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

----- X

In the Matter of

FRANK KOBES

215 First Street, Walden
Section 32; Block 3; Lot 13.1
R-1 Zone

----- X

Date: April 22, 2021
Time: 7:00 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

ALSO PRESENT: DAVID DONOVAN, ESQ.
SIOBHAN JABLESNIK

APPLICANT'S REPRESENTATIVE: FRANK KOBES

----- X

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

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CHAIRMAN SCALZO: I'd like to call the meeting of the Zoning Board of Appeals to order. The order of business this evening are the public hearings. The procedure of the Board is the applicant will be called upon to step forward, state their request and explain why it should be granted. The Board will then ask the applicant any questions it may have, and then any questions or comments from the public will be entertained. After all the public hearings have been completed, the Board will do their best to make determinations on each application in the order heard. The Board will then consider the applications, obviously in the order heard, but may take up to 62 days to reach a determination.

I would ask if you have a cellphone, to please turn it off or put it on silent. When speaking, speak directly into the microphone as this is being recorded, and we have a stenographer here.

We have a hybrid meeting format this evening. The applicants and their representation are here with us in Town Hall. Members of the public are invited to speak through the Zoom

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FRANK KOBES

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platform.

Roll call, please.

MS. JABLESNIK: Darrell Bell.

MR. BELL: Here.

MS. JABLESNIK: Greg Hermance.

MR. HERMANCE: Here.

MS. JABLESNIK: Richard Levin.

MR. LEVIN: Present.

MS. JABLESNIK: Anthony Marino.

MR. MARINO: Here.

MS. JABLESNIK: John Masten.

MR. MASTEN: Here.

MS. JABLESNIK: John McKelvey.

MR. MCKELVEY: Here.

MS. JABLESNIK: Darrin Scalzo.

CHAIRMAN SCALZO: Here.

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

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

Mr. Hermance, if you could lead us.

(Pledge of Allegiance.)

CHAIRMAN SCALZO: Very good. Before we

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FRANK KOBES

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hear from our first applicant this evening, I just want to inform the members of the public that are here, as well as the applicants and representation, the Board is obliged by position to go and visit every property, therefore we have all seen the properties that we could see. I say it that way because there was a property that we couldn't see. We'll have a discussion about that a little later as it comes up.

Moving forward. Our first applicant this evening is Frank Kobes, 215 First Street in Walden, which is on the other side of Orange Lake, seeking an area variance of the front yard to keep a 16 x 20 rear deck on a corner lot.

Siobhan, mailings on this?

MS. JABLESNIK: This applicant sent out 52 letters. They also were sent to the County but it's been over thirty days.

CHAIRMAN SCALZO: Very good. Forest Road is -- Rock Cut --

MS. JABLESNIK: Rock Cut Road.

CHAIRMAN SCALZO: Very good. Do we have anyone here representing the 215 First Street, Walden application this evening?

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FRANK KOBES

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Please step forward, identify yourself. I read the brief narrative on the variance that you're seeking. As I say, we've all driven past it. We've seen it. Take it from there.

MR. KOBES: My name is Frank Kobes and we have a deck. I need a variance for -- it's an area variance of 8 feet because there's a side road, and unfortunately it has to be 50 feet from that. I wasn't aware of that at that time. Neither was the builder when he started. And I'm just looking for an area variance to keep the deck.

CHAIRMAN SCALZO: Very good. Okay. In front of us, the Board, as part of the application package, fellow Members of the Board, obviously you're looking at the Code Compliance sheet. It just states the front yard minimum setback is 50, the existing is 42, seeking an area variance for 8 feet or 16 percent of -- the variance is 16 percent.

I have no comments on this, so I'm going to look to the Members of the Board at this point. Mr. Levin?

MR. LEVIN: He has two yards. I

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FRANK KOBES

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thought it was -- the way he put the thing together, it was fine.

CHAIRMAN SCALZO: It appears the deck is off the back of the house. It's just because he's on the corner lot, it's the front yard.

MR. LEVIN: Yeah.

CHAIRMAN SCALZO: I agree. Anything else, Mr. Levin?

MR. LEVIN: No.

CHAIRMAN SCALZO: Mr. McKelvey?

MR. MCKELVEY: He has to have the deck there because he would never get out the back door.

CHAIRMAN SCALZO: Okay. Mr. Marino?

MR. MARINO: I have no problem. We visited it together and it's not a problem.

CHAIRMAN SCALZO: Very good. Mr. Hermance?

MR. HERMANCE: The same.

CHAIRMAN SCALZO: Mr. Masten?

MR. MASTEN: I have no comment.

CHAIRMAN SCALZO: Mr. Bell?

MR. BELL: No.

CHAIRMAN SCALZO: Very good. At this

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FRANK KOBES

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point we're going to open it up to any members of the public that may want to speak about the application Mr. Kobes at 215 First Street in Walden. Anyone on Zoom that would like to -- any members of the public, if you'll raise your hand we will call upon you, if we can see you.

MS. JABLESNIK: Go ahead. You can unmute yourself.

MS. CABE: Hi. My name is Dahlia Cabe and I live at 12 Snider Avenue, just down the street from the property in question. I walk by the house all the time and I am in support of this deck renovation. It's just replacing an existing deck, and I don't see any problem with it. And the neighbors that I've talked to over here, no one seems to have a problem with it, so --

CHAIRMAN SCALZO: Thank you very much for your comments. They are very important to us.

MS. CABE: Good. Thank you.

CHAIRMAN SCALZO: Anyone else? Any other members of the public wish to speak about this application?

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MR. HOWARD: Yes. Paul Howard, 42
Snider.

CHAIRMAN SCALZO: Yes, sir.

MR. HOWARD: Good evening. Thank you.
I live right across the street from the property.
It enhances the property and enhances the
neighborhood, so I totally support the
replacement of that deck.

CHAIRMAN SCALZO: Very good. I'm glad
you see it that way. Thank you for your comments,
sir.

Does anyone else wish to speak about
the 215 First Street application?

(No response.)

CHAIRMAN SCALZO: Hearing none, I'll
look to the Board Members. Any other comments?

(No response.)

CHAIRMAN SCALZO: Okay. I'll look to
the Board to perhaps entertain a motion to close
the public hearing.

MR. McKELVEY: I'll make that motion.

MR. MARINO: I'll second.

CHAIRMAN SCALZO: We have a motion from
Mr. McKelvey. We have a second from Mr. Marino.

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All in favor of closing the public hearing?

MR. BELL: Aye.

MR. HERMANCENCE: Aye.

MR. LEVIN: Aye.

MR. MARINO: Aye.

MR. MASTEN: Aye.

MR. MCKELVEY: Aye.

CHAIRMAN SCALZO: Aye.

Opposed?

(No response.)

CHAIRMAN SCALZO: Very good.

Moving through our area variance questions. This is a Type 2 action under SEQRA. That is correct?

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

CHAIRMAN SCALZO: Thank you very much. We'll go through the area variance criteria and discuss that five factors we are weighing, the first one being whether or not the benefit can be achieved by other means feasible to the applicant. Obviously the applicant is on a corner lot, so it would be very difficult to accomplish this.

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I see a bunch of nodding, Michelle.

The second, if there's an undesirable change in the neighborhood character or a detriment to nearby properties. We heard testimony from members of the public that they feel as though it's an enhancement to the neighborhood.

Third, whether the request is substantial. 8 feet or 16 percent does not seem so, especially in this circumstance on a corner lot. Very good.

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

MR. BELL: No.

MR. HERMAN: No.

MR. LEVIN: No.

MR. McKELVEY: No.

MR. MASTEN: No.

MR. MARINO: No.

CHAIRMAN SCALZO: No.

And the fifth, whether the alleged difficulty is self-created which is relevant but not determinative. Of course it's self-created. There is a do nothing option, however you've got

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FRANK KOBES

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to live there.

That's my -- concurrence from the Board
on that?

MR. BELL: Yes.

MR. HERMANCE: Yes.

MR. LEVIN: Yes.

MR. MARINO: Yes.

MR. MASTEN: Yes.

MR. MCKELVEY: Yes.

CHAIRMAN SCALZO: Very good. Having
gone through the balancing test of the area
variance, does the Board have a motion of some
sort?

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

MR. MASTEN: I'll second it.

MR. HERMANCE: Second.

CHAIRMAN SCALZO: We have a motion from
Mr. McKelvey. We have a second, it sounded like
Mr. Masten beat Mr. Hermance to it. Very good.
Roll call.

MS. JABLESNIK: Mr. Bell?

MR. BELL: Yes.

MS. JABLESNIK: Mr. Hermance?

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MR. HERMANCE: Yes.

MS. JABLESNIK: Mr. Levin?

MR. LEVIN: Yes.

MS. JABLESNIK: Mr. Marino?

MR. MARINO: Yes.

MS. JABLESNIK: Mr. Masten?

MR. MASTEN: Yes.

MS. JABLESNIK: Mr. McKelvey?

MR. MCKELVEY: Yes.

MS. JABLESNIK: Mr. Scalzo?

CHAIRMAN SCALZO: Yes.

Motion carried. The variance is
approved. Good luck.

MR. KOBES: Thank you.

(Time noted: 7:06 p.m.)

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

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

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

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

IN WITNESS WHEREOF, I have hereunto
set my hand this 27th day of April 2021.

Michelle Conero

MICHELLE CONERO

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

----- X

In the Matter of

DARCEL GREEN

7 Bruce Street, Newburgh
Section 98; Block 7; Lot 15
R-3 Zone

----- X

Date: April 22, 2021
Time: 7:06 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

ALSO PRESENT: DAVID DONOVAN, ESQ.
SIOBHAN JABLESNIK

APPLICANT'S REPRESENTATIVE: DARCEL GREEN

----- X

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

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DARCEL GREEN

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CHAIRMAN SCALZO: Our second applicant this evening is Darcel Green, 7 Bruce Street, seeking an area variance of the rear yard to keep a 10 x 24 x 10 rear and side yard wrap-around deck.

Siobhan, mailings on that?

MS. JABLESNIK: This applicant sent out 58 letters.

CHAIRMAN SCALZO: 58 letters.

MS. JABLESNIK: 58.

CHAIRMAN SCALZO: We have a new winner. Very good.

Do we have anyone here representing the 7 Bruce Street application? Please step forward and introduce yourself, please.

MS. GREEN: Good evening. My name is Darcel Green and I live at 7 Bruce Street in Newburgh, New York. I'm requesting a variance for my deck. I would like to keep my deck. Thank you.

CHAIRMAN SCALZO: Very good. Please stay there in case we have any questions for you. You can lower the mic if you're more comfortable.

MS. GREEN: Thank you.

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DARCEL GREEN

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CHAIRMAN SCALZO: As I said earlier in the meeting, we have all driven past it. That's quite a large rock that your deck kind of goes around. That's something.

MS. GREEN: Yeah.

CHAIRMAN SCALZO: It doesn't appear as though it's ostentatious. It's just kind of functional. In that case I know the code says that you're in violation.

I'm going to come back to any comments that I have after I poll the Board. I'm going to start with Mr. Bell this time. Mr. Bell, do you have any comments on this application?

MR. BELL: No. I understand, if I'm not mistaken, that when you purchased the home the deck was on the house.

MS. GREEN: Yes. It was already there.

MR. BELL: Okay.

CHAIRMAN SCALZO: Very good. Is that it, Mr. Bell?

MR. BELL: Yes.

CHAIRMAN SCALZO: Very good. Thank you.

Mr. Masten, do you have any comments?

MR. MASTEN: I have no comment.

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DARCEL GREEN

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CHAIRMAN SCALZO: Mr. Hermance?

MR. HERMANCE: It's consistent with the other decks in the neighborhood. In fact, the neighbor has almost the identical setup.

CHAIRMAN SCALZO: I agree with you. It appears it's very in character with the neighborhood.

Mr. Marino, do you have anything?

MR. MARINO: I echo those comments, too.

CHAIRMAN SCALZO: Mr. McKelvey?

MR. MCKELVEY: I agree with the comments.

CHAIRMAN SCALZO: Mr. Levin?

MR. LEVIN: No.

CHAIRMAN SCALZO: Mr. Bell, thank you for pointing out that you purchased it in this condition.

MS. GREEN: Yes. Thank you.

CHAIRMAN SCALZO: Obviously we're going to get to one of the criteria a little later that may make a difference.

At this point I'm going to open it up to any members of the public that wish to speak

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DARCEL GREEN

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about the application for Darcel Green on Bruce Street. Is anyone from the public here to speak about that application?

(No response.)

CHAIRMAN SCALZO: It appears not.

I'll look to the Board for any last comments?

MR. BELL: No.

MR. HERMANCENCE: No.

MR. LEVIN: No.

MR. McKELVEY: No.

MR. MASTEN: No.

MR. MARINO: No.

CHAIRMAN SCALZO: Very good. So do we have a motion from the Board to close the public hearing?

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

MR. BELL: Second.

CHAIRMAN SCALZO: Very good. We have Mr. Levin made the motion. Mr. Bell was a second. All in favor?

MR. BELL: Aye.

MR. HERMANCENCE: Aye.

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MR. LEVIN: Aye.

MR. MARINO: Aye.

MR. MASTEN: Aye.

MR. MCKELVEY: Aye.

CHAIRMAN SCALZO: Aye.

Opposed?

(No response.)

CHAIRMAN SCALZO: Very good. Okay.

We're going to move -- again, a Type 2 action under SEQRA.

The first criteria here being whether or not the benefit can be achieved by other means feasible to the applicant. The applicant purchased this property this way, so I don't -- other than requesting that they tear it down and then seek variances the appropriate way, I would say no.

The second, if there's an undesirable change in the neighborhood character or a detriment to nearby properties. I believe all of the Board Members were in agreement that it was very in character with the neighborhood.

The third, whether the request is substantial. No. There still leaves 18 feet

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between the deck and the side yard -- side property line.

The fourth, whether the request will have adverse physical or environmental effects. I would say no --

MR. BELL: No.

MR. HERMANCE: No.

MR. LEVIN: No.

MR. McKELVEY: No.

MR. MASTEN: No.

MR. MARINO: No.

CHAIRMAN SCALZO: -- because it's already there. Actually, any destruction would probably have an environmental effect that we don't want.

And the fifth, whether the alleged difficulty is self-created which is relevant but not determinative. Now, we had heard that the applicant has purchased the property in that condition, so therefore it is not self-created. Perhaps by the previous owner.

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

MR. MARINO: I'll make a motion we

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DARCEL GREEN

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approve it.

MR. MASTEN: Second.

CHAIRMAN SCALZO: We have a motion for approval from Mr. Marino. We have a second from Mr. Masten. Roll on that, 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?

CHAIRMAN SCALZO: Yes.

The motion is carried. The variances are approved.

MS. GREEN: Thank you, everyone. Thank you, Siobhan. You're awesome.

CHAIRMAN SCALZO: We try to keep it as

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DARCEL GREEN

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painless as possible when we can.

MS. GREEN: I have one question.

CHAIRMAN SCALZO: Yes.

MS. GREEN: Thank you. In terms of when do I receive my paperwork and everything like that? I've never done this before.

CHAIRMAN SCALZO: Give Siobhan a call.

MS. JABLESNIK: So I'll give your paperwork back to Mr. Matina, he'll make sure you don't need anything else, and then you'll probably hear from them at the beginning of next week.

MS. GREEN: Thank you.

MS. JABLESNIK: You're welcome.

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

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

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

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

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

IN WITNESS WHEREOF, I have hereunto
set my hand this 27th day of April 2021.

Michelle Conero

MICHELLE CONERO

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

----- X
In the Matter of

MICHAEL HIGGINS

21 Lancer Drive, Newburgh
Section 57; Block 2; Lot 7
R-2 Zone

----- X

Date: April 22, 2021
Time: 7:12 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

ALSO PRESENT: DAVID DONOVAN, ESQ.
SIOBHAN JABLESNIK

APPLICANT'S REPRESENTATIVE: VALERIE JOYCE

----- X

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

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CHAIRMAN SCALZO: Our next applicant for the evening is Michael Higgins, 21 Lancer Drive, Newburgh, seeking an area variance of the front yard to keep a 6 x 10 front deck.

Do we have mailings on this, Siobhan?

MS. JABLESNIK: 67 letters.

CHAIRMAN SCALZO: A new winner.

All right. Very good. As the narrative says, you're looking to keep a 6 x 10 front deck. We have all gone past it.

If you could please introduce yourselves and state why you're here.

MS. JOYCE: My name is Valerie Joyce, I work for New Homes by Liberty. We have a proxy statement from Michael Higgins to represent him in the application process.

CHAIRMAN SCALZO: If you could hand that to Siobhan, please. Unless it's already in the application.

MS. JABLESNIK: Yeah, it's in the application.

MS. JOYCE: We are here to request an area variance to keep a 6 x 10 front porch. We're seeking a variance of 6 feet. The setback

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MICHAEL HIGGINS

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should have been 40 feet minimum and we have 34 feet.

CHAIRMAN SCALZO: 15 percent, as the Code Compliance worksheet states.

MS. JOYCE: Yes.

CHAIRMAN SCALZO: Very good. As I say, we've all been to the site. It appears like you used to only have to step up one step to get in the house. Now you have to step up about eight. Obviously there's been some renovations to the house. It looks very nice.

I have no comments myself.

I'm going to look to the Board. Going in reverse order, looking at Mr. Levin, he's shaking his head.

MR. LEVIN: No comment.

CHAIRMAN SCALZO: Very good. Mr. McKelvey?

MR. MCKELVEY: No comment.

CHAIRMAN SCALZO: Mr. Marino?

MR. MARINO: No comment.

CHAIRMAN SCALZO: Mr. Hermance?

MR. HERMANCE: No comment.

CHAIRMAN SCALZO: Mr. Masten?

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MR. MASTEN: No comment.

CHAIRMAN SCALZO: Mr. Bell?

MR. BELL: It looks good.

CHAIRMAN SCALZO: You guys are rocking tonight. We're going to get out of here.

I'm now going to turn to any members of the public that wish to speak about this application at 21 Lancer Drive. Any members of the public that wish to speak about the 21 Lancer Drive application?

(No response.)

CHAIRMAN SCALZO: 62 mailings and no one wants to talk about it.

MS. JOYCE: 67.

CHAIRMAN SCALZO: 67. Pardon me.

MS. JABLESNIK: No.

CHAIRMAN SCALZO: Very good. Okay. So at this point I'll look to the Board for any last opportunities to comment on this.

MR. BELL: No.

MR. HERMANCE: No.

MR. LEVIN: No.

MR. McKELVEY: No.

MR. MASTEN: No.

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MR. MARINO: No.

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

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

MR. HERMANCE: I'll second it.

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

MR. BELL: Aye.

MR. HERMANCE: Aye.

MR. LEVIN: Aye.

MR. MARINO: Aye.

MR. MASTEN: Aye.

MR. MCKELVEY: Aye.

CHAIRMAN SCALZO: Aye.

Opposed?

(No response.)

CHAIRMAN SCALZO: Moving on again.

MS. JOYCE: Thank you very much.

CHAIRMAN SCALZO: Hold on. Don't go anywhere. If you listened to the previous ones, you hear approved twice.

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Anyway, working through the five factors we're weighing, the first one being whether or not the benefit can be achieved by other means feasible to the applicant.

MR. BELL: No.

MR. HERMANCE: No.

MR. LEVIN: No.

MR. McKELVEY: No.

MR. MASTEN: No.

MR. MARINO: No.

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

MR. BELL: No.

MR. HERMANCE: No.

MR. LEVIN: No.

MR. McKELVEY: No.

MR. MASTEN: No.

MR. MARINO: No.

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

MR. BELL: No.

MR. HERMANCE: No.

MR. LEVIN: No.

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MR. MCKELVEY: No.

MR. MASTEN: No.

MR. MARINO: No.

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

MR. BELL: No.

MR. HERMANCE: No.

MR. LEVIN: No.

MR. MCKELVEY: No.

MR. MASTEN: No.

MR. MARINO: No.

CHAIRMAN SCALZO: And the fifth, whether the alleged difficulty is self-created which is relevant but not determinative. Of course it's self-created. They have to get up top, though.

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

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

MR. MARINO: I'll second it.

CHAIRMAN SCALZO: See Mr. Hermance, you can't just raise your pen. We're not an

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auctioneer.

We have a motion from Mr. Bell. We have a second from Mr. Marino. Roll on that, Siobhan, please.

MS. JABLESNIK: Mr. Bell?

MR. BELL: Yes.

MS. JABLESNIK: Mr. Hermance?

MR. HERMANCE: Yes.

MS. JABLESNIK: Mr. Levin?

MR. LEVIN: Yes.

MS. JABLESNIK: Mr. Marino?

MR. MARINO: Yes.

MS. JABLESNIK: Mr. Masten?

MR. MASTEN: Yes.

MS. JABLESNIK: Mr. McKelvey?

MR. MCKELVEY: Yes.

MS. JABLESNIK: Mr. Scalzo?

CHAIRMAN SCALZO: Yes.

The motion is carried. The variance is approved. Good luck.

MS. JOYCE: Thank you.

We come to your office to get the --

MS. JABLESNIK: Like I had said to her before, you'll probably hear from Mr. Matina

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sometime early next week. I don't know if you're missing anything as far as you know, like parts of the plans and stuff. You'll hear from him and then you'll be all set.

MS. JOYCE: Thank you.

(Time noted: 7:18 p.m.)

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

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

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

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

IN WITNESS WHEREOF, I have hereunto set my hand this 27th day of April 2021.

Michelle Conero

MICHELLE CONERO

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

----- X
In the Matter of

VICTOR CARUSI

41 Snider Avenue, Walden
Section 31; Block 4; Lot 2
R-1 Zone

----- X

Date: April 22, 2021
Time: 7:18 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

ALSO PRESENT: DAVID DONOVAN, ESQ.
SIOBHAN JABLESNIK

APPLICANT'S REPRESENTATIVE: VICTOR CARUSI

----- X

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

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VICTOR CARUSI

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CHAIRMAN SCALZO: Our next applicant is Victor Curasi, 41 Snider Avenue, which is on the other side of Orange Lake, seeking area variances of the front, side and combined side yards to rebuild two front decks that originally had no permits.

Do we have mailings on that, Siobhan?

MS. JABLESNIK: Yes. 31 letters.

CHAIRMAN SCALZO: 31 letters. Very good. Thank you.

As I say, we've all been to the site. I read the application. It appears you're replacing what was there at one point, bringing it, I'll say, up to code.

MR. CARUSI: Yeah.

CHAIRMAN SCALZO: Very good. Please introduce yourself and expand further on why you're here.

MR. CARUSI: I'm Victor Carusi from 41 Snider Avenue, seeking an area variance for the two-level deck. Like you said, the deck was there when I bought the house, which was a foreclosure, some time ago, in 1998. At that point I was a new home buyer, didn't know

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VICTOR CARUSI

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anything about permits or anything like that, so I assumed it did have a permit until I went to rebuild it when I found out it didn't.

CHAIRMAN SCALZO: I'm sorry, Mr. McKelvey?

MR. MCKELVEY: He has to introduce himself.

CHAIRMAN SCALZO: Sure he did. He did introduce himself.

MR. CARUSI: Yes, I did.

MR. MCKELVEY: I didn't hear him.

CHAIRMAN SCALZO: Very good. As I say, I saw it. It didn't look out of character, so nothing is raising any flags for me.

Mr. Bell, do you have any comments on that?

MR. BELL: No.

CHAIRMAN SCALZO: How about Mr. Masten?

MR. MASTEN: I have nothing.

CHAIRMAN SCALZO: Mr. Hermance?

MR. HERMANCE: You're rebuilding the same --

MR. CARUSI: The same exact thing. Same dimensions.

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CHAIRMAN SCALZO: The same unpermitted deck that was there before, yes, but he's bringing it -- or he's trying to bring it into compliance.

MR. HERMANCE: Okay.

CHAIRMAN SCALZO: Anything else, Mr. Hermance?

MR. HERMANCE: No. That's all.

CHAIRMAN SCALZO: Mr. Marino?

MR. MARINO: No.

CHAIRMAN SCALZO: Mr. McKelvey?

MR. MCKELVEY: No.

CHAIRMAN SCALZO: Mr. Levin?

MR. LEVIN: Nothing.

CHAIRMAN SCALZO: Very good.

At this point I'm going to open it up to any members of the public that wish to speak about the application for Mr. Carusi at 41 Snider Avenue. Anyone on the Zoom platform that wishes to speak about this application?

MR. HOWARD: My name is Paul Howard.

MS. JABLESNIK: I'm sorry. Can you repeat your name?

MR. HOWARD: Paul Howard.

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VICTOR CARUSI

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MS. JABLESNIK: Okay. Go ahead.

MR. HOWARD: 42 Snider Avenue, across the street from the subject property (inaudible).

MS. JABLESNIK: Hold on one second. We can't hear you. I'm going to see if it's on my end or not.

MR. DONOVAN: I heard him say he was in support

MR. HOWARD: Paul Howard, 42 Snider Avenue, across the street from the subject property.

The application states two decks and I realized it's one multi-level deck. So I want to make sure it's just being replaced with the deck that was there, not additional decking.

MR. CARUSI: No additional deck. It was just worded by the Town that way. It's a two-level deck. Nothing is changing in dimensions or size.

MR. HOWARD: I fully support it.

MR. CARUSI: Thank you.

CHAIRMAN SCALZO: Thank you.

Do any other members of the public wish to speak about that application at 41 Snider Ave?

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(No response.)

CHAIRMAN SCALZO: Hearing none, I'll look to the Members of the Board for one final opportunity to comment.

MR. BELL: No.

MR. HERMANCE: No.

MR. LEVIN: No.

MR. MCKELVEY: No.

MR. MASTEN: No.

MR. MARINO: No.

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

MR. MCKELVEY: I'll make that motion.

MR. LEVIN: Second.

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

MR. BELL: Aye.

MR. HERMANCE: Aye.

MR. LEVIN: Aye.

MR. MARINO: Aye.

MR. MASTEN: Aye.

MR. MCKELVEY: Aye.

CHAIRMAN SCALZO: Aye.

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Opposed?

(No response.)

CHAIRMAN SCALZO: Very good. We're going to roll through the Type 2 action.

This is a Type 2 action?

MR. DONOVAN: Yes.

CHAIRMAN SCALZO: Thank you. I don't know if I mentioned that for the last application.

MR. DONOVAN: You did. You were right then.

CHAIRMAN SCALZO: The five factors we're weighing, the first one being whether or not the benefit can be achieved by other means feasible to the applicant. Much like the last applicant that we heard, this applicant had purchased the home with the decks in place as they were, and he is again trying to bring them up to code. Other than ripping them down, I don't see how he can accomplish that.

Second, whether there's an undesirable change in the neighborhood character or a detriment to nearby properties. Again, because he's replacing in kind, he's not expanding upon

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VICTOR CARUSI

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it, it does not appear so.

The third, whether the request is substantial. Again, he's replacing in kind. It's been that way for years. There will be no change there.

Fourth, whether the request will have adverse physical or environmental effects. Again, I would have to say no on that.

And the fifth, whether the alleged difficulty is self-created. We have learned that the applicant purchased the home that way.

Therefore, going through the balancing test, does the Board have a motion of some sort?

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

MR. BELL: I'll second.

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

MS. JABLESNIK: Mr. Bell?

MR. BELL: Yes.

MS. JABLESNIK: Mr. Hermance?

MR. HERMANCE: Yes.

MS. JABLESNIK: Mr. Levin?

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MR. LEVIN: Yes.

MS. JABLESNIK: Mr. Marino?

MR. MARINO: Yes.

MS. JABLESNIK: Mr. Masten?

MR. MASTEN: Yes.

MS. JABLESNIK: Mr. McKelvey?

MR. MCKELVEY: Yes.

MS. JABLESNIK: Mr. Scalzo?

CHAIRMAN SCALZO: Yes.

The motions are carried. The variances are approved.

I see you had your survey prepared by Mr. Millen who is sitting right in front of us.

MR. CARUSI: That wasn't planned.

I just wanted to say thank you to Siobhan who made this whole process so easy. And I want to thank you for all of your help.

MS. JABLESNIK: I try.

CHAIRMAN SCALZO: She keeps us all in line.

(Time noted: 7:23 p.m.)

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

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

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

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

IN WITNESS WHEREOF, I have hereunto
set my hand this 27th day of April 2021.

Michelle Conero

MICHELLE CONERO

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

----- X
In the Matter of

GAS LAND PETROLEUM, INC.

5200 Route 9W, Newburgh
Section 43; Block 5; Lot 1
B Zone

----- X

Date: April 22, 2021
Time: 7:23 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

ALSO PRESENT: DAVID DONOVAN, ESQ.
SIOBHAN JABLESNIK

----- X

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

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CHAIRMAN SCALZO: Our next applicant this evening is Gas Land Petroleum, 5200 Route 9W in Newburgh. This is a Planning Board referral -- rereferral -- actually, we've already seen this once before -- for area variances for relief of the 1,000 foot requirement to the nearest motor vehicle station and an existing barn with apartment requiring variances for front yard, side yard, height and maximum yard area.

Mailings on this, Siobhan?

MS. JABLESNIK: This applicant sent out 37 letters. They went to the County and I have not received back. They're not over their thirty.

CHAIRMAN SCALZO: Really?

MS. JABLESNIK: Yeah. It's only been like two weeks I think.

CHAIRMAN SCALZO: Do we have anyone here representing Gas Land Petroleum?

(No response.)

CHAIRMAN SCALZO: It appears not.

Are there any members of the public hearing that wish to comment on the Gas Land Petroleum application?

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MR. BROWN: Mr. Chairman, can I ask a question?

CHAIRMAN SCALZO: Mr. Brown.

MR. BROWN: Is this still a subdivision?

CHAIRMAN SCALZO: It's not a subdivision. That's not what they're here for.

MR. BROWN: I mean originally the plan was to subdivide the property. I represent Pat's Towing.

CHAIRMAN SCALZO: You know, I would have to look through. I don't believe -- we're not talking about a subdivision here.

MR. BROWN: If they're taking the barn --

CHAIRMAN SCALZO: Actually Charlie, do you mind stepping up here so Michelle can --

MR. DONOVAN: And while you make your way up, because I know it might take a minute, Charlie, do we have a more current referral? I mean what I have in my files is a letter from the Planning Board attorney from May 8th of 2020. Is there a more current referral than that?

MR. MASTEN: That was last year.

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MR. DONOVAN: Because that -- Charlie, just to answer your question, Dominic's letter talks about proposed lot 1 and proposed lot 2. So I don't know -- a rereferral? Am I missing --

MS. JABLESNIK: So they were just at -- Planning Board just referred them at their last meeting.

MR. DONOVAN: So what happened last May?

MR. BROWN: Last May they were doing a two-lot subdivision and Pat was going to retain his big metal building in the back and the accessory buildings to the south of the property, of the area that Gas Land was going to purchase. I reviewed the plans and the proposed subdivision was eliminating any ability for Pat's to continue their towing operation.

MR. DONOVAN: I guess I'm just looking for -- typically when the Planning Board sends something to us they refer it for certain specific variances. Dominic's letter from essentially a year ago did that. Is there a new referral? I didn't see any in my package.

MR. BROWN: There has to be if the

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existing barn is included this time, because the existing barn wasn't part of the application.

CHAIRMAN SCALZO: Charlie, this is what I'm looking at. This is what was sent in with the application.

MR. DONOVAN: There's also a site plan, Charlie, which may indicate that there's not a subdivision.

MR. BROWN: Good. Okay. Thank you.

CHAIRMAN SCALZO: Thank you. Okay.

MR. DONOVAN: I guess it doesn't really matter, since no one is here, we don't have the County thing. I'd just like to match up the Planning Board referral with the application to make sure all the bases are covered, and, if they're not, what the reason may be.

MS. JABLESNIK: I'm looking back at my e-mail. I know I got them in an e-mail.

CHAIRMAN SCALZO: The beauty of this one is we have another month to actually --

MS. JABLESNIK: And nobody is here anyway to represent them.

CHAIRMAN SCALZO: I'm going to look to the Board for a motion to keep the public hearing

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open to the May meeting.

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

MR. MASTEN: I'll second it.

CHAIRMAN SCALZO: We have a motion from
Mr. Hermance. We have a second from Mr. Masten.
All in favor of keeping the Gas Land Petroleum
application open to the May meeting?

MR. BELL: Aye.

MR. HERMANCE: Aye.

MR. LEVIN: Aye.

MR. MARINO: Aye.

MR. MASTEN: Aye.

MR. MCKELVEY: Aye.

CHAIRMAN SCALZO: Aye.

Opposed?

(No response.)

CHAIRMAN SCALZO: We will continue this
next month.

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

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

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

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

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

IN WITNESS WHEREOF, I have hereunto
set my hand this 27th day of April 2021.

Michelle Conero

MICHELLE CONERO

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

----- X
In the Matter of

SENER YIACOUP

32 Sloane Road, Newburgh
Section 43; Block 5; Lot 49.1
R-1 Zone

----- X

Date: April 22, 2021
Time: 7:27 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

ALSO PRESENT: DAVID DONOVAN, ESQ.
SIOBHAN JABLESNIK

APPLICANT'S REPRESENTATIVE: JONATHAN CELLA & SENNER
YIACOUP

----- X

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

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CHAIRMAN SCALZO: Our next applicant this evening is at 32 Sloane Road in Newburgh, seeking an area variance to install a 40 x 20 inground pool in the front yard.

Siobhan, mailings on this?

MS. JABLESNIK: This applicant sent 46 letters.

CHAIRMAN SCALZO: 46 letters out. Very good.

As I mentioned, we have all visited the property. It is one spectacular view from what they call the front yard, however you have frontage on two streets, River Road as well as Sloane. That's why you're here.

So other than that, please introduce yourselves and we'll go from there.

MR. CELLA: My name is Jonathan Cella. I'm the engineer representing the applicant.

MR. YIACOUP: Sener Yiacoup. I'm at 32 Sloane Road.

CHAIRMAN SCALZO: Okay. And have I -- it's a very simple application, really, when you think about it. We actually have also some correspondence that came in via e-mail in support

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of this variance.

Again, I've been there. It makes sense where the pool is going. As you approach the dwelling, yes, you're approaching the front from Sloane, so the rear yard is actually on River.

I'm going to look to Mr. Levin for any comments here?

MR. LEVIN: Everything is perfect.

CHAIRMAN SCALZO: Very good.

MR. LEVIN: No comments.

CHAIRMAN SCALZO: Mr. McKelvey?

MR. MCKELVEY: No comment. It's so far away.

CHAIRMAN SCALZO: Mr. Marino?

MR. MARINO: No comments.

CHAIRMAN SCALZO: Mr. Hermance?

MR. HERMANCE: It's fine. No comments.

CHAIRMAN SCALZO: Mr. Masten?

MR. MASTEN: I have no comment.

CHAIRMAN SCALZO: Mr. Bell?

MR. BELL: I got there right in time for the barbecue, man.

CHAIRMAN SCALZO: I got to meet his dog. Great puppy.

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At this point I'm going to open it up to any members of the public. Anyone on Zoom that wishes to speak about the 32 Sloane Road application?

(No response.)

MS. JABLESNIK: No.

CHAIRMAN SCALZO: Okay. I'll look back to the Board for one last comment.

(No response.)

CHAIRMAN SCALZO: I've got nothing. Although when I did meet the applicant out there, he did confess his wife said the pool needs to go there.

MR. MCKELVEY: There's quite a bit of land.

CHAIRMAN SCALZO: I can appreciate that.

So this is a Type 2 action under SEQRA; correct?

MR. DONOVAN: Yes, Mr. Chairman.

CHAIRMAN SCALZO: Thank you. So we're going to discuss the five factors we're weighing, the first one being whether or not the benefit can be achieved by other means feasible to the

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applicant. Other than putting the pool where the tennis court would go, I don't think so.

The second, if there's an undesirable change in the neighborhood character or a detriment to nearby properties. It does not appear so. It's a lovely neighborhood, so it certainly would be helpful.

The third, whether the request is substantial. It's only because he's got road frontage on two roads that we're here, so I don't believe so in this instance.

The fourth, whether the request will have adverse physical or environmental effects. I don't believe so.

The fifth, whether the alleged difficulty is self-created which is relevant but not determinative. And again, we're talking about road frontage, two front yards. It does not appear so.

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

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

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MR. MASTEN: I'll second it.

CHAIRMAN SCALZO: We have a motion from
Mr. Levin. We have a second from Mr. Masten.
Roll on that, 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?

CHAIRMAN SCALZO: Yes.

The variance is approved. Good luck.

MR. YIACOUP: Thank you very much.

MR. CELLA: Thank you.

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

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

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

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

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

IN WITNESS WHEREOF, I have hereunto
set my hand this 27th day of April 2021.

Michelle Conero

MICHELLE CONERO

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

----- X

In the Matter of

JUNCHEN SHANG

87 Mill Street, Wallkill
Section 4; Block 1; Lot 74.2
RR Zone

----- X

Date: April 22, 2021
Time: 7:31 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

ALSO PRESENT: DAVID DONOVAN, ESQ.
SIOBHAN JABLESNIK

APPLICANT'S REPRESENTATIVE: CHARLES BROWN

----- X

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

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CHAIRMAN SCALZO: All right. Our next applicant this evening is Junchen Shang at 87 Mill Street in Wallkill, seeking area variances of maximum allowed dogs and accessory structures for a 10 x 164 kennel and twenty pet dogs, and to keep a 779.88 square foot and 10.6 x 10.6 accessory buildings.

Siobhan, mailings on these?

MS. JABLESNIK: This applicant sent out 33 letters.

CHAIRMAN SCALZO: Very good.

All right. Before we get moving here; Mr. Brown, I know this is your client, you're representing them. All the Members tried to get into that property and none of us were successful. I'm going to tell you right now my recommendation is we're going to hold this open because we are not going to act on this having not been able to walk the property, seeing where all of this action is going to happen.

MR. BROWN: Okay. What's the best way to coordinate between my client and the Board? Through Siobhan?

CHAIRMAN SCALZO: Yes. Perhaps if your

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client was to supply a phone number that we could call as we're heading there. We have done that before for people who have vicious dogs that they wanted to put inside before we got to a house. You know, perhaps they leave the gate open. I don't know, Charlie. You know, if you want to move forward we're going to have to have access to the property.

MR. BROWN: That's understood. I knew you were talking about me at the beginning of the meeting.

Do you want me to do the presentation or do you want to just defer it to next month?

CHAIRMAN SCALZO: I'll leave it up to you. We are running through these pretty quickly tonight. If you want to present. I know we have people. When this does go to open it up to the public, we are going to hold you over to next month, but we're also not going to re-notice.

Anyone that's here listening, it may be beneficial, because you may forget by next month. Any members of the public that want to hear about this.

So yes, Charlie, please present. We

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all know who you are but if you could state your name.

MR. BROWN: Charles Brown, engineer for the applicant. My client lives on the site. The proposal is to build a shelter for up to twenty dogs. It is a very large piece of property. It's just under 30 acres. Where the kennel is going to be located is 300 feet from Mill Street, 200 feet from the east property line, 450 feet from the west property line, and 300 feet from the nearest residence that's not his.

Because of the size of the property, if you were to cut it up for zoning, you would be allowed seventy dogs. Fourteen lots, five dogs per lot. Based upon that, I don't see it as this being substantial.

Where the dog kennel is going is pretty far back, like I said. And even this time of year, it's a screened area, you can't see back there even with no leaves on the trees. I don't see any impact to the neighborhood.

Regarding coyotes, I've got coyotes in my backyard. They sound a heck of a lot worse than dogs.

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The dogs that he has and he was going to have are all larger breeds that woof and don't bark really. That's my presentation.

CHAIRMAN SCALZO: Okay. It's quite interesting. I like how you brought into if he was to subdivide the property into X amount of lots, five dogs per lot, how many dogs would there be?

MR. BROWN: Seventy.

CHAIRMAN SCALZO: All barking at once I'm sure. Anyway, I think you might see where I'm headed with this one.

Anyway, having not been able to access the property, I'm going to reserve my comments for next month.

MR. BROWN: Understood.

CHAIRMAN SCALZO: But, you know, do any of the Members of the Board have any comments on this just by reading the application? Mr. Marino?

MR. MARINO: I'm a dog lover. I have a dog myself. But why does he want twenty dogs on his property?

MR. BROWN: I don't know. He's a dog

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lover times twenty.

MR. MARINO: There's got to be a reason for it. Why he had perhaps none where he lived before.

MR. BROWN: I could bring that answer to the next meeting since I'm going to be here anyway.

MR. MARINO: That would be good.

CHAIRMAN SCALZO: Would it be a dog boarding facility?

MR. BROWN: No. No. These are just his dogs. There is a dog boarding facility in the neighborhood already.

CHAIRMAN SCALZO: We're aware of that.

Okay. At this point I'm going to open it up to any members of the public that wish to speak about this application on Mill Street.

Very good. I see a hand up already. The floor is yours.

RON: Hi. My name is Ron. I live very close to this location that we're speaking of. Some of my concerns would be a noise ordinance. Twenty or plus dogs is going to be pretty loud.

You speak of the shelter that's about a

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quarter mile up the street. When there's no leaves on the trees we can hear those dogs at times as well.

They currently have three dogs back there right now. Every single night I hear those three dogs.

One of my questions would be building the shelter -- they currently have three dogs, like I said, that are out there. It's been under 30 degrees, I'll say a couple times over the last thirty days, and they still keep those dogs outside. I don't know if they necessarily have a shelter right now. So that would be a bit of a concern.

Another concern would be what type of dogs are they?

You say it's only going to be about 300 feet from Mill Street. That probably puts maybe 200 feet away from our house, which is not very far.

You say that the person is a dog lover times twenty. I mean I just think to myself there's a lot of dogs that don't have homes that are already in shelters. I mean why are we going

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JUNCHEN SHANG

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to have more.

I guess another question would be with Chadwick Lake as a reservoir, does that water line go anywhere into Chadwick Lake from where they would be putting those dogs?

CHAIRMAN SCALZO: Again I have to ask the applicant's engineer to answer that. How close are they to the wetland area or --

MR. BROWN: Well, we are in the Reservoir Residential zone as far as the zoning goes. The assumption being everything in that zone does drain to Chadwick Lake. Again, it would be through a wetland, so anything running off of the site would be filtered by the wetland. That's what wetlands do. We have both State and Federal wetlands on the site.

CHAIRMAN SCALZO: Okay. Sir, could you hear that answer from the applicant's engineer?

RON: Yeah. I mean I could hear his answer. I mean I can tell you as a local resident that's probably one of the closest neighbors, I'm not happy about this at all. But you guys get to make that choice. I get to voice my opinion a little bit. I think I speak for a

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couple other residents that are pretty close by. Hopefully they will speak up as well for their behalf.

CHAIRMAN SCALZO: Right. I thank you very much for your comments. They are very important. I have the map open in front of me. Obviously you can see where the proposed shelter is going to be, and it's a substantial distance. It's got to be 300, 400 feet away from the house. These are not going to be inside dogs.

MR. BROWN: No. That's what the shelter is for.

CHAIRMAN SCALZO: Okay.

MR. BROWN: I could talk to him also about turning the shelter around so the gates are facing away from Mill Street.

CHAIRMAN SCALZO: You know what, these are all good things to find out for our next month's meeting, which will be recorded in the minutes. So Charlie, you wouldn't even have to write it down.

Do any other members of the public wish to speak about this application? Now I see a hand up again.

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MS. JABLESNIK: Go ahead. You can unmute yourself.

MR. MUCCI: Okay. Can you hear me?

MS. JABLESNIK: Yes.

CHAIRMAN SCALZO: Hang on. Hold it. There was a young lady in the upper corner. I know they don't know where they are. Who do we have? Siobhan, you saw the hand up. Is there a name associated with that?

MS. JABLESNIK: David.

MR. MUCCI: That's David. I live very close to Mill Street, on Mountainview Avenue. We are concerned about the number of dogs and the noise at night.

And also, if dogs get loose. You know, we have dogs that we walk. We're concerned about dogs getting loose.

And also with the Chadwick Lake reservoir. You know, twenty dogs is a lot of waste. We're concerned about the water, actually.

And we want to know what kind of dogs they were.

CHAIRMAN SCALZO: We've asked the

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JUNCHEN SHANG

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applicant --

MR. MUCCI: Are they going to breed these dogs also? We want to know if they're going to breed the dogs and sell them. Is that also on the agenda? We don't know.

CHAIRMAN SCALZO: Right. I don't know if you were aware, we are going to keep this public hearing open. So the fourth Thursday in May you're going to have the opportunity to ask more questions.

MR. MUCCI: That would be great. Right now -- we don't support this issue right now, and we are dog lovers.

CHAIRMAN SCALZO: Thank you.

THE REPORTER: Can I have David's last name?

MS. JABLESNIK: What's your last name?

MR. MUCCI: Mucci, M-U-C-C-I.

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

Siobhan, did we have one more that was trying?

MS. JABLESNIK: Go ahead.

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MS. NODOP: Hi. This is the Nodop family. We live literally right across the street from where they're going to be having the bordering. We did send in a couple of letters to you prior to the meeting. We were wondering if you did receive those letters?

CHAIRMAN SCALZO: Yes, we did. Yes. Thank you. All of the members had them forwarded to them.

MS. NODOP: Yeah. We just want to reiterate what our neighbors are saying, that at this point in time we have major reservations about having the variances put in place, basically due to the noise. We have a lot of dog owners around here and all of them try very hard to make sure that the dogs are sheltered safely and that you don't have a lot of the noises around.

In addition, we are in an area where we have a major water problem. We are concerned about with the number of canines in the area, what that may or may not do to the environment and how it will or will not affect the environment.

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It's right across the street. We have a lot of different wildlife in the area. It ranges everywhere from various types of birds, to aquatic life, to land animals. We're wondering how is that going to affect the wildlife that has been there forever, and what's going to happen to them too, because the wildlife does end up in our yard. We're just having concerns about it.

CHAIRMAN SCALZO: Very good. Thank you.

You know what, I should have asked each one of the members of the public that are commenting on this. Winter is a different story. In the summertime, I'm looking at the map here, and there's an awful lot of wetlands. Are the wetlands loud? Do you hear a lot of activity from animals and insects from the wetlands as well?

MS. NODOP: Yes.

CHAIRMAN SCALZO: Okay. Like I say, that only works in the summer.

MS. NODOP: I can hear the peepers all the way from Heinsman Lane that reside right there in Heinsman Lane and Mill Street at my

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JUNCHEN SHANG

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house with no problem.

CHAIRMAN SCALZO: Got you. Can you also hear the Thruway?

MS. NODOP: Yes, I can.

CHAIRMAN SCALZO: Thank you.

MS. NODOP: Every night. Every day.

In addition, we can hear the dogs that are boarded up the road.

CHAIRMAN SCALZO: Really. Okay. Very good. That's very good.

MS. NODOP: We can hear everything. The problem is we're also in an area where we are quite literally surrounded by a couple of partially blind curves. We have to cross the street in order to access our mailbox. Not only are we losing land where our mailboxes are, and it's getting worse every year, but with the amount of traffic that's on the road, we're taking our lives into our hand just to cross the road to get to the mailbox.

CHAIRMAN SCALZO: Ma'am, that I understand, but we kind of need to keep our comments directed at what the application is here for this evening, which is just for the dog

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shelter.

MS. NODOP: We just want to make you aware of what's going on in the area. So yes, we are concerned.

CHAIRMAN SCALZO: Very good. Your comments are very important. Thank you very much.

Any other members of the public that wish to speak about this application on Mill Street?

MS. JABLESNIK: Whoever says Dog Mom, the hand is raised. Did you want to speak?

MS. DANZIN: Yes. Hi. Can you hear me?

MS. JABLESNIK: Yes.

MS. DANZIN: Hi. I actually -- I'm very close to where this dog area would be. I have a lot of concerns.

MS. JABLESNIK: Can you just --

MS. DANZIN: My first question would be why does someone need up to twenty pet dogs that will be kept outside in kennels 24/7?

I can also attest to the wildlife down by the creek. It is absolutely amazing, the

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animals that you will find down there, and I'm worried that a bunch of barking dogs are going to disturb that greatly. There was a bald eagle down there just the other day. I don't know if that means anything with zoning and restrictions. I'm just very concerned.

I hear the boarding facility dogs often, more in the winter when there's not much cover on the trees. I'm not really interested in being surrounded by barking dogs all day long. Obviously I'm a dog lover. I think I love dogs more than anybody, but I would never want to own twenty dogs. You just can't give the dog a proper life when you have that many. There's just not enough time. Even if that was what your job was from the time you woke up to the time you went to bed, there's not enough time.

I'm definitely concerned on why someone would want twenty dogs. I just -- I don't know. There's just a lot of concerns with this whole request.

CHAIRMAN SCALZO: Ma'am, all of these comments are being recorded in the meeting minutes, so we will have the applicant go ahead

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and address the comments one by one.

If there's something I could ask. We only know you as Dog Mom. If you could actually state your name for the record.

MS. DANZIN: Sure. My name is Michelle Danzin.

CHAIRMAN SCALZO: Thank you.

MS. DANZIN: Thank you.

CHAIRMAN SCALZO: Any other members of the public that wish to speak about this application?

(No response.)

CHAIRMAN SCALZO: Very good. Thank you very much.

Okay. Siobhan, mute them, please.

At this point I'm going to look to the Board for a motion to hold the public hearing open to the May meeting.

MR. MASTEN: I'll make a motion we hold the public hearing open.

MR. MARINO: Second.

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

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MR. BELL: Aye.

MR. HERMANCE: Aye.

MR. LEVIN: Aye.

MR. MARINO: Aye.

MR. MASTEN: Aye.

MR. McKELVEY: Aye.

CHAIRMAN SCALZO: Aye.

Charlie, we'll see you next month for

that.

MR. BROWN: Thank you.

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

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

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

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

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

IN WITNESS WHEREOF, I have hereunto
set my hand this 27th day of April 2021.

Michelle Conero

MICHELLE CONERO

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

----- X
In the Matter of

RAYMOND WESTON

77 Meadow Hill Road, Newburgh
Section 56; Block 2; Lot 4
R-2 Zone

----- X

Date: April 22, 2021
Time: 7:47 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

ALSO PRESENT: DAVID DONOVAN, ESQ.
SIOBHAN JABLESNIK

APPLICANT'S REPRESENTATIVE: RAYMOND WESTON

----- X

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

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CHAIRMAN SCALZO: Our next applicant this evening is Raymond Weston, 77 Meadow Hill Road in Newburgh, seeking an area variance of the side yard to build a 24 x 24 attached garage.

Siobhan, mailings on this?

MS. JABLESNIK: This applicant sent out 46 letters.

CHAIRMAN SCALZO: 46 letters. It was more exciting earlier this evening. Very good.

You just heard me read the narrative that's on the agenda. If you could introduce yourself, please, and we will move forward.

MR. WESTON: Okay. I'm Raymond Weston. I'm the owner of the property at 77 Meadow Hill Road. I purchased the property in November. It had an existing garage on it that had a breezeway to the house, but there was a fire and so it had to be demolished.

What we're seeking to get approval of is to build a two-car garage that would be attached to the house in the portion of the property where the former garage was held at.

CHAIRMAN SCALZO: Okay. Very good. And we have your application in front of you --

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in front of us. Your side yard requirement is 15 feet. You're proposing 4 feet, which would be an 11 foot variance or 73 percent is what you're looking for, which, comparatively speaking, just the applicants that we've looked at tonight, is quite substantial. I think our other ones were 20 percent or less.

We've all visited the site. Currently there is nothing on the slabs. I saw your architectural. I think they were prepared by Mr. Sears. Is that who it was?

MR. WESTON: Yes.

CHAIRMAN SCALZO: And we have received correspondence from neighbors or people that had -- that were noticed on this. It's 34,000, 35,000 square feet, which is 10,000 square feet less than an acre. In Meadow Hill that's a pretty sizable lot.

A 24 x 24 garage that's going to give you a 4.4 foot side yard is kind of restricting. If you had to fix something on the side of the garage, let's say you did siding all the way up, where are you going to put your ladder? On your neighbor's property, which is not a good thing.

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My focus on this is you have an available area on the lot, or other available areas. They may not be attached to the home. Or perhaps if you were to shrink it down to a one-car garage and meet your minimum setback of 15 feet, then actually you wouldn't need to be here. But the -- my take on this is you have the available area in this case and you would be definitely putting a burden on your neighbor if you ever had to do any maintenance on that side of the house with the current proposed garage location. That's just me. We've got six other people that we have to get through.

I'm going to look to Mr. Levin in this case. Mr. Levin, do you have any comments on this?

MR. LEVIN: No.

CHAIRMAN SCALZO: How about Mr. Masten?

MR. MASTEN: Not right now, Darrin.

CHAIRMAN SCALZO: No. Okay. Mr. Bell?

MR. BELL: What was the size of the structure before the fire?

MR. WESTON: I don't know because when we purchased it it was already demolished.

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MR. BELL: It was already down when you purchased it. Okay.

CHAIRMAN SCALZO: Mr. Bell, actually if I can. If you have the plans laid out in front of you, if you see what says slab remains to be removed, it would be a pretty good indication that may be where the breezeway and garage was. It looks as though it may have been pretty close to the side yard at that point. But anyway, it's not there now.

I'm going to look -- Mr. Bell, do you have any other comments?

MR. BELL: I'm good.

CHAIRMAN SCALZO: How about Mr. Hermance?

MR. HERMANCE: Was that a permitted garage prior to the fire?

CHAIRMAN SCALZO: I don't have that information.

MR. HERMANCE: It looks like the footprint is right next to the property line as it is, which is kind of close.

CHAIRMAN SCALZO: It is possible that it predated zoning. So again, we may -- we don't

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have anybody from Code Compliance here or the Building Department to confirm that with.

MR. WESTON: I think it was -- when I bought the property there was no C of O for the house itself because it predated anything. So we were just assuming that -- originally we were just going to build the garage where it was, but then that would not be in Code Compliance. My architect said since you're going to build it in the same place it was, you might as well get a two-car garage.

And also too, the Building Department, the inspector says -- he says well because -- I'm originally from Queens. That's where I live right now. I'm intending to move up here and retire. He said you probably need a place to store stuff. He said maybe go ahead and apply. You know, what have you got to lose.

CHAIRMAN SCALZO: Okay. Thank you.

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

MR. MARINO: I'm okay for now.

CHAIRMAN SCALZO: Mr. McKelvey?

MR. MCKELVEY: You can eliminate the

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breezeway; right?

MR. WESTON: Sir?

MR. MCKELVEY: You can eliminate the breezeway?

MR. WESTON: There's no breezeway. There was a breezeway before. Actually, where the breezeway was is where the garage is going to be at now. So instead of having the breezeway, we'll have the garage attached to the house now.

CHAIRMAN SCALZO: Again I'm going to go back to where my comments started. Even during the construction of this, with 4 feet between your proposed garage and the property line, do you know how difficult that's going to be to stay on your property while -- I don't know if you're going to be doing it yourself or if you'll have contractors do it for you. That's nearly impossible.

MR. WESTON: The only thing that we're looking at is we're so far -- plus, as I said right now -- I smile a lot so we're getting along with our neighbors very well. We're just thinking that once it's done -- you know, because there was one there before -- what maintenance

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are you going to do on your garage?

CHAIRMAN SCALZO: Well, I don't know. My wife wants me to change the windows on mine. So, you know, it could be a whole host of the things. That's what I have.

At this point I'm going to open it up to any members of the public that wish to comment on this application, Meadow Hill Road.

MS. JABLESNIK: Go ahead, you can unmute yourself. We can't hear you.

CHAIRMAN SCALZO: Still can't hear you.

MS. BILLINGTON: Hi. I'm the neighbor directly affected by this. I'm at 79 Meadow Hill.

CHAIRMAN SCALZO: Would that be Billington?

MS. BILLINGTON: Yes.

CHAIRMAN SCALZO: Very good.

MS. BILLINGTON: Yes. I would very much appreciate if you deny this application. As you were saying, as far as maintenance, that is an issue.

I did have issues with the previous people, residents of that home, as far as the

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amount of stuff they stored on that side of the garage. And then coming onto my property to get around to the backyard to do things, as well as when the fire happened. Everything happened in the garage. It launched the stuff next to the garage to the fence and onto my shrubs as well, and then I had to watch in fear that my two large pine trees were going to light up on fire and end up going towards my house or somewhere else.

I also believe, as I believe I stated in the e-mail I sent you, which I'm hoping you received, --

CHAIRMAN SCALZO: We have.

MS. BILLINGTON: -- that there are other locations that he can place this garage.

It was originally a breezeway and some kind of storage shed and a single-car garage. There are multiple slabs of cement there that would need to be replaced regardless if he were going to put a new garage up. Since it's new construction I very strongly feel that it should be maintained as far as the current zoning.

And there is another issue. I do believe that many people turn their garages into

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living space, whether they do it legally or not.
I just don't believe you need to have another
garage that becomes living space or some kind of
other entity.

CHAIRMAN SCALZO: Okay.

MS. BILLINGTON: You know, and I did
send an e-mail of support by several of the
neighbors.

CHAIRMAN SCALZO: Actually we saw that
it was, I'll call it a small petition. But yes,
we saw that.

MS. BILLINGTON: You know, I talked to
them and they said they would gladly sign that.

CHAIRMAN SCALZO: Yes. We have
received it. Thank you.

MS. BILLINGTON: Okay. Thank you.

CHAIRMAN SCALZO: Very good. Michelle,
you did get her name; correct?

THE REPORTER: I did.

CHAIRMAN SCALZO: Very good.

Do we have any other members of the
public that wish to speak about this application
on Meadow Hill Road?

MR. GIDDENS: My name a Ralph Giddens,

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I'm at 118 Meadow Hill Road.

CHAIRMAN SCALZO: The floor is yours.

MR. GIDDENS: I would like to also come out against this. It was always a one-car garage. Going to a large one-car garage, you could still maintain the setbacks and the house would be -- have its original flavor. Or being that it is such a large lot, you could site the garage somewhere else if you really need a two-car garage.

CHAIRMAN SCALZO: Thank you very much.

MR. GIDDENS: You're very welcome.

CHAIRMAN SCALZO: All right. At this point I'm going to look back to the Members of the Board here. We've heard a couple of comments from the public. I'm just going to poll this in order.

Mr. Levin, anything else on this?

MR. LEVIN: No comments.

CHAIRMAN SCALZO: Mr. McKelvey?

MR. MCKELVEY: No.

CHAIRMAN SCALZO: Mr. Marino?

MR. MARINO: I do have a couple questions. Mr. Weston, could you get by with

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putting in exactly what was there before, the breezeway and a one-car garage?

MR. WESTON: Where the breezeway and where the end of the garage was was the end of the slab. So that was the original -- where the garage was. Since -- if you look at the blueprint there, it shows where they had a kind of like -- there was a breezeway, but I think what the neighbor is concerned about is the reason they had a fire is they had propane tanks stored inside the garage because they had the heat turned up. That's the story I was told. That's not going to happen with us.

MR. MARINO: I'm familiar with the house over the years.

MR. WESTON: So what I'm saying is it -- see, it was suggested to me that since we were applying -- originally when we had the print drawn up we didn't know about the variance until it was denied. We said okay. Then my architect said this is the code as it is now. So we can, if this was denied, just go to a single-car garage, you know.

MR. MARINO: Could you go to a one-car

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garage --

MR. WESTON: One-car garage.

MR. MARINO: -- but larger than a normal size one-car garage? In other words, like a garage and-a-half?

MR. WESTON: I guess you could do that. In other words, whatever would keep us from that 15-foot variance, you know. Whatever, we could do that.

MR. MARINO: You could do that.

CHAIRMAN SCALZO: Mr. Marino, it appears, to answer two questions that I just heard you come up with, just by scale -- the plan is at a 20 scale. The former slab, for what I'm going to assume was the one-car garage, the front corner would be about 6 feet, the rear corner would be 5, which still does not meet minimum setback requirements. What you had just suggested, from the edge of the house if he were to do a -- just to meet what the side yard setbacks would be, the maximum width that he could probably build a garage would be 13 feet. You have 24 x 24 is what you're looking at now. I guess the assumption would be a 12-foot wide

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garage for a single. I'm just giving that information for Mr. Marino's benefit in this case.

Very good. Mr. Marino, do you have any other questions?

MR. MARINO: That's all.

CHAIRMAN SCALZO: Mr. McKelvey?

MR. MCKELVEY: No.

CHAIRMAN SCALZO: I'm going to go back to Mr. Hermance.

MR. HERMANCE: I would suggest like a single car. Or if he needed the two, move it towards the back of the property. That would make more sense.

CHAIRMAN SCALZO: Mr. Masten?

MR. MASTEN: I was thinking possibly to move it back to the -- the front of the garage to the back of the house, and then you'll get your clearance on the side for your side clearance.

CHAIRMAN SCALZO: Okay. Mr. Bell, do you have anything else?

MR. BELL: My question was are you willing to go down to that single-car garage to meet --

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MR. WESTON: That's not my determination. It's basically whatever you say.

CHAIRMAN SCALZO: We can't -- in that case we can't guide you there. It's got to come out of you in this case. If you were to go down to a one-car garage, you wouldn't need any variances.

MR. WESTON: Whatever bearings -- the building inspector, I even said -- you know, because I didn't want to be here. I said -- he said Ray, I don't know if you know this but in Newburgh we don't want nothing stored in your yard, we don't want no ladders, we don't want anything, because it becomes a junkyard. We don't want that. So you're going to need the space. Why don't you make an application, it will only cost you 300 -- this is him telling me a bunch of times coming from Queens. Other than that, he says let them make the decision, you know. So that's why I'm here.

CHAIRMAN SCALZO: Okay. Very good. Have I hit everybody on the Board again? I'll say it again, just in a little different way. We have a wonderful opportunity

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here to bring an area that has not been improved yet into compliance. So that's my look at it.

We have heard from the -- we have heard from the public on this.

At this point, you know, if you folks -- Members of the Board feel as though we've heard enough and you'd like to close the public hearing, then make a motion. Or if you don't feel as though we have enough information to do that, then so state and we'll also move forward that way.

MR. BELL: We can move this forward if we -- if he agrees to go with that.

CHAIRMAN SCALZO: Mr. Bell, I see exactly where you're going. However, if he were to reduce it to a single-car garage and meet the 15 foot setback, then he doesn't need any variances from us at all.

MR. DONOVAN: If I can. So in that instance either the application is withdrawn or -- I think the applicant has indicated he drove up from Queens so why not get a vote.

MR. WESTON: Exactly.

MR. DONOVAN: So it's either a vote to

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approve the variance or a vote to deny the variance. If the variance is denied, the applicant takes it from there.

CHAIRMAN SCALZO: Correct. Or he withdraws.

MR. DONOVAN: Or he withdraws. I don't mean to speak for the applicant. The inference I took is he's looking for a vote.

MR. WESTON: In other words --

CHAIRMAN SCALZO: There are seven of us.

MR. WESTON: In other words, step back or take my punishment and get a spanking. One or the other.

MR. DONOVAN: Well it depends if you convince four Members of the Board.

MR. WESTON: Well who is not approving of this?

MR. DONOVAN: You don't know what's behind door number 2.

MR. WESTON: Have a secret raising of hands or something.

CHAIRMAN SCALZO: We can -- we will vote on your application as presented.

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MR. WESTON: Okay. From what I've heard now it looks like it's going to be turned down.

CHAIRMAN SCALZO: You've heard me. I don't know. And I have the loudest voice here. But, you know, you've got six other gentlemen here that you can roll the dice. I'm not sure, sir.

MR. WESTON: No matter, even if I'm denied, it's the same thing. I just have to -- now I just got to go and have my architect do a single car.

CHAIRMAN SCALZO: That's correct.

MR. WESTON: Or put it in the back or whatever.

CHAIRMAN SCALZO: That's correct.

MR. WESTON: Within the 15 feet. Okay. All right.

CHAIRMAN SCALZO: We shall proceed. Very good.

So Mr. Marino --

MR. MARINO: A question. The previous garage, it's the same distance from the house next door?

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MR. WESTON: Yes.

MR. MARINO: It was under violation next door as well.

CHAIRMAN SCALZO: Correct.

MR. MARINO: We never saw that house over the years.

CHAIRMAN SCALZO: They weren't in for a variance.

MR. MARINO: They never came in for one.

CHAIRMAN SCALZO: No. Mr. Marino, what's also catching my eye is it says slab remains to be removed. So they're going to be tearing up what was ever there. So like I say, they're going to be digging a new foundation, frost walls for this garage. If they did it right there or did it behind the house, they're still doing it. They're not potentially crossing over a line when they're trying to do it.

Mr. Marino, I don't want to convince you. That's not what I'm here for.

MR. MARINO: I feel bad for Mr. Weston. I would like to see some kind of a compromise where he gets half of what he wants and we also

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preserve --

CHAIRMAN SCALZO: I appreciate what you're saying.

MR. WESTON: I was also thinking about the aesthetics of what it's going to look like. The garage is nicely attached to the house. There's other houses that look exactly like this one with the nice two-car garage attached to it. Also too, because what was brought to my attention by Mr. Barry was he said there's no houses or any structure next to it, you know. It's just from -- the property to the next house is very far away from the property.

CHAIRMAN SCALZO: Sure, but with that train of thought, let's say your neighbor, the Billingtons, wanted to put up a shed. Accessory sheds are allowed to be 5 feet from the property line. They want to put it right next to where your garage is. Now there's an alleyway there that's 9 feet wide.

MR. WESTON: Their property is bigger than mine. They have much more -- they even got a barn in the back.

CHAIRMAN SCALZO: Anyway, that's -- so

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that's where we're at.

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

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

MR. HERMANCE: I'll second it.

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

MR. BELL: Aye.

MR. HERMANCE: Aye.

MR. LEVIN: Aye.

MR. MARINO: Aye.

MR. MASTEN: Aye.

MR. MCKELVEY: Aye.

CHAIRMAN SCALZO: Aye.

Opposed?

(No response.)

CHAIRMAN SCALZO: Very good. This is a Type 2 action under SEQRA. Correct, Counsel?

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

CHAIRMAN SCALZO: Thank you very much.

All right. We're going to weigh the

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criteria, the five factors, the first one being whether or not the benefit can be achieved by other means feasible to the applicant. I'm going to actually have a poll each Member on this.

Mr. Levin, do you feel as though the benefit can be achieved by other means?

MR. LEVIN: No.

CHAIRMAN SCALZO: You don't?

MR. LEVIN: No.

CHAIRMAN SCALZO: Mr. McKelvey, do you feel --

MR. MCKELVEY: Yes, I do.

CHAIRMAN SCALZO: I can finish the sentence, but --

MR. DONOVAN: He anticipated the question.

CHAIRMAN SCALZO: Mr. Marino, do you feel the benefit can be achieved by other means?

MR. MARINO: With a compromise, yes.

CHAIRMAN SCALZO: Okay. Mr. Hermance, do you feel as though the benefit can be achieved by other means?

MR. HERMANCE: Yes.

CHAIRMAN SCALZO: Mr. Masten?

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MR. MASTEN: No.

CHAIRMAN SCALZO: You don't feel that. Okay. Mr. Bell, do you feel that the benefit can be achieved by other means?

MR. BELL: Yes.

CHAIRMAN SCALZO: Okay. The second criteria, if there is an undesirable change in the neighborhood character or a detriment to nearby properties. My opinion on that is yes and no. Undesirable change in the neighborhood, no. However, a detriment to nearby properties.

Now, when we're talking about the maintenance of the side of the garage or walking or storing a wheelbarrow there, or even a larger fellow such as myself walking with things in my hands, I'm off my property. That's the way I'm looking at it. That's just me.

I'm going to go to Mr. Levin on this. Do you feel as though there's an undesirable change in the neighborhood character or a detriment to nearby properties?

MR. LEVIN: A detriment to nearby properties, definitely.

CHAIRMAN SCALZO: Mr. McKelvey?

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MR. MCKELVEY: I think there is.

CHAIRMAN SCALZO: Mr. Marino?

MR. MARINO: No.

CHAIRMAN SCALZO: Mr. Hermance?

MR. HERMANCE: Yes.

CHAIRMAN SCALZO: Mr. Masten?

MR. MASTEN: Yes.

CHAIRMAN SCALZO: And Mr. Bell?

MR. BELL: Yes.

CHAIRMAN SCALZO: Okay. The third, whether the request is substantial. I'll say it again, yes and no. No because of what used to be there. However, yes because it's an opportunity because it's not there any more. So that's just my take.

Mr. Levin on that, is the request substantial?

MR. LEVIN: It can go either way.

CHAIRMAN SCALZO: That's a tough one.

Mr. McKelvey?

MR. MCKELVEY: Yes.

CHAIRMAN SCALZO: Mr. Marino, is the request substantial?

MR. MARINO: I'm going to say no, it's

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not.

CHAIRMAN SCALZO: Mr. Hermance?

MR. HERMANCE: Yes, it is.

CHAIRMAN SCALZO: And Mr. Masten?

MR. MASTEN: No.

CHAIRMAN SCALZO: And Mr. Bell?

MR. BELL: No.

CHAIRMAN SCALZO: Very good. The fourth, whether the request will have adverse physical or environmental effects. In that case I don't believe so. Well physical, again that goes back to the maintenance of the side of the building.

MR. LEVIN: I don't believe so.

CHAIRMAN SCALZO: Mr. McKelvey?

MR. MCKELVEY: No.

CHAIRMAN SCALZO: Mr. Marino?

MR. MARINO: No.

CHAIRMAN SCALZO: Mr. Hermance?

MR. HERMANCE: No.

CHAIRMAN SCALZO: Mr. Masten?

MR. MASTEN: No.

CHAIRMAN SCALZO: Mr. Bell?

MR. BELL: No.

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CHAIRMAN SCALZO: And the fifth, whether the alleged difficulty is self-created which is relevant but not determinative. The original structure, had it not burned down, wasn't self-created. In this case it's not there any more. So we are -- our applicant in front of us is creating -- it is a self-created difficulty in its current condition. That's my position.

Mr. Levin?

MR. LEVIN: I agree with you.

CHAIRMAN SCALZO: Very good.

Mr. McKelvey?

MR. MCKELVEY: Yes.

CHAIRMAN SCALZO: Mr. Marino?

MR. MARINO: Yes.

CHAIRMAN SCALZO: Mr. Hermance?

MR. HERMANCE: Yes.

CHAIRMAN SCALZO: Mr. Masten?

MR. MASTEN: Yes.

CHAIRMAN SCALZO: Mr. Bell?

MR. BELL: Yes.

CHAIRMAN SCALZO: Very good.

Okay. If the Board approves, it shall grant the minimum variance necessary and may

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impose reasonable conditions.

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

MR. MARINO: The motion would be to allow him to do it with the dimensions as they are?

CHAIRMAN SCALZO: As they appear on the plans.

MR. MARINO: As they appear on the plan.

MR. WESTON: Somebody second his motion.

MR. HERMANCE: I would make a motion to deny it.

MR. MASTEN: I'll second that.

CHAIRMAN SCALZO: We have a motion for denial from Mr. Hermance. We have a second from Mr. Masten.

Roll call on that, Siobhan.

MR. DONOVAN: Just to be clear. A yes vote is to deny the variance.

MS. JABLESNIK: Mr. Bell?

MR. BELL: Yes.

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MS. JABLESNIK: Mr. Hermance?

MR. HERMANCE: Yes.

MS. JABLESNIK: Mr. Levin?

MR. LEVIN: Yes.

MS. JABLESNIK: Mr. Marino?

MR. MARINO: No.

MS. JABLESNIK: Mr. Masten?

MR. MASTEN: No.

MS. JABLESNIK: Mr. McKelvey?

MR. MCKELVEY: Yes.

MS. JABLESNIK: Mr. Scalzo?

CHAIRMAN SCALZO: Yes.

That would be 5 to 2. Correct?

MR. DONOVAN: That is correct.

CHAIRMAN SCALZO: Sir, the variances are denied. Unfortunately you're going to have to go back to the drawing board.

MR. WESTON: It is what it is. Thank you.

CHAIRMAN SCALZO: Thank you.

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

MS. JABLESNIK: Can we take a break for like five minutes? I need to like splash water on my face. I feel like I'm going to pass out.

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CHAIRMAN SCALZO: We're going to take a few minutes.

(A recess was taken.)

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

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

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

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

IN WITNESS WHEREOF, I have hereunto set my hand this 27th day of April 2021.

Michelle Conero

MICHELLE CONERO

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

----- X

In the Matter of

COMMERCIAL INDUSTRIAL CONSTRUCTION CORP
FOR CPK UNION

1217 Route 300, Newburgh
Section 96; Block 1; Lot 11.1
IB Zone

----- X

Date: April 22, 2021
Time: 8:18 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

ALSO PRESENT: DAVID DONOVAN, ESQ.
SIOBHAN JABLESNIK

APPLICANT'S REPRESENTATIVE: JOSEPH FLYNN

----- X

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

1
2 CHAIRMAN SCALZO: Moving on. Our next
3 applicant this evening is Commercial Industrial
4 Construction Corp for CPK Union, 1217 Route 300
5 in Newburgh, seeking an area variance for the
6 front yard to build a 23 x 14 addition.

7 This was held over from last month
8 because we hadn't heard back from County yet.

9 Siobhan, have we heard back from
10 County?

11 MS. JABLESNIK: We're all good.

12 CHAIRMAN SCALZO: We also heard the
13 presentation last month. Unless you are --

14 MR. FLYNN: I'm good.

15 CHAIRMAN SCALZO: If you're satisfied
16 with that.

17 Do any Members of the Board need a
18 refresher on this? This is at the Cosimo's on
19 Union site. They're expanding the bar area.
20 Every bar should be bigger in my opinion.
21 Just to refresh your memories on that.

22 Do we have any members of the public
23 here that wish to speak about this application?

24 MR. BROWN: I'm all for it.

25 CHAIRMAN SCALZO: I'm with you,

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Charlie.

MS. JABLESNIK: It doesn't look like it.

CHAIRMAN SCALZO: It does not appear so. Very good.

In this case I will -- any other comments from the Board?

MR. BELL: No.

MR. HERMANCE: No.

MR. LEVIN: No.

MR. McKELVEY: No.

MR. MASTEN: No.

MR. MARINO: No.

CHAIRMAN SCALZO: A whole bunch of shaking heads.

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

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

MR. LEVIN: I'll second.

CHAIRMAN SCALZO: I think it was competing there. I think Mr. Bell actually made the motion. I'll say Mr. Levin seconded the motion. All in favor?

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MR. BELL: Aye.

MR. HERMANCE: Aye.

MR. LEVIN: Aye.

MR. MARINO: Aye.

MR. MASTEN: Aye.

MR. McKELVEY: Aye.

CHAIRMAN SCALZO: Aye.

All opposed?

(No response.)

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

Counsel, I don't know if this is a Type 2 action. It's an Unlisted I believe.

MR. DONOVAN: This is an Unlisted action under SEQRA. You are absolutely correct.

CHAIRMAN SCALZO: Okay. Do we also need a neg dec?

MR. DONOVAN: You will need a negative declaration.

MR. McKELVEY: I'll make the motion.

MR. BELL: Second.

CHAIRMAN SCALZO: We have a motion from Mr. McKelvey for a negative declaration under SEQRA, and a second from Mr. Bell. All in favor

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on that?

MR. BELL: Aye.

MR. HERMANCE: Aye.

MR. LEVIN: Aye.

MR. MARINO: Aye.

MR. MASTEN: Aye.

MR. MCKELVEY: Aye.

CHAIRMAN SCALZO: Aye.

All opposed?

(No response.)

CHAIRMAN SCALZO: Very good.

Moving forward. We still have to discuss the factors here, the first one being whether or not the benefit can be achieved by other means feasible to the applicant. I'm all for more elbow room at a bar. That's not really a reason.

Second, if there's an undesirable change in the neighborhood character or a detriment to nearby properties. The applicant has informed us it's not going to go out any further than the current stonewall, so I don't believe so.

The third, whether the request is

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substantial. Again, from where people sit and the stonewall is, you're only going to see a structure instead of open space.

Fourth, whether the request will have adverse physical or environmental effects. I don't believe so.

MR. MCKELVEY: No.

CHAIRMAN SCALZO: The fifth, whether the alleged difficulty is self-created. Of course it's relevant but not determinative. Of course it is self-created, however it's not determinative here.

So with that being put out there, I'll look to the Members of the Board. Do you have a motion of some sort?

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

MR. HERMANCE: I'll second it.

CHAIRMAN SCALZO: We have a motion for approval from Mr. Bell. We have a second from Mr. Hermance. Roll on that, Siobhan.

MS. JABLESNIK: Mr. Bell?

MR. BELL: Yes.

MS. JABLESNIK: Mr. Hermance?

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MR. HERMANCE: Yes.

MS. JABLESNIK: Mr. Levin?

MR. LEVIN: Yes.

MS. JABLESNIK: Mr. Marino?

MR. MARINO: Yes.

MS. JABLESNIK: Mr. Masten?

MR. MASTEN: Yes.

MS. JABLESNIK: Mr. McKelvey?

MR. MCKELVEY: Yes.

MS. JABLESNIK: Mr. Scalzo?

CHAIRMAN SCALZO: Yes.

The motion is carried. The variances
are approved. Thanks for your patience.

Sometimes the County doesn't get back to us quick
enough. Sometimes the applications just don't
get to us quick enough. Thank you and good luck.

MR. FLYNN: Thank you.

(Time noted: 8:22 p.m.)

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

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

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

I further certify that I am not
related to any of the parties to this proceeding by
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IN WITNESS WHEREOF, I have hereunto
set my hand this 27th day of April 2021.

Michelle Conero

MICHELLE CONERO

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

----- X

In the Matter of

RADHIKA REAL ESTATE

179 South Plank Road, Newburgh
Section 60; Block 3; Lot 14.2
B Zone

----- X

Date: April 22, 2021
Time: 8:22 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

ALSO PRESENT: DAVID DONOVAN, ESQ.
SIOBHAN JABLESNIK

APPLICANT'S REPRESENTATIVE: JONATHAN MILLEN

----- X

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

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CHAIRMAN SCALZO: Mr. Millen has been patiently waiting for almost 90 minutes. We have Radhika Real Estate, South Plank Road in Newburgh, for an interpretation of the ordinance for a new occupancy.

I know we heard back from the County in this case. We have received correspondence from Mr. Millen to the Code Compliance and us with a narrative of why they feel as though this fits what is allowed by code. It's a lengthy letter.

Mr. Millen, if you could summarize. It appears by reading your letter that it sounds like they're talking about sales and not necessarily manufacturing. They may do some minor shaping here but --

MR. MILLEN: Yes.

CHAIRMAN SCALZO: Counsel had very eloquently said last month, what we needed from you was for you to tell us how what they do fits in with what the code says.

MR. MILLEN: Okay.

CHAIRMAN SCALZO: So the floor is yours, sir.

MR. MILLEN: All right. So what we

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have is a business that provides sales and service in the form of granite countertops being installed in people's homes. Now, the granite countertops are manufactured, absolutely, by outside firms. They're delivered in big slabs. These slabs are cut before installation. The cutting and the polishing represents a very small portion of the effort that they put into making an installation. In fact, it turned out to be that the cost for cutting and polishing is about \$175 per unit, and you've got units that run anywhere from \$500 a unit to \$3,500, \$4,000 a unit. Most of the cost is in the installation.

Our position is that they're certainly not manufacturing countertops. The countertops are being manufactured by outside firms. Just the same way a large piece of glass is being manufactured and then cut, or carpet is manufactured by someone else and then cut.

So the other position is that in terms of the amount of space it takes to do this cutting and polishing, it's about 15 percent of the total retail area that they've devoted to their business. The cost ratio is so small

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relative to the -- you know, they're buying something for X amount and adding a very small amount to that. We don't feel that that would constitute manufacturing something.

CHAIRMAN SCALZO: So retail sales, is that where we're heading?

MR. MILLEN: Retail sales and service is what they are providing.

CHAIRMAN SCALZO: Retail sales and service, which does fit in that zone.

MR. MILLEN: Yes.

CHAIRMAN SCALZO: And just so that's what we're understanding. It takes a bit to get to that in your narrative, but --

MR. MILLEN: Sorry.

CHAIRMAN SCALZO: Counselor, have we gotten to where we need to get to?

MR. DONOVAN: So the short answer is yes.

CHAIRMAN SCALZO: Okay.

MR. DONOVAN: I had asked the representative last month to indicate -- the presentation was we're not manufacturing. What are you, and, whatever you are, do you fit into

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one of the permitted uses in the zone? Your position is that you are retail sales. Right?

MR. MILLEN: Mm'hm'.

MR. DONOVAN: Retail sales and service. The retail sales and service are called out as a permitted use just subject to site plan approval. You have to go through Code Compliance for the interpretation. It is a permitted use in the zone. That's the argument. I asked you to make an argument. That is the argument. If the Board buys that argument, the Board accepts that argument, it would be allowed to proceed.

CHAIRMAN SCALZO: Okay. I get it. And just so I'm -- I can straighten this out in my head, say this was a cabinet store and it was -- and they were just installing the hinges on the cabinets. Is that still considered manufacturing at that point or is it still retail sales, depending on --

MR. DONOVAN: Well if I can ask the question. So I'm doing my kitchen over. Do I go here to pick out my granite countertop?

MR. MILLEN: Yes, you do.

MR. DONOVAN: You know, generally

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speaking a manufacturing place, in my experience, right, you don't go pick out your things there. In retail sales, you pull into the store, you buy your product and then you, you know, either take it home with you or have your contractor come and get it.

CHAIRMAN SCALZO: Right. Very good.

So as far as interpretations go, can you help me move through this?

MR. DONOVAN: So there's no five-part balancing test. I think it would just be you, Mr. Chairman, could ask each Member to chime in, or at the end of the day it would be a motion to issue an interpretation that the use as outlined is retail sales and service and it is permitted in the B Zoning District. If you want to jump to the end, that would be the motion.

CHAIRMAN SCALZO: I think that's great, what he said.

So if I can look to Mr. Levin. Having heard what Mr. Donovan said and what the applicant's representative has said, would you agree that this is a retail sales and service?

MR. LEVIN: I do, but I have one

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question. If somebody comes in to your shop and the size is off, where is it taken care of? If it needs to be shaved down, the size is too big or too small?

MR. MILLEN: Well, I should be clear that the slabs that come in are very large. They're like, I guess maybe 13 feet by 14 feet. Very, very large slabs that are cut to size.

MR. LEVIN: What if the size is wrong. Do you cut it even more when it's in your shop?

MR. MILLEN: Sure.

MR. LEVIN: You do. Okay.

CHAIRMAN SCALZO: Because they made the initial cut.

MR. LEVIN: Okay.

MR. MILLEN: It's a very elaborate -- you'd have to see it to realize it's a very, very expensive device that they use to cut these slabs with. They're water cooled. They're very elaborate. We have 2,000 gallons of storage of water in two stages. The second stage -- when the saw comes along, it cuts in such a way that there's no dust, there's nothing. It goes into these tanks and then the tanks are emptied by a

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septic tank.

CHAIRMAN SCALZO: Mr. Millen, you're not describing a retail sales operation here. Not at all.

MR. MILLEN: In other words, part of what they do -- the cutting of something is what they do, because it comes in one size and they have to cut it to fit in your home.

MR. DONOVAN: I mean having -- anyone who has done this, so you buy a granite countertop, you go to a place. There is a huge slab. You pick it out. They come to your house, they measure where it goes, and then they cut it and they say by the way, the piece that we cut may not look exactly like this because it's a natural element, right. You don't necessarily get the one that's here and the way we cut it might not look exactly the same. You go to -- having done this, you go to the store, you pick out your granite, they measure it, they cut it, they bring it to your house. Now, I assume that's what happens. Correct?

MR. MILLEN: That's exactly what happens.

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MR. DONOVAN: So if the Board feels that's retail, because people go there and pick it out, then that's the interpretation. Again, I don't want to put words in anybody's mouth.

CHAIRMAN SCALZO: Thanks.

Mr. McKelvey?

MR. MCKELVEY: I agree with what he just said.

CHAIRMAN SCALZO: Mr. Marino?

MR. MARINO: I agree with Dave.

CHAIRMAN SCALZO: How about you, Mr. Hermance?

MR. HERMANCE: I agree.

CHAIRMAN SCALZO: Mr. Masten?

MR. MASTEN: Sure.

CHAIRMAN SCALZO: And Mr. Bell?

MR. BELL: Yes.

MR. DONOVAN: I want all of you guys to come home with me tonight because no one agrees with me at home.

CHAIRMAN SCALZO: I happen to agree with you as well.

Therefore, it sounds as though -- I polled every Member of the Board.

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MR. DONOVAN: Someone could make a motion to issue an interpretation that the use described is retail sales and service.

MR. BELL: Let me see if I got that right. Repeat that again.

MR. DONOVAN: It's a motion to issue an interpretation that the use described is retail sales and service and is a permitted use in the B Zone.

MR. BELL: I'll make a motion that I agree with Dave, with what he just said perfectly. Yes, I'll make a motion.

CHAIRMAN SCALZO: I couldn't have said it better myself, Mr. Donovan.

We have a motion from Mr. Bell. Do we have a second?

MR. MASTEN: I'll second it.

CHAIRMAN SCALZO: A second from Mr. Masten. Roll call.

MS. JABLESNIK: Mr. Bell?

MR. BELL: Yes.

MS. JABLESNIK: Mr. Hermance?

MR. HERMANCE: Yes.

MS. JABLESNIK: Mr. Levin?

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MR. LEVIN: Yes.

MS. JABLESNIK: Mr. Marino?

MR. MARINO: Yes.

MS. JABLESNIK: Mr. Masten?

MR. MASTEN: Yes.

MS. JABLESNIK: Mr. McKelvey?

MR. MCKELVEY: Yes.

MS. JABLESNIK: Mr. Scalzo?

CHAIRMAN SCALZO: Yes.

MR. DONOVAN: Just for the record, so interpretations are Type 2 actions under SEQRA as well.

CHAIRMAN SCALZO: Thank you, Counselor. You're all set.

MR. MILLEN: Thank you.

(Time noted: 8:30 p.m.)

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

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

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

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

IN WITNESS WHEREOF, I have hereunto
set my hand this 27th day of April 2021.

Michelle Conero

MICHELLE CONERO

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

----- X
In the Matter of

JOSE LEMA

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

----- X

Date: April 22, 2021
Time: 8:30 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

ALSO PRESENT: DAVID DONOVAN, ESQ.
SIOBHAN JABLESNIK

APPLICANT'S REPRESENTATIVE: CHARLES BROWN

----- X

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

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CHAIRMAN SCALZO: Okay. This is a holdover from a holdover. We have Jose Lema, 61 South Plank Road in Newburgh, seeking area variances of maximum lot building coverage, maximum lot surface coverage and maximum allowed square footage of accessory structures to keep a 35 x 16 accessory building and paved courts.

As I mentioned, this is a holdover. There's quite a bit of buzz about this one. The building was either built without a permit or they applied for a permit and didn't wait for a permit to move forward.

MR. BROWN: It was built without a permit.

CHAIRMAN SCALZO: Built without a permit. The lot surface is the paved courts, --

MR. BROWN: Correct.

CHAIRMAN SCALZO: -- which is an increase to the impervious surfaces. I have an accessory building and paved courts worksheet here.

The surface coverage, we're still looking at 253 percent over.

MR. BROWN: Yes.

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CHAIRMAN SCALZO: That's a winner as far as percentages over.

As far as accessory square feet, we're looking at 114.5 square feet over. And building coverage, we're looking at 37.7 percent over. Also the building coverage includes the original structure which was there before.

I had reached out to the Building Department for any guidance from them. There was a second set of plans that came in with some modifications. I didn't get any comments back from them.

I do believe I had mentioned at our last meeting I was -- maybe I was thinking it. But were there any activities that the police were monitoring there? Any calls for any code violations, noise ordinances or lighting?

Charlie, you mentioned they're the same code, noise and lighting.

MR. BROWN: My understanding from discussing it with the Building Department is that prior to our second appearance there was but since then I don't know. We did call Tom from the Building Department to try to get him out

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JOSE LEMA

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there on site. He pretty much flat out refused.

CHAIRMAN SCALZO: Okay.

MR. BROWN: They're done with it I think.

CHAIRMAN SCALZO: We still have been receiving correspondence via e-mail from concerned neighbors. Siobhan has forwarded that to all of us. I happen to not have it with me. What's been going on, and I happen to be very -- I pass the site quite frequently. There's quite a bit of action going on there every Sunday. Every Sunday. Cars on the lawn, parking partially in the street sometimes.

So when I look at this for building purposes, that little accessory structure in the back, if you were to combine both lots, it really doesn't seem all that substantial.

What this really does, in my opinion, it's a very big change in the character of the neighborhood. Because that building is there and because those courts are there, the neighborhood character has -- is really not what it was at all.

Regarding the lighting, I haven't heard

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JOSE LEMA

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anything about that myself recently.

MR. BROWN: They took the lights down.

CHAIRMAN SCALZO: Okay. Maybe that's why I haven't heard anything.

Other than that, I'm going to look to the Members of the Board now. Mr. Bell, do you have any comments on this?

MR. BELL: No. I'm good. It was before us a lot. I'm good.

CHAIRMAN SCALZO: Okay. Mr. Masten, do you have any comments on this?

MR. MASTEN: No, I haven't.

CHAIRMAN SCALZO: How about you, Mr. Hermance?

MR. HERMANCE: This is supposed to be residential; correct?

MR. BROWN: Correct.

MR. HERMANCE: Okay.

CHAIRMAN SCALZO: All right.

MR. HERMANCE: That's all I have.

CHAIRMAN SCALZO: Mr. Marino?

MR. MARINO: The building they want to construct, what's the purpose of that?

CHAIRMAN SCALZO: It's already up.

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JOSE LEMA

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It's already there. There's actually -- if you want, I'll show you a couple -- I'll pass these down. They were in your package, if you happen to have your package handy. I just happened to open mine up. Pass those down to Mr. Marino.

MR. MARINO: Thank you, Darrin.

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

MR. MARINO: No.

CHAIRMAN SCALZO: How about you, Mr. McKelvey?

MR. MCKELVEY: No.

CHAIRMAN SCALZO: Mr. Levin?

MR. LEVIN: I'm okay.

CHAIRMAN SCALZO: Very good. I spoke with the Building Department on a different matter. This is -- it was two separate lots.

MR. BROWN: Yes.

CHAIRMAN SCALZO: A consolidation in my -- well again, the Building Department considers a consolidation as something as simple as going to the assessor's office and saying I want to remove that middle property.

MR. BROWN: Correct.

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CHAIRMAN SCALZO: Legally it's still described as two separate parcels. So in my opinion -- Counselor, help me out when I go wrong here -- is because it was only done through the assessor's office, it is still two separate parcels. Should someone come later and buy that first parcel, because they are described --

MR. DONOVAN: Darrin, the section, block and lot, that's one tax parcel.

MR. BROWN: They didn't combine them yet. That's why it's two separate SBLs.

CHAIRMAN SCALZO: What we've got here is even if they were combined -- well, I believe the application is with the assumption that they are combined; correct?

MR. BROWN: Correct.

CHAIRMAN SCALZO: So with them not being combined, if we were to ask the Building Department to analyze these on an individual basis, we'd be off the charts with our lot coverage and other information. So that's something that I have to really get some clarification out of the Building Department on, that is it just that simple to consolidate lots

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by telling the assessor to combine them.

MR. DONOVAN: These are not subdivided lots; right, Charlie?

MR. BROWN: They're very old.

MR. DONOVAN: So it actually is a relatively simple procedure to go through the assessor, request that they be combined into one tax parcel. It becomes a much more complicated procedure should you wish to subdivide in the future because you need to go to the Planning Board and you need to file a formal subdivision.

MR. BROWN: We've got that up there at Cronomer Heights.

MR. DONOVAN: So un-subdividing is relatively simple. It is administrative. Combining these is administrative.

CHAIRMAN SCALZO: Okay. Fair enough. So I don't have anything more to add to that.

The public hearing for this is still open. Is there anyone from the public that's here to speak about the application of Jose Lema at 61 South Plank Road, New York State Route 52?

(No response.)

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CHAIRMAN SCALZO: Apparently not.

Okay. I'll look to the Members of the Board. Any other comments?

(No response.)

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

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

MR. HERMANCE: I'll second it.

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

MR. BELL: Aye.

MR. HERMANCE: Aye.

MR. LEVIN: Aye.

MR. MARINO: Aye.

MR. MASTEN: Aye.

MR. MCKELVEY: Aye.

CHAIRMAN SCALZO: Aye.

All opposed?

(No response.)

CHAIRMAN SCALZO: Silence. Very good.

Is this a Type 2 action under SEQRA?

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MR. DONOVAN: Actually this is a Type 2 action under SEQRA, residential.

CHAIRMAN SCALZO: It's a little unusual.

So we're going to go through the area variance criteria and discuss the five factors that we're weighing, the first one being whether or not the benefit can be achieved by other means feasible to the applicant. The applicant went ahead and built something without a permit -- a couple things without a permit. Can the benefit be achieved by other means? Well, if he didn't -- you know, he's here asking for forgiveness now, not for permission.

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

- MR. BELL: Yes.
- MR. HERMANCE: Yes.
- MR. LEVIN: Yes.
- MR. MARINO: Yes.
- MR. MASTEN: Yes.
- MR. McKELVEY: Yes.

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CHAIRMAN SCALZO: We had gotten quite a bit of testimony or written documentation from adjoining neighbors and not adjoining neighbors regarding that.

The third, whether the request is substantial. Looking at the worksheet from the Building Department, it's off the charts as far as variance percentages as far as I've seen.

The fourth, whether the request will have adverse physical or environmental effects. Well environmental effects, that might be some noise. The lights are down, as we've been told. But, you know, that's one I'm going to scratch my head on. I'm not quite sure.

Mr. Levin, do you think there's any adverse physical or environmental effects with this?

MR. LEVIN: Yes.

CHAIRMAN SCALZO: The increase in impervious surface. Thank you. I don't know if there's any treatment planned for that or if it's just sheet flow and we're going to worry about it later.

Mr. McKelvey?

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MR. MCKELVEY: Yes.

CHAIRMAN SCALZO: Mr. Marino, what do you think of that?

MR. MARINO: I would agree.

CHAIRMAN SCALZO: Mr. Hermance?

MR. HERMANCE: Yes.

CHAIRMAN SCALZO: Mr. Masten?

MR. MASTEN: Yes.

CHAIRMAN SCALZO: Mr. Bell?

MR. BELL: Yes.

CHAIRMAN SCALZO: Okay. The fifth, whether the alleged difficulty is self-created which is relevant but not determinative. Of course this is self-created. They moved forward without any permits.

Does anybody have any opposition to that statement?

MR. BELL: No.

MR. HERMANCE: No.

MR. LEVIN: No.

MR. MCKELVEY: No.

MR. MASTEN: No.

MR. MARINO: No.

CHAIRMAN SCALZO: Very good. If the

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JOSE LEMA

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Board shall approve, it shall grant the minimum variance necessary and may impose reasonable conditions.

Having gone through the balancing test of the area variance, what is the pleasure of the Board? Does the Board have a motion of some sort?

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

CHAIRMAN SCALZO: Absolutely, Tony.

MR. MARINO: It came up at the meeting a month or so back. Now that Mr. Manley is here, does the Town have any ordinance about noise, what time noise has to stop for people who are partying or with large crowds at their homes?

CHAIRMAN SCALZO: Yes, they do. I can't quote it at the moment. There are noise ordinances.

MR. MARINO: By a certain time at night the noise has to stop?

MR. MANLEY: During the day it has to be within reason so the neighbors don't hear it. At night there's certain decibel levels.

MR. BROWN: The same ordinance as the

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lighting ordinance.

MR. MARINO: That was a concern that was expressed at last month's meeting, whether or not the neighbors could call at 10:00 at night and say there's too much noise going on.

CHAIRMAN SCALZO: Sure. There's also another factor here. As I say, I don't know what makes me find my way past that place every Sunday, but I do. There's quite dense parking in the driveway, on the grass. Actually, one car was actually straddling -- the tires were on the white line on New York State Route 52. So, you know, what's been going on there, or whatever is contributing to the change in the character of the neighborhood is quite possibly a safety hazard as well for the traveling public.

MR. McKELVEY: Are they running this as a business?

CHAIRMAN SCALZO: I have no idea. Charlie, is this -- they're not selling liquor there, are they?

MR. BROWN: What he's told me is just family and friends.

CHAIRMAN SCALZO: You know what, I'd

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love to have a party every Sunday.

MR. BROWN: Me, too.

CHAIRMAN SCALZO: Anyway, I've gone through the factors here that we're looking at. Tony, you had asked a question there. But what is the -- does the Board have a motion of some sort?

MR. HERMANCE: I'll make a motion to deny the request for the variance.

MR. BELL: I'll second.

CHAIRMAN SCALZO: We have a motion for denial from Mr. Hermance. We have a second from Mr. Bell. Therefore, when voting, yes means --

MR. DONOVAN: Yes means no.

CHAIRMAN SCALZO: -- yes means no. So yeah.

Roll on that, 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.

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MS. JABLESNIK: Mr. Masten?

MR. MASTEN: Yes.

MS. JABLESNIK: Mr. McKelvey?

MR. MCKELVEY: Yes.

MS. JABLESNIK: Mr. Scalzo?

CHAIRMAN SCALZO: Yes.

MR. BROWN: Thank you.

CHAIRMAN SCALZO: Charlie, you're going
to have to let your client know. He's going to
have to come up with something else.

(Time noted: 8:43 p.m.)

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

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

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

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

IN WITNESS WHEREOF, I have hereunto
set my hand this 27th day of April 2021.

Michelle Conero

MICHELLE CONERO

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

----- X
In the Matter of

MICHAEL & SHERRI O'DONNELL
VALLEY CONTRACTING

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

----- X

Date: April 22, 2021
Time: 8:43 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

ALSO PRESENT: DAVID DONOVAN, ESQ.
SIOBHAN JABLESNIK

APPLICANT'S REPRESENTATIVE: JONATHAN CELLA

----- X

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

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CHAIRMAN SCALZO: Our next item on the agenda here is a discussion on the request for a rehearing made by Paul Kuprych on the application of Valley Contracting, Michael and Sherri O'Donnell, 38 Snider Avenue in Walden.

This is an unusual request. I'm not saying we don't get them. We don't get them every day, that's for sure. In this case I did reach out to our counsel on this to guide us through the process. There are certain things that need to be met for us to entertain this.

So Counselor, if I could turn it over to you to explain to the Board what our obligation is here.

MR. DONOVAN: Sure. And just by way of background, I think the Board Members all have this, there was a request for a rehearing by Mr. Kuprych. The reasons for the request are set forth in his correspondence to Chairman Scalzo. That request was forwarded to Mike and Sherri O'Donnell, the owners of 38 Snider. They responded also in writing.

So this matter is before the Board. The law under a rehearing is that an application

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for a rehearing can be made. A motion for the rehearing needs to be made and it needs to be approved unanimously. If it's not approved unanimously, the motion fails. If it is approved unanimously, there is then another hearing, there is another notice, you hear from the public and then you make a determination. If you want to reverse your prior decision at the hearing or after the hearing, that would also need to be a unanimous vote.

Now, the metric by which you determine as to whether or not you should have a rehearing is whether or not -- I'm going to read from a case. This is a relatively recent case. I'll quote, "While the determination to rehear an application is within the discretion of the zoning board, the zoning board needs to determine whether or not there are new facts or -- new facts or a change in circumstances that would warrant the rehearing." So if the Board feels that there's new facts or a change in circumstances, then you would be justified in granting a rehearing. If you feel that there are no new facts and no change in circumstances, then

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you would be justified to not grant a rehearing.

CHAIRMAN SCALZO: Thank you, Counselor.
And the correspondence requesting this from Mr.
Kuprych had laid out pieces of information. Have
you all seen it?

(Board Members nodding.)

CHAIRMAN SCALZO: Very good. This is
now a discussion amongst the Board. We have no
-- unless we invite anyone else to speak, this is
Board conversation.

Counselor, would it be appropriate for
me to ask each Member of the Board do you feel as
though there was something we were missing or
something that was misleading about the
application? Is that how --

MR. DONOVAN: You could do that. You
don't have to but you could do that.

CHAIRMAN SCALZO: And for us to reopen
this, it has to be a unanimous --

MR. DONOVAN: It must be a unanimous
vote to rehear the application --

CHAIRMAN SCALZO: Rehear the
application.

MR. DONOVAN: -- which would result in

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a new public hearing. Correct.

CHAIRMAN SCALZO: Very good. So I'm going to start with Mr. Bell in this case. Mr. Bell, you were remote for this. It was probably difficult for you to pick up on most of what we were seeing here. However, from what you had heard and from the meeting minutes, do you feel as though we were misled or there was other information that was withheld or -- by the applicant?

MR. BELL: Yes.

CHAIRMAN SCALZO: You feel as though there was something withheld or --

MR. BELL: Yes. I was having a difficult -- I must admit I did not finish reading the minutes on this one. I'm still not quite up to par.

CHAIRMAN SCALZO: Fair enough. As I said, you were the only Member on the Zoom platform in this case.

Mr. Masten, you were here.

MR. MASTEN: Yes.

CHAIRMAN SCALZO: When the applicant had presented did you feel as though anything was

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being portrayed to the Board that was misleading or inaccurate?

MR. MASTEN: Yes. Everything was presented properly.

CHAIRMAN SCALZO: Okay. So perhaps I can just ask you that again. Do you feel as though we were misled as Board Members?

MR. MASTEN: No.

CHAIRMAN SCALZO: Okay. Thank you.

Mr. Hermance, the same question?

MR. HERMANCE: No, I don't feel we were misled.

CHAIRMAN SCALZO: Misled or you feel any inaccuracy of the application or what was presented?

MR. HERMANCE: No. It's still a proposed two-bedroom dwelling.

CHAIRMAN SCALZO: Very good.

Mr. Marino, do you feel as though we were misled or there was other additional information that may have been withheld?

MR. MARINO: I don't think so. But at the same time I have no objection to giving the opposition a fair opportunity to express their

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feelings, get it all out there, but that doesn't mean I'm going to vote in their favor the next time. I still think the project is fair. Rather than having half the Town walk away thinking they were cheated and robbed and blame it on us, I'm willing to say alright, we'll listen to your argument, but don't take for granted I'm going to vote your way.

CHAIRMAN SCALZO: Thank you, Mr.

Marino.

MR. MARINO: That's it.

CHAIRMAN SCALZO: Mr. McKelvey, do you feel as though we were misled --

MR. MCKELVEY: No.

CHAIRMAN SCALZO: -- or an inaccuracy in any information provided with the application?

MR. MCKELVEY: No.

CHAIRMAN SCALZO: Mr. Levin?

MR. LEVIN: I think everything Mr.

Marino said, I agree with.

CHAIRMAN SCALZO: Okay. Having read the comments from Mr. Kuprych and having reread our meeting minutes, I -- and keep in mind I was the only no vote, and it was for a specific

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reason. It was because I had not walked out to the lake. But in reading Mr. Kuprych's information, he only felt as though Mr. Hermance and yourself were at the site where all of us had been to the site, so --

MR. BELL: Yes.

MR. HERMANCE: Yes.

CHAIRMAN SCALZO: -- my opinion is Mr. Kuprych's information was confusing and misleading, and if -- I don't feel as though the applicant misrepresented what was going on. As a professional engineer, which I rarely say that during these meetings, I confirmed that septic are designed by bedrooms, not bathrooms. They can have ten bathrooms but if they only have two bedrooms, then the septic is designed accordingly, according to the two bedrooms. The septic is the controlling factor on this.

They did what they could moving it up when they were at the -- we had an application this evening which was across the street from this. I looked at it again just to see that I was -- that's my position.

Actually, after seeing it today, my

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position may have been changed from the last meeting.

I polled all the Board Members. Counselor, what is our next step here?

MR. DONOVAN: So the next step would be if any Board Member wishes to make a motion to grant the request for a rehearing.

CHAIRMAN SCALZO: All right. Do any Members of the Board want to make a motion to grant a rehearing, keeping in mind if a motion is made and then seconded we will poll. It needs to be unanimous that we vote to reopen the application.

MR. LEVIN: I'll make a motion.

MR. MARINO: Go ahead, Rich.

CHAIRMAN SCALZO: Mr. Levin makes a motion to reopen the hearing.

MR. MARINO: I'll second it.

CHAIRMAN SCALZO: We have a second from Mr. Marino. Can we have a roll call on that, please?

MS. JABLESNIK: Mr. Bell?

MR. BELL: Yes.

CHAIRMAN SCALZO: Yes.

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MR. DONOVAN: So just to clarify, a yes vote is to have a rehearing.

MR. BELL: Yes -- no. I'm sorry.

MS. JABLESNIK: No.

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: No.

MS. JABLESNIK: Mr. McKelvey?

MR. MCKELVEY: No.

MS. JABLESNIK: Mr. Scalzo?

CHAIRMAN SCALZO: No.

I believe we've done our due diligence, Counselor.

MR. DONOVAN: Yes, the Board has.

CHAIRMAN SCALZO: We will not rehear that application.

Thank you for being here, Mr. Cella, in case we had any questions. We don't in this case.

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MR. CELLA: Thank you very much.
CHAIRMAN SCALZO: Very Good.

(Time noted: 8:52 p.m.)

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

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

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

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

IN WITNESS WHEREOF, I have hereunto
set my hand this 27th day of April 2021.



MICHELLE CONERO

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

----- X

In the Matter of

BOARD BUSINESS

- 1. Zoning Board of Appeals training seminars
- 2. Acceptance of the minutes for the March 2021 meeting

----- X

Date: April 22, 2021
 Time: 8:52 p.m.
 Place: Town of Newburgh
 Town Hall
 1496 Route 300
 Newburgh, NY 12550

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

ALSO PRESENT: DAVID DONOVAN, ESQ.
 SIOBHAN JABLESNIK

----- X

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

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CHAIRMAN SCALZO: The only other thing I have as far as discussion from the Board, one week from tonight there is a wonderful training opportunity, and it is -- Mr. Hermance and I attended a similar training through the Rockland County Planning Federation. I've been on the Board for seven years and this is, I'll call it an introductory course, however I've forgotten so many things that I found it very valuable.

Greg, would you agree?

MR. HERMANCE: Absolutely.

CHAIRMAN SCALZO: So I highly recommend it. It's next Thursday evening. Please attend, if you can, online.

MR. LEVIN: Thursday where?

CHAIRMAN SCALZO: It's online.

Siobhan, can you re-forward the information for that?

MS. JABLESNIK: Is it the one that you sent me like a while ago?

CHAIRMAN SCALZO: Probably.

MS. JABLESNIK: Tony was asking me

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about it earlier and I don't remember. I'll look for it.

MR. DONOVAN: Seriously, it can't be better than the one I did for the Orange County Planning Federation.

CHAIRMAN SCALZO: I believe this came from Carrie Scali. Is that her name?

MS. JABLESNIK: Okay. Then I have it.

CHAIRMAN SCALZO: And then the last item -- Mr. Masten.

MR. MASTEN: Yes. I forget what date it was, Siobhan set me up with an e-mail about Dutchess County had a Zoom meeting about vendor trucks and stuff.

MR. HERMANCE: The food trucks.

MR. MASTEN: I took that. It was almost a two-hour seminar and it was very interesting, because there's a lot more food vendors coming around more and there's different sites and stuff. I learned a lot.

CHAIRMAN SCALZO: I'm glad you attended.

MR. MASTEN: I'm going to do the one on the 29th.

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CHAIRMAN SCALZO: Next Thursday.
You're going to hear some things and you may look
at what we do differently.

MR. MASTEN: Yeah.

CHAIRMAN SCALZO: You're going to hear
some things. It's not necessarily what I thought
it was. So I'm just -- I'm not going to ruin the
surprise.

MR. MASTEN: I learned a lot of things
about food vendors.

CHAIRMAN SCALZO: Other than that, all
we have to do is vote on the meeting minutes for
March's meeting. There was just one correction
which Siobhan sent to you. I read the rest of
them and I didn't see any. It was just a
dyslexic moment. Other than that it was
excellent.

I'll make a motion to approve the
meetings for the March meeting -- minutes for the
March meeting. I'll make a motion to approve.

MR. MARINO: Second.

CHAIRMAN SCALZO: Second from Mr.
Marino. All in favor?

MR. BELL: Aye.

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BOARD BUSINESS

MR. HERMANCE: Aye.

MR. LEVIN: Aye.

MR. MARINO: Aye.

MR. MASTEN: Aye.

MR. McKELVEY: Aye.

CHAIRMAN SCALZO: Aye.

Having no more Board business, I'll
look for a motion to adjourn.

MR. MASTEN: I'll make a motion we
adjourn.

CHAIRMAN SCALZO: I'll second that.

All in favor?

MR. BELL: Aye.

MR. HERMANCE: Aye.

MR. LEVIN: Aye.

MR. MARINO: Aye.

MR. MASTEN: Aye.

MR. McKELVEY: Aye.

CHAIRMAN SCALZO: Aye.

(Time noted: 8:56 p.m.)

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

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

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

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

IN WITNESS WHEREOF, I have hereunto
set my hand this 27th day of April 2021.

Michelle Conero

MICHELLE CONERO