to step away.

21 MR. BROWN: Oh, that's right.

22 CHAIR SCALZO: And, counselor, if you
23 could take over for this one for a short time.

24 MR. DONOVAN: Will do, Mr. Chairman.

25 CHAIR SCALZO: And Mr. Bell is back

1 Proceedings

2 online; correct?

3 MS. JABLESNIK: Yeah, he's just
4 unmuting himself.

5 CHAIR SCALZO: Okay.

6 (Chair Scalzo and Mr. Hermance exit
7 meeting room.)

8 MR. DONOVAN: Charlie, just before you
9 start, if I can just step into Chairman Scalzo's
10 shoes and just summarize the application. This
11 was before the Board last month.

12 MR. BROWN: Sure.

13 MR. DONOVAN: The public hearing is
14 continued so we could hear from the county. What
15 did we get back from the county?

16 MS. JABLESNIK: We did hear back, yeah.
17 Local determination.

18 MR. DONOVAN: Local determination.

19 So this variance comes to us from the
20 Planning Board. It's a two lot subdivision
21 application in front of the Planning Board. Lot
22 number one, where the new house will be built,
23 has some preexisting accessory structures that
24 will remain in their present location and are in
25 the front yard and are not permitted. And

1 Proceedings

2 Charlie, I believe that's why you're here
3 tonight.

4 MR. BROWN: That is exactly why I'm
5 here. This is a very big lot, it does back up to
6 the Thruway, which is why two members have
7 recused themselves. Again, the structures are
8 existing. But we're replacing the -- the post
9 house is about really the only place we can put
10 it because of the terrain and the available soil
11 for a viable septic system. So we have no other
12 alternative but to come here and attempt to get a
13 variance for it and tear the buildings down. My
14 client has agreed to remove the trailer, which we
15 were told we had to do by the Planning Board. So
16 that's going to be on the map. And we'll
17 resubmit to the Planning Board based on what
18 happens here.

19 MR. DONOVAN: So I'll turn to the Board
20 and ask, Mr. Bell, any comments? Is that sign
21 language?

22 MS. JABLESNIK: I don't know. Oh,
23 yeah. I need to do that, hold on. All right,
24 you're good.

25 MR. BELL: All right, there we go. I'm

1 Proceedings

2 good, counselor.

3 MR. DONOVAN: Thank you, Mr. Bell.

4 Mr. Masten, any comments?

5 MR. MASTEN: No.

6 MR. DONOVAN: Mr. Levin?

7 MR. LEVIN: No.

8 MR. DONOVAN: Mr. McKelvey?

9 MR. MCKELVEY: No.

10 CHAIR SCALZO: Mr. Marino?

11 MR. MARINO: Just one question about,
12 I'm not clear on this, exactly what do we have,
13 you want a Planning Board referral for a two lot
14 division? I don't understand why it's here
15 before us.

16 MR. DONOVAN: So, if I can, so the
17 record will reflect I'm showing Mr. Marino the
18 map, outlined in pink because I couldn't figure
19 out where it was, is the new lot, lot number one,
20 lot number two. These structures, I'm pointing
21 to the existing shed and the existing barn, are
22 going to be in the front yard. This has got a
23 new house, these are already here. They are not
24 allowed, so Charlie needs a variance to keep
25 those two structures.

1 Proceedings

2 MR. MARINO: All right.

3 MR. DONOVAN: Got it?

4 MR. MARINO: How necessary is it to
5 keep those two structures?

6 MR. BROWN: Well, it's actually three
7 including the privy.

8 MR. DONOVAN: Oh, okay.

9 MR. BROWN: His mother likes that
10 privy. I mean, again, it's -- there's no effect
11 on the neighborhood because the lot is huge.
12 It's surrounded by a lot of wetlands by the
13 Thruway, nobody can see it. You know, you, he
14 wants to keep them. He's a fireman also, and
15 they like their toys and he needs to have a place
16 to store them.

17 MR. DONOVAN: And how big is the lot,
18 Charlie?

19 MR. BROWN: Oh, boy.

20 MR. DONOVAN: Yeah, it's big. I can't
21 find it on the map. On the top?

22 MR. BROWN: Yeah, 24?

23 MR. DONOVAN: it's 24.6 acres.

24 Any other comments?

25 MR. MARINO: No.

1 Proceedings

2 MR. DONOVAN: Anybody from the public,
3 Siobhan?

4 MS. JABLESNIK: No, I don't think so.

5 MR. DONOVAN: Anybody have a motion
6 relative to the public hearing? Let me not talk
7 like a lawyer. Anyone want to make a motion to
8 close the public hearing?

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

11 MR. MARINO: Second.

12 MR. DONOVAN: All in favor?

13 (Chorus of ayes.)

14 MR. DONOVAN: So we'll go through the
15 five factors. The first factor is whether or not
16 these accessory structures, if they're allowed to
17 remain, will result in any undesirable change in
18 the neighborhood or detriment to that
19 neighborhood. Anybody think that they would be a
20 detriment at all? They're already there.

21 MR. MCKELVEY: No.

22 MR. LEVIN: I don't think so.

23 MR. DONOVAN: So the second factor is
24 whether or not there's a feasible way for the
25 applicant to proceed without the variances. And

1 Proceedings

2 I suppose you could remove the structures, right,
3 but you've heard his reasons why he doesn't want
4 to do that.

5 The next factor is whether or not the
6 variances are substantial. And Charlie, relative
7 to the size of the property these structures look
8 pretty small.

9 MR. BROWN: Oh, yeah.

10 MR. DONOVAN: Anybody feel that it's
11 substantial?

12 MR. LEVIN: No.

13 MR. BROWN: The biggest thing is the
14 trailer that he's removing.

15 MR. DONOVAN: Any adverse physical or
16 environmental effects?

17 MR. LEVIN: I don't believe so.

18 MR. MCKELVEY: No.

19 MR. DONOVAN: And the last factor is
20 whether or not the difficulty is self created,
21 which of course it is.

22 Does anybody have a motion to approve
23 or deny the application?

24 MR. MASTEN: I'll make a motion we
25 approve the application.

1 Proceedings

2 MR. BELL: Second.

3 MR. DONOVAN: Motion by Mr. Masten,
4 seconded by Mr. Bell. I have good ears. Roll
5 call.

6 MS. JABLESNIK: Roll call. Mr. Bell?

7 MR. BELL: Yes.

8 MS. JABLESNIK: Mr. Levin?

9 MR. LEVIN: Yes.

10 MS. JABLESNIK: Mr. Marino?

11 MR. MARINO: Yes.

12 MS. JABLESNIK: Mr. Masten?

13 MR. MASTEN: Yes.

14 MS. JABLESNIK: Mr. McKelvey?

15 MR. MCKELVEY: Yes.

16 MR. BROWN: Thank you. Do you want me
17 to get the boys?

18 MR. DONOVAN: Yes, please.

19 (Chair Scalzo and Mr. Hermance return
20 to the meeting room.)

21 CHAIR SCALZO: Thank you for taking
22 over, counselor.

23 MR. DONOVAN: I tried not to let it get
24 to my head.

25 (Time noted: 8:39 p.m.)

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C E R T I F I C A T E

STATE OF NEW YORK)
) SS:
COUNTY OF ORANGE)

I, KARI L. REED, a Shorthand Reporter
(Stenotype) and Notary Public with and for the
State of New York, do hereby certify:

I reported the proceedings in the
within-entitled matter and that the within
transcript is a true record of such proceedings.

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

IN WITNESS WHEREOF, I have hereunto set
my hand this 13th day of April, 2021.

Kari L. Reed

KARI L. REED

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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 S. Plank Road, Newburgh
71-5-5
R3 Zone
-----X

Date: March 25, 2021
Time: 8:39 p.m.

Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, New York 12550

BOARD MEMBERS: DARRIN SCALZO, Chair
JOHN H. MCKELVEY, Vice Chair
JOHN D. MASTEN
RICHARD D. LEVIN
ANTHONY MARINO
GREG HERMANCE, SR.

ALSO PRESENT: DAVID A. DONOVAN, ESQ., Board Counsel
SIOBHAN JABLESNIK, Board Secretary

APPLICANT'S REPRESENTATIVE: CHARLES BROWN

Reported by: Kari L. Reed

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

1 Proceedings

2 CHAIR SCALZO: All right, I believe
3 this is the last item on the agenda for this
4 evening. Jose Lema, 61 South Plank Road,
5 Newburgh, a continuation of the public hearing.
6 Mr. Lema is seeking area variances for maximum
7 lot building coverage, maximum lot surface
8 coverage and maximum allowed square footage of an
9 accessory structure to keep a 35' by 16'
10 accessory building and paved courts.

11 AS I mentioned, this is a continuation
12 of the public hearing. We were looking for some
13 updated information. I happened to drive by
14 there myself Sunday evening, and what a party
15 they had going on. So it was quite interesting.
16 But and also, for the record, this, from what I
17 understand this applicant applied for a building
18 permit, did not wait for a building permit, did
19 not wait for a variance and went and built the
20 structure anyway.

21 MR. BROWN: It's my understanding he
22 did not even apply for a building permit, he just
23 built the structure.

24 CHAIR SCALZO: Okay.

25 MR. BROWN: So, and then the town cited

1 Proceedings

2 him based upon neighbors' complaints. And when I
3 went to look at the property I saw the structure
4 and had no record of it.

5 CHAIR SCALZO: Okay.

6 MR. BROWN: That's my understanding of
7 it. I had a little -- they have a bilingual
8 employee that I used an interpreter. But he
9 built the structure, you were asking, yes, he
10 did. He built it without a permit. And he did
11 put in the volleyball court. I don't know who in
12 their right mind would play volleyball on
13 blacktop, that's not the way I used to play.

14 CHAIR SCALZO: Quite a few people,
15 Charlie, I happened to see it Sunday night.
16 You'd have been surprised. I can show you
17 pictures.

18 MR. BROWN: He did get cited again last
19 week by the Building Department, and as a result
20 he has taken down the lights. The maps are
21 modified. They show removal of the existing
22 concrete area. We are cutting at the edge of the
23 volleyball court, the top part of the court, and
24 removing that. And there's an old sidewalk there
25 that was to a house that was on that lot.

1 Proceedings

2 He is not before the Planning Board to
3 amend his lots, he's been doing that with the
4 assessor's office. And I believe that was all
5 that we were asked. The additional notes on the
6 drawings, I added a note, "required compliance
7 with", because I was surprised, the lighting and
8 noise wasn't in, it happened to be the same
9 ordinance in the Town of Newburgh.

10 CHAIR SCALZO: Okay. So from what you
11 had just said there have been modifications that
12 the Town Building Department has not evaluated,
13 or if they have, we haven't gotten copies of
14 that.

15 MR. BROWN: They haven't seen the
16 updated site plan. And as far as the notes on
17 there, I think that's it.

18 CHAIR SCALZO: Okay. Well, but the
19 application here -- well, actually in the
20 application here we're looking at quite a few
21 things. I would like the Building Department to
22 have an opportunity to evaluate these
23 modifications that you're talking about. You
24 said they were cited last week.

25 For the Board members that were here at

1 Proceedings

2 the time, if you -- oh, Mr. Marino stepped out.
3 We had an applicant at the corner of Eastview
4 Road and Fifth Avenue, do you remember? I can't
5 remember how to pronounce his last name.

6 MR. MARINO: Oh, yeah.

7 CHAIR SCALZO: It was Rich something.
8 But they had a bunch of code issues that need to
9 be cleaned up before we -- before we acted on
10 that application. Also, the Darrigo Solar Farm,
11 they also had a bunch of outstanding code
12 violations that we also required them to have
13 cleaned up before we acted on their application.
14 My opinion is that I would like to have that same
15 condition here. Counselor, am I stepping out of
16 my lane here to ask that?

17 MR. DONOVAN: Well, no, you're not. I
18 mean, there is precedent, the Board has done it
19 before. Especially we have a situation that's in
20 flux, the application is before us and some
21 things have changed since the application was
22 submitted. And I think the Board needs to have
23 all the information necessary to move forward.
24 So I think, and Charlie has indicated that code
25 compliance hasn't seen, I don't know if you

1 Proceedings

2 submitted anything to them or you didn't submit
3 anything, you didn't have to, but it would be
4 good for them to see, because if they flag
5 something else that's a problem, then it's
6 something else that needs to be addressed that
7 you're going to want to address at this level I
8 would think.

9 MR. BROWN: Well, they've actually been
10 doing pretty good about doing joint inspections
11 with me lately, so I have no problem contacting
12 the code compliance, conformance office to try
13 and schedule an inspection out there.

14 CHAIR SCALZO: Okay. And that will
15 allow the code compliance office to update what
16 their latest --

17 MR. BROWN: Right.

18 CHAIR SCALZO: -- their violation sheet
19 to us would be.

20 MR. BROWN: Right.

21 CHAIR SCALZO: I'm not going to speak
22 for the other members of the Board, but I would
23 prefer to keep this, the public hearing open.

24 MR. HERMANCE: Agreed.

25 CHAIR SCALZO: But I'm going to -- any,

1 Proceedings

2 actually, yeah, any comments from anyone?

3 Mr. Masten, do you have anything to add to this?

4 MR. MASTEN: I have nothing.

5 CHAIR SCALZO: No. Mr. Hermance?

6 MR. HERMANCE: No.

7 CHAIR SCALZO: Mr. Levin, Mr. McKelvey,
8 Mr. Marino?

9 MR. MARINO: Just out of curiosity, did
10 we ever get an explanation as to why there were
11 such crowds there playing volleyball or partying
12 or whatever they're doing?

13 MR. BROWN: He told me, he told me it
14 was family and friends.

15 MR. MARINO: Every weekend in the
16 summer time?

17 MR. BROWN: That's what he told me.

18 CHAIR SCALZO: Everybody's, you know,
19 you can't put a price on another man's pleasure.
20 If you like to have a party every weekend both
21 days, well --

22 MR. BROWN: I wouldn't know how to
23 verify that except for crashing the party.

24 CHAIR SCALZO: I would, as I say, I saw
25 it Sunday, I was going to walk in with the

1 Proceedings

2 application and see if I could play some
3 volleyball.

4 But do any members of the public want
5 to speak about this application?

6 (No response.)

7 CHAIR SCALZO: It doesn't appear so.
8 At this point I'll look to the Board. Do you
9 have a motion to either close or keep the public
10 hearing open?

11 MR. MCKELVEY: I make a motion to keep
12 it open.

13 CHAIR SCALZO: We have a motion from
14 Mr. McKelvey.

15 MR. LEVIN: I'll second.

16 CHAIR SCALZO: We have a second from
17 Mr. Levin. All in favor of keeping the public
18 hearing open to the April meeting?

19 (Chorus of ayes.)

20 CHAIR SCALZO: Opposed?

21 (No response.)

22 CHAIR SCALZO: Charlie, we'll see you
23 in April.

24 MR. BROWN: Okay. Thank you all, have
25 a good evening.

1 Proceedings

2 CHAIR SCALZO: Thank you.

3 The other Board business we have, have
4 you folks seen the meeting minutes for the
5 February meeting, and if so, can we vote to
6 accept those meeting minutes?

7 MR. BELL: Yes.

8 MR. HERMANCE: Yes, I make a motion to
9 accept it.

10 MR. BELL: Approve them.

11 CHAIR SCALZO: Very good. I think we
12 had a motion from Mr. Bell, we have a second from
13 Mr. Hermance. Sure we do. All in favor?

14 (Chorus of ayes.)

15 CHAIR SCALZO: Very good.

16 Do we have any other Board business,
17 Siobhan?

18 MS. JABLESNIK: No.

19 CHAIR SCALZO: Then the only other
20 thing is to close the meeting.

21 MR. MCKELVEY: I make a motion.

22 CHAIR SCALZO: All right, we have a
23 motion from Mr. McKelvey, a second from me. All
24 in favor?

25 (Chorus of ayes.)

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Proceedings

CHAIR SCALZO: The meeting is
adjourned. Thank you so much.

(Time noted: 8:45 p.m.)

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C E R T I F I C A T E

STATE OF NEW YORK)
) SS:
COUNTY OF ORANGE)

I, KARI L. REED, a Shorthand Reporter
(Stenotype) and Notary Public with and for the
State of New York, do hereby certify:

I reported the proceedings in the
within-entitled matter and that the within
transcript is a true record of such proceedings.

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

IN WITNESS WHEREOF, I have hereunto set
my hand this 14th day of April, 2021.

Kari L. Reed

KARI L. REED

1
2 STATE OF NEW YORK : COUNTY OF ORANGE
TOWN OF NEWBURGH ZONING BOARD OF APPEALS

3 -----X
In the Matter of:

4 SNK PETROLEUM WHOLESALERS
5
6 747 Boulevard (Drury Lane), Newburgh
89-1-80.1 and 80.2

7 -----X
8 Date: March 25, 2021
Time: 7:25 p.m.

9 Place: Town of Newburgh
10 Town Hall
1496 Route 300
11 Newburgh, New York 12550

12 BOARD MEMBERS: DARRIN SCALZO, Chair
13 JOHN H. MCKELVEY, Vice Chair
14 DARRELL W. BELL (via Zoom)
JOHN D. MASTEN
15 RICHARD D. LEVIN
ANTHONY MARINO
16 GREG HERMANCE, SR.

ALSO PRESENT: DAVID A. DONOVAN, ESQ., Board Counsel
17 SIOBHAN JABLESNIK, Board Secretary

18 APPLICANT'S REPRESENTATIVE: MARK DOMBAL
19

20
21 Reported by: Kari L. Reed

22 MICHELLE L. CONERO
23 3 Francis Street
Newburgh, New York 12550
24 (845) 541-4163
25

1 Proceedings

2 CHAIR SCALZO: Pardon me, Siobhan, did
3 we get any formal communication from SNK
4 Petroleum --

5 MS. JABLESNIK: No.

6 CHAIR SCALZO: -- that they would not
7 be here?

8 MS. JABLESNIK: Nothing written, just a
9 phone call.

10 CHAIR SCALZO: Okay. We believe we may
11 have a representative of SNK here?

12 MR. DOMBAL: Yes.

13 CHAIR SCALZO: Okay.

14 MR. DOMBAL: Matter of fact, I believe
15 Ken is supposed to be here too tonight.

16 MS. JABLESNIK: He called me and said
17 to take him off the agenda.

18 MR. DOMBAL: Tonight?

19 MS. JABLESNIK: Yeah.

20 CHAIR SCALZO: Well, SNK happens to be
21 last on the agenda. Perhaps you can step
22 out --

23 MR. DOMBAL: Yeah. Thank you.

24 CHAIR SCALZO: -- into the foyer and
25 straighten that out.

1 Proceedings

2 MR. DOMBAL: Yes, thank you.

3 MS. JABLESNIK: I had a very long week
4 but I am definitely positive that phone call
5 happened.

6 CHAIR SCALZO: Okay.

7 (The following proceedings were had
8 later in the meeting:)

9 MR. DOMBAL: I apologize, but SNK is
10 not on the agenda, we are not on for tonight.

11 MS. JABLESNIK: I knew I wasn't crazy.

12 CHAIR SCALZO: If anyone is here to
13 speak about the application for SNK Petroleum
14 wholesalers, well, actually, in this case, sir,
15 just so you can hear as you're stepping away,
16 this one has been on for quite a while, so in
17 this case, because the notices were sent out so
18 long ago, we're going to actually make you
19 re-notice.

20 MR. DOMBAL: Okay, that's fine.

21 CHAIR SCALZO: Okay.

22 MR. DOMBAL: That's fine. We'll be in
23 touch once things get worked out.

24 MS. JABLESNIK: Yeah, absolutely.

25 CHAIR SCALZO: Very good.

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Proceedings

MR. DOMBAL: Thank you. Have a good evening.

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

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Proceedings

C E R T I F I C A T E

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) SS:
COUNTY OF ORANGE)

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Kari L. Reed

KARI L. REED