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STATE OF NEW YORK : COUNTY OF ORANGE
TOWN OF NEWBURGH ZONING BOARD OF APPEALS
----- X
In the Matter of

RIVER LINK HOTELS, LLC
Route 17K, Newburgh
Section 95; Block 1; Lots 49.122 & 80
IB Zone

----- X

Date: August 25, 2022
Time: 7:00 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, New York

BOARD MEMBERS: DARRIN SCALZO, Chairman
DARRELL BELL
ROBERT GRAMSTAD
DONNA REIN

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

----- X

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

1 RIVER LINK HOTELS, LLC

2 CHAIRMAN SCALZO: I'd like to
3 call the meeting of the Zoning Board
4 of Appeals to order. The order of
5 business this evening are the public
6 hearings that have been scheduled.
7 The procedure of the Board is that
8 the applicant will be called upon to
9 step forward, state their request and
10 explain why it should be granted.
11 The Board will then ask the applicant
12 any questions it may have, and then
13 any questions or comments from the
14 public will be entertained. The
15 Board will then consider the
16 applications and will try to render a
17 decision this evening but may take up
18 to 62 days to reach a determination.

19 I would ask if you have a
20 cellphone, please turn it off or put
21 it on silent. When speaking, speak
22 directly into the microphone as it is
23 being recorded.

24 Roll call, please.

25 MS. JABLESNIK: Darrell Bell.

1 RIVER LINK HOTELS, LLC

2 MR. BELL: Here.

3 MS. JABLESNIK: James Eberhart
4 is absent.

5 Robert Gramstad.

6 MR. GRAMSTAD: Here.

7 MS. JABLESNIK: Greg Hermance
8 is also absent.

9 John Masten is also absent.

10 Donna Rein.

11 MS. REIN: Here.

12 MS. JABLESNIK: Darrin Scalzo.

13 CHAIRMAN SCALZO: Here.

14 MS. JABLESNIK: Also present is
15 our attorney, Dave Donovan; from Code
16 Compliance, Joe Mattina.

17 CHAIRMAN SCALZO: Very good.

18 As you all just heard during roll
19 call, we are short on Board Members
20 this evening. We have four voting
21 Members here for what we're going to
22 be discussing for the public hearings
23 this evening. Therefore, anything we
24 vote on this evening must be a
25 unanimous vote. If any one of the

1 RIVER LINK HOTELS, LLC

2 Members vote no and the others vote
3 yes, it does not work. It doesn't
4 carry.

5 Counsel, correct me when I go
6 wrong on that.

7 MR. DONOVAN: You're entirely
8 right, Mr. Chairman. It's a seven
9 Member Board. In order for any
10 motion to pass it needs all four
11 votes. Typically what the Board does
12 -- this doesn't happen very
13 frequently. When it does happen we
14 afford each applicant the ability to
15 defer and delay the vote until there
16 is either a full compliment or close
17 to a full compliment of Board
18 Members. We would anticipate in
19 September that all seven Members will
20 be here. I don't want to influence
21 you one way or another, but you may
22 wish to consider asking the Board to
23 defer the vote, because otherwise any
24 no vote by a Board Member, you lost
25 your cause, at least temporarily.

1 RIVER LINK HOTELS, LLC

2 CHAIRMAN SCALZO: Very good.

3 If you'd all please rise for
4 the Pledge. Mr. Gramstad, you've got
5 the hot chair.

6 (Pledge of Allegiance.)

7 CHAIRMAN SCALZO: Our first
8 applicant this evening -- we do have
9 one held open from last month's
10 meeting, River Link Hotels, LLC,
11 Route 17K, who was seeking an
12 interpretation of Section 185-27 D(1)
13 for kitchen facilities in hotel and
14 motel units.

15 We have reached out to the
16 applicant, as well as other parties
17 that were interested in this, and let
18 them know that we were going to be
19 short this evening. They have asked
20 for a deferment until next month's
21 meeting.

22 MR. DONOVAN: Actually, since
23 you would have to recuse, there would
24 only be three Members and not a
25 quorum to consider that application.

1 RIVER LINK HOTELS, LLC

2 If anybody is here for the
3 River Link Hotels, that matter will
4 be heard in September.

5 You should at least vote on the
6 motion to continue the public hearing
7 until September.

8 CHAIRMAN SCALZO: Very good.
9 I'll look to the Board for a motion
10 to extend the public hearing to
11 September.

12 MR. BELL: I'll make a motion
13 to extend the public hearing to
14 September.

15 MR. GRAMSTAD: I'll second it.

16 CHAIRMAN SCALZO: Thank you.
17 We had a motion from Mr. Bell. We
18 had a second from Mr. Gramstad. All
19 in favor?

20 MR. GRAMSTAD: Aye.

21 MR. BELL: Aye.

22 MS. REIN: Aye.

23 CHAIRMAN SCALZO: Aye.

24 All opposed?

25 (No response.)

1 RIVER LINK HOTELS, LLC

2 CHAIRMAN SCALZO: Thank you.

3

4 (Time noted: 7:04 p.m.)

5

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

7

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

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

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

18 IN WITNESS WHEREOF, I have hereunto
19 set my hand this 2nd day of September 2022.

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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

BEN & ROSMER ARRINGTON
16 Copper Rock Road, Walden
Section 125; Block 1; Lot 8
R-1 Zone

----- X

Date: August 25, 2022
Time: 7:05 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, New York

BOARD MEMBERS: DARRIN SCALZO, Chairman
DARRELL BELL
ROBERT GRAMSTAD
DONNA REIN

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

APPLICANT'S REPRESENTATIVES: BEN & ROSMER
ARRINGTON

----- X

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

1 BEN & ROSMER ARRINGTON

2 CHAIRMAN SCALZO: Okay. Our
3 first applicant this evening is Ben
4 and Rosmer Arrington on 16 Copper
5 Rock Road in Walden in an R-1 Zone.
6 They're seeking an area variance of
7 the front yard, which is Rock Cut
8 Road, to install a 14 by 30 foot
9 inground pool.

10 Do we have mailings on that,
11 Siobhan?

12 MS. JABLESNIK: Yes. This
13 applicant sent out 24 letters. They
14 were also mailed to the County and we
15 received that back, a Local
16 determination.

17 CHAIRMAN SCALZO: Very good.
18 Thank you very much.

19 Who do we have here this
20 evening?

21 MS. ARRINGTON: It's Rosmer and
22 Ben.

23 CHAIRMAN SCALZO: Very good.
24 If I've captured the application here
25 -- I actually cruised through that

1 BEN & ROSMER ARRINGTON

2 neighborhood today. It makes sense
3 to me. You have Copper Rock Road
4 which your house faces on. Your
5 backyard is down on Rock Cut,
6 although your map doesn't show that.
7 It would have been easier for the
8 other people on the Board to
9 understand that. So that's why we're
10 here.

11 If I've captured everything
12 that you're seeking here tonight,
13 that's fine. If you have anything
14 that you'd like to add to that before
15 we turn it over to the Board and the
16 members of the public, feel free.

17 MR. ARRINGTON: Just thank you
18 guys for giving us this opportunity
19 to --

20 MR. DONOVAN: They didn't vote
21 yet.

22 CHAIRMAN SCALZO: Very good.
23 As I said, I was just through there
24 this evening, a few hours ago, and I
25 really don't have any comments. It

1 BEN & ROSMER ARRINGTON

2 appears as though, from your site
3 plan here, you won't be able to see
4 the pool from even your neighbors.
5 Perhaps in the winter, but I don't
6 think that's going to be an issue.
7 It appears in character with the
8 neighborhood to me. I am one of, in
9 this case four.

10 I'm going to look to my left.
11 Ms. Rein, do you have any comments on
12 this?

13 MS. REIN: No, I don't.

14 CHAIRMAN SCALZO: Mr. Bell?

15 MR. BELL: No.

16 CHAIRMAN SCALZO: Mr. Gramstad?

17 MR. GRAMSTAD: No.

18 CHAIRMAN SCALZO: Very good.

19 At this point I'll open it up to any
20 members of the public that wish to
21 speak about this application.

22 (No response.)

23 CHAIRMAN SCALZO: Seeing none,
24 one last opportunity for the Board.

25 (No response.)

1 BEN & ROSMER ARRINGTON

2 CHAIRMAN SCALZO: I'll look to
3 the Board for a motion to close the
4 public hearing, please.

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

7 MS. REIN: Second.

8 CHAIRMAN SCALZO: We have a
9 motion to close the public hearing
10 from Mr. Bell. We have a second from
11 Ms. Rein. All in favor?

12 MR. BELL: Aye.

13 MR. GRAMSTAD: Aye.

14 MS. REIN: Aye.

15 CHAIRMAN SCALZO: Aye.

16 All opposed?

17 (No response.)

18 CHAIRMAN SCALZO: Very good.
19 I'm trying to help you. Sit tight.

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

22 MR. DONOVAN: Correct, Mr.
23 Chairman.

24 CHAIRMAN SCALZO: Very good.
25 We are going to proceed through the

1 BEN & ROSMER ARRINGTON

2 area variance criteria, the first one
3 being whether or not the benefit can
4 be achieved by other means feasible
5 to the applicant. That's the benefit
6 that they are seeking. It does not
7 appear so in this case.

8 MR. BELL: No.

9 CHAIRMAN SCALZO: The second,
10 if there's an undesirable change in
11 the neighborhood character or a
12 detriment to nearby properties. From
13 my site visit, I wouldn't consider
14 that to be a detriment.

15 MR. BELL: No.

16 CHAIRMAN SCALZO: Third,
17 whether the request is substantial.
18 Substantial because they have road
19 frontage -- two front yards. You
20 can't see -- I don't believe so.

21 Any adverse physical or
22 environmental affects.

23 MR. BELL: None.

24 MR. GRAMSTAD: No.

25 MS. REIN: No.

1 BEN & ROSMER ARRINGTON

2 CHAIRMAN SCALZO: It would not
3 appear so as well.

4 The fifth, whether the alleged
5 difficulty is self-created which is
6 relevant but not determinative. Of
7 course it's self-created. It doesn't
8 necessarily have to play into the way
9 we're voting this evening.

10 So having gone through the
11 balancing test for the area variance,
12 does the Board have a motion of some
13 sort?

14 MR. GRAMSTAD: I'll make a
15 motion to approve their variance.

16 MS. REIN: I'll second.

17 CHAIRMAN SCALZO: We have a
18 motion from Mr. Gramstad. We have a
19 second from Ms. Rein. Roll on that,
20 please, Siobhan.

21 MS. JABLESNIK: Mr. Bell?

22 MR. BELL: Yes.

23 MS. JABLESNIK: Mr. Gramstad?

24 MR. GRAMSTAD: Yes.

25

1 B E N & R O S M E R A R R I N G T O N

2 MS. JABLESNIK: Ms. Rein?

3 MS. REIN: Yes.

4 MS. JABLESNIK: Mr. Scalzo?

5 CHAIRMAN SCALZO: Yes.

6 The motions are carried. The
7 variance is approved. Good luck.

8 MS. ARRINGTON: Thank you.

9 MR. ARRINGTON: Thank you.

10

11 (Time noted: 7:11 p.m.)

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BEN & ROSMER ARRINGTON

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 2nd day of September 2022.

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

JOSEPH COLANDREA
5 Cronomer Heights Drive, Newburgh
Section 75; Block 1; Lot 1.331
R-3 Zone

----- X

Date: August 25, 2022
Time: 7:11 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, New York

BOARD MEMBERS: DARRIN SCALZO, Chairman
DARRELL BELL
ROBERT GRAMSTAD
DONNA REIN

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

APPLICANT'S REPRESENTATIVES: JOSEPH COLANDREA
and ROLAND BLOOMER

----- X

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

1 JOSEPH COLANDREA

2 CHAIRMAN SCALZO: Our second
3 applicant this evening would be
4 Joseph Colandrea, 5 Cronomer Heights
5 Drive, seeking an area variance for a
6 rear yard to keep a 20 by 22 foot
7 rear deck built without a permit.

8 Do we have mailings on that,
9 Siobhan?

10 MS. JABLESNIK: Yes. This
11 applicant sent out 4.

12 CHAIRMAN SCALZO: 4?

13 MS. JABLESNIK: 4 letters.

14 CHAIRMAN SCALZO: Not the
15 winner tonight.

16 All right. It's again another
17 straightforward application. Since
18 you're standing here, why don't you
19 go ahead and let us know anything
20 that I may not have said.

21 MR. BLOOMER: Good afternoon.
22 May it please the Board, I am Roland
23 Bloomer on behalf of Joseph Colandrea
24 who is standing here with me.

25 The application was submitted

1 JOSEPH COLANDREA

2 because when Mr. Colandrea bought the
3 property the deck was already there.
4 The neighbors can't see the deck. It
5 doesn't encroach on their property.
6 It doesn't have any adverse effect as
7 far as I can tell. It's been there.
8 We did not bring it to the
9 neighborhood.

10 CHAIRMAN SCALZO: Thank you.
11 It's pretty straightforward. Having
12 been there today again, I don't think
13 you can see that deck from any other
14 property. Perhaps in the winter if
15 you're standing at the top of the
16 hill. Quite the odd property line.
17 You're mowing a little more than you
18 should have been apparently. At
19 least that's according to the site
20 plan.

21 I have no comments on this.

22 I'm going to start on my right
23 side. Mr. Gramstad, do you have any
24 comments on this?

25 MR. GRAMSTAD: No. None at

1 JOSEPH COLANDREA

2 all.

3 CHAIRMAN SCALZO: No.

4 MR. BELL: None.

5 CHAIRMAN SCALZO: Mr. Bell, no.

6 Ms. Rein?

7 MS. REIN: I do.

8 CHAIRMAN SCALZO: Okay.

9 MS. REIN: On page 2 of 5 on
10 the short environmental assessment
11 form, will the proposed action result
12 in a substantial increase in traffic
13 above present levels, and it says no.
14 Then are public transportation
15 services available at or near the
16 site of the proposed action. Are any
17 pedestrian accommodations or bicycle
18 routes available on any of the site
19 of the proposed action. Both of
20 those are yes.

21 MR. BLOOMER: They should both
22 be no. You're correct. The road is
23 there. Down the road there is a
24 park. It has that access to buses
25 and stuff. It's a rear deck in back

1 JOSEPH COLANDREA

2 of the house.

3 MS. REIN: Thank you.

4 CHAIRMAN SCALZO: All right.

5 We're going to modify your SEQRA

6 document here.

7 MR. DONOVAN: Although when you

8 get to it, it's a Type 2 action.

9 CHAIRMAN SCALZO: Correct.

10 MR. DONOVAN: It's not subject

11 to --

12 CHAIRMAN SCALZO: Thank you,

13 Counsel.

14 Ms. Rein, anything else?

15 MS. REIN: No. That's it.

16 CHAIRMAN SCALZO: Okay. At

17 this point I'll open it up to any

18 members of the public that wish to

19 speak about this application.

20 (No response.)

21 CHAIRMAN SCALZO: Anyone?

22 (No response.)

23 CHAIRMAN SCALZO: It does not

24 appear so.

25 One last look to the Board.

1 JOSEPH COLANDREA

2 MR. BELL: No.

3 MR. GRAMSTAD: No.

4 MS. REIN: No.

5 CHAIRMAN SCALZO: Then I will
6 look to the Board for a motion to
7 close the public hearing.

8 MR. GRAMSTAD: I'll make a
9 motion to close the public hearing.

10 MS. REIN: I'll second it.

11 CHAIRMAN SCALZO: We have a
12 motion from Mr. Gramstad. We have a
13 second, it sounded like Mr. Bell.

14 MR. BELL: Ms. Rein.

15 CHAIRMAN SCALZO: Ms. Rein.

16 All in favor?

17 MR. BELL: Aye.

18 MR. GRAMSTAD: Aye.

19 MS. REIN: Aye.

20 CHAIRMAN SCALZO: Aye.

21 All opposed?

22 (No response.)

23 CHAIRMAN SCALZO: Very good.

24 All right. Again here we are
25 at a Type 2 action under SEQRA. I'm

1 JOSEPH COLANDREA

2 going to go through the balancing
3 test again. First, if the benefit
4 can be achieved by other means
5 feasible to the applicant. Well it's
6 a forgiveness issue rather than a
7 permission issue. It's not created
8 by the current owner. Unless we ask
9 him to remove it, I would say no.

10 The second, if there's an
11 undesirable change in the
12 neighborhood character or a detriment
13 to nearby properties.

14 MR. BELL: No.

15 MR. GRAMSTAD: No.

16 CHAIRMAN SCALZO: I would agree.

17 The third, whether the request
18 is substantial. With the topography
19 -- you know, if you look at the rear
20 yard setbacks, by the numbers it
21 appears it may be. With the
22 topography there it really doesn't
23 appear to be.

24 The fourth, whether the request
25 will have adverse physical or

1 JOSEPH COLANDREA

2 environmental effects. Well it's
3 already in place, and it has been for
4 many years apparently. I would say
5 no.

6 The fifth, whether the alleged
7 difficulty is self-created, which we
8 just heard testimony from the
9 applicant that it was not self-
10 created. They purchased the building
11 in that condition.

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

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

18 MS. REIN: I'll second it.

19 CHAIRMAN SCALZO: We have a
20 motion for approval from Mr. Bell.
21 We have a second from Ms. Rein. Can
22 you roll on that, please, Siobhan.

23 MS. JABLESNIK: Mr. Bell?

24 MR. BELL: Yes.

25 MS. JABLESNIK: Mr. Gramstad?

1 JOSEPH COLANDREA

2 MR. GRAMSTAD: Yes.

3 MS. JABLESNIK: Ms. Rein?

4 MS. REIN: Yes.

5 MS. JABLESNIK: Mr. Scalzo?

6 CHAIRMAN SCALZO: Yes.

7 The variance is granted. The
8 motion is approved. You can now sell
9 your house.

10 MR. BLOOMER: Thank you.

11

12 (Time noted: 7:17 p.m.)

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JOSEPH COLANDREA

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 2nd day of September 2022.

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

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

----- X

Date: August 25, 2022
Time: 7:17 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, New York

BOARD MEMBERS: DARRIN SCALZO, Chairman
DARRELL BELL
ROBERT GRAMSTAD
DONNA REIN

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

APPLICANT'S REPRESENTATIVES: GEORGE KEYER and
SENER YIACOUP

----- X

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

1 G K P C O N S T R U C T I O N

2 CHAIRMAN SCALZO: Our next
3 applicant is GKP Construction, 32
4 Sloane Road in Newburgh, seeking an
5 area variance of a 22 by 32 by 15
6 foot accessory structure in the front
7 yard. This is very similar to the
8 previous applicant.

9 Do we have mailings on this,
10 Siobhan?

11 MS. JABLESNIK: Yes. This
12 applicant sent out 47 letters.

13 CHAIRMAN SCALZO: 47 mailings.
14 Okay. And River Road is not a County
15 road.

16 MS. JABLESNIK: No, sir.

17 CHAIRMAN SCALZO: We are in
18 great shape. We can continue.

19 I was at the site this evening
20 again. We have some seasoned Members
21 of the Board that made a second visit
22 there. What a view.

23 MR. BELL: It's nice.

24 CHAIRMAN SCALZO: Anyway, here
25 they are seeking a pavilion. The

1 G K P C O N S T R U C T I O N

2 maximum height of this pavilion is 15
3 feet. We're not looking for a
4 variance for height here because
5 accessory structures are allowed at
6 15 feet. What we're looking for here
7 is they're going to be exceeding
8 building coverage.

9 Is that correct, Mr. Mattina?

10 I believe so. The chart I have
11 in front of me, as soon as I get to
12 the chart in front of me.

13 MR. MATTINA: Square footage
14 and front yard.

15 CHAIRMAN SCALZO: Square
16 footage and front yard. The front
17 yard being River Road, which you
18 cannot see from the site, is the
19 other street frontage.

20 Again, very similar to the
21 Copper Rock application that we had.

22 This is a sizable piece of
23 property. Again, it's not a great
24 cause of concern to me.

25 That being said, I'll go back

1 G K P C O N S T R U C T I O N

2 and start with Mr. Gramstad.

3 MR. GRAMSTAD: No. I was there
4 the other day. I have no questions.

5 CHAIRMAN SCALZO: You can see
6 the outline of where they have the
7 block.

8 MR. GRAMSTAD: Yup.

9 CHAIRMAN SCALZO: Very good.
10 Mr. Bell?

11 MR. BELL: No.

12 CHAIRMAN SCALZO: Ms. Rein?

13 MS. REIN: There are two
14 questions that weren't answered.
15 They're probably insignificant but I
16 would like to get an answer. The one
17 is on the short environmental
18 assessment form, page 1, the first
19 question, does the proposed action
20 only involve the legislative adoption
21 of a plan, local law, ordinance,
22 administrative rule or regulation,
23 yes or no.

24 MR. KEYER: No.

25 MS. REIN: On page 2 of 5, is

1 G K P C O N S T R U C T I O N

2 the proposed action consistent with
3 the adopted comprehensive plan.

4 MR. KEYER: Yes.

5 MS. JABLESNIK: And a permitted
6 use under the zoning regulations.

7 MS. REIN: Okay. That's it.
8 Thank you.

9 MS. JABLESNIK: Number 1 was
10 no?

11 MS. REIN: Number 1 was no.

12 MS. JABLESNIK: Okay.

13 CHAIRMAN SCALZO: Very good.

14 Any other questions from the Board?

15 (No response.)

16 CHAIRMAN SCALZO: At this point
17 I'll look to any members of the
18 public that wish to comment on the 32
19 Sloane Road application.

20 (No response.)

21 CHAIRMAN SCALZO: We had people
22 in support of it last time you were
23 here. I guess they figured you
24 didn't need their help this time.
25 Very good.

1 G K P C O N S T R U C T I O N

2 One last look to the Board.

3 Any other comments?

4 (No response.)

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

8 MR. GRAMSTAD: I'll make a
9 motion to close the public hearing.

10 MS. REIN: I'll second.

11 CHAIRMAN SCALZO: We have a
12 motion to close the public hearing
13 from Mr. Gramstad. We have a second
14 from Ms. Rein. All in favor?

15 MR. BELL: Aye.

16 MR. GRAMSTAD: Aye.

17 MS. REIN: Aye.

18 CHAIRMAN SCALZO: Aye.

19 All opposed?

20 (No response.)

21 CHAIRMAN SCALZO: Very good.

22 And again here we are with a Type 2
23 action under SEQRA. The first factor
24 being whether or not the benefit can
25 be achieved by other means feasible

1 G K P C O N S T R U C T I O N

2 to the applicant. Sure they could
3 downsize it a little bit. Having
4 been on the site, having seen the
5 size of the property, having seen the
6 relation to anything that the
7 neighbors could see, I don't have any
8 opposition there.

9 The second, if there's an
10 undesirable change in the neighborhood
11 character or a detriment to nearby
12 properties.

13 MR. BELL: None.

14 CHAIRMAN SCALZO: None.

15 The third, whether the request
16 is substantial. Perhaps by the
17 numbers. However, again, with the
18 size of the lot, that's inconsequential
19 to me.

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

23 MR. BELL: No.

24 MR. GRAMSTAD: No.

25 MS. REIN: No.

1 G K P C O N S T R U C T I O N

2 CHAIRMAN SCALZO: No. It does
3 not appear so.

4 And the fifth, whether the
5 alleged difficulty is self-created
6 which is relevant but not determinative.
7 Of course it's self-created.

8 Moving forward. Does the Board
9 have a motion of some sort?

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

12 MS. REIN: I'll second.

13 CHAIRMAN SCALZO: We have a
14 motion for approval from Mr. Bell.
15 It sounded like we had a second from
16 Ms. Rein. Roll on that, please,
17 Siobhan.

18 MS. JABLESNIK: Mr. Bell?

19 MR. BELL: Yes.

20 MS. JABLESNIK: Mr. Gramstad?

21 MR. GRAMSTAD: Yes.

22 MS. JABLESNIK: Ms. Rein?

23 MS. REIN: Yes.

24 MS. JABLESNIK: Mr. Scalzo?

25 CHAIRMAN SCALZO: Yes.

1 G K P C O N S T R U C T I O N

2 The motion is carried. The
3 variances are approved. Thank you.

4 MR. KEYER: I appreciate it.

5

6 (Time noted: 7:25 p.m.)

7

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

9

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

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

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

20 IN WITNESS WHEREOF, I have hereunto
21 set my hand this 2nd day of September 2022.

22

23

24

25

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

2102 PARTNERS, LLC
2102 Route 300, Wallkill
Section 3; Block 1; Lot 21.31
AR Zone

----- X

Date: August 25, 2022
Time: 7:25 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, New York

BOARD MEMBERS: DARRIN SCALZO, Chairman
DARRELL BELL
ROBERT GRAMSTAD
DONNA REIN

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

APPLICANT'S REPRESENTATIVES: JOHN FURST and
DOUGLAS CASSCLES

----- X

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

1 2102 PARTNERS, LLC

2 CHAIRMAN SCALZO: Our next
3 applicant is 2102 Partners, LLC at
4 2102 Route 300 in Wallkill. They're
5 seeking an interpretation of the Town
6 of Newburgh Municipal Code Section
7 185-54-A-1, is this proposed use
8 permitted under the previously
9 approved use variance from 1982 and
10 interpretation from 2018. Applicant
11 seeks a change of occupancy from WCC
12 Tank to BlackRock Excavating.

13 Do we have mailings on this,
14 Siobhan?

15 MS. JABLESNIK: Yes. This
16 applicant sent out 25 mailings.

17 CHAIRMAN SCALZO: 25 mailings.
18 Very good.

19 Who do we have with us this
20 evening?

21 MR. FURST: Good evening. My
22 name is John Furst. I'm an attorney
23 at Catania, Mahon & Rider in
24 Newburgh, New York. I represent the
25 applicant, D. Cass, Jr., LLC, as well

1 2102 PARTNERS, LLC

2 as BlackRock Excavating. It's two
3 entities but one principal. It's
4 Doug Casscles. He's right here
5 tonight. He's going to speak a
6 little bit after.

7 I'm just going to give a brief
8 introduction of what we're trying to
9 achieve here for the Board. So we're
10 looking to continue a commercial
11 operation at the property located at
12 2102 Route 300. There's an existing
13 commercial use that's based upon a
14 use variance that the Zoning Board
15 had granted back in 1982.

16 What Doug is looking for is
17 he's looking for an interpretation
18 from the Zoning Board that his
19 proposed use, which is very similar
20 to WCC's current use, can operate
21 under the 1982 use variance.

22 As you know, it's well settled
23 that use variances, according to the
24 law, they run with the land. They
25 don't stop when you transfer the

1 2102 PARTNERS, LLC

2 land. The use itself carries through
3 throughout the life of the property.

4 He's under contract to purchase
5 the property. WCC is attempting to
6 vacate and relocate the property. It
7 would just be Doug's business on the
8 site. No longer WCC. No longer
9 Hydrovac. There's going to be no
10 association. Doug is, again, the
11 only sole principal of BlackRock
12 Excavating.

13 Again, BlackRock's business is
14 very similar to WCC's. All work --
15 like WCC's, all of Doug's work is
16 conducted offsite. He's working
17 offsite with his crew.

18 He's not expanding the existing
19 building. There's an existing
20 building there. The building has an
21 office which will remain. It has
22 storage which will remain. It's also
23 used as a maintenance area, which
24 will also remain. So that use is not
25 changing.

1 2102 PARTNERS, LLC

2 In addition, similar to WCC's
3 operations, Doug has a crew. They
4 come in in the morning, they meet,
5 they talk, they plan out the day, and
6 in the morning they roll out and they
7 go to the various offsite locations
8 where they do their work. That's
9 kind of how it works for WCC. Then
10 they come back in the evening and
11 then, you know, they go home.

12 Similar to WCC, Doug is looking
13 to store some outdoor equipment and
14 vehicles on site. The essential
15 character of WCC's use will not
16 change. Again, the use itself. The
17 work is conducted offsite. The
18 building and the meeting of the
19 employees and the outdoor storage,
20 that's not changing. That use we
21 believe runs with the land. We're
22 looking for confirmation from this
23 Zoning Board.

24 Overall I think -- I know
25 there's been a history with this

1 2102 PARTNERS, LLC

2 site. I know there's been at least
3 two interpretations by the Zoning
4 Board within the last five years. I
5 know there's been a court case on
6 this property. I think Doug is
7 looking to work with the neighbors.
8 He's already reached out to some of
9 the local neighbors. I think this is
10 an opportunity to clean up the site.
11 He thinks it's an opportunity to
12 improve the site. He doesn't need
13 the drums there. He doesn't need the
14 containers that are there. He can
15 adjust whatever lighting needs to be
16 adjusted. He can add whatever
17 screening the neighbors and the Board
18 feels is necessary.

19 There was a site plan associated
20 with that 1982 variance, unfortunately
21 nobody can find it. So here we have
22 an opportunity to not only clean up
23 the site, but also to finally put on
24 paper once and for all how the site
25 should be operated. So Doug is

1 2102 PARTNERS, LLC

2 looking at this as an opportunity not
3 just for him but for the Town and the
4 neighbors to clean this up.

5 Without further ado.

6 MR. CASSCLES: Good evening,
7 ladies and gentlemen. My name is Doug
8 Casscles. I'm the owner and the
9 operator of BlackRock Excavating. We
10 started about twelve years ago. I'm
11 a graduate of Goshen High School.
12 I'm born and raised in Orange County.
13 It's important for me to do things
14 right. That's why I'm here. It was
15 suggested that I just purchase the
16 building and move in, and I didn't.
17 I wrote a letter asking for
18 permission. They denied it and we're
19 here doing it right is what we're
20 interested in.

21 I know the history of the
22 building. My attorney filled me in
23 after we went into contract. This is
24 all a little bit of a big surprise to
25 me. I'm 37 years old. This is the

1 2102 PARTNERS, LLC

2 first time I'm doing something like
3 this. I just want to make sure it's
4 done right.

5 We've met with -- my CFO has
6 gone and met with all the neighbors.
7 There's definitely a history there.
8 We're looking to make friends, not
9 enemies. That's another reason why
10 we're here, we want friends, not
11 enemies.

12 CHAIRMAN SCALZO: Thank you.
13 If that concludes the presentation --

14 MR. FURST: That concludes our
15 presentation, yes.

16 CHAIRMAN SCALZO: Very good.
17 I'm just going to go back. As we
18 started the meeting this evening, we
19 have four Members of seven. We can
20 continue and open the meeting up to
21 any comments -- the Board is going to
22 comment anyway. We will open it up
23 to members of the public to ask any
24 questions or provide any comments
25 that they have as well. It might be

1 2102 PARTNERS, LLC

2 premature of me to ask you this now,
3 but would you be looking for us to
4 get as far as we can this evening or
5 would you prefer to defer or request
6 to keep the public hearing open for
7 an additional month so there is
8 perhaps a full slate?

9 MR. FURST: So I would
10 absolutely like to hear comments from
11 the Board tonight as well as the
12 public. Again, we're looking to work
13 with the Town and the residents.

14 As far as whether we want to
15 close the public hearing, let's just
16 take it one step at a time. As far
17 as whether we want to defer, we might
18 not have a choice because you may
19 keep the public hearing open,
20 regardless, if there's more
21 information that you need or if
22 there's something we need to address.
23 If I can just kind of defer on those
24 last two decisions. I'd like to hear
25 the comments first before I make that

1 2102 PARTNERS, LLC

2 final decision.

3 CHAIRMAN SCALZO: Very good.

4 Then we will continue.

5 Mr. Gramstad, do you have any
6 comments regarding this application?

7 MR. GRAMSTAD: What kind of
8 equipment are you looking to park
9 outside?

10 CHAIRMAN SCALZO: Actually, I
11 think we have an equipment list that
12 came with the application.

13 MR. GRAMSTAD: That's right.

14 MR. CASSCLES: I can answer
15 that question.

16 CHAIRMAN SCALZO: Feel free.

17 MR. CASSCLES: Small equipment.
18 We're not a big company. Everything
19 is -- most of everything is rubber
20 tracked. All of our trucks are new.
21 I think the oldest thing we have is a
22 2019. We're not going to be worried
23 about oil leaks or noises or anything
24 like that. Everything we have is
25 small, new, clean. You're more than

1 2102 PARTNERS, LLC

2 welcome to come take a look.

3 MS. REIN: All of the vehicles
4 that are listed are the ones you're
5 talking about?

6 MR. CASSCLES: Yes, ma'am.

7 MS. REIN: No changes?

8 MR. CASSCLES: Not as of right
9 now, no.

10 CHAIRMAN SCALZO: Hang on.
11 Since you're standing --

12 MR. CASSCLES: I'll just stay
13 here.

14 CHAIRMAN SCALZO: That's
15 probably fine. I did visit your
16 website. I hope it's your website.
17 Are you currently located in another
18 town?

19 MR. CASSCLES: Salisbury Mills.

20 CHAIRMAN SCALZO: Very good.
21 So typically you guys are -- it
22 appeared that you're septic related
23 mostly, what you do as far as
24 excavation goes.

25 MR. CASSCLES: Yes, sir.

1 2102 PARTNERS, LLC

2 CHAIRMAN SCALZO: The
3 application did mention tank lining.
4 Is that something that you guys -- I
5 don't know if there's a license to be
6 able to perform that activity or not.

7 MR. CASSCLES: There is a
8 procedure to line a septic tank in a
9 situation that you can't remove it.
10 I've seen septic tanks under houses.
11 That's a perfectly reasonable reason
12 to line it. We do have the equipment
13 to do so. It is something that we
14 have done from time to time.

15 CHAIRMAN SCALZO: Okay. Thank
16 you. One of the things that I notice
17 here on the site plan is you have
18 corrals or areas for sandstone and
19 item 4.

20 MR. CASSCLES: Yes, sir.

21 CHAIRMAN SCALZO: There are
22 proposed block storage bins which
23 will be storing materials that you
24 will load onto your trucks and then
25 take out on sites --

1 2102 PARTNERS, LLC

2 MR. CASSCLES: Yes.

3 CHAIRMAN SCALZO: -- and
4 utilize it there? I'm a construction
5 guy myself. Most of the time folks
6 march in in the morning, they do
7 their thing and off they go. I can
8 only ask, you know, what's your
9 typical day? Are they loading the
10 vehicles so the crews can get out at
11 7 a.m., so 6:15 there's banging --

12 MR. CASSCLES: No.

13 CHAIRMAN SCALZO: -- because
14 there's dropping materials and
15 trucks?

16 MR. CASSCLES: Right now my
17 yard is in my backyard. It doesn't
18 wake my wife up. We load everything
19 99 percent of the time -- unless
20 something changes, we load it all the
21 day before. So in the morning we
22 generally pull in, my guys get on
23 site at 6:30, we're gone by 7,
24 usually with very little noise.

25 CHAIRMAN SCALZO: So typically

1 2102 PARTNERS, LLC

2 you're a Monday through Friday, I'll
3 say 9 to 5 -- say 7 to 4 operation?

4 MR. CASSCLES: Typically.

5 CHAIRMAN SCALZO: And only --

6 MR. CASSCLES: There are exceptions.

7 CHAIRMAN SCALZO: Weekends or
8 emergencies or something like that?

9 MR. CASSCLES: Correct.

10 CHAIRMAN SCALZO: All right.

11 I'm sure we're going to have more.

12 At this point I'm going to move over
13 to Mr. Bell.

14 Mr. Bell, do you have any
15 questions or comments?

16 MR. BELL: Not at this time.

17 CHAIRMAN SCALZO: What's going
18 to be nice is when we poll for the
19 public hearing, they may instigate us
20 to think of different things.

21 Ms. Rein?

22 MS. REIN: I'd like to hear
23 from the public.

24 CHAIRMAN SCALZO: Very good.

25 All right.

1 2102 PARTNERS, LLC

2 MR. DONOVAN: Mr. Chairman,
3 before you do that, would it make any
4 sense or helpful -- I see Ms. Rein
5 and Mr. Gramstad, I don't think
6 either of you were here for the prior
7 applications.

8 MS. REIN: No.

9 MR. DONOVAN: We spent a fair
10 amount of time talking about the 1982
11 use variance and the distinction
12 between a use variance and a pre-
13 existing nonconforming use. A pre-
14 existing nonconforming use, you'll
15 remember we had that with Scott Perri
16 Landscaping. The issue was it can't
17 be enlarged, among other things. We
18 made the determination since they
19 decided to remove some buildings. A
20 use variance is different because
21 when a use variance is issued, the
22 use variance makes it a permitted
23 use, not a preexisting nonconforming
24 use. It's a permitted use which can
25 generally expand unless there's a

1 2102 PARTNERS, LLC

2 limitation in the original grant of
3 the use variance.

4 The original grant of the use
5 variance was for a fuel tank lining
6 business. That's what this Board
7 determined. Not necessarily all of
8 you, but the Board. Code Compliance
9 first asked for their interpretation,
10 I think back in 2017, plus or minus,
11 then there was an appeal by the
12 property owner for an interpretation.
13 They wanted to do certain things with
14 the Hydrovac business. They came and
15 said basically we can't make a go of
16 it as a fuel tank lining business, we
17 need to start a new business. We
18 determined -- this Board determined
19 that that was not allowed. It was
20 outside the parameters of the
21 original use variance. They brought
22 a lawsuit. We were successful. They
23 appealed to the Appellate Division
24 and we were successful there as well.
25 Point being is that it's kind of been

1 2102 PARTNERS, LLC

2 determined that the fuel tank lining
3 business is a permitted use. It's
4 not preexisting, it's a permitted
5 use. A logical extension of the fuel
6 tank lining business would also be
7 related. I just want to kind of, you
8 know, orient you, because there's
9 already been a determination that
10 another business, in the case of WCC
11 tank, hydro excavation was not
12 permitted.

13 MS. REIN: Right.

14 MR. DONOVAN: Okay. So that
15 kind of sets the stage for the legal
16 parameters of what the Board has
17 established and what you need to
18 establish to fit your round hole in a
19 round peg -- or a round peg in a
20 round hole as opposed to something
21 different.

22 MR. CASSCLES: The difference
23 between --

24 MR. DONOVAN: You might want to
25 let Mr. Furst explain that.

1 2102 PARTNERS, LLC

2 CHAIRMAN SCALZO: So at this
3 point we're going to open the meeting
4 up to any members of the public that
5 wish to comment or speak on this
6 application.

7 Please step forward and state
8 your name.

9 MS. MCKENZIE: My name is Gayle
10 McKenzie. I thought that you were
11 going to try and clean that site up.

12 My concern is the traffic on
13 300 with the construction vehicles
14 entering and exiting and how that's
15 going to be affecting the traffic
16 there. It does get crazy there at
17 times. That's my concern.

18 Thank you.

19 CHAIRMAN SCALZO: Thank you.

20 And Counsel, help me out here.
21 Let's say this meets all the criteria
22 that we're looking for. Would this
23 still be subject to site plan approval?

24 MR. DONOVAN: No. Now, you
25 have the ability and you can retain a

1 2102 PARTNERS, LLC

2 traffic consultant. I'm not saying
3 that you should do that. I think you
4 probably, at some point in time,
5 would want a comparison of -- I'm not
6 telling you what to do -- existing
7 use versus new use. Is there going
8 to be an increase in traffic. I
9 think you want to have that
10 information before you determine
11 whether or not you want to engage the
12 services of somebody else.

13 The request is for an interpretation.
14 If the interpretation is granted, the
15 new of owner comes in and operates. It
16 doesn't go to the Planning Board.
17 There's no subdivision.

18 CHAIRMAN SCALZO: Very good.
19 Thank you, Counsel.

20 In the back.

21 MS. PESSICK: Hello. How are
22 you today?

23 CHAIRMAN SCALZO: We are just
24 fine.

25 MS. PESSICK: Super duper,

1 2102 PARTNERS, LLC

2 right. My name is Liz Pessick. I
3 live about a third of a mile from the
4 facility. I have to tell you, I --
5 the current business that's there, I
6 don't hear anything. I don't see
7 anything out of the ordinary.

8 With respect to traffic, I know
9 that any time after 8 a.m. it's busy.
10 It usually clears out by 9 because
11 people are going to work between
12 those hours. Before that, if in fact
13 these trucks are coming in at 6:30 or
14 7:00, I don't really see there to be
15 an issue.

16 Also, at nighttime when I'm
17 home, usually 5:00, 5:30, 5:45, there
18 is an abundance of traffic, but it
19 really has nothing to do with
20 construction vehicles. These are
21 just people riding the neighborhood,
22 right. They're going home from work,
23 or whatever they're doing. So I
24 don't really see there to be any
25 issue with this company.

1 2102 PARTNERS, LLC

2 In fact, if he's going to clean
3 the facility up, the property, I
4 think that's a benefit to us. Not to
5 mention the taxes that I'm sure his
6 company is going to pay our Town that
7 we so desperately need.

8 So I think it's a benefit and I
9 think it should be considered.

10 CHAIRMAN SCALZO: Thank you for
11 your comments.

12 The second from the back row.

13 MR. MANLEY: Good evening.

14 CHAIRMAN SCALZO: Good evening.

15 MR. MANLEY: My name is Jim
16 Manley. I am a property owner at 19
17 Forest Road. My property directly
18 attaches to and abuts to the 2102
19 Partner property. My property is
20 actually on the eastern boundary of
21 their property.

22 This property has a tremendous
23 amount of history. I really don't
24 want to take a lot of time and bore
25 the Board with a lot of details, but

1 2102 PARTNERS, LLC

2 I did have an opportunity to meet the
3 perspective or the potential new
4 owners of the property. If I was
5 going to make a decision to grant a
6 variance on how nice the people are,
7 I would grant them the variance, the
8 request. We're here because the
9 property doesn't meet the legal
10 definitions of what they need in
11 order to obtain the variance. What
12 they are seeking is an interpretation.

13 Now, this property, because the
14 history goes so far back, they were
15 issued a variance, a use variance for
16 a fuel tank lining business. The
17 fuel tank lining business has
18 operated there continuously. It's
19 changed hands a number of times. A
20 number of owners have changed hands.

21 The concern that I have as an
22 owner is as people change, they seem
23 to forget what their actual use of
24 the property is for. That property
25 is not commercial property, but yet

1 2102 PARTNERS, LLC

2 it's being sold as if it's commercial
3 property. It's not. It's
4 residential agricultural property.
5 They received basically a waiver of
6 the zoning to operate a business.

7 That business actually was part
8 of my property originally. So my
9 property and that particular building
10 were one parcel of property. What
11 happened was when the owner that
12 owned the original business decided
13 that he wanted to retire, he split
14 the parcels and sold one as the
15 commercial business and the other as
16 residential. That's where the first
17 problem started, because obviously if
18 you live on the property in which you
19 own a business, you are going to take
20 care of it. You have more of an
21 obligation because you live there.
22 When you don't live there and you are
23 not on site, it's -- you're not as
24 concerned perhaps with what your
25 neighbors have to deal with. That's

1 2102 PARTNERS, LLC

2 really what's happened over the
3 years, is it's become a situation
4 where we're just going to do whatever
5 we want. We're not going to work
6 within the terms of our use variance.
7 You know, as a result of that, you
8 know, there's a tremendous amount of
9 -- the place is just like a junkyard.
10 It's unfortunate because the people
11 that live there are the ones that
12 have to deal with it.

13 To be quite honest with you,
14 the addition of the excavation
15 company that tried to join in and
16 become part of the other business,
17 they came to this Board and made all
18 sorts of promises of what they were
19 going to do. We're going to plant
20 beautiful grass and we're going to
21 put in fountains and a pond. All
22 that was just promises that were
23 there to try to get what they wanted.
24 When they didn't get what they
25 wanted, then basically they thumbed

1 2102 PARTNERS, LLC

2 their nose at the residents that live
3 in the area and they thumbed their
4 nose at the Board. They then decided
5 we're not going to go by what the
6 ruling of the Board was. We're going
7 to continue to run our business and
8 do whatever we want.

9 Quite honestly, I retained
10 counsel in order to protect my
11 property rights. I spent thousands
12 of dollars in attorney's fees to
13 protect my rights. The Town spent
14 tens of thousands of dollars in
15 appeal after appeal after appeal. It
16 took seven years to finally get to a
17 point where the Town won and they
18 couldn't continue with that second
19 business. What resulted after that,
20 they still didn't want to leave. The
21 Town had to go and get an injunction
22 and a court order to have them leave
23 the property.

24 Finally, just this April the
25 other business left. The last four

1 2102 PARTNERS, LLC

2 months have been the best four months
3 of the nearly twenty-five years that
4 I've lived there because now they are
5 finally having to comply. To have to
6 go through all that in order to get
7 someone to comply. If it was me or
8 if it was one of the other neighbors
9 that wanted to put in an auto body
10 shop out of their house and run it
11 without a permit and not have a use
12 variance, I think the Town would be
13 pretty quick to shut that down. The
14 person would comply because that's
15 the right thing to do.

16 So my issue necessarily isn't
17 with the new place that wants to come
18 in. My issue is past performance is
19 indicative of the potential of what's
20 going to happen in the future.

21 The Board in 1982 made a
22 decision to do the right thing to try
23 to help out a homeowner that was in a
24 position where they needed -- they
25 built something without a permit and

1 2102 PARTNERS, LLC

2 they were needing forgiveness for
3 what they did wrong. The Board went
4 ahead and granted the variance
5 because they probably at that time
6 felt bad for them and granted the use
7 variance, which snowballed into this
8 problem we have today. As a result
9 of that, this is kind of where we're
10 stuck at.

11 I certainly don't want to have,
12 ten years from now, a problem where
13 things are perpetuated again in the
14 future. I'm sure you'll see, based
15 on the record and based on the
16 information that has been submitted
17 from the prior two causes of action
18 that came before this Board, you'll
19 see that there were over forty
20 something people that wrote in with
21 concerns.

22 Now, obviously I'm sure there
23 will be people here that may speak in
24 opposition to this. There may not be
25 as many people here. Unfortunately

1 2102 PARTNERS, LLC

2 it's the summertime, people are on
3 vacation. You're probably going to
4 hear tonight from the neighbors that
5 are impacted most by, you know, what
6 is happening at that location. Those
7 are the owners that border that
8 property.

9 You know, I certainly appreciate
10 the Board taking the time to go over
11 this. It is certainly a very complex
12 thing. I truly feel bad for the
13 people that want to purchase the
14 property because it sounds like, from
15 their testimony, when they purchased
16 it they had no idea what they were
17 getting into. That's unfortunate
18 because the people selling the
19 property should have disclosed that
20 even before anything was started. So
21 that just goes to show exactly what
22 we as neighbors have been dealing
23 with for almost four years.

24 It's not -- again, it's not
25 fair that the character of the

1 2102 PARTNERS, LLC

2 neighborhood has had to change that
3 much, you know, and that we've had to
4 go as neighbors through so much to
5 try to get a resolution to this.

6 In my eyes this is not really
7 an interpretation because it really
8 is a change of use. Tank lining is
9 tank lining. It's a fuel tank lining
10 business. Anything that deviates
11 from that would require a new use
12 variance. Anybody coming in there,
13 whether they wanted to put a bank in
14 there, a dentist office, an office
15 building complex, all of those would
16 need a use variance because it's a
17 different operation. If another tank
18 lining company wanted to come in,
19 that would legally be permitted.
20 Use variances aren't designed to last
21 forever. They have a shelf life.
22 Unfortunately for this particular
23 business, the shelf life has ended.

24 My final comments before I
25 leave here is in reviewing the

1 2102 PARTNERS, LLC

2 application and in reviewing the
3 information, the new applicants have
4 basically said that they do tank
5 lining. It seems from the testimony
6 that their tank lining that they may
7 do is septic tanks, not fuel tanks.
8 There is a difference between lining
9 a fuel tank. Obviously you're
10 dealing with a much more volatile,
11 hazardous material. Obviously
12 there's very specific, special
13 training for tank lining. Tank
14 lining is, of course, again minimum
15 excavation. You just have to open up
16 a small area above the tank so that
17 you can get access to it, and then
18 you have to clean the tank out, pump
19 it out, you have to put an epoxy and
20 a resin in. There's a process. I
21 doubt that the new company gets
22 involved in that because that is very
23 specific and specialized, and that's
24 why WCC is there. They're a very
25 specialized type of operation.

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2 I did manage to go on the WCC
3 website. If I may pass this
4 information over to the Board for
5 just review. It just kind of shows
6 you some of the -- you know, what's
7 going on with tank lining where
8 actually people go into the tank and
9 actually conduct the work inside of a
10 large fuel tank. So with your
11 permission, Mr. Chair, may I --

12 CHAIRMAN SCALZO: Sure. If you
13 wouldn't mind handing one to Mr.
14 Gramstad and then --

15 MR. MANLEY: Sure.

16 So those are really my
17 comments. My concerns are that
18 personally myself, and even some of
19 the other neighbors, have in the past
20 had to retain legal counsel. It was
21 a very, very expensive process. I
22 spent probably close to \$18,000 in
23 attorney's fees to have an attorney
24 present, to have an attorney file
25 actions on behalf of myself. The

1 2102 PARTNERS, LLC

2 neighbors also. I know the Town
3 probably spent in excess of probably
4 \$50,000 to \$75,000 to get rid of what
5 shouldn't have been there. That's a
6 lot of money.

7 If we all had a crystal ball, I
8 think that in 1982, if they could
9 have looked at a crystal ball and saw
10 what was going to happen thirty years
11 later, the Board probably would have
12 had a different decision that night
13 in 1982. Unfortunately we don't have
14 a crystal ball, we only have history.
15 History has shown us that this type
16 of variance, a use variance, becomes
17 problematic because businesses are
18 successful. When a business is
19 successful they grow, they get
20 bigger. Unfortunately when they get
21 bigger, again that changes the
22 character of the neighborhood. It's
23 not what the business used to be.

24 I just want to thank the Board.

25 The last thing that I wanted to

1 2102 PARTNERS, LLC

2 just point out, there's just some
3 changes that I think should be looked
4 at for the short EAF. In going
5 through it, on page 1, number 5 of
6 the EAF, they probably should have
7 checked off agriculture and aquatic
8 because there are ponds on the
9 property, there are wetlands. Of
10 course, unfortunately, those wetlands
11 have been filled in by the current
12 owner.

13 Is the proposed action a
14 permitted use under the zoning
15 regulations. It is not. It's not a
16 permitted use because it's operating
17 under the use variance.

18 Is it consistent with the
19 adopted comprehensive plan. I have
20 reviewed the comprehensive plan of
21 the Town of Newburgh. Certainly this
22 type of business is not consistent
23 currently with our master plan.

24 Is the proposed action
25 consistent with the predominant

1 2102 PARTNERS, LLC

2 character of the existing natural
3 landscape. That was -- I was okay
4 with number 9 -- section 9. That was
5 actually fine.

6 It goes down to 13-B, would the
7 proposed action physically alter or
8 encroach into any existing wetland or
9 water body. That probably should be
10 yes because they have encroached into
11 the current wetlands that are there.
12 They've all been filled in.

13 CHAIRMAN SCALZO: Perhaps
14 that's the applicant filling this
15 out. They may not have the knowledge
16 of previous --

17 MR. DONOVAN: Mr. Chair, can I
18 interrupt for a second?

19 CHAIRMAN SCALZO: Yes.

20 MR. DONOVAN: So the purpose of
21 the EAF is to assist the Board when
22 it comes time for you to make a
23 declaration of environmental
24 significance. A negative
25 declaration, which means, in the DEC

1 2102 PARTNERS, LLC

2 nomenclature, is good. A positive
3 declaration, the nomenclature is bad.
4 You are not required to make a
5 determination of environmental
6 significance because what's called a
7 Type 2 action, or actions as the
8 point of SEQRA regulations which
9 don't require any environmental
10 review, then the form is not
11 necessary. Interpretations are Type
12 2 actions. While it's okay to talk
13 about what may or may not be in the
14 form, it doesn't have any bearing on
15 your ultimate determination. Whether
16 the information is correct or
17 incorrect, this is a Type 2 action so
18 the form is not needed for the Board
19 to make a determination.

20 The other thing, if I can just
21 correct one thing. When a use
22 variance is issued, the use becomes
23 permitted. We went through that with
24 WCC Tank when they were here. The
25 question is whether there is a

1 2102 PARTNERS, LLC

2 limitation. What the Board
3 determined, and I'll repeat myself,
4 in 2017 is there was a limitation to
5 fuel tank lining. That was confirmed
6 then by subsequent litigation in
7 court.

8 One final point. I did not get
9 paid \$70,000. Someone else may have.
10 It went to college tuition. None of
11 my kids got their debt forgiven.
12 Sorry.

13 CHAIRMAN SCALZO: Mr. Manley,
14 I don't know if you were --

15 MR. MANLEY: So just in
16 closing, what I wanted to say is that
17 I appreciate the deliberation of the
18 Board. I certainly hope that you
19 take into account all of the
20 information, including the past,
21 which is pretty much the most
22 important part of any decision that
23 the Board will make.

24 Thank you for your time.

25 CHAIRMAN SCALZO: Actually, I

1 2102 PARTNERS, LLC

2 have a question for you, Mr. Manley,
3 Because you are directly east of this
4 parcel. Correct?

5 MR. MANLEY: Yes.

6 CHAIRMAN SCALZO: I think the
7 information provided, that might be
8 your building we're looking at here?

9 MR. MANLEY: May I approach the
10 table?

11 CHAIRMAN SCALZO: Sure. I
12 would assume that's your home.

13 MR. MANLEY: That would be my
14 accessory structure.

15 CHAIRMAN SCALZO: Very good.
16 So that line, that's the north line.
17 One thing that did appear in the 1982
18 use variance that was granted was
19 that along the northerly line of the
20 subject parcel, beginning at a point
21 adjacent to the accessory building
22 and continuing to a point 200 feet
23 along the westerly line, the
24 applicant shall provide a green belt
25 buffer covering a depth of 25 feet

1 2102 PARTNERS, LLC

2 from each said line, planted with a
3 screen of evergreens having a uniform
4 height of not less than 5 feet. Now,
5 those trees are forty years old.
6 Evergreens at forty years old. Are
7 they there?

8 MR. MANLEY: I can show you
9 right here. The evergreens that I'm
10 familiar with are along the north
11 part of the property here, which
12 would be the --

13 CHAIRMAN SCALZO: That's the
14 north. Okay.

15 MR. MANLEY: There is also
16 screening -- partial screening along
17 this side here, along the property
18 line here.

19 CHAIRMAN SCALZO: Mr. Manley is
20 pointing to the east line of the
21 subject -- the applicant's parcel.

22 MR. MANLEY: Correct. There's
23 none along this side here.

24 CHAIRMAN SCALZO: That wasn't
25 required. I just wanted to verify

1 2102 PARTNERS, LLC

2 the north --

3 MR. MANLEY: Yes.

4 CHAIRMAN SCALZO: -- line was
5 as indicated in 1982.

6 MR. MANLEY: they are there.

7 CHAIRMAN SCALZO: Thank you.

8 MR. MANLEY: Thank you.

9 CHAIRMAN SCALZO: Okay. Any
10 other members of the public?

11 Ma'am, please state your name
12 for the record.

13 MS. CARROLL: Susan Carroll. I
14 own 2116 and 2122, the entire
15 westerly side of this property.

16 The property of WCC Tank is in
17 a hollow, so to speak. Anything they
18 do there comes up. There's no -- the
19 noise. I'm sorry. It doesn't matter
20 because I live on the next parcel.
21 2116 is my father's estate I guess.
22 I'm the executor of that estate. I
23 live in the next house. They close a
24 door over there, I can hear it. A
25 door like on a truck.

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2 Before the excavating company
3 had to move out, they developed a
4 materials dump, like this place wants
5 to put in. Every time they dumped
6 anything there you could hear it.
7 The bang of the truck, emptying it.
8 This place is going to have concrete
9 barriers, but it doesn't matter.

10 I had other things but Mr.
11 Manley pretty much covered all that.

12 The noise is what would bother
13 me the most.

14 The fact that it's not a tank
15 lining business, it's an excavating
16 business. These people are probably
17 very nice people. I don't know them.
18 I wasn't home when the gentleman came
19 to the door today at my home. I have
20 nothing against them. I have nothing
21 against Mr. Dietz. It just doesn't
22 belong in our neighborhood and never
23 has.

24 My family has owned the
25 property for 77 years next door. We

1 2102 PARTNERS, LLC

2 watched it go from a pristine field
3 to what it is today.

4 CHAIRMAN SCALZO: Thank you for
5 your comments.

6 MS. CARROLL: I just wanted to --

7 CHAIRMAN SCALZO: That's a
8 matter of record. Thank you very
9 much.

10 MS. CARROLL: Thank you.

11 CHAIRMAN SCALZO: Is there
12 anyone else here to speak about this
13 application?

14 Please step forward.

15 MR. SCOTT: It might take a
16 minute, I've got bad hips.

17 CHAIRMAN SCALZO: That's okay.

18 MS. REIN: We get paid by the
19 hour.

20 CHAIRMAN SCALZO: We do?

21 MS. JABLESNIK: I do.

22 MR. SCOTT: How are you? Thank
23 you for being here tonight. I'm
24 Robert Scott, I live at 28 Dusty
25 Drive, which is above the property

1 2102 PARTNERS, LLC

2 that we're talking about tonight.

3 I would like to just comment on
4 the noise that the company that's
5 there now, there is noise from that
6 company. We can hear them blowing
7 off the compressors on some of the
8 trucks sometimes, the banging of the
9 trucks, okay.

10 Everybody knows that that area
11 is a bad area for accidents, so I
12 have a concern for traffic. I live
13 right on the bend at the bottom of
14 the hill of 300 under the cross.
15 We've had several accidents at that
16 intersection, okay. I'm not saying
17 that, you know, an excavation
18 business -- we've been very lucky on
19 the amount of people that have been
20 killed there.

21 In the past, the company that's
22 there now has not kept any of their
23 promises. You know, if a company was
24 to go in there, and not that I know
25 anything about this company, they

1 2102 PARTNERS, LLC

2 would have to be held responsible for
3 what they are doing there.

4 We all live on wells out there.
5 Who knows what's been dumped in the
6 ground in the past. I would really
7 hate to have to move out of my
8 residence that I built because of a
9 water contamination problem or a lack
10 of water.

11 So that's some of my concerns.
12 Like I said, I have no, you know,
13 problems with a company going there,
14 but they need to be held responsible.
15 That's all I have to say.

16 CHAIRMAN SCALZO: Thank you
17 very much for your comments.

18 MR. SCOTT: Thank you.

19 CHAIRMAN SCALZO: Is there
20 anyone else from the public that
21 would like to speak about this
22 application?

23 Please step forward and state
24 your name.

25 MS. LANCELLOTTI: My name is

1 2102 PARTNERS, LLC

2 Kaitlynn Lancellotti. I'm the
3 director of business expansion and
4 retention for the Orange County
5 Partnership.

6 I'm just here on behalf of our
7 board to supported the project.
8 BlackRock is a homegrown business and
9 they want to stay here in Orange
10 County and grow here. The building
11 they're looking at does supply them
12 an opportunity. We just wanted to
13 show our support and thank you for
14 your time.

15 CHAIRMAN SCALZO: Thank you
16 very much.

17 MR. FIORAVANTI: My name is
18 Bill Fioravanti. Thanks for the
19 opportunity to speak.

20 I'm an economic developer for
21 Orange County. I'm here in support
22 of the BlackRock project. I feel
23 like I'm here as a bit of a character
24 witness. I'm not personal friends
25 with Mr. Casscles. I've known him

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2 and his business for most of the
3 twelve years they have been in
4 business. I have become familiar with
5 the project the last couple of
6 months. I've been to the site a
7 couple of times. With the weather
8 and this time of year, twice I drove
9 by the site because it's so wooded.
10 Clearly when you're there it is a
11 contractor's yard. You know from the
12 history that's what it's been for
13 decades. This is not a house looking
14 to become a service center. It is
15 what it is. You see again how well
16 buffered it is in that regard.

17 Really when I got to understand
18 the history of it, it's really
19 everything Mr. Manley outlined. You
20 know, I learned all of that. It was
21 clear that there were many
22 transgressions by the former owner
23 and the current owner.

24 My greatest fear in learning
25 more about this and about the

1 2102 PARTNERS, LLC

2 prospect they have of being
3 successful here tonight, or whenever
4 you do decide, is that Mr. Casscles
5 would have to pay for those sins with
6 things that he did not do.

7 I hope that you're seeing
8 tonight, you're hearing, you're
9 hearing from people that know him and
10 talk to him. I'm here to vouch that
11 he and BlackRock will do what they
12 say they'll do. They'll stand by.
13 This is the company I know. Again, I
14 know that's not what happened in the
15 past. I can't imagine the
16 frustration of this Board, the
17 residents, et cetera with what's
18 happening, people don't do what they
19 say they're going to do. I'm here to
20 say that this gentleman and this
21 business will do so.

22 Of course I'm here with my
23 colleagues in economic development
24 trying to help a business stay here
25 and strengthen what they're doing,

1 2102 PARTNERS, LLC

2 provide jobs, be good neighbors.
3 That's exactly -- I know that's what
4 you're going to get from this
5 gentleman.

6 So I just really wanted to be
7 here tonight to say that. Thanks for
8 the opportunity.

9 CHAIRMAN SCALZO: Thank you
10 very much.

11 MR. ECKERT: Good evening. My
12 name is Conor Eckert, vice president
13 at the Orange County Partnership.

14 I am here tonight to speak on
15 BlackRock Excavating. I echo what
16 Mr. Fioravanti said. This is a
17 business, a new business, completely
18 different from the previous one. I
19 think the township should certainly
20 monitor them through code
21 enforcement, the promises that
22 they're making.

23 My fear is being from the
24 community and having family that
25 lives in the communities, this field

1 2102 PARTNERS, LLC

2 remains vacant and is an eyesore in
3 the community. This is an
4 opportunity to bring in a brand new
5 tenant, a brand new business. It's
6 going to clean up the area. It's
7 going to bring life to that property.
8 They're going to revitalize the area.
9 It's just vacant. It's going to
10 continue to be, quite frankly, an
11 eyesore in our community.

12 I know this company. They
13 could have very easily continued what
14 people have done in the past, bought
15 the building and just started doing
16 work. They didn't. They wanted to
17 do the right thing. They wanted to
18 come here. They want to be partners
19 in the community. They stand by what
20 they say is true. These are honest
21 people. Local, honest people we know
22 in the community involved in non-
23 profits.

24 On behalf of the Orange County
25 Partnership, we support this

1 2102 PARTNERS, LLC

2 application.

3 CHAIRMAN SCALZO: Thank you. I
4 was there tonight, actually a few
5 hours before the meeting. The
6 building is not vacant. There were
7 -- you know, there was a car that
8 appeared to be in the business, there
9 were a couple of vehicles on the
10 side. It looks like there's
11 equipment there currently.

12 MR. ECKERT: No. Let me
13 clarify. If the sale doesn't go
14 through my fear is that the building
15 will sit there vacant as the current
16 occupier will be moving to another
17 community and thereby, you know, the
18 building will fall into disrepair.
19 This is an opportunity to have a
20 young company move in and really
21 plant their roots here as opposed to
22 potentially sitting vacant now that
23 the current business is looking to
24 vacate the area.

25 CHAIRMAN SCALZO: Thank you

1 2102 PARTNERS, LLC

2 very much for your comments.

3 MR. ECKERT: Thank you.

4 CHAIRMAN SCALZO: Anyone else
5 from the public that wishes to speak
6 about this application?

7 MR. BATESMAN: Patrick
8 Batesman. My property is on the
9 north border.

10 CHAIRMAN SCALZO: Where those
11 trees are that I just asked about?

12 MR. BATESMAN: Yeah. This time
13 of year it's a little better than in
14 the fall.

15 CHAIRMAN SCALZO: Well they're
16 evergreen so they should be green all
17 year.

18 MR. BATESMAN: Yeah. There's
19 not a tremendous amount of healthy
20 ones now.

21 CHAIRMAN SCALZO: I was going
22 to say forty year old trees are not
23 great looking.

24 MR. BATESMAN: So that's just
25 my concern. I understand the growth

1 2102 PARTNERS, LLC

2 of the company. Obviously the
3 property to them shows growth
4 potential. If they came in and
5 didn't disturb anything and just
6 cleaned things up, that's one thing.
7 If they decide all of a sudden to put
8 the lights up in the back and we get
9 light pollution, then we're back
10 before you again with issues. I
11 would hope they would be wonderful
12 neighbors.

13 It's a wonderful area. It does
14 seem like it's a commercial operation
15 currently located in a residential
16 section. I just ask that you
17 consider not just today but where we
18 would be in six months. Thank you.

19 CHAIRMAN SCALZO: Thank you
20 very much for your comments.

21 MR. VANDEMARK: Lawrence
22 Vandermark from 17 Forest Road. I
23 own adjoining property to the
24 applicant.

25 These guys, again they may be

1 2102 PARTNERS, LLC

2 wonderful people, but I spoke to the
3 gentleman. He came to my house. He
4 said like they have four people right
5 now. You know, we all know
6 businesses can expand. It's not
7 going to stay four people.

8 Doing sewage for residential
9 and commercial, that's really not
10 tank lining. I don't know of anybody
11 that has replaced a septic tank that
12 didn't take it out of the ground and
13 have it relined. Usually you crush
14 them, you drain them, you put
15 concrete to replace them. I'm not
16 saying they don't, but I never heard
17 of it.

18 You know, I just hope that you take
19 that into consideration.

20 CHAIRMAN SCALZO: Thank you
21 very much for your comments.

22 MR. VANDERMARK: Thank you.

23 CHAIRMAN SCALZO: As I said to
24 the other people that commented, it's
25 all a matter of record. The Members

1 2102 PARTNERS, LLC

2 -- should we make it to another
3 meeting, the Members that are not
4 here this evening on the Board, I
5 will insist that they completely
6 familiarize themselves with the
7 meeting minutes from this particular
8 application. They read them all but
9 this one is going to deserve special
10 attention and consideration.

11 MR. VANDERMARK: Thank you.

12 CHAIRMAN SCALZO: Thank you.

13 Anyone else from the public
14 that wishes to speak about this
15 application?

16 (No response.)

17 CHAIRMAN SCALZO: Okay. Now
18 I'm going to look back to the Board.
19 We certainly heard some testimony
20 here. I'm assuming that may have
21 stirred something up amongst us. Any
22 other questions that we may have?

23 MS. REIN: Yes, I do.

24 CHAIRMAN SCALZO: Okay.

25 MS. REIN: To Mr. Casscles.

1 2102 PARTNERS, LLC

2 MR. CASSCLES: Yes, ma'am.

3 MS. REIN: There's been a lot
4 of information.

5 MR. CASSCLES: A lot.

6 MS. REIN: Yes. Bear with me
7 because I might not have everything
8 the way it should be. Is there going
9 to be a materials dump?

10 MR. CASSCLES: No. We will not
11 be bringing material back to the
12 property from projects. All we are
13 requesting is that we have three bins
14 with about 25 to 30 yards apiece of
15 material that we may need in an
16 emergency situation, a weekend, Sunday.

17 MS. REIN: To take off the
18 property when needed?

19 MR. CASSCLES: To take off.
20 Exactly.

21 UNIDENTIFIED SPEAKER: They use
22 different types.

23 MR. CASSCLES: Yes. There's
24 item 4 which is for road base and
25 compaction. We do a lot of work in

1 2102 PARTNERS, LLC

2 streets. Stone, which everybody
3 knows what stone is for. Sand for
4 venting the lines.

5 MS. REIN: Okay. WCC, the
6 company that is there now, --

7 MR. CASSCLES: Yes.

8 MS. REIN: -- is that going to
9 be there?

10 MR. CASSCLES: No.

11 MS. REIN: It's not going to be
12 there?

13 MR. CASSCLES: No. They're
14 vacating and we would like to move
15 in.

16 MS. REIN: So the issues that
17 were brought up are no longer issues
18 then? There's going to be no
19 material dumped and there's going to
20 be no WCC?

21 MR. CASSCLES: Correct.

22 MS. REIN: Thank you.

23 MR. CASSCLES: Yes, ma'am.

24 Thank you.

25 CHAIRMAN SCALZO: Thank you.

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2 Mr. Bell, do you have anything
3 else you want to talk about?

4 MR. BELL: I want to process
5 this one.

6 CHAIRMAN SCALZO: Sure. Yup.
7 I'm with you.

8 Mr. Gramstad?

9 MR. GRAMSTAD: I'm with Mr.
10 Bell. I need to process this.

11 CHAIRMAN SCALZO: And now what
12 this is -- we've had quite a bit of
13 testimony from the public on this
14 one. We are down a few Members. I
15 myself have heard everything I need
16 to hear tonight. I'm not sure that I
17 would be comfortable coming to a
18 determination on an interpretation.
19 We've heard a lot. I would love to
20 read what we just heard multiple
21 times.

22 MR. BELL: I've got one question.

23 MR. CASSCLES: Yes, sir.

24 MR. BELL: It was asked is
25 there going to be an increase in

1 2102 PARTNERS, LLC

2 vehicles. You mentioned not at this
3 time. Are you looking to expand down
4 the road?

5 MR. CASSCLES: I took that as
6 how we would replace the vehicles
7 that we had. No. The ones that are
8 on that list are what will be on the
9 property.

10 MR. BELL: Okay.

11 MR. CASSCLES: Unless I decide
12 to go buy a new truck or something.
13 Usually we trade it.

14 MR. BELL: Okay. You're not
15 looking at increasing the number of
16 vehicles that are currently --

17 MR. CASSCLES: No.

18 MR. BELL: Okay.

19 MS. REIN: I think I heard him
20 also say there were none of those
21 high vac trucks.

22 MR. CASSCLES: No.

23 MS. REIN: Hydro trucks.

24 MR. CASSCLES: Hydrovac.

25 MS. REIN: Hydrovac trucks.

1 2 1 0 2 P A R T N E R S , L L C

2 MR. CASSCLES: We do not use
3 hydrovac excavation trucks.

4 MS. REIN: And you won't in the
5 future?

6 MR. CASSCLES: We're not going
7 to own them. They're too expensive.

8 MS. REIN: Okay.

9 CHAIRMAN SCALZO: So we heard
10 testimony currently that you're a
11 four-person operation.

12 MR. CASSCLES: Yes, sir.

13 CHAIRMAN SCALZO: Everybody
14 likes to see a business succeed and
15 expand. I just can't see you staying
16 with four, which Ms. Rein was kind of
17 on top of it there, or Mr. Bell as
18 well. So when you're getting
19 vehicles, it's almost like you're
20 exchanging, one in, one out, or you
21 may expand to the point where instead
22 of, you know, a ten-yard dump you
23 might need tri-axles.

24 MR. CASSCLES: I don't like
25 trucking. I know enough to know that

1 2102 PARTNERS, LLC

2 I don't want to get into trucking.
3 We've been working with three to four
4 people for the last eight years and
5 we're pretty comfortable there. We
6 do a good job. We do a lot of work.
7 We don't have all that much intention
8 of growing past that. Thank you.

9 MS. REIN: Then why are you
10 moving?

11 MR. CASSCLES: It's the next
12 step. It's the next piece of what a
13 business does.

14 MS. REIN: But not to expand?

15 MR. CASSCLES: No. We're not
16 looking to expand. We're not looking
17 -- we're not looking to go crazy.
18 We're just looking to buy a piece of
19 property, invest in my property. I
20 own a business, I don't have a
21 pension, so, you know, this is part
22 of that.

23 MS. REIN: Okay. Thank you.

24 MR. CASSCLES: Yes, ma'am.

25 MR. FURST: You know, I think

1 2102 PARTNERS, LLC

2 this is an opportunity for the Board
3 to maybe clean up the site, or for
4 the Town to clean up the site. I
5 think a lot of the issues with the
6 neighbors is the lack of accountability.
7 If we have a site plan showing where
8 everything should be and what should
9 be planted, what shouldn't be
10 planted, where things should be
11 located, I think it really is a -- it
12 gives a definite snapshot and picture
13 of how the site should operate so we
14 don't have this issue ten years down
15 the road. I think that's one of the
16 issues, is because that site plan
17 from 1982, nobody could find it,
18 nobody really knows exactly what was
19 going on in 1982. So with reasonable
20 parameters, Doug is willing to work
21 with the Town and the neighbors to
22 come to some type of mutual solution,
23 and I think we'll solve the problem.
24 Otherwise, you know, the site is
25 either going to sit empty or WCC is

1 2102 PARTNERS, LLC

2 going to remain and it's going to
3 just remain the same.

4 MR. BELL: What is your plan
5 for making the site beautiful or to
6 make everyone happy?

7 MR. CASSCLES: What do you want
8 me to do?

9 MR. BELL: I mean --

10 MR. CASSCLES: We're willing to
11 work within reason. We're open to
12 ideas within reason.

13 MR. BELL: Ideas coming from
14 the community or --

15 MR. CASSCLES: We're here to
16 work together on this. That's why
17 we're here.

18 MR. BELL: I just hear a lot of
19 disgruntled as far as about how this
20 property looks over time, how it's
21 just gone downhill and, you know --

22 MR. CASSCLES: I'm open to
23 conversations and I'm open to doing
24 what we can.

25 MS. REIN: Do you have a plan

1 2102 PARTNERS, LLC

2 put together to show the community?

3 MR. FURST: So we do have a
4 preliminary plan that was submitted
5 with the application. There is some
6 existing screening. One thing to
7 note is there are a bunch of drums
8 that -- you guys don't work with the
9 drums, so that will be removed.
10 There are some containers there, some
11 large cargo containers. You know,
12 this is the kind of thing we're
13 talking about that he'd like to do to
14 improve the site and benefit him,
15 obviously, and the neighbors.

16 MS. REIN: That would be a good
17 idea going forward, to have some kind
18 of a plan and have something that the
19 community can actually look at, where
20 the company is going to say this is
21 what we plan on doing, this is what
22 we're going to put in your neighborhood.

23 MR. FURST: Right. We do have
24 a plan that shows where the equipment
25 is going to be stored, where the

1 2102 PARTNERS, LLC

2 mafia blocks are going to be placed.
3 It is on that plan.

4 MS. REIN: Are you talking
5 about this plan that we have?

6 CHAIRMAN SCALZO: Yes. The
7 mafia blocks are in the upper right-
8 hand corner.

9 MS. REIN: I understand that,
10 but if you want a layman to look at
11 it and you want the community to look
12 at it, I think maybe it should be a
13 little more available and detailed so
14 people can say oh, that's a tree,
15 those are plants, that's green.

16 MR. FURST: Right. The
17 screening, the existing tree cover is
18 shown on there. The ponds, the
19 existing ponds which aren't going to
20 be touched are shown on there.
21 They're not adding any pavement.
22 Most of it is gravel anyway.

23 MS. REIN: I understand that.

24 MR. FURST: That's all on the
25 plans.

1 2102 PARTNERS, LLC

2 MS. REIN: I'm not an engineer.

3 MR. FURST: Neither am I.

4 MS. REIN: My background is in
5 medicine, it's not in this. For me
6 to look at this -- it was hard for me
7 to look at it and actually visualize
8 what was going to happen. I think
9 that's probably on the minds of the
10 community.

11 MR. FURST: To be honest,
12 there's not much that is going to
13 change other than cleaning up.
14 There's not going to be any new
15 structures. I think there's two
16 above-ground storage tanks that
17 they're going to add at the back of
18 the building and the mafia blocks.
19 Other than that, it's just cleaning
20 up the site and, you know, making it
21 look nicer. There's really not --
22 not much is going to change as far as
23 structures and buildings.

24 CHAIRMAN SCALZO: It doesn't
25 appear they're proposing any new

1 2102 PARTNERS, LLC

2 landscaping.

3 MS. REIN: The community is
4 really concerned about how it looks
5 now. To give them an actual visual I
6 think might be something ---

7 MR. DONOVAN: In terms of
8 orientation on what the Board needs
9 to make a determination on -- I mean
10 as a threshold the request is an
11 interpretation that this use is
12 consistent with the terms of the 1982
13 variance. You only get to say hey,
14 we want three giants instead of
15 arborvitaes -- I just like to say
16 arborvitaes -- in this location when
17 you make a determination that it's
18 consistent with the 1982 variance.
19 You have to hit that first before you
20 get to the --

21 MS. REIN: Thank you.

22 MR. FURST: That would be -- if
23 it got to that point, it would be a
24 condition of the approval. It should
25 be laid out in the decision. It

1 2102 PARTNERS, LLC

2 should be identified on the site plan
3 so that way ten, fifteen years down
4 the road we all know what exactly was
5 meant by your decision.

6 MR. DONOVAN: If you get past
7 go, you say it's consistent with the
8 1982 variance, any approval would
9 reference map prepared by whoever,
10 this map dated such and such, last
11 revised and on file. Hopefully it
12 won't get lost like the 1982 site
13 plan so if a question arose in the
14 future what was permitted, it's shown
15 on the map. Like I said, it doesn't
16 go back to the Planning Board because
17 it's a use variance. You would, if
18 you get that far, approve a specific
19 map.

20 MS. REIN: Okay. Thank you.

21 CHAIRMAN SCALZO: Very good.

22 Mr. Bell, were you here for the
23 2017, 2018 --

24 MR. BELL: Yup.

25 CHAIRMAN SCALZO: I believe you

1 2102 PARTNERS, LLC

2 and I are the only two remaining --

3 MR. BELL: We're the only two.

4 CHAIRMAN SCALZO: -- Members
5 that went through that.

6 MS. REIN: Both of your names
7 are on that.

8 CHAIRMAN SCALZO: John Masten
9 was here. I forgot about Mr. Masten.

10 MR. BELL: John was here as
11 well.

12 CHAIRMAN SCALZO: So Mr. Furst,
13 I'm sure you've read those meeting
14 minutes and read the decision on that
15 and saw the way the voting went.

16 MR. FURST: Correct.

17 CHAIRMAN SCALZO: Let me go
18 back to any other members of the
19 public that wish to speak about this?

20 (No response.)

21 CHAIRMAN SCALZO: Okay. At
22 this point I'm going to look back to
23 the Board here. Do you feel as
24 though we have enough here to close
25 this public hearing or does the Board

1 2102 PARTNERS, LLC

2 perhaps want to leave it open for
3 another month here, if there's
4 anything that we're misunderstanding,
5 misinterpreting that will give us an
6 opportunity to ask more questions?

7 MR. DONOVAN: While you're
8 mulling that, may I ask the
9 applicant, is there any additional
10 submissions that you wish to make to
11 bolster your position?

12 MR. CASSCLES: I don't think
13 so. I would like to address the
14 traffic, though. The concern about
15 the increase in traffic. I believe
16 WCC has how many employees now? Four
17 or five. So BlackRock has the same
18 number of employees. The traffic is
19 not going to change. Other than
20 that, that was really the only issue
21 I wanted to address, as well as the
22 offering to establish or recreate a
23 site plan.

24 MR. DONOVAN: The reason why I
25 ask that question, if there's going

1 2102 PARTNERS, LLC

2 to be additional submissions, there
3 ought to be a time for the public to
4 consider anything in an additional
5 submission.

6 MR. BELL: Agreed.

7 MR. DONOVAN: But if there's
8 not, then it's up to you what you
9 want to do.

10 CHAIRMAN SCALZO: Very good.
11 Thank you.

12 MR. BELL: I would like to hold
13 it over.

14 CHAIRMAN SCALZO: Mr. Bell, I
15 request that you make that motion
16 then.

17 MR. BELL: I do make that
18 motion to hold it over for --

19 MR. DONOVAN: That's to
20 continue the public hearing?

21 MR. BELL: Yes.

22 MR. GRAMSTAD: I'll second
23 that.

24 MR. DONOVAN: That's to the
25 September meeting.

1 2102 PARTNERS, LLC

2 MR. BELL: September.

3 MR. DONOVAN: And just for the
4 members of the public, there will be
5 no additional mailing. You can check
6 the website. That means the Board is
7 going to vote, obviously, but nothing
8 additional will be mailed. Check the
9 website. Check the agenda for the
10 September meeting.

11 CHAIRMAN SCALZO: Yes. So we
12 have a motion from Mr. Bell. We have
13 a second from Mr. Gramstad. Before I
14 call for a vote on that, I have to
15 say I'd really like as many Members
16 of the Board here as possible because
17 this is a -- every application is
18 important but this one has special
19 significance, if you will.

20 So we have a motion from Mr.
21 Bell, a second from Mr. Gramstad.
22 Can you roll on that, please,
23 Siobhan.

24 MS. JABLESNIK: Mr. Bell?

25 MR. BELL: Yes.

1 2102 PARTNERS, LLC

2 MS. JABLESNIK: Mr. Gramstad?

3 MR. GRAMSTAD: Yes.

4 MS. JABLESNIK: Ms. Rein?

5 CHAIRMAN SCALZO: This is for
6 keeping the public hearing open.

7 MS. REIN: I know. I know.
8 I'm going to abstain. Can I?

9 MR. DONOVAN: I really wish you
10 wouldn't.

11 MS. REIN: I just feel that
12 there's so much information here.
13 I've spent two days reading this and
14 we've listened to this and I just
15 don't know what else we can get. I
16 mean --

17 MR. DONOVAN: So then I think
18 by --

19 CHAIRMAN SCALZO: Our other
20 Members may read these meeting
21 minutes and have other questions that
22 perhaps a member of the public could
23 answer.

24 MS. REIN: Okay.

25 CHAIRMAN SCALZO: That's the

1 2102 PARTNERS, LLC

2 way I'm looking at it. I don't want
3 to sway you.

4 MR. DONOVAN: And let me say
5 this. I believe what will happen is
6 if you vote no, the motion doesn't
7 carry, but the public hearing is
8 going to be continued anyway because
9 I assume there's not sufficient votes
10 to close the public hearing. If
11 there's not sufficient votes to close
12 the public hearing, the public
13 hearing is going to continue anyway.

14 MS. REIN: Well then I agree.

15 CHAIRMAN SCALZO: Yes.

16 The public hearing is going to
17 remain open to the September meeting.
18 No one will be renoticed, as Counsel
19 mentioned.

20

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

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2102 PARTNERS, LLC

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 2nd day of September 2022.

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

LAXMI ESTATES II, LLC
5277 Route 9W, Newburgh
Section 20; Block 2; Lot 40
B Zone

----- X

Date: August 25, 2022
Time: 8:25 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, New York

BOARD MEMBERS: DARRIN SCALZO, Chairman
DARRELL BELL
ROBERT GRAMSTAD
DONNA REIN

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

APPLICANT'S REPRESENTATIVES: JOHN FURST

----- X

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

1 LAXMI ESTATES II, LLC

2 CHAIRMAN SCALZO: We have one
3 more application this evening. It is
4 a hold over. It is Laxmi Estates II,
5 LLC, 5277 Route 9W, an interpretation
6 for a drive-thru window usage and the
7 removal of the restriction of no
8 drive-thru window is permitted in the
9 decision and resolution by the ZBA in
10 April 2005. As I mentioned, this is
11 a continuation. We have additional
12 information.

13 Mr. Furst, this is Laxmi
14 Estates II. Last time you were here
15 you gave a presentation on it. We
16 asked you to gather as much
17 information as you possibly could.

18 MR. FURST: Correct.

19 CHAIRMAN SCALZO: In the 2004
20 decision, you know, I have in front
21 of me the best paragraph of all where
22 Animal Hughes laid down the gauntlet
23 and said, you know, let's just go
24 ahead and use that no drive-thru as a
25 condition of the approval. I did see

1 LAXMI ESTATES II, LLC

2 testimony from one of the adjoining
3 neighbors --

4 MR. FURST: Absolutely.

5 CHAIRMAN SCALZO: -- regarding
6 concerns. He didn't call it stacking
7 but, you know, the concern I suppose
8 would be the AGL site next door. Is
9 that who it was?

10 MR. FURST: I'm not really
11 sure. I couldn't really tell from
12 the minutes what his concern was.
13 Again, assuming we can get past this
14 condition, we would go before the
15 Planning Board and then we would have
16 the traffic engineer for the Planning
17 Board review that. We'd have to go
18 to the New York State Department of
19 Transportation. They would also be
20 reviewing traffic. So I'm not -- I
21 couldn't tell what his concern was.

22 The other thing is with Dunkin
23 Donuts, a lot of it -- it's a lot of
24 pass by traffic is what they call it.
25 The traffic engineers usually assign

1 LAXMI ESTATES II, LLC

2 a certain percentage. Usually you
3 don't go out of your way to go to a
4 Dunkin Donuts. You go to a Dunkin
5 Donuts because you pass one on the
6 way to work or on the way to school
7 or whatever.

8 CHAIRMAN SCALZO: You don't
9 know my wife.

10 MR. FURST: My dad who tries to
11 find the cheapest gas station.

12 CHAIRMAN SCALZO: Let me let
13 you continue.

14 MR. FURST: I guess his
15 concerns -- I'm not really sure what
16 his specific traffic concerns were.
17 Usually stacking. I guess I said
18 stacking because everyone is always
19 concerned about any Dunkin Donuts or
20 any drive-thru with stacking. Any
21 traffic concern, whether it's
22 stacking, whether it's left turns,
23 right turns, or even the generation
24 of traffic, will be addressed with
25 the Planning Board and the New York

1 LAXMI ESTATES II, LLC

2 State Department of Transportation.

3 CHAIRMAN SCALZO: Very good.

4 And again, when it comes to traffic
5 and stacking, that is something that
6 the Planning Board would evaluate and
7 not us.

8 MR. FURST: Correct.

9 CHAIRMAN SCALZO: That's what
10 they have Mr. Wersted for. But you
11 are aware that -- and not from the
12 2004, the last time this site came
13 in, they ended up, I want to say
14 pulling the application.

15 MR. FURST: Yes.

16 CHAIRMAN SCALZO: In that same
17 meeting there was another Dunkin
18 Donuts that was approved without a
19 drive-thru. It's the one right at
20 the corner -- caddy corner from
21 Maisies Deli. The business model can
22 be adjusted.

23 MR. FURST: Post-COVID I think
24 a Dunkin Donuts without a drive-thru
25 -- I think a lot of businesses

1 LAXMI ESTATES II, LLC

2 without a drive-thru. That approval
3 was probably pre-COVID.

4 CHAIRMAN SCALZO: It was.

5 MR. FURST: I can tell you from
6 my experience in any industry, having
7 a drive-thru is important. A lot of
8 the existing drive-thrus have
9 expanded. Look at the McDonald's in
10 the Town of Newburgh.

11 CHAIRMAN SCALZO: Double laned
12 it.

13 MR. FURST: They have expanded,
14 you know. So I think the difference
15 between now and then is COVID,
16 unfortunately. The society we live
17 in today, a drive-thru is essential,
18 especially for a Dunkin Donuts.

19 CHAIRMAN SCALZO: Okay. I
20 appreciate how you put that together.

21 MR. DONOVAN: I feel like I
22 should ask Mr. Mattina a question
23 just because he's been sitting there.
24 Is there any prohibition against
25 drive-thrus in the B District?

1 LAXMI ESTATES II, LLC

2 MR. MATTINA: Yes and no. The
3 code is very unclear on when and
4 where a drive-thru needs to be,
5 whether it's food preparation or --

6 CHAIRMAN SCALZO: This isn't
7 food is prep. That's we've
8 determined. The food is prepared
9 somewhere else and just basically
10 stored at the facility. They might
11 be heating it up or something.

12 MR. MATTINA: The code doesn't
13 really say where a drive-thru is
14 permitted. They've generally have
15 just been permitted within shopping
16 centers.

17 MR. DONOVAN: So the
18 interpretation in 2004 says the
19 proposed use falls within a food
20 preparation shop use.

21 MR. MATTINA: Correct.

22 MR. DONOVAN: So my
23 understanding is that you were
24 looking for a confirmation of that
25 but to remove the requirement for a

1 LAXMI ESTATES II, LLC

2 drive-thru.

3 MR. FURST: Correct. Like I
4 said, there was a condition that
5 there would be no drive-thru. We
6 were just trying to remove that
7 condition.

8 As far as the code, I mean I
9 didn't see any prohibition in the
10 code, because when they define
11 drive-thru it says any business
12 facility. So it doesn't just limit
13 it to certain facilities or certain
14 locations.

15 The issue is, you know, just
16 because you have a drive-thru doesn't
17 mean you're turning it into a fast
18 food. We have the interpretation
19 from 2004 that says, you know, this
20 is not fast food, it's something
21 different. Retail food preparation.

22 MR. DONOVAN: Reasonable
23 conditions to achieve a legitimate
24 objective are allowed. I just noted
25 last time, and I'll note again

1 LAXMI ESTATES II, LLC

2 tonight, there's no statement of what
3 the Board is trying to achieve by
4 prohibiting drive-thrus.

5 CHAIRMAN SCALZO: I follow you
6 completely, Counsel.

7 MR. DONOVAN: I just wanted to
8 establish from Code Compliance
9 whether there was some other code
10 prohibition against it.

11 MS. REIN: What's the
12 difference between retail food
13 preparation and -- now I can't think
14 of the other word.

15 MR. BELL: Where they cook it
16 on site?

17 MS. REIN: Yeah. And fast
18 food. What's the difference between
19 that?

20 MR. DONOVAN: Well typically,
21 and I'm only a lawyer, so fast food
22 you walk up to the counter, right,
23 and you order and you take it and you
24 sit down, where you go away with it,
25 as opposed to a restaurant where

1 LAXMI ESTATES II, LLC

2 there's table service.

3 MS. REIN: Because Dunkin
4 Donuts does make food.

5 CHAIRMAN SCALZO: Do they make
6 food or do they just heat food that's
7 been delivered?

8 MR. FURST: They get different
9 parts delivered and they put it
10 together.

11 MS. REIN: They cook eggs, they
12 cook breakfast sandwiches, they make
13 chicken salad sandwiches.

14 MR. FURST: Right. The
15 interpretation there says that they
16 are food accessory -- retail with
17 accessory food preparation.

18 CHAIRMAN SCALZO: I am not
19 disputing that at all. When you read
20 our interpretation of the other one
21 that we did over by Maisies, I don't
22 believe what we're saying here is
23 consistent with what we've determined
24 for that fifteen years later.

25 MR. DONOVAN: As Ralph Waldo

1 LAXMI ESTATES II, LLC

2 Emerson once said, foolish
3 consistency is the hobgoblin of
4 little minds. I remember that from
5 my freshman year.

6 MR. MATTINA: Dunkin Donuts has
7 a food preparation. The code doesn't
8 really clarify where drive-thrus can
9 be.

10 MR. BELL: It needs to be
11 rewritten.

12 MR. MATTINA: Everything is
13 different.

14 CHAIRMAN SCALZO: That's not
15 your problem. That's my problem in
16 this case because I try to -- you
17 know, if you look at how I vote on,
18 you know, building heights, I try to
19 be consistent. Consistency is
20 killing me here. I don't know --

21 MR. BELL: It needs to be
22 rewritten.

23 MS. REIN: Pharmacies have
24 drive-thrus.

25 CHAIRMAN SCALZO: That's true.

1 LAXMI ESTATES II, LLC

2 Pharmacies do.

3 MR. FURST: Banks, pharmacies,
4 a lot of retail businesses have
5 drive-thrus.

6 CHAIRMAN SCALZO: It's in an
7 unusual stretch of 9W that I can't
8 think of the closest drive-thru to
9 that.

10 MR. FURST: But there are other
11 drive-thrus in the same zone, in the
12 Business Zone. In fact, there are
13 other coffee shops that are
14 drive-thrus in the same zone.

15 Believe me, I sat down with
16 Mark Taylor, I sat down with Jerry,
17 and I think Joe was there, back in
18 November of 2021 trying to go through
19 all of this. It was an interesting
20 conversation to say the least.

21 CHAIRMAN SCALZO: Okay.
22 Counsel, the public hearing is still
23 open on this?

24 MR. DONOVAN: The public
25 hearing is still open. You should

1 LAXMI ESTATES II, LLC

2 ask if there's any --

3 CHAIRMAN SCALZO: Is there
4 anyone here from the public that
5 wishes to speak about this
6 application?

7 (No response.)

8 CHAIRMAN SCALZO: Very good.

9 Do any Members of the Board
10 have any more questions on this?

11 Like I say, the consistency of
12 the determination of the type of
13 facility it is, that's my own thing.

14 Do you feel as though you need
15 any more information?

16 MS. REIN: No.

17 CHAIRMAN SCALZO: I don't think
18 that we do.

19 All right. Then I'll look to
20 the Board for a motion to close the
21 public hearing.

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

24 MS. REIN: I'll second it.

25 CHAIRMAN SCALZO: We have a

1 LAXMI ESTATES II, LLC

2 motion to close from Mr. Bell. We
3 have a second from Ms. Rein. All in
4 favor?

5 MR. GRAMSTAD: Aye.

6 MR. BELL: Aye.

7 MS. REIN: Aye.

8 CHAIRMAN SCALZO: Aye.

9 Opposed?

10 (No response.)

11 CHAIRMAN SCALZO: All right.

12 So now Counsel, how do we proceed?

13 MR. DONOVAN: Here are your
14 options as I view it. You could deny
15 the request or you could grant the
16 request. If you grant the request,
17 it's to affirm the determination of
18 2004 but remove the prohibition
19 against the drive-thru.

20 CHAIRMAN SCALZO: What are we
21 looking for? Does anyone have any
22 great opposition to seeing a
23 drive-thru there?

24 MS. REIN: Not at all.

25 MR. BELL: No.

1 LAXMI ESTATES II, LLC

2 MR. GRAMSTAD: No.

3 CHAIRMAN SCALZO: Well then --

4 MR. DONOVAN: This is not a use
5 variance. This will go to the
6 Planning Board. Any issues about
7 stacking, traffic --

8 CHAIRMAN SCALZO: All of that.

9 MR. FURST: Lighting. All site
10 plan issues will be addressed with
11 the Planning Board.

12 CHAIRMAN SCALZO: Okay.

13 MS. REIN: I make a motion to
14 approve. Can I do that?

15 MR. DONOVAN: You can make a
16 motion to approve the request.

17 MS. REIN: Yes.

18 MR. BELL: I'll second.

19 CHAIRMAN SCALZO: We have a
20 motion to approve the request from
21 Ms. Rein. We have a second from Mr.
22 Bell. Can you roll on that, please,
23 Siobhan.

24 MS. JABLESNIK: Mr. Bell?

25 MR. BELL: Yes.

1 LAXMI ESTATES II, LLC

2 MS. JABLESNIK: Mr. Gramstad?

3 MR. GRAMSTAD: Yes.

4 MS. JABLESNIK: Ms. Rein?

5 MS. REIN: Yes.

6 MS. JABLESNIK: Mr. Scalzo?

7 CHAIRMAN SCALZO: Yes.

8 Your interpretation has been

9 interpreted.

10

11 (Time noted: 8:38 p.m.)

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LAXMI ESTATES II, LLC

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 2nd day of September 2022.

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

SNK PETROLEUM WHOLESALERS
747 Boulevard, Newburgh
Section 89; Block 1; Lots 80.1 & 80.2
IB Zone

----- X

BOARD BUSINESS

Date: August 25, 2022
Time: 8:38 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, New York

BOARD MEMBERS: DARRIN SCALZO, Chairman
DARRELL BELL
ROBERT GRAMSTAD
DONNA REIN

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

----- X

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

1 SNK PETROLEUM WHOLESALERS

2 CHAIRMAN SCALZO: We actually
3 have a couple of other items, Board
4 Business that Counsel and I were
5 discussing earlier today.

6 I'm going to let Counsel go
7 ahead and bring you folks up to speed
8 on this.

9 MR. DONOVAN: So let's do the
10 easy one first.

11 CHAIRMAN SCALZO: What we're
12 talking about is SNK Petroleum. When
13 we were listening to their -- well,
14 the conditions of their variances
15 last month, I don't believe I was
16 clear with explaining the retaining
17 walls for parking. They can only be
18 moved to what code will allow. I
19 might have thrown some dimensions out
20 there that might have been in
21 violation of what the setbacks for
22 parking are. I just wanted to
23 clarify on record that.

24 MR. DONOVAN: We're talking
25 about this?

1 SNK PETROLEUM WHOLESALEERS

2 CHAIRMAN SCALZO: The one along
3 747.

4 MR. DONOVAN: There was some
5 move it 5 feet, move it 7 feet, move
6 it 8 feet. My suggestion is just a
7 motion to clarify that the retaining
8 wall would move south --

9 CHAIRMAN SCALZO: That's west,
10 Dave.

11 MR. DONOVAN: West to the
12 maximum extent allowed without
13 violating any Town setbacks.

14 CHAIRMAN SCALZO: All right. I
15 think he just said it the best.

16 MS. REIN: Yes.

17 MR. BELL: Yes.

18 CHAIRMAN SCALZO: So discussion
19 on that? I don't believe we should
20 have any. We're just asking them to
21 comply with code.

22 Do we need to vote on that,
23 Dave?

24 MR. DONOVAN: Well I would say
25 a motion to clarify. There might be

1 SNK PETROLEUM WHOLESALERS

2 something inconsistent in the
3 minutes. The intent was to make it
4 the maximum extent allowed west
5 without violating any Town setback.

6 CHAIRMAN SCALZO: Rather than
7 repeat what Dave just said, I'm going
8 to say I would make a motion --

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

11 CHAIRMAN SCALZO: -- to agree
12 with the clarification.

13 MR. BELL: The verification of
14 what he just said.

15 CHAIRMAN SCALZO: We have a
16 motion from Mr. Bell.

17 MS. REIN: Second.

18 CHAIRMAN SCALZO: We have a
19 second from Ms. Rein. All in favor?

20 MR. BELL: Aye.

21 MR. GRAMSTAD: Aye.

22 MS. REIN: Aye.

23 CHAIRMAN SCALZO: Aye.

24 Those opposed?

25 (No response.)

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SNK PETROLEUM WHOLESALERS

(Time noted: 8:42 p.m.)

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STATE OF NEW YORK : COUNTY OF ORANGE
TOWN OF NEWBURGH ZONING BOARD OF APPEALS
----- X
In the Matter of

BGB WEST MOBILE HOME PARK

----- X

BOARD BUSINESS

Date: August 25, 2022
Time: 8:42 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, New York

BOARD MEMBERS: DARRIN SCALZO, Chairman
DARRELL BELL
ROBERT GRAMSTAD
DONNA REIN

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

----- X

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

1 BGB WEST MOBILE HOME PARK

2 CHAIRMAN SCALZO: On to number
3 2.

4 MR. DONOVAN: On to number 2.
5 We have a very, very odd situation.
6 You guys might be familiar with BGB
7 West Mobile Home Park. They want to
8 move around some mobile homes and put
9 some new ones in. We had something
10 similar. They decided to go to the
11 Code Compliance. Code Compliance
12 said expansion, preexisting
13 nonconforming use. Instead of coming
14 to the ZBA, they sued. They said
15 they don't need any approvals from
16 the Town. So they got a decision
17 that -- the judge seemed to think
18 that they came to the ZBA. The Town
19 attorney's office went back to court
20 and said the application never went
21 to the ZBA. They need to go to the
22 ZBA. They sent an application in to
23 Siobhan but claimed they didn't need
24 to pay the fees, they didn't need to
25 do anything. It ended up back in

1 B G B W E S T M O B I L E H O M E P A R K

2 court. Again the town attorney
3 handled it. The judge decided that
4 they were permitted to do what they
5 wanted to do.

6 MS. REIN: What?

7 MR. BELL: Whoa.

8 MR. DONOVAN: Sent the case
9 back to us, even though we never had
10 it before, so we could impose
11 pertinent conditions or requirements,
12 which would be kind of like
13 landscaping and stuff like that.

14 So what I'm suggesting that we
15 do is that you put it on the agenda
16 for September. No public hearing
17 because the court has said you must
18 hear this, they are permitted to do
19 this, you can attach reasonable
20 conditions. For the limited purpose
21 of attaching reasonable conditions,
22 that's all we can do.

23 MS. REIN: That sounds
24 ridiculous.

25 MR. DONOVAN: So it's

1 B G B W E S T M O B I L E H O M E P A R K

2 ridiculous twice in court. So you
3 need to keep hitting yourself in the
4 head with a hammer and the Town
5 taxpayers can keep paying the town
6 attorney to go back to court. There
7 was some discussion whether it should
8 be reargued again because it seemed
9 that the judge didn't understand that
10 it had never been here. All they
11 really needed to do, like everybody
12 else, when Code Compliance denies
13 them, they appeal the determination
14 to us, we have a hearing and we make
15 a determination. We had a similar
16 case with a different mobile home
17 park. This is not that complicated.
18 They've made it complicated. I'm
19 just trying to get from point A to
20 point B.

21 So they may balk at coming
22 here. Their attorney seems to think
23 that I'm going to give them a
24 building permit.

25 MS. REIN: Who is their

1 B G B W E S T M O B I L E H O M E P A R K

2 attorney?

3 CHAIRMAN SCALZO: I don't know
4 if that matters, but --

5 MR. DONOVAN: Wichler & Gobetz
6 from Rockland County.

7 Anyway, so it's going to end up
8 on the agenda in September.

9 CHAIRMAN SCALZO: Well it is
10 what it is.

11 MR. MATTINA: Can I ask one
12 question? On the agenda for what? I
13 didn't send them for increasing the
14 degree of nonconformity.

15 MR. DONOVAN: Imposition of
16 pertinent conditions or requirements.
17 That's what the judge said.

18 MR. MATTINA: Right. I sent
19 them for side yard, front yard
20 setbacks. I didn't send them for
21 increasing the degree of
22 nonconformity or expanding a
23 nonconforming use. The judge, from
24 what I understand, is hung up on
25 that. That's not why I sent them. I

1 B G B W E S T M O B I L E H O M E P A R K

2 sent them because --

3 MR. DONOVAN: Well he thought
4 they were here.

5 MR. MATTINA: I know that.

6 MR. DONOVAN: And the town
7 attorney told him twice, two
8 different court cases, and he still
9 couldn't figure it out. So there was
10 a discussion, should they go back to
11 court or just send them here.

12 MR. MATTINA: When they come
13 here they need to come for a front
14 yard setback, not increasing the
15 degree of nonconformity.

16 MR. DONOVAN: Let's see what
17 the judge says.

18 MR. MATTINA: I know what the
19 judge said, but that's not why I sent
20 them here.

21 MR. DONOVAN: Well you're not
22 the judge, though.

23 MR. MATTINA: I know that.

24 MR. DONOVAN: Sometimes I'd
25 like to be the judge, but --

1 BGB WEST MOBILE HOME PARK

2 MR. MATTINA: That's where all
3 the confusion is. He's looking at
4 something and I'm looking at
5 something totally different.

6 MR. DONOVAN: Well, what the
7 judge says -- they asked for the
8 court to direct us to -- for us to
9 issue the permit. We're not issuing
10 a permit. I'll read from the
11 decision. "Rather the matter is
12 remitted to the ZBA for further
13 proceedings consistent with its
14 decision" -- we didn't make a
15 decision -- "and for the imposition
16 of pertinent conditions or
17 requirements. That is, the ZBA is
18 not precluded from reviewing the
19 application other than whether the
20 proposed home itself constitutes a
21 new use or an impermissible expansion
22 of a preexisting nonconforming use,
23 that issue is decided."

24 MR. MATTINA: Right. That's
25 not why I sent them. It has nothing

1 BGB WEST MOBILE HOME PARK

2 to do with why. I understand.

3 MR. DONOVAN: I actually don't
4 understand. He's a good judge. I
5 don't really understand what he's
6 done because it's very simple to just
7 deny their application and say go to
8 ZBA, because they have to exhaust
9 their administrative remedies.
10 That's the rule in New York.

11 MR. MATTINA: They jumped the
12 gun.

13 MR. DONOVAN: They jumped the
14 gun.

15 MS. REIN: But you said you
16 didn't think he knew. How would he
17 not know?

18 MR. DONOVAN: It's all over the
19 town attorney's papers. I mean an
20 affidavit from Siobhan, affidavit
21 from Darrin. I reviewed all this
22 stuff, worked with them putting it
23 together. It's plain as day.

24 CHAIRMAN SCALZO: Dave, do you
25 need me, as Chairman, to say having

1 B G B W E S T M O B I L E H O M E P A R K

2 read the information I would like
3 this to appear on next month's
4 agenda?

5 MR. DONOVAN: You just did.

6 CHAIRMAN SCALZO: Thank you.

7 Okay. I don't know that I need
8 anybody else because I am the
9 Chairman.

10 MR. DONOVAN: That's right.

11 CHAIRMAN SCALZO: So I'm
12 looking to the Board for a motion to
13 close the meeting.

14 MS. REIN: I'll make a motion
15 to close the meeting.

16 MR. BELL: Did we approve the
17 minutes?

18 CHAIRMAN SCALZO: We can defer
19 that to next month when everyone is
20 here.

21 MR. BELL: Okay. I'll second.

22 CHAIRMAN SCALZO: So we have a
23 motion to close from Ms. Rein. We
24 have a second from Mr. Bell. All in
25 favor?

1 B G B W E S T M O B I L E H O M E P A R K

2 MR. GRAMSTAD: Aye.

3 MR. BELL: Aye.

4 MS. REIN: Aye.

5 CHAIRMAN SCALZO: Aye.

6 Those opposed?

7 (No response.)

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9 (Time noted: 8:50 p.m.)

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BGB WEST MOBILE HOME PARK

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