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

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In the Matter of

FARRELL BUILDING CO.

182 South Plank Road, Newburgh
Section 64; Block 2; Lot 8.21
B Zone

----- X

Date: April 25, 2019
Time: 7:00 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: DARRIN SCALZO, Chairman
JOHN MCKELVEY
ANTHONY MARINO
JOHN MASTEN
DARRELL BELL

ALSO PRESENT: DAVID DONOVAN, ESQ.
GERALD CANFIELD
SIOBHAN JABLESNIK

APPLICANT'S REPRESENTATIVE: JUSTIN DATES

----- X

MICHELLE L. CONERO
PMB #276
56 North Plank Road, Suite 1
Newburgh, New York 12550
(845)541-4163

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CHAIRMAN SCALZO: I'd like to call the meeting of the ZBA to order. The first order of business are the public hearings scheduled for this evening.

The procedure of the Board is that the applicant will be called upon to step forward, state their request and explain why it should be granted. The Board will then ask the applicant any questions it may have, and then any questions or comments from the public will be entertained. After all the public hearings have been completed, the Board may adjourn to confer with Counsel regarding any legal questions it may have. The Board will then consider the applications in the order heard and will try to render a decision this evening but may take up to sixty-two days to reach a determination.

I would ask if anyone has a cell phone, to please turn it off or put it on silent. When speaking, speak directly into the microphone as it is being recorded.

Roll call please.

MS. JABLESNIK: Mr. Bell.

MR. BELL: Here.

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MS. JABLESNIK: Mr. Levin.

CHAIRMAN SCALZO: Absent.

MS. JABLESNIK: Anthony Marino.

MR. MARINO: Here.

MS. JABLESNIK: John Masten.

MR. MASTEN: Here.

MS. JABLESNIK: John McKelvey.

MR. MCKELVEY: Here.

MS. JABLESNIK: Peter Olympia is
absent.

Darrin Scalzo.

CHAIRMAN SCALZO: Here.

MS. JABLESNIK: Also present is our
Attorney, David Donovan; Gerald Canfield from
Code Compliance; and our Stenographer, Michelle
Conero.

CHAIRMAN SCALZO: Thank you very much.
If we could all please rise for the
Pledge.

(Pledge of Allegiance.)

CHAIRMAN SCALZO: Before we hit our
first item on the agenda, the printed agendas,
there are copies in the back corner.

If anyone is here for the applicant

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Brennan Gasparini at 1064 Route 32 in Wallkill, the applicant has asked for a postponement until the May meeting. We will vote as a Board on that later but there will be no additional information provided by the applicant this evening. If anyone is here for that, if you'd like to stick around to hear what we have to say about it, that's fine. If not, we won't be discussing it.

Our first applicant this evening is Farrell Building Co., 182 South Plank Road in Newburgh. They're seeking an area variance allowing a State Route 52 front yard setback of 14.1 where 60 is required, a South Plank Road front yard setback of 20.5 where 40 is required, and a lot depth of 71 feet where 125 is required.

This was referred to the County. We do have the referral back. The County is looking at a Local determination.

Siobhan, mailings?

MS. JABLESNIK: This applicant sent out forty-six letters.

CHAIRMAN SCALZO: Okay. Do we have anyone here representing the Farrell Building Company?

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MR. DATES: Yes.

CHAIRMAN SCALZO: Mr. Dates, if you could get up and tell us who you are and what you're doing.

MR. DATES: My name is Justin Dates from Maser Consulting. We're representing the applicant, Farrell Building Company.

As Mr. Scalzo had stated, the project before you is 182 South Plank Road. It's an existing parcel and it has an existing building on it that's flanked on either side, on the north and south, by two roadways. The top of the plan here is Old South Plank Road and the bottom is New York State Route 52.

The parcel is about 26.5 acres in size and it is in the Town's B Zoning District.

The applicant is looking to establish an office use in this building.

Just a little history. This project did receive Planning Board approval back in 2010 for a 3,000 square foot eating and drinking establishment. At that time -- in 2008 the project also was before this Zoning Board to get the same variances that I'm presenting to you

1
2 tonight. At that time they had a front yard
3 variance off of Old South Plank Road, a front
4 yard variance off New York State Route 52 and
5 also the lot depth variance.

6 As mentioned, the current applicant is
7 looking to change the use to an office building.
8 They are increasing the square footage up to
9 3,890 square feet. They're doing some minor
10 architectural modifications to add a second floor
11 for that additional square footage.

12 The setbacks off of Route 52, the Town
13 requires a minimum of 60 feet and we are looking
14 at 14.1 feet. Again, everyone has been to the
15 site, you've seen the structure that's out there.
16 It's as-built conditions to the structure itself.
17 The setback for the front yard off of Old South
18 Plank Road is 40 feet and we have a proposed
19 condition or existing condition of 20.5 feet.
20 Then finally, the lot depth within -- the use
21 within the zone, the minimum is 125 feet and we
22 are providing 71 feet. Again, that's really by
23 the nature of the tax lot. You can see it's very
24 long and narrow. That's what's created the depth
25 variance that we're requesting. That's it.

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CHAIRMAN SCALZO: Thank you very much. Justin, I have a question. Schedule A for the property includes two separate parcels. It includes the parcel that we have the map which is highlighted there, but it also includes the parcel on the other side of South Plank Road which also has frontage on Waring.

Actually I'll look to Dave on this. The application is for a portion of the tax lot but not the entire -- it's actually described as parcel 2 in the schedule A. Is this something that should concern us or --

MR. DONOVAN: Has there been any amendment to the tax map?

MR. DATES: Yes. This was subdivided. We have 8.21. I believe 8.22 is across the street on Old South Plank. Those were subdivided. That was presented through the prior application. It effectively was naturally subdivided.

CHAIRMAN SCALZO: That I understand. It's a natural subdivision with the road running between it. I just wanted to know how --

MR. DONOVAN: I'm sorry. You're saying

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they're separate tax parcels now?

MR. DATES: Correct.

MR. DONOVAN: It's not a portion of the tax parcel.

CHAIRMAN SCALZO: Okay. That's fine. I just wanted to understand that.

MR. McKELVEY: How many parking spaces?

MR. DATES: The code requires twenty and we have provided twenty. All the other bulk and Town zoning we've adhered to.

MR. McKELVEY: The parking is going to be towards Old South Plank Road; right?

MR. DATES: That's correct. Our main access -- the main access to the site is off 52. That will be accessing the parking lot, the twenty spaces, and then we do have a driveway off the back onto Old South Plank as a secondary access.

MR. MARINO: Is traffic going to exit the building on the back side or on the side of Route 52?

MR. DATES: So there are five access points to the building. Again, north is straight up, south would be down at the bottom. The main

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entrance -- one of the main entrances is on the east hand side, so directly adjacent to the parking lot, and then there are two other door accesses into the tenant spaces that are on the Route 52 side. We do have two other doorways to the back area.

MR. MARINO: So those vehicles that are entering the property or exiting the property could very well come off of South Plank Road?

MR. DATES: If someone were to make a delivery or someone were to park in the back, they would go out Old South Plank Road. The parking lot itself is only accessed from Route 52.

MR. MARINO: They'll exit onto Route 52? I'm concerned about traffic exiting the building on the back side and then deciding to ride through the residential area, Waring Road and come out on the other side, down by Algonquin Park.

MR. DATES: The only exit from the parking lot is out 52.

MR. MARINO: Okay.

CHAIRMAN SCALZO: I have nothing else.

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Mr. Bell?

MR. BELL: I'm good.

CHAIRMAN SCALZO: Mr. McKelvey?

MR. MCKELVEY: Nothing right now.

CHAIRMAN SCALZO: Mr. Masten?

MR. MASTEN: No.

CHAIRMAN SCALZO: At this time I'd like to open it up to any members of the public that are here to speak about this application. Please step forward, sir.

Mr. Gaydos, you can drop that down.

MR. GAYDOS: My name is Gary Gaydos, I live at 116 Old South Plank Road. A couple questions to clarify if I could. The exit and entrance off of 52 and Old South Plank, what's the plan for Old South Plank? Exit and entrance?

MR. DATES: Yes. Just to the back of the building here. That's it.

MR. GAYDOS: Because originally when this building was proposed and when it got approved the deal was there would be no access or entrance off of Old South Plank Road.

They were also supposed to leave a tree line so that we didn't have to look at the back

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of that building. They never did anything to rectify that either.

The other question is, and maybe I misunderstood, for access of water and sewage, I believe you're not supposed to use the same trench for both. If you look at the building, both are right there in the same trench. I don't believe that's legal.

CHAIRMAN SCALZO: We have Code Compliance here and we can ask Jerry. There's a minimum separation distance I am certain, I just don't know what it is.

MR. CANFIELD: It's ten feet. You're right, they're not supposed to be in the same trench. What I'm looking at is the water line and the sewer is well over a ten-foot separation. What I see right here. I don't know what you have.

MR. GAYDOS: I don't know if you had the opportunity to look. It doesn't look anywhere near ten foot. I could be wrong but --

MR. CANFIELD: Perhaps the applicant's representative can address that then, if in the field it's something different than on the map.

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CHAIRMAN SCALZO: Mr. Gaydos, is the trench still open that you can still see it?

MR. GAYDOS: Yes.

MR. DATES: I'm not aware of any reduction in that ten feet. The proposal before, as Mr. Canfield mentioned, is to be ten feet. If this goes forward to approval they would have to have it as ten feet. It would have to be corrected if your statement is accurate.

MR. GAYDOS: And the main use of this building now is office only?

MR. DATES: That's correct.

MR. GAYDOS: Not an eating and --

MR. DATES: No. That was the prior application.

MR. GAYDOS: The letter we got said eating and drinking.

MR. McKELVEY: Noto was going to move his business over there when it was originally built.

MR. GAYDOS: Excuse me?

MR. McKELVEY: The other deli, Noto.

MR. GAYDOS: Oh, Noto's.

MR. McKELVEY: He built that and was

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going to move there.

MR. GAYDOS: Yeah, but that's history
now.

MR. McKELVEY: Definitely.

MR. GAYDOS: Who owns the building now?

CHAIRMAN SCALZO: The applicant.

MR. DATES: Farrell Building Company is
the --

MR. GAYDOS: Do you own the building?

MR. DATES: No, sir. I'm representing
the applicant, Farrell Building Company. They
will be the occupant of the building.

MR. GAYDOS: We don't know who the
actual owner is?

MR. DATES: I have it right here.

MR. GAYDOS: Thank you.

MR. DATES: Hudson Place Office, LLC is
the property owner.

MR. GAYDOS: I would just appreciate it
if the Board would look strongly at the Old South
Plank Road exit and entrance due to the -- on the
corner they have little kids there whereas we
didn't have that before. You have a bunch of
kids. A lot of people use that road for

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exercising, they ride their bikes up and down and hike up and back. I don't think it would be in the best interest of anyone to have an exit and entrance off Old South Plank.

CHAIRMAN SCALZO: Thank you. I looked at the building from the 52 side. Is the bridge still closed on the back side?

MR. GAYDOS: Yes, sir.

CHAIRMAN SCALZO: So hopefully that's definitely cut down on your traffic.

MR. GAYDOS: Yeah. We don't have anybody speeding through there now.

CHAIRMAN SCALZO: Dave, does this need to reappear in front of the Planning Board for a site plan?

MR. DONOVAN: Correct.

CHAIRMAN SCALZO: Mr. Gaydos, you're going to have another opportunity to come to the Planning Board meeting. That's where the topic of your trees that they were supposed to provide for screening as well as the rear entrance, those are both Planning Board items. We are here just to vote on any variances that they're requesting. When it comes to the actual layout and the things

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that you were promised in the previous plans,
those are the guys. You need to step up and make
your concerns heard to them.

MR. GAYDOS: Thank you very much, sir.

CHAIRMAN SCALZO: Thank you.

MS. GAYDOS: Will we get a letter on
that?

CHAIRMAN SCALZO: Ma'am, if you're
going to comment I have to ask you to step
forward.

MR. GAYDOS: She's commenting to me.

CHAIRMAN SCALZO: When the Planning
Board does meet for the public hearing for this
action, you will all be noticed for that.

MS. GAYDOS: Okay. Thank you.

CHAIRMAN SCALZO: Mr. Dabroski, if you
want to step up here and ask questions.

MR. DABROSKI: The only question I got
is how they could build a building, get a permit
even for it when in the Town of Newburgh, just to
get a permit for a shed -- I mean here you've got
-- you're minus 50 and 60 feet frontage. It's
ridiculous. Now they want to make it bigger yet.

CHAIRMAN SCALZO: Actually Mr.

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Dabroski, if you could come up and for our Stenographer please identify yourself.

MR. DABROSKI: I'm John Dabroski, I live on 16 Waring Road. I don't know if it's a question for you guys but that was my question. How did they even get a permit to build this building?

CHAIRMAN SCALZO: Well, to that I can't -- I believe that building had been up from before my time on the Board. I don't know from the previous --

MR. DONOVAN: According to the application we have, I think, Justin you can answer this question, this project did receive a variance, a prior iteration of the project, allowing the building to be placed, or variances where it is relative to the front yard on 52 and on Old South Plank. It looks like the variance was 15.5 on Route 52 and it ended up in a slightly different location.

MR. DATES: Yes, that's accurate. The placement of the prior approved application did have all these variances that I stated before. The same variances. We had site plan approval, we

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have signed site plans through the Town and through the entire Planning Board process, and hence how they got the building permit.

CHAIRMAN SCALZO: Mr. Dabroski, I can help you out. There's another note on the map here that says the zoning variance granted on September 25, 2008. So that's eleven years ago and the policy has not changed. You would have been noticed. You would have got certified mailings. I know you probably don't remember from eleven years ago. The process remains the same as it was back then.

MR. DABROSKI: Well they're 46 feet short on frontage on 52. I mean it's hard to get in and onto 52 now. Somebody has to take some of this into consideration. The back, I mean 20 feet short. I've been to meetings where people are 4 and 5 feet. That's a lot of -- you know, there's an awful lot put on a little tiny place here.

MR. McKELVEY: These are all the variances that were granted in 2008, the setbacks.

CHAIRMAN SCALZO: Again, that was

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before my time. That's not an excuse but these are -- I mean I don't want to call this a pre-existing nonconforming now but it's almost the case.

MR. DONOVAN: I mean the variances were granted, as the Chairman indicated, a number of years ago. We're talking one is a difference of 1.4 feet now and the other is .2. So they're very modest differences. You know, whether it was appropriate under the circumstances -- I mean the Board granted the variance in 2008, so those variances run with the land. They continue to exist.

MR. DABROSKI: I think everything should be reconsidered now with the traffic and everything around here. Everything changes, so that should be able to be changed too. It should be taken into consideration.

CHAIRMAN SCALZO: Well moving forward --

MR. DABROSKI: I mean you're saying that because it was done in '08 you can't change it? That doesn't seem right.

MR. DONOVAN: It was done in 2008 and

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the building was built.

MR. DABROSKI: Okay. I think you should reconsider a lot of this stuff because it's just not right. It's going to make a lot of hardships on Route 52 alone.

CHAIRMAN SCALZO: It's certainly a heavily traveled corridor.

MR. DABROSKI: Yes. And it's getting worse year by year. I've been there fifty years -- over fifty. It's just -- it's just getting real bad. I think if it's in your guys' position to reconsider, you should really talk it over.

CHAIRMAN SCALZO: Thank you for your comments.

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

(No response.)

CHAIRMAN SCALZO: Hearing none, I'll look to the Board one more time. Mr. Marino?

MR. MARINO: I understand that Route 52 is heavily traveled. Is there any way we can make the entrance and the exit totally off of 52 and avoid South Plank Road, the possibility of traffic riding through the development there?

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2 MR. DATES: Really based on the width
3 -- I'm sorry, the depth of the lot, we don't have
4 the luxury of having a drive aisle that can
5 circulate solely on the parcel, hence that's why
6 we separated the entrances as we did.

7 Just to clarify one item, the previous
8 approval for the project had both entrances, one
9 on 52 and one on Old South Plank. That's not new
10 to this application.

11 MR. MARINO: In other words, you
12 couldn't direct traffic just onto 52?

13 MR. DATES: Correct.

14 CHAIRMAN SCALZO: Do we have approval
15 from -- this is a Planning Board question. DOT
16 is involved in this. Do you have all the
17 permits? Obviously you have curb cuts in. DOT
18 has approved this entrance; correct?

19 MR. DATES: Under the prior application
20 they did have a sign off.

21 MR. DONOVAN: Relative to that issue,
22 obviously a concern is a concern. Understand
23 what's before the Board tonight are three
24 variances which deal with the dimensions of the
25 lot and the location of the building. So in

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terms of ingress, egress, access, that is a Planning Board site plan issue. Not to diminish the fact it's an important issue, especially on 52, but I just want to point out that's within the jurisdiction of the Planning Board. The Planning Board is going to have to analyze that in the site plan process.

CHAIRMAN SCALZO: That actually goes to Mr. Dabroski. When you get re-noticed from the Planning Board, and they are going to -- Mr. Dates is probably going to present in front of the Planning Board perhaps as soon as next month. You'll have the opportunity to voice your concerns for that meeting. We're only here to look at three small things. They have a broader scope of considerations than we do. Hopefully that can take care of your issues.

Mr. Gaydos, if you're going to speak you're going to have to step back up.

MR. GAYDOS: I would appreciate if someone would review the meeting -- the notes of the meeting from the past when this was approved. I was at that meeting and I believe that it said no exit or entrance off of Old South Plank Road,

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only 52. Now I'm hearing you had --

CHAIRMAN SCALZO: Actually the decision is probably on file here with the Town as well as you could probably contact Siobhan and she can probably provide you with the meeting minutes for the 2008 meeting.

MR. GAYDOS: Consider yourself notified.

CHAIRMAN SCALZO: I believe you have to come in.

MR. GAYDOS: I know. Thank you.

CHAIRMAN SCALZO: Make an appointment.

MR. DATES: I would ask for the approved site plans as well. You'll see on the site plans there was access to 52 and Old South Plank. The signed plans.

MR. GAYDOS: Something was lost in the transition.

MR. McKELVEY: You also say you're going to put a second floor on?

MR. DATES: Yes. On the western end of the building they're putting on dormers to get some space on the second floor. The prior application did not have a second floor.

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MR. McKELVEY: It has to go to the
Planning Board.

MR. DATES: We're here by means of the
Planning Board actually.

CHAIRMAN SCALZO: Any other comments
from members of the public?

Mr. Fetter.

MR. FETTER: Bill Fetter, Rockwood
Drive. Is this considered a totally new
application or is this a modification of a
previous application? How is this being
considered?

MR. DONOVAN: It's a new application in
front of the ZBA but for relief that was -- very
similar relief that was previously granted. The
import of that is to the extent that this Board
wanted to issue a different decision, they'd have
to have a very good reason to do so because as a
general rule ZBAs are bound by the precedent. If
the variances were given in the past, there has
to be new information developed or a very
material reason to deviate from what was done
back in 2008.

MR. FETTER: Thank you.

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CHAIRMAN SCALZO: As you say Mr. Dates, the Planning Board sent you to us.

MR. DATES: That's correct.

CHAIRMAN SCALZO: When it goes back, Dave you can probably help me with this, the contiguous and 500 foot away folks, do they get re-noticed?

MR. DONOVAN: I think the answer to that is not necessarily. If I can impose upon Mr. Canfield who attends those meetings. My understanding and my recollection is the Planning Board has the ability, under certain circumstances, to waive public hearings.

MR. CANFIELD: That's correct.

MR. DONOVAN: It's really unknown whether this would have another public hearing.

MR. CANFIELD: That's correct.

Just for Mr. Gaydos, the reason why this application is here is the applicant has proposed what's called a change of use, meaning that as he had explained originally, as Mr. Dates did, the application was before the Planning Board and Zoning Board in 2008 and it was for an eatery type occupancy and I believe a deli. The

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2 new proposal is for it all to be offices which is
3 what constitutes a change of use. Although the
4 uses are permitted in the B Zone, the way the
5 Town of Newburgh's Municipal Code is written, if
6 it's a change of use it warrants a site plan, and
7 of course with a site plan it loses it's existing
8 variances that were granted because there's been
9 some modifications to the building. So those
10 minute changes still bring it back to this Board.
11 They're minimal.

12 Another point I'd like to make is that
13 we're talking a lot about the entrance and exit
14 to the rear of the building. As I see on the
15 plan here, the parking spaces that we're talking
16 about, the twenty that are delineated on the site
17 plan, only have the ability to go out to 52.
18 What's in the rear of the building only is a
19 dumpster enclosure. I do not see any parking
20 spaces delineated back there.

21 MR. DATES: That's correct.

22 MR. CANFIELD: I'm not for or against
23 the project but just to point that out to you.

24 MR. GAYDOS: I appreciate it. Thank
25 you.

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MR. CANFIELD: These comments will be also referred to the Planning Board for their consideration.

Also I will look at the separation issue and that open trench that you had mentioned.

CHAIRMAN SCALZO: I'm going to backpedal here a little bit. I was under the impression that you folks would all be noticed for a public hearing for the Planning Board. That may not be the case. You'll have to keep your eyes on the agendas for the Planning Board schedules.

MR. McKELVEY: There may not be a public hearing.

CHAIRMAN SCALZO: They would still act on it.

MR. McKELVEY: They have to act on it.

MR. DATES: As part the Planning Board process we did and we're required to notify that this application is before the Planning Board. We did send out that notice to within the 500 foot radius. Not for a public hearing but just notice that the application is before the

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Planning Board. Those have gone out.

CHAIRMAN SCALZO: Thank you.

Any other members of the public that would like to speak?

(No response.)

CHAIRMAN SCALZO: One more time for the Board?

(No response.)

CHAIRMAN SCALZO: No?

MR. McKELVEY: No.

CHAIRMAN SCALZO: In that case I'll look to the Board for any motion that they'd entertain regarding the public hearing.

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

MR. MASTEN: I'll second.

CHAIRMAN SCALZO: We have a motion to close the public hearing from Mr. McKelvey, we have a second from Mr. Masten. Roll call.

MS. JABLESNIK: Mr. Bell?

MR. BELL: Yes.

MS. JABLESNIK: Mr. Marino?

MR. MARINO: Yes.

MS. JABLESNIK: Mr. Masten?

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MR. MASTEN: Yes.

MS. JABLESNIK: Mr. McKelvey?

MR. MCKELVEY: Yes.

MS. JABLESNIK: Mr. Scalzo?

CHAIRMAN SCALZO: Yes.

The public hearing portion is closed.

We will try to make a determination on this application this evening. If we don't, we have up to sixty-two days. Thank you very much.

(Time noted: 7:28 p.m.)

(Time resumed: 8:41 p.m.)

CHAIRMAN SCALZO: I'm going to call the meeting back to order. If you guys want to turn your microphones back on.

Dave, before we get started, all of the applicants we're voting on this evening, are they all Type 2 actions?

MR. DONOVAN: Yes.

CHAIRMAN SCALZO: Thank you. That takes care of that. SEQRA is taken care of.

We're going to go to our first applicant, the Farrell Building Co., seeking an area variance on State Route 52 for a front yard setback of 14.1 where 60 is required, South Plank

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Road front yard setback of 20.5 where 40 is required, a lot depth of 71 where 125 is required.

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. In my opinion the building is up. Rather than having them saw off 1.2 feet on one side and 1.2 on the other, which is really not economical.

Second, if there's an undesirable change to the neighborhood character or detriment to nearby properties.

MR. McKELVEY: No.

MR. BELL: The only change is it looks a lot better than it has over the last few years with all the grass and weeds growing up around it.

CHAIRMAN SCALZO: I agree with you but I'm sure Mr. Gaydos would disagree because of the trees he's been promised that he was waiting for for years.

MR. BELL: I'm talking about in the

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front going down. When you looked at it during the summer last year it was like a jungle.

CHAIRMAN SCALZO: The third, whether the request is substantial. In this case, compared to the original variance granted in 2008; no, it's not.

MR. McKELVEY: No.

MR. MARINO: No.

CHAIRMAN SCALZO: The fourth, whether the request will have an adverse physical or environmental affect. The building has been up for awhile. I would say no.

MR. BELL: No.

MR. McKELVEY: No.

CHAIRMAN SCALZO: The fifth, whether the alleged difficult is self-created, is relative but not determinative. It is self-created but it's an odd, very odd shaped lot. They did the best they could with what they had there.

So if the Board approves, we shall grant the minimum variance necessary. We may impose reasonable conditions if we see fit.

That being said, what's the Board's

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pleasure?

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

CHAIRMAN SCALZO: I have a motion for approval from Mr. Bell.

MR. McKELVEY: I'll second it.

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

MS. JABLESNIK: Mr. Bell?

MR. BELL: 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.

The Planning Board does get our information, so I hope they factor that in to their determination.

(Time noted: 8:44 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 7th day of May 2019.

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

ALFRED FAVATA

30 Lakeview Drive, Newburgh
Section 100; Block 5; Lot 8
R-2 Zone

----- X

Date: April 25, 2019
Time: 7:28 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: DARRIN SCALZO, Chairman
JOHN MCKELVEY
ANTHONY MARINO
JOHN MASTEN
DARRELL BELL

ALSO PRESENT: DAVID DONOVAN, ESQ.
GERALD CANFIELD
SIOBHAN JABLESNIK

APPLICANT'S REPRESENTATIVE: MICHAEL BABCOCK

----- X

MICHELLE L. CONERO
PMB #276
56 North Plank Road, Suite 1
Newburgh, New York 12550
(845)541-4163

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ALFRED FAVATA

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CHAIRMAN SCALZO: Our second applicant this evening is Alfred Favata, 30 Lakeview Drive, seeking an area variance for a 1,200 square foot four-car garage with 10 percent yard coverage (400 square foot) where 1,200 square foot is proposed, a building height of 18 feet where a maximum of 15 feet is required, maximum vehicle storage of four vehicles where two more are proposed, and total square footage of 533.06 where 1,320 is proposed.

Siobhan, mailings?

MS. JABLESNIK: This applicant sent out fifty mailings.

CHAIRMAN SCALZO: Very good.

Do we have anyone here representing the Favatas this evening?

MR. BABCOCK: My name is Michael Babcock and I have Mrs. Favata with me tonight.

We're looking to build a 30 x 40 garage. We want to keep it right along the property line which there is no requirements for -- or any requests for variances for setbacks.

CHAIRMAN SCALZO: Correct. Typically

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ALFRED FAVATA

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it's a 5-foot minimum setback for any accessory building.

MR. BABCOCK: We're at 6. This way you can drive right up the driveway and drive right into the garage.

The height variance is basically because we want to match the house roof and to get the pitch. Because the building is 30 feet wide, to get the pitch it makes the roof higher. That's why we need 18 feet instead of the 15 feet.

The square footage for the side yard is because you keep the whole building in the side yard. The side yard required is 15 feet. That's what you use. So the difference between 6 feet and 15 feet to do the calculation, that's why we need the side yard area variance.

The last one is the 656 square feet where buildable lot allowance is -- there's a calculation that you do for square footage based on the lot size, the livable floor area. It comes up that we could build a building of 533 square feet. We're looking for 1,200 square feet.

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ALFRED FAVATA

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MR. McKELVEY: That's quite a bit over.

CHAIRMAN SCALZO: I forgot to mention during our first applicant that we've all visited the sites so we are all familiar with it. I actually was on Lakeview Drive today.

One thing I did notice, two or three lots up the hill there is a two-car garage. A four-car garage is something that I don't know -- I haven't seen one in the neighborhood, unless that fellow's is much deeper than I could pay attention to.

MS. FAVATA: There's a three-car down at the end of the road.

CHAIRMAN SCALZO: Okay. I didn't catch that one.

MS. FAVATA: You have to really stop on the curb to see the three-car. This would be two cars wide and two cars deep. From the road it would still look like a two-car.

MR. McKELVEY: You have a two-car garage in the house, too.

MR. BABCOCK: No, actually we do not. The garage has been renovated into livable floor area. There are certain areas in the existing

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ALFRED FAVATA

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garage and the house that is still garage area.
It's not large enough to get a car in.

CHAIRMAN SCALZO: Do you have any plans
to remove -- to help out with the lot coverage
here, any plans to remove the shed?

MR. BABCOCK: We can do that.

MS. FAVATA: Absolutely. The shed is
actually a pump house for the in-ground pool.
The in-ground pool is gone so there's no need for
the pump house.

MR. BABCOCK: We'd be more than happy
to eliminate the shed.

CHAIRMAN SCALZO: You didn't supply any
sketches or architectural renderings, have you,
with this application? I don't recall seeing
any.

MR. BABCOCK: We do have a sketch. It's
not completed by any means.

CHAIRMAN SCALZO: Is that the one we
have? You actually have building plans?

MR. BABCOCK: Yes.

CHAIRMAN SCALZO: That would be helpful
to us.

MR. BABCOCK: It's just a typical

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ALFRED FAVATA

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construction until we meet with the building inspector and find out exactly what the requirements are going to be.

CHAIRMAN SCALZO: Very good.

Mr. Canfield, did you receive a copy of the --

MR. CANFIELD: No. Not until this evening. In this packet I don't have it.

CHAIRMAN SCALZO: We're definitely going to need a set of those, or at least that one sheet. That tells me everything I want to know.

MR. BABCOCK: Okay.

CHAIRMAN SCALZO: It is difficult for us to envision what it is you're trying to do without something like that.

MR. BABCOCK: Correct.

MS. FAVATA: From the road the only visual difference you would see is a two-car detached garage. There will be no other -- it's not going to look --

CHAIRMAN SCALZO: Similar to two or three lots away up the hill? That same look?

MS. FAVATA: Right. And the house is

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ALFRED FAVATA

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on a hill. It's up much higher.

CHAIRMAN SCALZO: Right. I mean yours is I think the only one that has columns in front on the whole street.

MS. FAVATA: If you saw the house you'd see we maintain it.

CHAIRMAN SCALZO: Absolutely.

MS. FAVATA: Aesthetically the garage would match the house.

MR. BABCOCK: One of the other issues is that their house happens to be built back about 30 feet deeper than all the other houses.

CHAIRMAN SCALZO: Correct.

MS. FAVATA: There used to be a pole in the front yard. There was a communication line between Stewart and I believe the Armory and West Point. That's why the house was built back.

CHAIRMAN SCALZO: We researched this. We drive by and do a lot of things. I happened to look on Bing Maps or Google and it did -- Favata came up as Favata Bakery.

MS. FAVATA: There you go.

CHAIRMAN SCALZO: I have to ask, you're not running a business out of that garage, or

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ALFRED FAVATA

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you're not proposing to run a business out of
that garage?

MS. FAVATA: Let me just tell you, what
happens at the garage stays in the garage.
That's the law.

CHAIRMAN SCALZO: Like Vegas.

MS. FAVATA: Like Vegas. The guys
actually make wine in the garage for personal
consumption. That's why we can't park a car in
there.

CHAIRMAN SCALZO: In the house you
mean. Okay.

MS. FAVATA: The wine has to stay in
the house because it has to be temperature
controlled.

CHAIRMAN SCALZO: Okay. Thank you.

MS. FAVATA: We are military
contractors and my office is in the house.
Technically I guess it's Favata Bakery but it's
only my office in the house.

CHAIRMAN SCALZO: Okay. Thank you.

At this point I'll look to the Board.
Does anybody have any comments? Mr. Bell.

MR. BELL: My understanding is that the

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ALFRED FAVATA

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pool is going to be filled in, the shed is going to be removed, the same siding that's on the house?

MR. BABCOCK: Correct.

MS. FAVATA: Exactly.

MR. BELL: Are we going to just keep this one --

MR. BABCOCK: Yes, you can.

CHAIRMAN SCALZO: Siobhan, if you could hang on to that please.

MR. BELL: I'm good.

CHAIRMAN SCALZO: Mr. McKelvey?

MR. MCKELVEY: No.

CHAIRMAN SCALZO: Mr. Masten?

MR. MASTEN: Nothing.

CHAIRMAN SCALZO: Mr. Marino?

MR. MARINO: I'm okay with it.

MR. CANFIELD: Darrin, just one question. Did I hear that the shed is going to be removed also?

MR. BABCOCK: Correct.

MR. CANFIELD: That 120 square feet is added in the calculations. On the sheet that you were provided, minus that 120 and it will be the

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ALFRED FAVATA

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1,220 for the size of the actual accessory structure.

CHAIRMAN SCALZO: That would make the percentage variance go down.

MR. CANFIELD: Yes.

CHAIRMAN SCALZO: That's helpful. That's very helpful.

MR. CANFIELD: One other question. The existing pool, the in-ground pool is to be removed?

MR. BABCOCK: Correct.

MR. CANFIELD: Just for your consideration, to get to virgin soil for the footings you may need to go deeper than the 42 inches obviously.

MR. BABCOCK: Correct.

MR. CANFIELD: Just keep that in mind, whether it's going to be a step or whatever.

MR. BABCOCK: We'll step it down. It's the deep end of the pool also.

MR. CANFIELD: That's what I thought.

MR. BABCOCK: It's probably 7 feet deep. We'll step it down into that.

MR. CANFIELD: Excellent. That's all I

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ALFRED FAVATA

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have.

MR. BABCOCK: The architect is going to design that.

MR. CANFIELD: I know you know all about this.

CHAIRMAN SCALZO: Is there anybody here from the audience that wants to speak about this application? Please step forward.

MR. OTLOWSKI: My name is Steve Otlowski, I'm a co-owner of 21 Lakeview Drive, which I believe is pretty much directly across the street.

My concerns about this, and I'm not sure if this is the right venue for this, but a 1,200 foot four-vehicle garage in a residential neighborhood raises questions. One, what's the use of the garage? Favata is a baking operation. Are there going to be commercial vehicles in and out of the neighborhood? Will there be repairs being done on commercial vehicles? Will residents of the neighborhood be subjected to the sound of air tools as trucks are being worked on? These are questions that have to be raised.

I get the visual about it being a two-

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ALFRED FAVATA

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car garage from the street. I'm okay with that. I'm more concerned about the planned use. Is it a permissible use of that property? These are questions that I would like answered. This is the first I heard of it when I got my notice.

CHAIRMAN SCALZO: Sir, that's exactly why we asked if there was going to be any business run out of that garage. The applicant answered that there will not be any business run out of the garage. The application actually includes a statement that the applicant is a car collector. I didn't see any plethora of cars in the driveway as I was there but --

MR. OTLOWSKI: That was what I was considering is that somebody probably has some exotic or some collector cars.

MR. BABCOCK: They do. They actually do. They have to store them other places because they don't have the room for it. So that's the reason for it. They have an older Mercedes that's been redone that they use on the weekends, and they have a Jeep with a plow on it that they use to plow the driveway, plus their cars. They have a van when they go out with their family or

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ALFRED FAVATA

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whatever. It's a regular --

MS. FAVATA: Mr. Otlowski, you've been there for 35 years. I was good friend with your mom. She can tell you -- well not now -- we have never had deliveries there or anything else. My business is run out of John Street and six military bases.

MR. OTLOWSKI: I'm well aware of that. The size of the building --

MS. FAVATA: You will not see any difference.

MR. BABCOCK: They have a warehouse on John Street where they actually do their business, ship in and ship out of. They don't even do repairs there. I'm sure they go to a service station, or wherever they go.

MR. OTLOWSKI: So I have your assurance and the assurance of the Board?

MS. FAVATA: We're looking to retire in October.

MR. OTLOWSKI: I just did. It's great.

MS. FAVATA: Once we retire I need to house my vehicles.

MR. OTLOWSKI: I have assurances it

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ALFRED FAVATA

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will not be a commercial --

CHAIRMAN SCALZO: It's also going to be part of the meeting minutes which will be published online as well. We can certainly reiterate it. If we were to make a determination this evening, no businesses will be run out of that.

I'm jealous. I have four years and ten weeks myself before I can retire. Good for you.

MS. FAVATA: October. Keep your fingers crossed.

CHAIRMAN SCALZO: Are there any other members of the public here to speak about this application? Mr. Fetter.

MR. FETTER: Bill Fetter, Rockwood Drive. I didn't really scale things. Not enough space for living above in the loft area?

CHAIRMAN SCALZO: At 18 feet, I doubt it.

MS. FAVATA: Midgets.

CHAIRMAN SCALZO: Actually, if you could stand back up, sir. Was there any planned storage in the top portion of the garage?

MR. BABCOCK: No.

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ALFRED FAVATA

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CHAIRMAN SCALZO: Scuttle or anything?

MS. FAVATA: Not even heat.

CHAIRMAN SCALZO: Not even heat.

MS. FAVATA: Yup.

CHAIRMAN SCALZO: Thank you very much.

Are there any other members of the
public here to speak about this?

(No response.)

CHAIRMAN SCALZO: I'm going to look to
the Board for one last chance. Mr. Marino?

MR. MARINO: No.

CHAIRMAN SCALZO: Mr. Masten?

MR. MASTEN: No.

CHAIRMAN SCALZO: Mr. McKelvey?

MR. MCKELVEY: No.

CHAIRMAN SCALZO: Mr. Bell?

MR. BELL: No.

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

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

MR. MARINO: I'll second.

CHAIRMAN SCALZO: We have a motion to

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ALFRED FAVATA

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close from Mr. Masten, a second from Mr. Marino.
Roll call.

MS. JABLESNIK: Mr. Bell?

MR. BELL: 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 public hearing is closed. We will
do our best to render a decision this evening.

(Time noted: 7:42 p.m.)

(Time resumed: 8:44 p.m.)

CHAIRMAN SCALZO: Moving on to the
second applicant, Alfred Favata, 30 Lakeview
Drive, Newburgh, seeking an area variance for a
1,200 foot four-car garage with 10 percent yard
coverage (400 square feet) where 1,200 square
feet is proposed, building height of 18 feet
where the maximum is 15 feet, maximum vehicle
storage of four vehicles where two more are

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proposed, and a total square footage of 533 where 1,320 is proposed. However, the applicant had offered to remove the shed, which we will allow them to do, which is going to change our percentages.

That being said, area variance criteria. First, can the benefit be achieved by other means feasible to the applicant. They could have shortened it down but wouldn't be able to fit their cars in there.

Second, if there's an undesirable change in the neighborhood character or detriment to nearby properties. It appears by the way they're situating this garage from the road you will not see the four car, you'll see a two. It's two deep.

The third, whether the request is substantial. Well, basing it on the removal of the shed it is -- they'd still be in here for a variance, although I don't consider it to be very substantial.

MR. BELL: No.

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

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ALFRED FAVATA

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environmental affects.

MR. MARINO: No.

MR. MASTEN: No.

MR. McKELVEY: No.

MR. BELL: No.

CHAIRMAN SCALZO: It doesn't appear so.

Fifth, whether the alleged difficulty is self-created, relevant but not determinative. Of course it's self-created, however having been to the site, seeing how they maintain their primary dwelling, I should say this is going to be very nice.

I look to the Board for a motion.

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

MR. BELL: I'll second it.

CHAIRMAN SCALZO: He jumped in front of you. We have a motion from Mr. Marino, a second from Mr. Bell. Roll call.

MS. JABLESNIK: Mr. Bell?

MR. BELL: Yes.

MS. JABLESNIK: Mr. Marino?

MR. MARINO: Yes.

MS. JABLESNIK: Mr. Masten?

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MR. MASTEN: Yes.

MS. JABLESNIK: Mr. McKelvey?

MR. MCKELVEY: Yes.

MS. JABLESNIK: Mr. Scalzo?

CHAIRMAN SCALZO: Yes.

Motion carried. The variances are approved with the removal of the shed.

(Time noted: 8:46 p.m.)

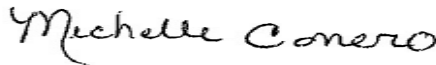
C E R T I F I C A T I O N

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 7th day of May 2019.



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

DANIEL & JENNIFER OLSEN

361 Lakeside Road, Newburgh
Section 33; Block 1; Lot 20.1
R-1 Zone

----- X

Date: April 25, 2019
Time: 7:42 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: DARRIN SCALZO, Chairman
JOHN MCKELVEY
ANTHONY MARINO
JOHN MASTEN
DARRELL BELL

ALSO PRESENT: DAVID DONOVAN, ESQ.
GERALD CANFIELD
SIOBHAN JABLESNIK

APPLICANT'S REPRESENTATIVE: PAUL PILON

----- X

MICHELLE L. CONERO
PMB #276
56 North Plank Road, Suite 1
Newburgh, New York 12550
(845)541-4163

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CHAIRMAN SCALZO: The next applicant this evening is Dan and Jennifer Olsen, 361 Lakeside Road in Newburgh, seeking an area variance to remove the existing single-family dwelling and replace it with a larger three-story single-family dwelling and increasing the degree of nonconformity of one side yard with a 25.04 feet proposed rear yard where 40 is required, 47.8 combined side yards where 80 is required.

Siobhan, mailings?

MS. JABLESNIK: The applicant sent out thirty mailings.

CHAIRMAN SCALZO: If the representative could step to the microphone and introduce yourself and we'll go from there.

MR. PILON: Good evening. My name is Paul Pilon, I'm an architect and I'm here on behalf of the Olsen family. They would like to expand and rebuild their existing home that is located at 361 Lakeside Road. They would like to keep this home in the family as the next generation is moving forward. They would like to move into the house but they need it to be a

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little bit larger.

Our proposal is to remove this house down to the existing foundation. We would like to try to save the existing foundation to reuse it in the interest of cost. Our proposal is to use the same footprint of the existing home for the main portion of the house.

They also are proposing to put an addition of a rear deck on the west side of the house.

They would like to add a front porch on the house as access to the home.

They would like to add a two-car garage.

Their existing lot is 100 feet wide. Given the requirement for a combined 80 foot total setback on the sides, that makes for a challenging design of 20 feet wide, so we're hoping that the variance can be considered.

The design of the new house does use the existing foundation. We have tried to propose the garage in such a way that it minimizes the variance that we need. If you look at the map, the proposed two-car garage is

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located 30 feet from the side setback -- excuse me, from the side lot line to give us that 30 foot setback so as to not increase any variances required.

 This house is served by municipal water and sewer already, so we will continue to do that.

 We are here tonight to seek a setback for the rear property line where we are providing 25.04 feet where 40 feet is required; the combined side yard setback, we are providing 47.8 feet and 80 feet is required; and we are increasing the nonconformity on one side where 30 feet is required and we are going to maintain the existing 17.8 feet.

 It is our opinion that this will not be a significant variance and that it pose no impacts on the neighborhood. It will be in keeping with most of the other homes, or many of the other homes that are already on the lake.

 This is Dan Olsen, the homeowner.

CHAIRMAN SCALZO: Thank you very much.

MR. PILON: You're quite welcome.

CHAIRMAN SCALZO: I have a question.

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It just has to do with your property lines. Do you own to the water's edge?

MR. PILON: He does. I believe the map actually shows into the road as well.

CHAIRMAN SCALZO: It's unusual. Okay. It almost appears as though there's another additional 10 feet from the property line to the --

MR. PILON: Actually, if you look at some of the photographs that we provided, I was not quite standing on the water's edge when I took them. When you're out there it looks like there's a lot of room back to the water.

CHAIRMAN SCALZO: So the appearance from the actual edge of the lake, all your dimensions would grow by perhaps 10 feet.

MR. PILON: If you use that.

MR. McKELVEY: You're not blocking any view of the other houses to the lake?

MR. OLSEN: No. There's no one.

MR. McKELVEY: It would be hard with all the trees there.

MR. OLSEN: From Lakeside Road there is nobody who is directly behind us. The houses are

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either to the left or the right. We considered that when we were looking at renovating, to facing the water. I have one neighbor who is directly in line with me on the right-hand side and there's no one on the left. It's a vacant lot.

MR. McKELVEY: I was more concerned about the two houses on each side.

MR. OLSEN: I don't have one on the left. The one on the right, we're perfectly in line. They actually just built there.

CHAIRMAN SCALZO: The vacant lot that's next to you and then the lot next to that, there was a smaller dwelling.

MR. OLSEN: Yes. Yes.

CHAIRMAN SCALZO: I have no questions myself. Typically on applications like this we will get input from the Orange Lake Homeowners Association. We're going to give them an opportunity if anyone is here it talk. For now I'm going to turn to the Board.

Mr. Marino, any comments on this?

MR. MARINO: I would just ask what I heard now for the first time, you're going to

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totally demolish the house that's there?

MR. PILON: We're going to remove the portion that is above the existing foundation.

MR. MARINO: Okay.

CHAIRMAN SCALZO: Mr. Masten, any questions?

MR. MASTEN: I don't have anything.

CHAIRMAN SCALZO: Mr. McKelvey?

MR. MCKELVEY: Nothing.

CHAIRMAN SCALZO: Mr. Bell?

MR. BELL: I'm good.

CHAIRMAN SCALZO: At this time I'll open it up to any members of the public that would like to speak about this application.

Mr. Fetter.

MR. FETTER: Bill Fetter. Is there a height variance in the code?

MR. CANFIELD: If I may, what the plan indicates is 31 feet high. One of my questions would be to the architect is you measured that from which side of the structure?

MR. PILON: I am measuring it from the average grade point.

MR. CANFIELD: Height is measured on

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the street side, so it may give you a benefit there.

CHAIRMAN SCALZO: That's actually more helpful.

MR. PILON: That would be.

MR. CANFIELD: Another question -- I don't mean to cut you off.

MR. FETTER: That's fine.

MR. CANFIELD: Another question that I had is you had indicated you're going to use the existing foundation.

MR. PILON: Yes, sir.

MR. CANFIELD: Because you are doing that it grants some sort of credit here because it's existing nonconforming. So you're going back in the same footprint, which is all well and good, but it's been our experience in some cases where the existing foundation is not capable of withstanding the loads and at a later point in time it's determined that the foundation can't be used, therefore a new foundation is to be poured, dug or whatever. At that point then it's off the table, the existing nonconforming. It's a new application. It's a technicality but there's an

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issue with the lot size here as well. So I bring that up as a point of reference, that if in the future it's determined that that foundation can not be used, you may have to come back to this Board.

MR. PILON: Okay. Does that also include repair of the foundation?

MR. CANFIELD: No. If you're repairing what's in place you're okay. If it's a stone dried laid -- dry stone laid foundation, which most of these are, you may find in some certain soil conditions as you know --

MR. PILON: Sure.

MR. CANFIELD: -- it may not be in your best interest or your client's to use that foundation.

CHAIRMAN SCALZO: I thought I saw --

MR. PILON: It is concrete block.

MR. CANFIELD: It is concrete? Cinder block or concrete block?

MR. PILON: Concrete block.

MR. CANFIELD: Okay. The era probably would have been cinder block unless it's something newer.

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MR. PILON: In anticipation of perhaps the foundation we have also reinforced it. We're taking some measures to reinforce the foundation.

MR. CANFIELD: Very good. That's it. Thank you.

CHAIRMAN SCALZO: Thank you, Jerry. I appreciate it.

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

(No response.)

CHAIRMAN SCALZO: One more opportunity to the Board.

MR. McKELVEY: Do we want to hear from the Homeowners?

CHAIRMAN SCALZO: Not necessary. They had an opportunity and they did not.

At this point 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. McKELVEY: I'll second it.

CHAIRMAN SCALZO: Motion from Mr. Bell, second from Mr. McKelvey. Roll call.

MS. JABLESNIK: Mr. Bell?

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MR. BELL: 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 public hearing is closed. We will do our best to render a decision this evening.

(Time noted: 7:51 p.m.)

(Time resumed: 8:46 p.m.)

CHAIRMAN SCALZO: The next application was Daniel and Jennifer Olsen, 361 Lakeside Road, Newburgh, an area variance to remove the existing single-family dwelling and replace it with a larger three-story single-family dwelling, and increasing the degree of nonconformity of one side yard with a 25.04 proposed rear yard where 40 is required, and 47.8 combined side yard where 80 is required.

Any more discussion on this?

MR. BELL: No.

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MR. McKELVEY: Everything is close on Orange Lake.

CHAIRMAN SCALZO: Honestly, all the ones we've seen from Orange Lake lately, this lot is much larger in size.

The first criteria is whether the benefit can be achieved by other means feasible to the applicant. This applicant is interesting because they're actually going to put the new dwelling on top of the old foundation. Should they have been in here for say a new front porch, it would have been a pre-existing nonconforming condition. That's not why we're here but just to put it into perspective.

Second, if there's an undesirable change in the neighborhood character or detriment to nearby properties. We heard no testimony from anyone to the contrary.

MR. McKELVEY: It's going to be an improvement.

CHAIRMAN SCALZO: It's certainly going to be an improvement.

Third, whether the request is substantial. By the numbers it may be, however

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with their property line it does not appear as though it goes to the lake. It almost appears as though they're 10 feet further away than their offsets do show.

Fourth, whether the request will have adverse physical or environmental affects.

MR. MARINO: No.

MR. MASTEN: No.

MR. McKELVEY: No.

MR. BELL: No.

CHAIRMAN SCALZO: Fifth, whether the alleged difficulty is self-created. This is relevant but not determinative. Of course it's self-created. They could do nothing but they have to live there.

That being said, I'll look to the Board for their --

MR. BELL: I just have one question. You mentioned about the foundation, if there's a problem they would have to come back.

CHAIRMAN SCALZO: That ends up being a building -- a code compliance --

MR. BELL: A code compliance issue.

MR. CANFIELD: Yes. If it's determined

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that the existing foundation for some reason can not be fully used, they may have to come back to the Board.

MR. BELL: Right.

MR. CANFIELD: I think the applicant's architect has indicated that they're aware of this and that they intend on repairing any portions of it that may be deemed to be unfit.

CHAIRMAN SCALZO: We also heard testimony about supplemental reinforcements to the foundation.

MR. BELL: I just wanted to clarify it.

CHAIRMAN SCALZO: Thank you.

Now I'll look for a motion.

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

MR. MASTEN: I'll second it.

CHAIRMAN SCALZO: We have a motion from Mr. Bell, we have a second from Mr. Masten. Roll call.

MS. JABLESNIK: Mr. Bell?

MR. BELL: 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.

The variances are approved. Motion
carried, variances are approved.

(Time noted: 8:49 p.m.)

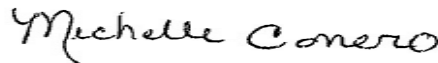
C E R T I F I C A T I O N

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 7th day of May 2019.



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

GDPBJ, LLC

Route 17K & Auto Park Place, Newburgh
Section 97; Block 2; Lots 44, 45 & 46.2
IB Zone

----- X

Date: April 25, 2019
Time: 7:51 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: JOHN McKELVEY, Acting Chairman
ANTHONY MARINO
JOHN MASTEN
DARRELL BELL

ALSO PRESENT: DAVID DONOVAN, ESQ.
GERALD CANFIELD
SIOBHAN JABLESNIK

APPLICANT'S REPRESENTATIVE: LARRY WOLINSKY
JUSTIN DATES

----- X

MICHELLE L. CONERO
PMB #276
56 North Plank Road, Suite 1
Newburgh, New York 12550
(845)541-4163

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GDPBJ, LLC

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CHAIRMAN SCALZO: At this time I need to step away and recuse myself from this application. Mr. McKelvey will be acting as Chairman in this case.

Siobhan, if you could read the application and then come collect me when we're done

MS. JABLESNIK: The applicant is GDPBJ, LLC at Route 17K and Auto Park Place. They're seeking an area variance of (A) a BJ's Wholesale Club for a front yard setback of 52.02 feet where 60 is required; (B), the fuel canopy with a front yard setback of 36.5 feet where 60 is required; and (C), landscaping requiring a 45 foot landscaped area for frontage within 350 feet of an intersection. The applicant also proposes parking and display of vehicles in this area.

They mailed out thirty-one -- excuse me, forty-three letters.

We sent it to the County and we have not received it back yet.

MR. MCKELVEY: State your name.

MR. WOLINSKY: Good evening, Mr. Chairman, Members of the Board -- Acting Chairman

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for this application, my name is Larry Wolinsky, I'm an attorney with the law firm of Jacobowitz & Gubits and I'm here tonight on behalf of GDPBJ, LLC's application for several area variances in connection with the proposed BJ's shopping center.

What I'd like to do is first turn this over to Justin Dates, who has already been before you once tonight, to orient you to the location of the premises and the project itself, and then I'll speak directly to the three variances that are requested.

MR. DATES: Good evening. Justin Dates with Maser Consulting. So the plan that everyone has -- just to orient, north is straight up on the page, the top roadway is Route 17K which we have our main frontage on, and then Auto Park Place comes down the western boundary of the site and then runs through, I believe it's the center back out to Route 17K. From the intersection down here of Auto Park Place, Unity Place extends and goes south.

So the project before the Board is an 89,225 square foot BJ's Wholesale Club. That

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large shaded area in the middle of the plan there is the BJ's building.

There are four tax lots associated with the project, two of which are the BJ's site we'll call it. They will be -- that lot line will be dissolved and those two lots will be one tax lot.

Also associated with the unified site, there's a Riverside Bank parcel on the corner of Auto Park Place and Route 17K and the Barton Chevrolet dealership down at the bottom, the southern end of the parcel site here.

Also on this west side of the site BJ's will have a fueling station. This is a six-pump fueling station with a canopy overhead.

MR. WOLINSKY: Thank you. So we have submitted a fairly extensive application with a narrative that sets forth and details the variances and also goes through the statutory criteria that we believe, and the reasons we believe that the variances will be justified. I don't intend to go through all that with you in detail because I'm sure you've all read it by now. There are a couple things I do want to point out.

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First I want to actually review the three variances with you. Two of the variances are yard variances. This is located in the IB Zoning District, so two of the variances relate to the yard requirements for the IB Zoning District. What's unique about this site is that it's essentially wrapped around on many sides, and part of it on all sides, with respect to roadways. That essentially makes the yards almost all front yards. Compliance with front yard setbacks are required.

So the two setbacks that we require, the first one is actually at the rear of the BJ's building.

Justin, if you could just point that out.

It's that little jut out there. It's a 7.98 foot variance. It's a 60 yard setback, so 60 is required and 52.02 is provided. The point I would make on that one is that that is the only location basically that does not -- of any structure on the property in that area along Auto Park Place that does not meet that. So it's a small width and a distance and a relatively minor

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variance.

The second variance doesn't have to do with the building but it has to do with a structure, which is the fueling facility and the canopy that is associated with that. Because that is a structure, and it's closer to the property line than 60 feet, it does require a variance. The variance required there is 23.5 feet.

And then finally -- so those are the two yard variances. The third area variance we require is in connection with 185-18C(4) of the Code which essentially requires that there be a landscaped area within a front yard along Route 17K in this vicinity. In many areas that's only 35 feet but in this particular area that gets extended by Code to 45 feet.

Justin, if you could just point that out to the Board.

MR. DATES: The green line up here is where that 45 foot lies into the site. The green area shows from the edge of pavement of Route 17K to the property. That green area is existing. Right now it's grass. It's manicured lawn area.

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That is all within the right-of-way outside of our project site. Again, this green highlighted line here is the 45 feet that was referenced for the required buffer area.

MR. DONOVAN: Where are the -- the cars or display or whatever, where is that located? Where was the encroachment located?

MR. DATES: The cars are right -- this is our property line, here's our front drive aisle. They're in between the property line and front drive aisle, still on our property.

MR. DONOVAN: The green area that you're showing, is that -- while it's off your property, it's landscaped area between 17K and your use; correct?

MR. DATES: Yes.

MR. DONOVAN: Nothing is proposed there?

MR. WOLINSKY: No. No. I mean we wanted to point that particular area out. I was just about to get into that to make the point of the distance between the edge of pavement of 17K and where this is actually all occurring, which I'll give you a little bit more detail on that in

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a second because I think that in considering the severity of the variance that comes into the equation, the parking area is really set pretty far back.

So again just to reiterate -- Justin if you could take that down for a second -- on the two yard variances, again one, the first one I spoke of, is a small yard variance just caused by that little jut out there, and everything else on that side of the building complies. The building complies with all the other yard variances. That's the only nonconformity in connection with that particular building.

Then the second one again is the fueling facility which is not a massive building but it has a canopy. The canopy is a structure, so it has to comply with the yard variance there as well.

So now in connection with the 45 foot area. So the two encroachments there are the auto display that would be done on behalf of Barton, and then the second encroachment would be drive aisle and parking area. However, what I want to bring to the Board's attention tonight is

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that we have been refining the site plan to see if there's a way to make those encroachments less. We've been working on that the last week or so. I think we found something that will address that issue. I want to show you what that is because I believe it will significantly -- it won't eliminate the need for the variances but it will significantly reduce the quantum of the encroachment.

MR. DATES: Again, the orange is the property boundary and the green line establishes the 45 foot landscape area.

In this rendition what we've proposed for drive aisles and parking in the front has been pulled back. We went from -- the drive aisle on the previous, we were about 48 feet from our property line. We've picked up almost 15 feet of it moving back. As we said, this is still a working plan so we're still kind of developing this. We have been able to move those encroachments a little further away.

The display pads will still be in a similar location along the frontage present along Route 17K there.

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MR. WOLINSKY: So essentially to make it simple, we've eliminated the drive aisle so there's only a parking encroachment. From the edge of that pavement it's about almost 70 feet. I think it's precisely at 69 feet to the nearest parking. That's a fairly wide area. We have a lot of room with that change to landscape within that area. So under the plan that we showed, the encroachment was getting close to or around 40 percent of that entire 45 foot area. With this single change of eliminating the drive aisle, we've gotten that down to just 20 percent. So that's a very significant change. It allows us to landscape within that area more so. Instead of 60 percent of the area being landscaped, it will be closer to 80 percent now and still be able to accommodate the auto display.

I don't know if any of you were here but there was a variance granted already for auto display on this property but it was in connection with another application. At that time I believe the auto showroom was going to switch up to this location and there was a variance granted to permit auto display at that time.

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MR. McKELVEY: They withdrew that.

MR. WOLINSKY: That was withdrawn, yeah. They never went forward with it.

I believe, unless you have any questions for us, that's all we have at this time.

MR. McKELVEY: Do any Members of the Board have questions?

MR. MARINO: I do have a couple of questions. You may have answered them already and I might have missed it. All the traffic will enter and exit to 17K?

MR. DATES: No. There's a main entrance off of 17K. We also have some coordinated entrances along Auto Park Place, along the western frontage as well as the southern frontage here.

MR. MARINO: You're not looking to do anything in the future on the south side of the parcel down by Washington Lake?

MR. DATES: Are you talking about further down?

MR. MARINO: Yes.

MR. DATES: That's not part of our

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application.

MR. MARINO: It seems like you're doing an awful lot. Maybe I'm missing something but you've got a six-pump kiosk, you've got auto display. I don't see why that's there. Maybe I'm missing something. Why is it necessary to have an auto display there with BJ's?

MR. WOLINSKY: That's a good question. The auto showroom is behind. BJ's is an 89,000 square foot building. The property is all owned by Barton essentially. They want the visibility, as other auto dealerships have, along that strip to have some auto display where they would not be able to have it and see it from 17K if they essentially did it where their showroom is now. It will be done much nicer and in a landscaped setting as opposed to what you see out there today.

MR. MARINO: Thank you.

MR. McKELVEY: Anyone else?

MR. MASTEN: I have nothing.

MR. McKELVEY: Mr. Bell?

MR. BELL: Maybe I'm missing something. On the auto display, explain that to me again. I

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missed something.

MR. DATES: So the boxes that we have up here are hardscaped pads so that new cars can be placed on them. There's some along the Route 17K frontage and then we have a couple just down at the intersection here where Auto Park Place and Unity Place intersect.

MR. BELL: Okay.

MR. McKELVEY: I think it would be a lot neater. They used to just put cars out along the highway on the grass.

MR. CANFIELD: John, I have a question.

Actually maybe you can show what the distance is from the property line to 17K. Keep in mind that the variance is based on the front property line. In this particular case there is a green area from the property line to 17K and that dimension is substantial.

MR. DATES: Correct.

MR. WOLINSKY: That was the point we were trying to make.

MR. CANFIELD: I think in the previous application that was significant for the Board.

MR. DONOVAN: Sure. The idea is to

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have a landscaped area. When you're driving down 17K you don't see the property line, you see the landscaped area.

MR. CANFIELD: That's correct. Even grass counts as the landscaped area.

Also, one other thing, I'm sorry. For a point of reference, it was mentioned about other dealers and what they do on that corridor. There are a few enforcement actions in place right now because of the parking within that area. It's a constant uphill fight, so to speak, with some dealers. We're working on it.

MR. DONOVAN: If I can, 17K, was this referred to the County? Have we heard from the County?

MS. JABLESNIK: We have not heard from the County, no.

MR. WOLINSKY: So we understand that and that you can't act on this tonight. What we'd like to do is we're in the process of doing this revision to the site plan that will make this front even better. We'd like to get that before you in plenty of time before the next meeting so that when you are ready to make a

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decision you have a complete record in front of you.

MR. McKELVEY: That would be fine.

MR. DONOVAN: Larry, can I ask a technical question? Mike Donnelly's letter indicates that there's a coordinated review with the Planning Board. I say his letter, his referral letter. We'll notify you when their SEQRA review is concluded, indicating that it's a coordinated review, and we have to wait until they've issued a neg dec to act. In case the variance is Type 2, we don't need to wait. I think that's what you're saying; right?

MR. WOLINSKY: I said the yard variances were Type 2. The front variance, I don't believe that's a Type 2.

MR. DONOVAN: We'll need to wait in any event.

MR. WOLINSKY: Yes. We probably won't get through that until the beginning of June.

MR. DATES: We're looking to be back before the Planning Board in June.

MR. WOLINSKY: June. We may shift two meetings instead of one. We understand.

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MR. DONOVAN: Okay.

MR. McKELVEY: Are there any questions from the public?

MR. FETTER: I'll chime in. Bill Fetter, Rockwood Drive. Since it's such an insignificant variance in the back of the building, why couldn't the building be reconfigured so as to move the footprint far enough away from the property line to comply?

MR. WOLINSKY: I mean if you'd like me to try and answer that. Justin, you can weigh in. I addressed this in the application. I mean there's a balance in site planning between parking area, internal circulation. So the best way to achieve what you're asking would be to push that building forward. If we push it forward we're eating into that front area along 17K. We're just making an assumption that that's important -- we know it was important for the Planning Board. We're assuming it would probably be important for you guys as well to do the best job we can on 17K and not exacerbate the variance.

MR. FETTER: I assume you're just

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taking a cookie cutter floor plan and laying it on the site.

MR. WOLINSKY: No.

MR. FETTER: Then why can't the building be reconfigured to comply with the zoning? It's still in the design phase and not made up. It's not constructed yet. Why not do away with that little --

MR. WOLINSKY: Because that is the BJ's footprint.

MR. FETTER: There you go.

MR. WOLINSKY: It's a national tenant and that's the footprint.

MR. McKELVEY: Anyone else?

MR. MARINO: Nothing.

MR. MASTEN: Nothing.

MR. BELL: I'm good.

MR. McKELVEY: We have to hold this open.

MR. DONOVAN: A motion to continue the public hearing until the May meeting.

MR. McKELVEY: Do we have that motion?

MR. MASTEN: I'll make a motion to hold it open.

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MR. BELL: Second.

MR. DONOVAN: Until the May meeting.

MR. BELL: Was it May or June?

MR. DONOVAN: I think in May we'll see where you are. We don't run into this every day. A lot of times when we have a referral from the Planning Board they recommend that we do an uncoordinated review basis, which means for our purposes we don't have to wait for the Planning Board. When it's a coordinated review and the Planning Board is the lead agency, we do have to wait for the Planning Board, if that's simple enough.

MR. WOLINSKY: We'll send you a letter of our status. Is there any reason we can't close the public hearing tonight?

MR. DONOVAN: It's the policy of the Board to wait for the County.

MR. WOLINSKY: Got it.

MR. McKELVEY: Unless you're going to give us a final plan.

MR. WOLINSKY: Okay. Okay.

MR. McKELVEY: We have to see the final plan.

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MR. WOLINSKY: Understood.

MR. DONOVAN: I'm suggesting May. Is it your preference to defer to June?

MR. WOLINSKY: It's going to be a function of the Planning Board. What I said is I will send you guys a letter to let you know where we stand with all that.

MR. DONOVAN: Is that okay?

MR. McKELVEY: Yes.

MR. WOLINSKY: The County Planning stuff will --

MR. DONOVAN: Either have timed out or been here.

MR. WOLINSKY: Exactly. We just don't know where we might be with the Planning Board.

MR. DONOVAN: I think the motion on the floor is to adjourn to the May meeting.

MR. MASTEN: I made the motion.

MR. BELL: I seconded it.

MS. JABLESNIK: Mr. Bell?

MR. BELL: Yes.

MS. JABLESNIK: Mr. Marino?

MR. MARINO: Yes.

MS. JABLESNIK: Mr. Masten?

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MR. MASTEN: Yes.
MS. JABLESNIK: Mr. McKelvey?
MR. McKELVEY: Yes.
MR. WOLINSKY: Thank you. Good night.
(Time noted: 8:15 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 7th day of May 2019.



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

SUSAN SCHULTZ

9 Ben's Way, Newburgh
Section 40; Block 1; Lot 8
R-3 Zone

----- X

Date: April 25, 2019
Time: 8:15 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: DARRIN SCALZO, Chairman
JOHN MCKELVEY
ANTHONY MARINO
JOHN MASTEN
DARRELL BELL

ALSO PRESENT: DAVID DONOVAN, ESQ.
GERALD CANFIELD
SIOBHAN JABLESNIK

APPLICANT'S REPRESENTATIVE: JONATHAN MILLEN

----- X

MICHELLE L. CONERO
PMB #276
56 North Plank Road, Suite 1
Newburgh, New York 12550
(845)541-4163

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SUSAN SCHULTZ

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CHAIRMAN SCALZO: Our next applicant this evening is Susan Schultz, 9 Ben's Way, seeking an area variance for a 12 by 40 rear deck with one side yard of 19.7 where 30 is required, and combined side yards of 49.5 where 80 feet is required, a 12 x 20 rear screened porch with a 26.8 rear yard setback where 40 is required, and a third variance for a 20 x 12 accessory building 2.8 feet off the property line where 5 is required, and a maximum surface lot coverage of 37.1 percent where the minimum is 30 percent.

Siobhan, mailings?

MS. JABLESNIK: This applicant sent out fifty-three mailings. We also sent to the County and we haven't received notice back.

CHAIRMAN SCALZO: Is it Route 300?

MS. JABLESNIK: Yes. Like just, just. I felt terrible.

CHAIRMAN SCALZO: You're shaking your head so you understand what's happening here.

For anyone that doesn't know what's happening here, anything that's within 500 feet

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SUSAN SCHULTZ

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of a County or State road, we need to send out to the County for -- what's it called?

MR. DONOVAN: General Municipal Law 239 review and report. We can't act. There's a period of time they have. This Board can't act until they receive the report or the timeframe runs out.

CHAIRMAN SCALZO: So in short story, if we don't hear back from them by the end of next meeting we can vote because their time has run out. No matter what happens -- I won't say no matter what happens. We can certainly take care of this at next month's meeting.

What I'm going to ask you to do is present your application tonight and we're going to ask any questions we can. We're going to need to leave the public hearing open this evening. Anyone here that's looking at this action, you will not be re-noticed.

At this point if you could introduce yourselves and go ahead and present, then we will ask any questions we have.

MR. MILLEN: My name is Jonathan Millen, I'm with Automated Construction Enhanced

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SUSAN SCHULTZ

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Solutions, Incorporated. I am a professional New York State licensed land surveyor, licensed 050746. I am the sponsor for Ms. Schultz regarding this action.

My first comment would be that the nonconformities have been existing for an extended period of time. For example, the latest improvement that had been made to this property subject to these area variance requests and the side yard request was made in the year 2001. The situation has been in existence since the year 2001. I'm not certain what the zoning was in 2001 but I will state that in 1986 when the building was constructed, that the side yard variances which we are requesting a consideration for were already nonconforming. So in 1986 when the building was constructed the only conforming yard variance was in fact the front yard variance. That being said, it's our position that these situations have been in existence for close to twenty years.

We believe that they do not represent a negative impact on the neighborhood, the appearance or the environment, and that

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SUSAN SCHULTZ

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essentially the additional area, the square footage for living space and recreational space, is fairly consistent with the needs of the current population.

Ms. Schultz, she may want to add her perspective.

MS. SCHULTZ: Just that this happened a long time ago and I would like to correct it now and come before you, and hopefully I'll be granted a variance for my home.

CHAIRMAN SCALZO: Thank you. At this point I'm going to look to the Members of the Board. I'll start with Mr. Bell, do you have any questions on this?

MR. BELL: When you mentioned that there were already existing --

MR. MILLEN: Correct.

MR. BELL: -- I guess it's my understanding that what she's requesting was an add on after the fact, after the property was purchased. Correct?

MR. MILLEN: That is correct.

MR. BELL: Okay.

MR. MILLEN: My statement is that they

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SUSAN SCHULTZ

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are existing since 2001.

MR. BELL: Right.

MR. MILLEN: At the time I don't have access to what the zoning setback yard requirements were in 2001. I would suspect that they are greater today than they were, and I would suspect that there are more -- that the side yard variance is probably required today -- excuse me. That the side yard requirements today are probably greater than they were in 2001 but I have no way of knowing that.

MR. BELL: I just want to make sure we're understanding that existing meant that they were purchased like that but existing since that time when it was added on.

MR. MILLEN: Right.

MR. BELL: Okay.

CHAIRMAN SCALZO: Mr. Millen, this lot was created for the filed map in 1959?

MR. MILLEN: That's correct. It took us some period of time before it was sold and built on.

CHAIRMAN SCALZO: It looks that way.

Mr. McKelvey?

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SUSAN SCHULTZ

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MR. McKELVEY: No.

CHAIRMAN SCALZO: Mr. Masten?

MR. MASTEN: Nothing.

MR. MARINO: I'm good.

CHAIRMAN SCALZO: At this point I'm going to open it up to any members of the public that are here to speak about this application.

(No response.)

CHAIRMAN SCALZO: Hearing none, I'm going to go back to the Board for one last opportunity.

MR. BELL: I'm good.

CHAIRMAN SCALZO: Very good. Then I'll look to the Board for -- actually this has to continue unfortunately. The public hearing will remain open. I do need a motion to keep that open.

MR. MASTEN: I'll make that motion.

MR. BELL: I'll second.

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

MS. JABLESNIK: Mr. Bell?

MR. BELL: Yes.

MS. JABLESNIK: Mr. Marino?

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SUSAN SCHULTZ

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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 public hearing is going to remain open. No one is going to be re-noticed. We'll see you here in May.

MR. MILLEN: Thank you very much.

CHAIRMAN SCALZO: Did I mention I'm not going to be here in May? Mr. McKelvey will be acting in my stead.

(Time noted: 8:23 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 7th day of May 2019.

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

BRENNAN GASPARINI

1064 Route 32, Wallkill
Section 2; Block 2; Lot 3
RR Zone

----- X

Date: April 25, 2019
Time: 8:23 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: DARRIN SCALZO, Chairman
JOHN MCKELVEY
ANTHONY MARINO
JOHN MASTEN
DARRELL BELL

ALSO PRESENT: DAVID DONOVAN, ESQ.
GERALD CANFIELD
SIOBHAN JABLESNIK

----- X

MICHELLE L. CONERO
PMB #276
56 North Plank Road, Suite 1
Newburgh, New York 12550
(845)541-4163

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CHAIRMAN SCALZO: We are moving on to items held open from our March 28th meeting. As I mentioned in the beginning of the meeting, the Gasparini application, 1064 Route 32 in Wallkill, they have asked for a postponement to the May meeting.

In this case we actually did get indication back from the County for Local determination.

Did the Board want to discuss this application at all or did we just want to move forward to discussing whether or not we are going to allow this application to remain open until the May meeting?

MR. McKELVEY: Move forward.

CHAIRMAN SCALZO: In that case I'll look for -- Mr. Marino?

MR. MARINO: I would say let's leave it open until the next month's meeting. If he wants additional time, fine, give him the additional time.

MR. DONOVAN: You should have a motion to continue the public hearing to the May meeting.

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MR. MARINO: I'll make that motion.

MR. McKELVEY: I'll second.

CHAIRMAN SCALZO: We have a motion from Mr. Marino, we have a second from Mr. McKelvey. Roll call.

MS. JABLESNIK: Mr. Bell?

MR. BELL: 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 public hearing remains open until the May meeting, which I won't be here for.

(Time note: 8:25 p.m.)

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

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

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

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

IN WITNESS WHEREOF, I have hereunto
set my hand this 7th day of May 2019.

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

RICHARD ALLEN MONKS

4 Novelty Way, Walden
Section 11; Block 1; Lot 114.4
AR Zone

----- X

Date: April 25, 2019
Time: 8:25 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: DARRIN SCALZO, Chairman
JOHN MCKELVEY
ANTHONY MARINO
JOHN MASTEN
DARRELL BELL

ALSO PRESENT: DAVID DONOVAN, ESQ.
GERALD CANFIELD
SIOBHAN JABLESNIK

----- X

MICHELLE L. CONERO
PMB #276
56 North Plank Road, Suite 1
Newburgh, New York 12550
(845)541-4163

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RICHARD ALLEN MONKS

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CHAIRMAN SCALZO: Our next applicant is Richard Allen Monks, 4 Novelty Way. This was held over from the March 28th meeting. They're seeking an area variance to build an intermediate deck that connects the house deck to the pool deck with a 12 foot side yard setback where 30 is required.

Did we get a determination back from the County, Siobhan?

MS. JABLESNIK: Yes. You should have that.

CHAIRMAN SCALZO: Local determination. Yes, I do. Local determination.

The applicant did present last month. I thought it was a straightforward application. I had no further questions on the application.

Is there anyone here for that?

(No response.)

CHAIRMAN SCALZO: Not that there needs to be.

Are any Board Members or any members of the public here to speak about that application?

(No response.)

CHAIRMAN SCALZO: Hearing none, I'll

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RICHARD ALLEN MONKS

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look to the Board for one last opportunity.

MR. MARINO: No.

MR. BELL: No.

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

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

MR. MARINO: Second.

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

MS. JABLESNIK: Mr. Bell?

MR. BELL: 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 public hearing is closed.

(Time noted: 8:27 p.m.)

(Time resumed: 8:49 p.m.)

CHAIRMAN SCALZO: Our next two

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applicants were holdovers. Actually the next three, the GDPBJ, LLC and Susan Schultz were holdovers as well as Brennan Gasparini to our May meeting.

Richard Allen Monks, 4 Novelty Way, Walden, seeking an area variance to build an intermediate deck that connects the house deck to the pool deck with a 12 foot side yard setback where 30 feet is required.

Any other discussion on this application?

(No response.)

CHAIRMAN SCALZO: It was pretty straightforward. That was probably also skirting that 500 feet from the County as well which is what held us up.

The criteria, the first one being whether or not the benefit can be achieved by other means feasible to the applicant. Sure. It would be nice to walk from the one deck down to the pool deck.

Second, if there's an undesirable change in the neighborhood character or detriment to nearby properties. It does not appear so. It

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seems quite in character with the neighborhood.

The third, whether the request is substantial. Again, it's just connecting two decks. It does not seem so.

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

MR. McKELVEY: No.

CHAIRMAN SCALZO: I'm not seeing it.

The fifth, whether the alleged difficulty is self-created, relevant but not determinative.

MR. BELL: It's not relevant.

CHAIRMAN SCALZO: Thank you, Mr. Bell.

And what is the Board's pleasure?

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

MR. McKELVEY: Second.

CHAIRMAN SCALZO: Motion from Mr. Bell, we have a second from Mr. McKelvey. Roll call.

MS. JABLESNIK: Mr. Bell?

MR. BELL: Yes.

MS. JABLESNIK: Mr. Marino?

MR. MARINO: Yes.

MS. JABLESNIK: Mr. Masten?

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MR. MASTEN: Yes.

MS. JABLESNIK: Mr. McKelvey?

MR. MCKELVEY: Yes.

MS. JABLESNIK: Mr. Scalzo?

CHAIRMAN SCALZO: Yes.

Motion carried. The variance is granted.

(Time noted: 8:51 p.m.)

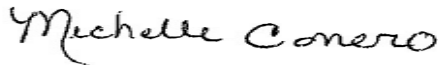
C E R T I F I C A T I O N

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 7th day of May 2019.



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

DP66, LLC

14 Crossroads Court, Newburgh
Section 95; Block 1; Lot 74
IB Zone

----- X

Date: April 25, 2019
Time: 8:28 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: DARRIN SCALZO, Chairman
JOHN McKELVEY
ANTHONY MARINO
JOHN MASTEN
DARRELL BELL

ALSO PRESENT: DAVID DONOVAN, ESQ.
GERALD CANFIELD
SIOBHAN JABLESNIK

APPLICANT'S REPRESENTATIVE: SANTOS LOPEZ
NANCY FORREST

----- X

MICHELLE L. CONERO
PMB #276
56 North Plank Road, Suite 1
Newburgh, New York 12550
(845)541-4163

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CHAIRMAN SCALZO: The final left over from the March meeting is DP66, LLC seeking an area variance to keep the window graphics that were installed without a permit in an existing 855.7 square foot where 309.2 maximum is allowed.

We did get the referral from the County and it is a Local determination.

The public hearing did remain open. We do have our applicant here to present.

Any additional information from our last meeting? I know Jerry, we appreciate all your comments last month. At least your help helping me understand how that determination was made for the square footage of the etchings. Even though the areas between them are clear glass, that is still within the box of what's considered to be the graphic.

So at this point do you have anything that you would like to say? Do you want to roll through one more time?

MR. LOPEZ: I'm Santos Lopez, vice president of marketing for Orange County Choppers. Since last time I'd been here I traveled all over the world, traveling all over

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Newburgh and Europe and Iceland and France, and heading to Asia. For us it's not just a sign, it's actually a piece of art. It's recognized globally as a piece of America.

Like I was saying last time, the biker community is part of today's Americana and the two brands people think about globally, believe it or not, is Harley Davidson and Orange County Choppers as well. We've built bicycles for the president of Malaysia to President Donald Trump to our troops. We're currently building for Oscar Mike Foundation, Spartan Race. It's been a science, not just a sign. It's actually a work of art that's been recognized globally that fits the biker communities. There are a lot of biker communities in the region, and actually they're one of the most giving personnel in the country. There's troops, firefighters, police and the biker community supports that. We're not the outlaw bikers. We're part of the American culture and we'd like to keep the sign that's been there for twenty years. It doesn't really affect the building at all. The building hasn't been there for twenty years, our logo has been

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around for twenty years. It is twenty years of the company. Just to keep it short, it's a sign we'd like to keep. Again, it's a work of art and also brings tourism to Orange County.

CHAIRMAN SCALZO: Thank you very much.

MS. FORREST: I would just like to reiterate that although I didn't put the sign there, I did speak to them on the calculations and how they were expressed, the difference. Jerry helped me out with that because the majority of towns you're able to break it down by the -- if it's pane windows your square footage.

Also based on what Santos said, it would be a lot more difficult of an argument on our end had it been a large sign in a window with bright colors and letters and all of that. That would be quite unattractive. I think he's correct in saying that it is kind of an unobtrusive piece of artwork logo that they're using. It doesn't light up. It's not visible unless you're staring right there at the building. The fact that removing it may still make it be there because of the tinted glass in the years that's it's been up. So you could still have the visual but just

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not as smooth or whatever.

We're hoping that you'll take into consideration everything that he has said about OCC and it's part in the community and around. It's not an ugly sign taking up that amount of square footage in the window and it doesn't light, it's not neon, it's not an electric sign, it's not bright fluorescent colors or anything. It's just the frosted glass over the tinted windows.

CHAIRMAN SCALZO: Thank you very much. It is a unique situation and thank you for your presentation. I do recognize myself what OCC does for the community and how they help where they can. I do appreciate that.

The issue that we have with the Board is when the code is developed, you know, we read the code and we have to follow the code the way the code is written. That's why we have Jerry to help us out understanding that. Unfortunately sometimes we get to a situation where our applicants come in and they are asking for forgiveness rather than permission. I don't know how we ended up in the position that we're in

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DP66, LLC

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now.

I actually look to Jerry to see if I can get a little help out of Jerry. Jerry, I'm not going to hold you to this number but is window etching something that's very frequent or do we have a lot of window etching signs in the Town?

MR. CANFIELD: No. This is very unique.

CHAIRMAN SCALZO: Okay.

MR. CANFIELD: If that answers your question.

CHAIRMAN SCALZO: It does. I can't think of any other one. Obviously it's a tremendous piece of glass out in front of the building. Your observation is also my observation, that you really -- it doesn't shine bright, it doesn't -- you have to really be looking at it to see it. Again, just observations. There are no colors involved. It's a unique situation. I've given it a lot of thought.

At this point I'm going to look down the end of the table to Mr. Marino. Tony, any

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DP66, LLC

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thoughts on this?

MR. MARINO: To me it's very attractive.

CHAIRMAN SCALZO: Mr. Masten?

MR. MASTEN: No comments.

MR. McKELVEY: It's been there so long.

CHAIRMAN SCALZO: Well, I understand that. Okay.

Mr. Bell ?

MR. BELL: I'm good. No comments. It's good. It looks good.

CHAIRMAN SCALZO: As I say, it's a very unique situation.

MR. BELL: Good art.

CHAIRMAN SCALZO: At this point I'll -- it's a public hearing. Are there members of the public here that wish to speak about this application?

(No response.)

CHAIRMAN SCALZO: Hearing none, I'll look back to the Board for one last opportunity.

MR. BELL: I'm good.

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

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

MR. MARINO: Second.

CHAIRMAN SCALZO: Motion from Mr. Bell, second from Mr. Marino. Roll call.

MS. JABLESNIK: Mr. Bell?

MR. BELL: 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 public hearing is closed. Thank you very much.

At this time before proceeding the Board is going to take a short adjournment to confer with Counsel regarding any legal questions raised by tonight's applications. If I could ask, in the interest of time, if you folks could wait out in the hallway and we'll call you in very shortly.

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(Time noted: 8:33 p.m.)

(Time resumed: 8:51 p.m.)

MR. DONOVAN: So Jerry, in terms of the next application, the Choppers application, I want to make sure -- I have a very good memory, sometimes I remember things that didn't happen. I want to make sure. When this application was denied back in 2012 the maximum square footage allowed was 75.79, now we're indicating 309.2. Has been there a code change in the intervening period of time relative to signage?

MR. CANFIELD: Yes. Correct.

MR. DONOVAN: Which allows for increased signage?

MR. CANFIELD: That's correct.

MR. DONOVAN: That's what I said. I wanted to make sure I was right. I'm second guessing myself.

CHAIRMAN SCALZO: That's the basis for some of the things that we may consider here.

MR. DONOVAN: I stand corrected. The signage is an Unlisted action. Thank you, Mr. Chairman.

CHAIRMAN SCALZO: I'm going to go

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through the criteria again, the first one being whether or not the benefit can be achieved by other means feasible to the applicant. That's a difficult one because it's already existing. To remove and replace to the maximum would still look like a sign.

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

MR. BELL: No.

MR. McKELVEY: It's been there.

CHAIRMAN SCALZO: It's a built-up area there.

Third, whether the request is substantial. This is where what David just said, in my opinion, comes right into it. From the initial denial back in 2012 to now the code has changed with regard to signage, increasing the allowable signage there. In that case I don't myself look at this as substantial.

Does anyone have any discussion on it?

MR. McKELVEY: No.

MR. BELL: No.

MR. MASTEN: No.

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MR. MARINO: No.

CHAIRMAN SCALZO: The fourth, whether the request will have adverse physical or environmental affects. No more than they already are, so no.

The fifth, whether the alleged difficulty is self-created, relevant but not determinative. Certainly it is.

I'm not a fan of asking for forgiveness rather than permission but in this case the etching on the glass is -- I can see how it can be misleading to some. I mean in that case they should seek out guidance from our Code Compliance people.

Anyway, that being said, does anybody have any further discussion on that?

MR. BELL: No.

MR. DONOVAN: There would need to be a motion for a negative declaration for this Unlisted action.

CHAIRMAN SCALZO: Thank you, Dave.

MR. DONOVAN: Thank you, Mr. Chairman. You reminded me.

MR. McKELVEY: I'll make the motion.

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CHAIRMAN SCALZO: Mr. McKelvey for a negative declaration on the SEQRA determination. Do we have a second?

MR. BELL: Second.

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

MS. JABLESNIK: Mr. Bell?

MR. BELL: 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 SEQRA determination is completed.

Onto the Board's pleasure for this application.

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

MR. MARINO: Second.

CHAIRMAN SCALZO: I have a motion for approval from Mr. Bell. We have a second from Mr.

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DP66, LLC

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Marino. Roll call.

MS. JABLESNIK: Mr. Bell?

MR. BELL: 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
granted.

(Time noted: 8:55 p.m.)

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

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

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

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

IN WITNESS WHEREOF, I have hereunto
set my hand this 7th day of May 2019.

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

BOARD BUSINESS

- APPROVAL OF 3/28/2019 ZBA MINUTES
- DANIEL DARRIGO, 84 LAKESIDE ROAD

----- X

Date: April 25, 2019
 Time: 8:55 p.m.
 Place: Town of Newburgh
 Town Hall
 1496 Route 300
 Newburgh, NY 12550

BOARD MEMBERS: DARRIN SCALZO, Chairman
 JOHN McKELVEY
 ANTHONY MARINO
 JOHN MASTEN
 DARRELL BELL

ALSO PRESENT: DAVID DONOVAN, ESQ.
 GERALD CANFIELD
 SIOBHAN JABLESNIK

----- X

MICHELLE L. CONERO
 PMB #276
 56 North Plank Road, Suite 1
 Newburgh, New York 12550
 (845)541-4163

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BOARD BUSINESS

CHAIRMAN SCALZO: Regarding other Board business. Just the meeting minutes. I read them twice. I thought I had corrections to talk about but I was completely wrong. Everything was spot on. I misread it. I thought Mr. Olympia said one thing and I had to reread it. I had none.

I'll look for a motion to accept the meeting minutes for March's meeting.

MR. MASTEN: I'll make a motion.

CHAIRMAN SCALZO: Do I have a second?

MR. BELL: I'll make a second.

CHAIRMAN SCALZO: Second from Mr. Bell.

Roll call on that.

MS. JABLESNIK: Mr. Bell?

MR. BELL: 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.

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Motion carried to accept the minutes.

The last thing is a request for a motion to adjourn.

MR. CANFIELD: One question. Darrin, I have a question on last month's meeting. The applicant, Darrigo Farms, the solar panel application, it was before you to grant an extension. I believe the action the Board took was to grant that. There was conversation with respect to -- I think John McKelvey had brought up about the other activities that are taking place on the site, like other multiple businesses. The applicant did admit there were some other businesses there.

My question from Code Compliance is is your Board expecting an inspection to be conducted from our office and a report to you or the fact that you took the action, it's simply an enforcement issue and it's something Code Compliance will handle?

CHAIRMAN SCALZO: I'm going to have to defer to Mr. McKelvey in this case because I had to recuse myself from this action. John, if you could recall.

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MR. McKELVEY: I'm the one that asked the question, --

MR. MASTEN: Yes.

MR. McKELVEY: -- because there's a lot of buildings on there. Are there permits for them?

MR. DONOVAN: I think the issue is an important issue but I don't think -- I think it's beyond the purview of this Board. This Board granted the use variance allowing the solar arrays. They've come back for an extension of that variance. Obviously the pertinent question is what's going on there. I don't think it's incumbent upon Code Compliance to report back to this Board because it didn't deal with the variance.

MR. McKELVEY: The only thing I asked was I asked that question and they said because they're a farm they didn't need it, the permits.

MR. DONOVAN: Which may or may not be true. I think it becomes a Code Compliance issue independent of this Board.

MR. CANFIELD: I agree, however I don't want to leave this Board out of the loop. Would

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BOARD BUSINESS

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it be prudent to copy you on our findings?

MR. DONOVAN: I think absolutely. I mean there is an application that's been approved. If they come back for an extension -- it is the approval of this Board -- I assume the Board would be interested. A copy to this Board is fine.

MR. CANFIELD: Just for John, to give you an opportunity to think about this, this application must still go before the Planning Board for a site plan.

MR. DONOVAN: Correct.

MR. CANFIELD: It's not completely done. They won't come in tomorrow for a building permit so to speak. That's it.

MR. McKELVEY: The only reason I asked it is because he out and out lied to me saying they were a farm and they didn't need permits for the other properties.

CHAIRMAN SCALZO: Okay. Do we have a motion to adjourn?

MR. McKELVEY: I'll make that motion.

MR. BELL: Second.

CHAIRMAN SCALZO: Very good. All in

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BOARD BUSINESS

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favor?

MR. BELL: Aye.

MR. MARINO: Aye.

MR. MASTEN: Aye.

MR. McKELVEY: Aye.

CHAIRMAN SCALZO: Aye.

(Time noted: 9:00 p.m.)

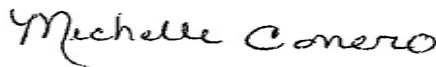
C E R T I F I C A T I O N

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 7th day of May 2019.



MICHELLE CONERO