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

- - - - - X  
In the Matter of

CHARLES PULLIUM

122 Holmes Road, Newburgh  
Section 6; Block 3; Lot 15  
AR Zone

- - - - - X

Date: April 27, 2023  
Time: 7:00 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, New York

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

ALSO PRESENT: DAVID DONOVAN, ESQ.  
JOSEPH MATTINA  
SIOBHAN JABLESNIK

APPLICANT'S REPRESENTATIVE: CHARLES PULLIUM

- - - - - X

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

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CHAIRMAN SCALZO: I'd like to call the meeting of the Zoning Board of Appeals to order. The order of business this evening are the public hearings which have been scheduled.

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. The Board will then consider the applications and try and render a decision this evening but may take up to 62 days to reach a determination. I would ask if you have a cellphone, to please turn it off or put it on silent. If you choose to speak, please speak directly into the microphone. We are having the meeting recorded.

Roll call, please.

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MS. JABLESNIK: Darrell Bell.

MR. BELL: Here.

MS. JABLESNIK: James Eberhart.

MR. EBERHART: Here.

MS. JABLESNIK: Robert Gramstad is  
absent this evening.

Greg Hermance.

MR. HERMANCE: Here.

MS. JABLESNIK: John Masten.

MR. MASTEN: Here.

MS. JABLESNIK: Donna Rein is  
also absent this evening.

MS. JABLESNIK: Darrin Scalzo.

CHAIRMAN SCALZO: Here.

MS. JABLESNIK: Also present is  
our attorney, Dave Donovan; from Code  
Compliance, Joseph Mattina; and our  
stenographer is Michelle Conero.

CHAIRMAN SCALZO: Please rise  
for the Pledge.

(Pledge of Allegiance.)

CHAIRMAN SCALZO: Our first  
applicant this evening is Charles  
Pullium, 122 Holmes Road, seeking an

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area variance to install a 14 by 16 foot accessory building in the front yard, which is Barbara Drive and Holmes. There are two front yards. It's a corner lot.

MR. PULLIUM: Right.

CHAIRMAN SCALZO: We've seen it. You're on a corner lot.

If I, with that one sentence, have captured everything that you're looking to do here, or if you feel as though you want to add anything to that narrative --

MR. PULLIUM: No. That's it.

CHAIRMAN SCALZO: I am good.

All right. Here we go. So in this case, it really is not out of character with the neighborhood. This is in my opinion, although there are other Board Members that may have questions for you.

I'm going to start with Mr. Eberhart. Do you have any questions on this application?

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MR. EBERHART: No questions.

CHAIRMAN SCALZO: Mr. Hermance?

MR. HERMANCE: I have no questions either.

CHAIRMAN SCALZO: Mr. Bell?

MR. BELL: None.

CHAIRMAN SCALZO: Mr. Masten?

MR. MASTEN: I have no questions.

CHAIRMAN SCALZO: It's pretty simple and straightforward.

At this point I'm going to open this up to any members of the public that wish to speak about this application. If anyone has any comments, please step forward.

(No response.)

CHAIRMAN SCALZO: Okay. One last opportunity for the Board. Anything?

(No response.)

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

MR. MASTEN: I'll make a motion

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to close the public hearing.

MR. BELL: I'll second.

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

MR. BELL: Aye.

MR. EBERHART: Aye.

MR. HERMANCE: Aye.

MR. MASTEN: Aye.

CHAIRMAN SCALZO: Aye.

Those opposed?

(No response.)

CHAIRMAN SCALZO: Very good.

This is a Type 2 action under SEQRA. Correct, Counselor?

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

CHAIRMAN SCALZO: Very good.

We will go through our criteria and discuss the five factors which we are weighing.

The first one, whether or not the benefit that the applicant is seeking can be achieved by other

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means feasible to the applicant. He might be able to slide it over on the other side of his house, but that really doesn't line up with the driveway.

The second, if there's an undesirable change in the neighborhood character or a detriment to nearby properties. I don't believe so. It's up a ways on the hill. It's not going to be -- I'm not going to say noticeable.

The third, whether the request is substantial. There are two front yards. I suppose by the numbers it could be, but I don't believe it's substantial myself.

The fourth, whether the request will have adverse physical or environmental effects. It does not appear so.

MR. BELL: No.

CHAIRMAN SCALZO: The fifth, whether the alleged difficulty is

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self-created, which is relevant but not determinative. Of course it's self-created. Again, can the applicant achieve the benefit by any other means.

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

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

MR. HERMANCE: I'll second.

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

Can you roll on that, Siobhan?

MS. JABLESNIK: Mr. Bell?

MR. BELL: Yes.

MS. JABLESNIK: Mr. Eberhart?

MR. EBERHART: Yes.

MS. JABLESNIK: Mr. Hermance?

MR. HERMANCE: Yes.

MS. JABLESNIK: Mr. Masten?

MR. MASTEN: Yes.



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MS. JABLESNIK: Mr. Scalzo?

CHAIRMAN SCALZO: Yes.

All right. The motion is carried. The variances are approved.

Hang on one second.

Siobhan, do we have mailings on this?

MS. JABLESNIK: This applicant sent out 28 letters.

CHAIRMAN SCALZO: 28. Okay.

That's all we needed. You're all set. Good luck.

MR. PULLIUM: Thank you.

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

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

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

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

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

IN WITNESS WHEREOF, I have hereunto  
set my hand this 5th day of April 2023.

*Michelle Conero*  
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MICHELLE CONERO

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

- - - - - X  
In the Matter of

DOV & NATASHA TERROADE

7 Smith Avenue, Walden  
Section 32; Block 7; Lot 4  
R-1 Zone

- - - - - X

Date: April 27, 2023  
Time: 7:07 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, New York

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

ALSO PRESENT: DAVID DONOVAN, ESQ.  
JOSEPH MATTINA  
SIOBHAN JABLESNIK

APPLICANT'S REPRESENTATIVE: DOV TERROADE

- - - - - X

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

2 CHAIRMAN SCALZO: Our second  
3 applicant this evening is Dov and  
4 Natasha Terroade, 7 Smith Avenue in  
5 Walden, for an area variance of  
6 increasing the degree of non-  
7 conformity of the front and side  
8 yards to convert an existing enclosed  
9 porch into habitable space.

10 Siobhan, do we have mailings on  
11 this?

12 MS. JABLESNIK: Yes. This  
13 applicant sent out 32.

14 CHAIRMAN SCALZO: 32. Okay.

15 And before we actually get  
16 started, we actually had received  
17 some written testimony from a near  
18 adjoiner, I suppose, which is in  
19 support of this applicant. The  
20 variance they seek, in this person's  
21 opinion, they have no impact in any  
22 way on any neighbor. This person,  
23 Mark Tierney, actually supports their  
24 application.

25 As you heard me say two

2 sentences -- we're actually familiar  
3 with your property. It was in here  
4 for the previous owner for just a  
5 preexisting nonconforming condition,  
6 which is exactly what you have.

7 MR. TERROADE: Okay.

8 CHAIRMAN SCALZO: All you're  
9 doing is enclosing something that's  
10 already there.

11 MR. TERROADE: Right.

12 CHAIRMAN SCALZO: Anything  
13 building code wise would have to meet  
14 the requirements of the Building  
15 Department.

16 I myself have no comments on  
17 this. It's pretty straightforward.

18 I'm going to look to Mr. Masten.

19 MR. MASTEN: I have no questions.

20 CHAIRMAN SCALZO: Mr. Bell?

21 MR. BELL: No, I don't have  
22 anything.

23 CHAIRMAN SCALZO: Mr. Hermance?

24 MR. HERMANCE: It's already  
25 enclosed. I think you're just going

2 to change the windows?

3 MR. TERROADE: Insulated.

4 MR. HERMANCE: Insulated windows?

5 MR. TERROADE: Yup.

6 CHAIRMAN SCALZO: Mr. Eberhart?

7 MR. EBERHART: No questions.

8 CHAIRMAN SCALZO: Very good.

9 Any questions or comments from  
10 the public?

11 MR. FOWLER: I would like to  
12 speak.

13 CHAIRMAN SCALZO: I believe you  
14 live next door to Mr. Tierney, don't you?

15 MR. FOWLER: Yes, I do.

16 CHAIRMAN SCALZO: You're a frequent  
17 flyer in here.

18 MR. FOWLER: Yes, I am.

19 CHAIRMAN SCALZO: We know you  
20 but they don't. Just state your  
21 name, please.

22 MR. FOWLER: My name is Arthur  
23 Fowler. My wife and I live at 8  
24 Snyder Avenue. I also own the  
25 property -- contiguous property west

2 of this property, across South Street  
3 on the south of this property. I'm  
4 also a member of the Orange Lake  
5 Homeowners Association.

6 We're here to support this  
7 project. They're good neighbors.  
8 They're going to do a good job, I'm  
9 sure of it. I spoke to the other  
10 three board members that live on the  
11 west side of the lake, and they're  
12 also in support of this.

13 That's all I have to say.

14 CHAIRMAN SCALZO: Thank you  
15 very much for your testimony.

16 MR. FOWLER: You're welcome.

17 CHAIRMAN SCALZO: Is there  
18 anyone else from the public that  
19 wishes to speak about this application?

20 (No response.)

21 CHAIRMAN SCALZO: Hearing none,  
22 I'll look back to the Board. Any  
23 other comments?

24 MR. MASTEN: No.

25 CHAIRMAN SCALZO: Very good.

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

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

6 MR. EBERHART: I'll second.

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

10 MR. EBERHART: Aye.

11 MR. HERMANCE: Aye.

12 MR. BELL: Aye.

13 MR. MASTEN: Aye.

14 CHAIRMAN SCALZO: Aye.

15 Those opposed?

16 (No response.)

17 CHAIRMAN SCALZO: Very good.

18 Counsel, this is also a Type 2  
19 action under SEQRA?

20 MR. DONOVAN: Correct, Mr.  
21 Chairman.

22 So far that's all I've had to  
23 say is correct, Mr. Chairman.

24 CHAIRMAN SCALZO: Again we're  
25 going to discuss the five factors,



2 which you'll probably all know by the  
3 end of the night because you're going  
4 to hear me say the same thing.

5 The first one being whether or  
6 not the benefit can be achieved by  
7 other means feasible to the  
8 applicant. As was noted, it's a  
9 preexisting nonconforming condition.

10 Second, if there's an undesirable  
11 change in the neighborhood character  
12 or a detriment to nearby properties.  
13 I think it's quite the opposite.  
14 It's a benefit to the neighborhood  
15 and to the nearby properties.

16 The third, whether the request  
17 is substantial. Again, it's pre-  
18 existing nonconforming. It's  
19 unnoticed, virtually.

20 Fourth, whether the request  
21 will have adverse physical or  
22 environmental effects.

23 MR. MASTEN: None.

24 MR. BELL: None.

25 CHAIRMAN SCALZO: The fifth,

2 whether the alleged difficulty is  
3 self-created, which is relevant but  
4 not determinative. In this case,  
5 unlike the first application, this is  
6 not self-created.

7 Having gone through the  
8 balancing tests, does the Board have  
9 a motion of some sort?

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

12 MR. HERMANCE: I'll second.

13 CHAIRMAN SCALZO: We have a  
14 motion for approval from Mr. Bell.  
15 We have a second from Mr. Hermance.

16 Can you roll on that, Siobhan?

17 MS. JABLESNIK: Mr. Bell?

18 MR. BELL: Yes.

19 MS. JABLESNIK: Mr. Eberhart?

20 MR. EBERHART: Yes.

21 MS. JABLESNIK: Mr. Hermance?

22 MR. HERMANCE: Yes.

23 MS. JABLESNIK: Mr. Masten?

24 MR. MASTEN: Yes.

25 MS. JABLESNIK: Mr. Scalzo?

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CHAIRMAN SCALZO: Yes.

The motion is approved. The variance is granted. Good luck, and have a good night.

(Time noted: 7:12 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 5th day of May 2023.

*Michelle Conero*

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MICHELLE CONERO

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

- - - - - X  
In the Matter of

RICHARD BARTLEY

11 South Dix Avenue, Newburgh  
Section 72; Block 9; Lot 18  
R-3 Zone

- - - - - X

Date: April 27, 2023  
Time: 7:13 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, New York

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

ALSO PRESENT: DAVID DONOVAN, ESQ.  
JOSEPH MATTINA  
SIOBHAN JABLESNIK

APPLICANT'S REPRESENTATIVE: RICHARD BARTLEY

- - - - - X

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

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CHAIRMAN SCALZO: Our next applicant this evening is Richard Bartley, 11 South Dix Avenue, seeking area variances for the rear yard setback and increasing the degree of nonconformity of the side yard to build an 8 by 16 rear deck.

Do we have mailings on that, Siobhan?

MS. JABLESNIK: This applicant sent out 63.

CHAIRMAN SCALZO: 6-3. I have a feeling you're the winner. Winner, winner chicken dinner for tonight.

Mr. Bartley, if I've captured everything that you're looking to do in that one sentence --

MR. BARTLEY: Pretty much.

CHAIRMAN SCALZO: Okay. Again, your situation is you have a small lot. You're just replacing the deck in kind, --

MR. BARTLEY: Yes.

CHAIRMAN SCALZO: -- trying to

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improve what you already have.

MR. BARTLEY: Yes. The same size. My ledger board is ruined because they didn't put flashing in. I'm just trying to fix what's there and make it look pretty.

CHAIRMAN SCALZO: There you have it. Trying to upgrade the facilities.

I have no comments on this. It looks pretty simple and straightforward to me.

Mr. Masten, do you have any comments?

MR. MASTEN: I have no comment.

CHAIRMAN SCALZO: Mr. Bell?

MR. BELL: No, I don't have any.

CHAIRMAN SCALZO: Mr. Hermance?

MR. HERMANCENCE: No.

CHAIRMAN SCALZO: Mr. Eberhart?

MR. EBERHART: No comment.

CHAIRMAN SCALZO: We're rocking it tonight.

MR. BARTLEY: You have it easy

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tonight.

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

(No response.)

CHAIRMAN SCALZO: Great. One last look at the Board?

MR. BELL: No.

MR. EBERHART: No.

MR. HERMANCE: No.

MR. MASTEN: No.

CHAIRMAN SCALZO: A motion to close the public hearing?

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

MR. BELL: I'll second.

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

MR. BELL: Aye.

MR. EBERHART: Aye.

MR. HERMANCE: Aye.

MR. MASTEN: Aye.

CHAIRMAN SCALZO: Aye.

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Those opposed?

(No response.)

CHAIRMAN SCALZO: Very good.

Counsel, a Type 2 action?

MR. DONOVAN: A Type 2 action  
under SEQRA, Mr. Chairman.

CHAIRMAN SCALZO: You're going  
to hear them again, the five factors.

The first one, whether or not  
the benefit can be achieved by other  
means feasible to the applicant.

Well, I don't believe so. He's  
trying to, you know, take care of  
some work that was done improperly  
before.

The second, if there's an  
undesirable change in the neighborhood  
character or a detriment to nearby  
properties. I'll say it just like  
the last two applicants, it's  
benefiting the neighborhood.

The third, whether the request  
is substantial. It's no more  
substantial than the previous deck is.



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

MR. BELL: None.

MR. MASTEN: No.

CHAIRMAN SCALZO: The fifth, whether the alleged difficulty is self-created, which is relevant but not determinative. The applicant just gave us testimony that he's fixing something that someone had done improperly before him. No, this is -- the difficulty is not self-created.

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

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

MR. BELL: I'll second.

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

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Can you roll on that, please,  
Siobhan?

MS. JABLESNIK: Mr. Bell?

MR. BELL: Yes.

MS. JABLESNIK: Mr. Eberhart?

MR. EBERHART: Yes.

MS. JABLESNIK: Mr. Hermance?

MR. HERMANCE: Yes.

MS. JABLESNIK: Mr. Masten?

MR. MASTEN: Yes.

MS. JABLESNIK: Mr. Scalzo?

CHAIRMAN SCALZO: Yes.

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

MR. BARTLEY: Thank you,  
everybody.

(Time noted: 7:18 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 5th day of May 2023.

*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

MIGHTY BUILT CONSTRUCTION COMPANY, INC.  
FOR LAUREN MARCIUL

42 Old Little Britain Road, Newburgh  
Section 101; Block 6; Lot 22  
R-2 Zone

- - - - - X

Date: April 27, 2023  
Time: 7:18 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, New York

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

ALSO PRESENT: DAVID DONOVAN, ESQ.  
JOSEPH MATTINA  
SIOBHAN JABLESNIK

APPLICANT'S REPRESENTATIVE: LAUREN MARCIUL

- - - - - X

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

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CHAIRMAN SCALZO: Our next applicant is Mighty Built Construction Company, Inc., the property for Lauren Marciul. The property is located at 42 Old Little Britain Road. They're seeking an area variance for increasing the degree of nonconformity of the side yard and to raise the rear half of the existing nonconforming roof.

Do we have mailings, Siobhan?

MS. JABLESNIK: Yes. This applicant sent out 37 letters.

CHAIRMAN SCALZO: 37 letters. Still good. Not the winner.

MS. MARCIUL: Nope.

CHAIRMAN SCALZO: Okay. You've heard me say it. If I've captured what it is that you're looking to do adequately, we'll move forward. If you feel as though you need to add a few extra words to that --

MS. MARCIUL: Basically I just want a bathroom and a larger kitchen.

2 CHAIRMAN SCALZO: If I could  
3 just back you up one second. We  
4 don't know who you are.

5 MS. MARCIUL: I'm Lauren  
6 Marciul. I'm the homeowner.

7 CHAIRMAN SCALZO: Thank you.  
8 It's very important to Michelle.

9 MS. MARCIUL: Thank you very  
10 much, Michelle.

11 CHAIRMAN SCALZO: Again, it's  
12 preexisting nonconforming. Your  
13 house is on a smaller lot and things  
14 happen over the years. The survey is  
15 very descriptive on what you're  
16 trying to do, and we can see exactly  
17 what it is.

18 I don't have any comments.  
19 That's very rare for me.

20 Anyway, I'll start at the other  
21 end. Mr. Eberhart, any comments on  
22 this?

23 MR. EBERHART: No comment.

24 CHAIRMAN SCALZO: Mr. Hermance?

25 MR. HERMANCE: They spelled out

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exactly what they want to do. It's pretty cut and dry.

CHAIRMAN SCALZO: Everybody needs a bigger kitchen and an extra bathroom.

Mr. Bell?

MR. BELL: Actually, when you look next door, if you're looking at the back of the house, the house on the left side, the extension of what she's trying to do as well as to add the extra bathroom, it looks just like what's already next door there. I don't see a problem.

CHAIRMAN SCALZO: What you're saying, Mr. Bell, is it wouldn't change the character of the neighborhood at all.

MR. BELL: Not at all.

CHAIRMAN SCALZO: That comes later.

Mr. Masten?

MR. MASTEN: I have no question on it.

CHAIRMAN SCALZO: All right.

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Is there anyone from the public that wishes to speak about this application?

(No response.)

CHAIRMAN SCALZO: Wonderful.  
Okay. One last look at the Board?

(No response.)

CHAIRMAN SCALZO: Counselor --  
MR. DONOVAN: This is a Type 2 action under SEQRA, Mr. Chairman.

CHAIRMAN SCALZO: I figured as much. We're going to hear them all again.

The first one being whether or not the benefit can be achieved by other means feasible to the applicant. If she likes to cook, a bigger kitchen is great. Having a second bathroom is fantastic in any house.

Second, if there's an undesirable change in the neighborhood character or a detriment to nearby properties. We heard Mr. Bell himself say that he thought the neighborhood character would almost be identical.



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The third, whether the request is substantial. By the numbers it may be, but, again, we're not going out, we're just going up.

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

MR. BELL: No.

MR. EBERHART: No.

MR. HERMANCE: No.

MR. MASTEN: No.

CHAIRMAN SCALZO: No.

The fifth, whether the alleged difficulty is self-created, which of course it is. Again, it's relative but not determinative.

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

MR. MASTEN: I'll make a motion.

CHAIRMAN SCALZO: For approval. Very good, Mr. Masten. Do we have a second?

MR. BELL: I'll second.

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CHAIRMAN SCALZO: Very good. A  
second from Mr. Bell.

Can you roll on that, please,  
Siobhan?

MS. JABLESNIK: Mr. Bell?

MR. BELL: Yes.

MS. JABLESNIK: Mr. Eberhart?

MR. EBERHART: Yes.

MS. JABLESNIK: Mr. Hermance?

MR. HERMANCE: Yes.

MS. JABLESNIK: Mr. Masten?

MR. MASTEN: Yes.

MS. JABLESNIK: Mr. Scalzo?

CHAIRMAN SCALZO: Yes.

The motion is approved. Good  
luck.

MS. MARCIUL: Thank you.

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

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

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

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

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

IN WITNESS WHEREOF, I have hereunto  
set my hand this 5th day of May 2023.

*Michelle Conero*  
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MICHELLE CONERO

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

- - - - - X  
In the Matter of

JOSHUA SOULE

5 Pony Terrace, Newburgh  
Section 58; Block 5; Lot 17  
R-2 Zone

- - - - - X

Date: April 27, 2023  
Time: 7:23 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, New York

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

ALSO PRESENT: DAVID DONOVAN, ESQ.  
JOSEPH MATTINA  
SIOBHAN JABLESNIK

APPLICANT'S REPRESENTATIVE: JONATHAN CELLA

- - - - - X

MICHELLE L. CONERO  
3 Francis Street  
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CHAIRMAN SCALZO: We are on to page 2. Our applicant is Joshua Soule, 5 Pony Terrace in Newburgh, seeking area variances of the front yard, rear yard and side yard setbacks to build a 26.8 by 30 foot addition with a 4 foot by 10 foot front deck and a 6 foot by 6 foot rear deck.

Do we have mailings on that, Siobhan?

MS. JABLESNIK: Yes. This applicant sent out 59 letters.

CHAIRMAN SCALZO: 5-9. So close to being the winner. Very good.

Mr. Cella, we know who you are. Who are you with?

MR. CELLA: The owner, Mr. Soule.

MR. SOULE: I'm Joshua Soule. I'm the owner.

CHAIRMAN SCALZO: I stopped by today and probably made your neighbors nervous. That's a tight area in there.

2 The house at the end -- as you  
3 pull into the cul-de-sac, the house  
4 on the right, it almost looks like  
5 their garage wasn't original to the  
6 house. It would almost, in my  
7 opinion, be similar in nature to the  
8 way that looks. That's just my opinion.

9 Other than that, looking at --  
10 again, it came with a great survey.

11 I don't have any comments at  
12 this point. I may after the Board is  
13 done commenting, or they may have no  
14 comments either.

15 I'll look to Mr. Masten. Do  
16 you have any comments?

17 MR. MASTEN: No.

18 CHAIRMAN SCALZO: How about  
19 you, Mr. Bell?

20 MR. BELL: You're exactly right.  
21 I was looking, as you pull in, both  
22 to the left and to the right, both  
23 houses are just about the size that  
24 they are looking to do -- to construct.  
25 I don't think it's going to be out of

2 character with the neighborhood at all.

3 CHAIRMAN SCALZO: Okay. Can I  
4 ask, what's the purpose of this?  
5 What's the purpose of the addition?

6 MR. SOULE: We would like to  
7 have a mother/daughter to move my  
8 parents in so we have them next to us  
9 to take care of them. So they are  
10 with us, basically.

11 CHAIRMAN SCALZO: Is there a  
12 kitchen planned for this or is it  
13 just extra bedrooms, bathrooms?

14 MR. CELLA: It's a one-bedroom  
15 accessory apartment.

16 CHAIRMAN SCALZO: 700 feet or  
17 less?

18 MR. CELLA: Yes.

19 CHAIRMAN SCALZO: That's the  
20 right answer. Very good. Okay.

21 Mr. Hermance?

22 MR. HERMANCE: No. It's an  
23 oddly shaped lot and --

24 CHAIRMAN SCALZO: It's tough.

25 MR. HERMANCE: -- it's kind of

2 tough.

3 CHAIRMAN SCALZO: Mr. Eberhart?

4 MR. EBERHART: No questions.

5 CHAIRMAN SCALZO: That's sort  
6 of your neighborhood, but not really.

7 MR. EBERHART: No, it's not my  
8 neighborhood. You know, I was trying  
9 to find it.

10 CHAIRMAN SCALZO: Got you. I  
11 see the most restrictive side yard  
12 you've got there is 14.51 feet. 14.5  
13 feet to the side yard, 31 off the  
14 bump out on the addition. Those  
15 aren't ridiculous numbers.

16 It appears that -- I saw the  
17 stakes out there. It appears, if you  
18 should have to drive around the back  
19 of the house, you could still do it  
20 on that side if you had to, although  
21 there's plenty of room on the other side.

22 At this point I'll look to any  
23 members of the public that wish to  
24 speak about this application. I see  
25 your hand is up, but you did walk in



2 late. I'll give you some short  
3 instructions. If you would like to  
4 step up and comment your support or  
5 lack of support on the project, we  
6 just need to know who you are.

7 MS. KELLERMUELLER: I am Kim  
8 Kellermueller. We are on the  
9 building side at 6 Pony Terrace.

10 CHAIRMAN SCALZO: Your name  
11 appears on the map.

12 MS. KELLERMUELLER: Yes. Our  
13 main concern -- I spoke to his wife.  
14 We're very friendly. We love our  
15 neighbors -- is access to the build  
16 side and to get around the back,  
17 since there is only 14.5 feet, which  
18 I understand is plenty of room. I  
19 just want to be assured that  
20 construction equipment or vehicles or  
21 anything won't need our yard to  
22 access, to get around the back or  
23 anything.

24 CHAIRMAN SCALZO: Mr. Soule,  
25 let me ask you a question. Should

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you be successful tonight, would you have your contractor, perhaps it would be a good idea, put up the orange construction fence so that would be a very clear delineation of where they can't exceed?

MR. SOULE: I have no objection.

MR. CELLA: We'll provide construction fencing and delineation of the property line so we don't encroach on you. The addition is going on the right side of the house.

MS. KELLERMUELLER: Yes.

MR. CELLA: You've got the 14 feet here, as the Chairman stated. If we ever have to get around back, we have an additional almost 40 feet on the other side. We do have adequate --

MS. KELLERMUELLER: Okay. I know you guys just put a fence up, too. I didn't know how much you wanted to take down.

CHAIRMAN SCALZO: Keep in mind,

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this is being recorded. The internal conversation that you're having here --

MS. KELLERMUELLER: Got you.

CHAIRMAN SCALZO: At a later date, that's fine. We're trying to gather information that's pertinent to the application.

MS. KELLERMUELLER: That was our only concern. Otherwise, we're more than happy for them to be able to do this for his parents.

CHAIRMAN SCALZO: Very good.

Is there anyone else from the public that has any comments regarding this?

(No response.)

CHAIRMAN SCALZO: I don't see any hands up, but Mr. Bell had a comment.

MR. BELL: I do want to make one comment. I want to make sure we don't go back to Anchor Drive. If something was to encroach, intrude onto their property where you damage

2 the landscape, you would be required  
3 or willing to repair that as well as  
4 to make sure it's put back the way it  
5 is?

6 MR. SOULE: I'm sorry. I have  
7 a hearing problem. Would you mind  
8 saying that again?

9 MR. BELL: I just want to --

10 CHAIRMAN SCALZO: Make you aware.

11 MR. BELL: I want to make you  
12 aware --

13 CHAIRMAN SCALZO: You break it,  
14 you fix it.

15 MR. BELL: Basically.

16 MR. SOULE: Understandable.

17 MR. BELL: If you rip up their  
18 side of the property, you will  
19 relandscape that to make sure to  
20 bring it back to where it's at now.

21 MR. SOULE: Yes.

22 CHAIRMAN SCALZO: Mr. Bell,  
23 that's why -- and Mr. Cella is aware.  
24 Orange vegetation fencing, 4-feet  
25 high, typically on metal posts. If

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you can't see it, it's dark out and you're wearing sunglasses and -- you know, but we will -- if you're not opposed to it, and that was the right answer also.

MR. SOULE: We break it, we fix it.

CHAIRMAN SCALZO: The whole idea is you don't want to get to a position where you have the ability to break it. If you put that orange fence up, everybody will know where not to go.

MR. SOULE: Okay. Thank you.

CHAIRMAN SCALZO: Anyone else from the public? Any other comments?

(No response.)

CHAIRMAN SCALZO: I'll look to the Board for one last opportunity.

(No response.)

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

MR. BELL: I'll make a motion

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to close the public hearing.

MR. MASTEN: I'll second it.

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

MR. BELL: Aye.

MR. EBERHART: Aye.

MR. HERMANCE: Aye.

MR. MASTEN: Aye.

CHAIRMAN SCALZO: Aye.

Those opposed?

(No response.)

CHAIRMAN SCALZO: I only ask that because when I'm saying aye, I can't tell if somebody didn't say anything.

Counsel, a Type 2 action under SEQRA?

MR. DONOVAN: A Type 2 action under SEQRA.

CHAIRMAN SCALZO: Again I'm going to go through the five factors, the first one being whether or not the benefit the applicant is seeking can be achieved by other means

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feasible to the applicant.

MR. BELL: No.

CHAIRMAN SCALZO: The second, if there's an undesirable change in the neighborhood character or a detriment to nearby properties. Mr. Bell and I both noticed, as well as I think Mr. Hermance -- actually, I think all of us, that there are a few homes in that immediate neighborhood that could be similar in size.

The third, whether the request is substantial. Again, by the numbers perhaps it is, but we just discussed accessibility around the site, so it does not appear that it will be an issue.

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

And the fifth, whether the alleged difficulty is self-created, which is relevant but not determinative. Of course it is.

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All right. If the Board approves, it shall grant the minimum variance necessary and may impose reasonable conditions. I can't think of any.

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

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

MR. MASTEN: I'll second it.

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

Can you roll on that, please, Siobhan?

MS. JABLESNIK: Mr. Bell?

MR. BELL: Yes.

MS. JABLESNIK: Mr. Eberhart?

MR. EBERHART: Yes.

MS. JABLESNIK: Mr. Hermance?

MR. HERMANCE: Yes.

MS. JABLESNIK: Mr. Masten?

MR. MASTEN: Yes.

MS. JABLESNIK: Mr. Scalzo?



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CHAIRMAN SCALZO: Yes.

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

MR. CELLA: Thank you.

(Time noted: 7:32 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 5th day of May 2023.

*Michelle Conero*

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MICHELLE CONERO

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

- - - - - X  
In the Matter of

JUAN PENA  
AMERICAN GRANITE

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

- - - - - X

Date: April 27, 2023  
Time: 7:32 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, New York

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

ALSO PRESENT: DAVID DONOVAN, ESQ.  
JOSEPH MATTINA  
SIOBHAN JABLESNIK

APPLICANT'S REPRESENTATIVE: JONATHAN MILLEN

- - - - - X

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

2 CHAIRMAN SCALZO: Now we're  
3 moving on to old business. All  
4 right. We have Mr. Millen who has  
5 waited patiently for a month because  
6 the County did not get back to us  
7 with a Local determination. I'll  
8 tell you what, we don't care right  
9 now because it's over thirty days.

10 Mr. Millen --

11 MS. JABLESNIK: I got it.

12 CHAIRMAN SCALZO: I'm sure they  
13 said Local determination.

14 MS. JABLESNIK: They did.

15 CHAIRMAN SCALZO: I don't  
16 recall, but I believe the Members  
17 that are here this evening were here  
18 last month.

19 Mr. Millen, I believe you  
20 presented last month. We had a  
21 couple of questions about the  
22 dumpsters, or at least that was my  
23 question. I was satisfied with the  
24 answers that I had heard.

25 If anybody has any other

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questions -- I was satisfied at last month's meeting, but procedurally we needed to wait. I have no other comments.

Does anyone else on the Board have any comments on this application?

MR. BELL: No.

MR. EBERHART: No.

MR. HERMANCE: No.

MR. MASTEN: No.

CHAIRMAN SCALZO: No. Very good.

The public hearing did remain open. Is there anyone in the public that would like to comment on this application?

KAYLA: I would like to know what the application is.

MR. BELL: Can you come forward and state your name?

CHAIRMAN SCALZO: Mr. Millen, I'll tell you what. I don't recall seeing these folks at last month's meeting. If you would like to show on the plan what's looking to happen

2 here.

3 MR. MILLEN: What they're  
4 intending to do is to take this  
5 portion of the site and build an  
6 enclosure so they can store the  
7 granite slabs, that are inside now,  
8 outside.

9 The existing wooden dumpster  
10 enclosure is right here. From what I  
11 understand, they won't be using it  
12 for the --

13 CHAIRMAN SCALZO: Any  
14 manufacturing processes won't occur  
15 outside. It's just for storage.

16 KAYLA: I just wanted to know  
17 what it was.

18 CHAIRMAN SCALZO: Can you state  
19 your name?

20 KAYLA: My name is Kayla and I  
21 live in Meadow Winds.

22 CHAIRMAN SCALZO: Very good.  
23 Thank you very much.

24 MR. PRICE: I'm sorry. She had  
25 a question about a project that is

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supposed to be being built by --

CHAIRMAN SCALZO: If you could just please state your name.

MR. PRICE: Sorry. My name is Cassius Price. I live at 18 Johanna Drive in Meadow Winds.

She had a question about a project that's supposed to be built by the Gardertown School.

CHAIRMAN SCALZO: Would this be The Enclave you're referring to?

MR. PRICE: Yes.

CHAIRMAN SCALZO: I've been reading social media on that. I did see some folks thought this was the forum they could come and talk about that. This is the Zoning Board of Appeals. What The Enclave is appearing in front of is either the Planning Board or perhaps the Town Board.

MR. HERMANCE: The Town Board.

CHAIRMAN SCALZO: In this case, please keep your eyes on the Town's

2 website. The agendas will appear  
3 there. They welcome comments from  
4 everyone. It makes a difference. So  
5 I appreciate that you came here  
6 thinking that tonight was the night  
7 for that.

8 MR. PRICE: She dragged me here.

9 MR. BELL: Good man.

10 CHAIRMAN SCALZO: Thank you for  
11 your honesty.

12 MR. DONOVAN: The fourth Thursday  
13 of every month.

14 MR. PRICE: No problem.

15 CHAIRMAN SCALZO: She supported  
16 Mr. Millen's project and he's very happy.

17 MR. PRICE: You guys have a good night.

18 CHAIRMAN SCALZO: The only other two  
19 members of the public happen to be  
20 walking out the door right now, so my  
21 assumption is there are no other comments.

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

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

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MR. BELL: Second.

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

MR. EBERHART: Aye.

MR. HERMANCE: Aye.

MR. BELL: Aye.

MR. MASTEN: Aye.

CHAIRMAN SCALZO: Aye.

Great. Now Counsel, this one might be different.

MR. DONOVAN: But it's not.

CHAIRMAN SCALZO: It's not. This is great. I didn't have to change my sheet at all.

Discussing the five factors, the first one being whether or not the benefit sought by the applicant can be achieved by other means feasible. Not exterior. I assume that interior storage, which slabs of granite or stone don't need to be stored inside. So, no. I would say no.



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Second, if there's an undesirable change in the neighborhood character or a detriment to nearby properties. With the elevation back there, I don't think anybody is going to see it.

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

The fourth, whether the request will have adverse physical or environmental effects. Again, it's just storage of stone. Very natural.

And the fifth, whether the alleged difficulty is self-created, which is relevant but not determinative. Of course it's self-created. That doesn't necessarily work into our decision.

So therefore, having gone through the balancing tests, does the Board have a motion of some sort?

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

MR. EBERHART: Second.

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CHAIRMAN SCALZO: We have a motion for approval from Mr. Hermance with a second from Mr. Eberhart.

Can you roll on that, Siobhan?

MS. JABLESNIK: Mr. Bell?

MR. BELL: Yes.

MS. JABLESNIK: Mr. Eberhart?

MR. EBERHART: Yes.

MS. JABLESNIK: Mr. Hermance?

MR. HERMANCE: Yes.

MS. JABLESNIK: Mr. Masten?

MR. MASTEN: Yes.

MS. JABLESNIK: Mr. Scalzo?

CHAIRMAN SCALZO: Yes.

The motion is carried. The variances are approved.

Sorry you had to come back, but you're aware of the procedure.

MR. MILLEN: I appreciate all of your input.

CHAIRMAN SCALZO: Plus you got some great testimony.

(Time noted: 7:39 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 5th day of May 2023.

*Michelle Conero*  
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MICHELLE CONERO

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

- - - - - X  
In the Matter of

SAM NEWBURGH, LLC

1420 Route 300, Newburgh  
Section 60; Block 3; Lot 22.222  
IB Zone

- - - - - X

Date: April 27, 2023  
Time: 7:39 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, New York

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

ALSO PRESENT: DAVID DONOVAN, ESQ.  
JOSEPH MATTINA  
SIOBHAN JABLESNIK

- - - - - X

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

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CHAIRMAN SCALZO: Our last bit of other Board business, we have SAM Newburgh, LLC requesting a six-month extension for the Planning Board referral. The variance was granted at the October 27, 2022 meeting. They're at their six-month limit here.

I personally have no issue with that.

If we could look for a motion for a six-month extension for SAM Newburgh, LLC.

MR. BELL: I'll make a motion for a six-month extension for SAM Newburgh, LLC.

CHAIRMAN SCALZO: Thank you, Mr. Bell.

Do we have a second on that?

MR. HERMANCE: I'll second.

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

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MR. EBERHART: Aye.

MR. HERMANCE: Aye.

MR. BELL: Aye.

MR. MASTEN: Aye.

CHAIRMAN SCALZO: Aye.

All right. Let's see. We have to approve the meeting minutes for the March meeting.

I will make the motion to approve the March meeting minutes.

MR. MASTEN: I'll second.

CHAIRMAN SCALZO: A motion from me and a second from Mr. Masten. All in favor?

MR. EBERHART: Aye.

MR. HERMANCE: Aye.

MR. BELL: Aye.

MR. MASTEN: Aye.

CHAIRMAN SCALZO: Aye.

Does anybody else have any other comments?

(No response.)

CHAIRMAN SCALZO: Is there any training coming up or anything?

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Typically in the month of May, don't we get something from the County about the Board Members meeting in Chester or something? We'll look for it.

I'll look to the Board for a motion to adjourn.

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

CHAIRMAN SCALZO: I'll second it. All in favor?

MR. EBERHART: Aye.

MR. HERMANCE: Aye.

MR. BELL: Aye.

MR. MASTEN: Aye.

CHAIRMAN SCALZO: Aye.

(Time noted: 7:42 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 5th day of May 2023.

*Michelle Conero*

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MICHELLE CONERO