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

JOSEPH FINNEGAN

1212 Union Avenue, Newburgh  
Section 38; Block 2; Lot 14  
R-3 Zone

----- X

Date: October 28, 2021  
Time: 7:01 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, New York

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

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

APPLICANT'S REPRESENTATIVE: JOSEPH FINNEGAN

----- X

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

1 JOSEPH FINNEGAN

2 CHAIRMAN SCALZO: It's 7:01.  
3 I'd like to call the meeting of the  
4 ZBA to order. The microphones are  
5 on.

6 The order of business this  
7 evening are the public hearings which  
8 are scheduled on the agenda. The  
9 procedure of the Board is that the  
10 applicant will be called upon to step  
11 forward, state their request and  
12 explain why it should be granted.  
13 The Board will then ask the applicant  
14 any questions it may have and then  
15 any questions or comments from the  
16 public will be entertained. The  
17 Board will then consider the  
18 applications and will try to render a  
19 decision this evening but may take up  
20 to 62 days to reach a determination.

21 I would ask that if you have a  
22 cellphone, to please turn it off or  
23 put it on silent.

24 When speaking, speak directly  
25 into the microphone as it is being

1 JOSEPH FINNEGAN

2 recorded.

3 Roll call, please.

4 MS. JABLESNIK: Darrell Bell.

5 MR. BELL: Here.

6 MS. JABLESNIK: James Eberhart.

7 MR. EBERHART: Here.

8 MS. JABLESNIK: Robert Gramstad.

9 MR. GRAMSTAD: Here.

10 MS. JABLESNIK: Greg Hermance.

11 MR. HERMANCE: Here.

12 MS. JABLESNIK: Anthony Marino.

13 MR. MARINO: Here.

14 MS. JABLESNIK: John Masten.

15 MR. MASTEN: Here.

16 MS. JABLESNIK: Darrin Scalzo.

17 CHAIRMAN SCALZO: Here.

18 MS. JABLESNIK: And also

19 present is our Attorney, Dave

20 Donovan; our Stenographer, Michelle

21 Conero; and from Code Compliance we

22 have Gerald Canfield and Joe Mattina.

23 CHAIRMAN SCALZO: And we also

24 have a guest stenographer as well.

25 MS. JABLESNIK: We have a guest

1           JOSEPH FINNEGAN

2           stenographer. I'm sorry, I didn't  
3           catch your name.

4           MS. MARTIN: Beth Martin.

5           CHAIRMAN SCALZO: Very good.

6           Will you all please rise for the  
7           Pledge.

8           (Pledge of Allegiance.)

9           CHAIRMAN SCALZO: Our first  
10          applicant this evening is Joseph  
11          Finnegan, 1212 Union Avenue, seeking  
12          an area variance to keep a 12 by 20  
13          shed 2.5 feet away from the property  
14          line where 5 feet is required.

15          Siobhan, do we have mailings on  
16          this?

17          MS. JABLESNIK: We do. This  
18          applicant sent out 52 letters.

19          CHAIRMAN SCALZO: 52 letters.

20          Whoa. That might be the winner.

21          We'll see.

22          All right. Who do we have this  
23          evening representing?

24          MR. FINNEGAN: Joseph Finnegan.

25          CHAIRMAN SCALZO: Mr. Finnegan,

1           JOSEPH FINNEGAN

2           very good. Mr. Finnegan, we've been  
3           to your property. We've seen what  
4           you've got going on out there. There  
5           is a lot of action.

6                     MR. FINNEGAN: Yeah, yeah.

7                     CHAIRMAN SCALZO: But if I've  
8           captured what it is that you're  
9           looking to do, we can just go ahead  
10          right to where the Board comments on  
11          what's going on.

12                    If you feel as though you'd  
13          like to add more to what I said,  
14          please go ahead.

15                    MR. FINNEGAN: No. Not at all.

16                    CHAIRMAN SCALZO: Great. Okay.  
17          So we've been to the site. We're  
18          obliged by position to visit the  
19          sites.

20                    At this point I'm going to just  
21          go ahead and -- I'll look down to  
22          Mr. Marino. Mr. Marino, do you have  
23          any comments on this application?

24                    MR. MARINO: Not really. He's  
25          sort of a neighbor of mine. I was at

1           JOSEPH FINNEGAN

2           the site a couple of days ago. He's  
3           down the street, I'm up the street.  
4           Everything is fine with it.

5                   CHAIRMAN SCALZO: Very good.  
6           Before I move on to Mr. Masten, you  
7           had explained to me while we were out  
8           there that you had gone off your  
9           survey. You pulled off the fence --

10                   MR. FINNEGAN: Yes.

11                   CHAIRMAN SCALZO: -- of your  
12           neighbor --

13                   MR. FINNEGAN: Yes.

14                   CHAIRMAN SCALZO: -- and you  
15           went 5 feet from the fence.

16                   MR. FINNEGAN: Yeah. It was  
17           about 61 inches.

18                   CHAIRMAN SCALZO: 5 plus to  
19           give yourself a little cushion, if  
20           you will, not realizing or not having  
21           read the survey correctly that your  
22           neighbor's fence wasn't on the  
23           property line. It was 2.5 feet onto  
24           his lot.

25                   MR. FINNEGAN: Yes.

1 JOSEPH FINNEGAN

2 CHAIRMAN SCALZO: So,  
3 therefore, you're in this predicament  
4 because you mis-measured.

5 MR. FINNEGAN: Yes. Misread,  
6 mis-measured.

7 CHAIRMAN SCALZO: Okay. And  
8 Code Compliance actually picked up on  
9 that. You were unaware until you  
10 said Code Compliance told you. The  
11 folks came out there and said hey,  
12 you know, this is what's going on.  
13 All right.

14 So that being said, I'm going  
15 to move over to Mr. Masten. Do you  
16 have any comments on this?

17 MR. MASTEN: I have no comments  
18 on it.

19 CHAIRMAN SCALZO: All right.  
20 Mr. Gramstad?

21 MR. GRAMSTAD: None at all.

22 CHAIRMAN SCALZO: Mr. Eberhart?

23 MR. EBERHART: No comments.

24 CHAIRMAN SCALZO: Mr. Hermance?

25 MR. HERMANCE: No. I'm good.

1 JOSEPH FINNEGAN

2 CHAIRMAN SCALZO: And Mr. Bell?

3 MR. BELL: No.

4 CHAIRMAN SCALZO: Nothing.

5 Okay.

6 One of the things that I looked  
7 when I was out there, and I mentioned  
8 this to you in the field, right now  
9 you and your neighbors get along just  
10 fine.

11 MR. FINNEGAN: Yup.

12 CHAIRMAN SCALZO: With the roof  
13 that you have on that, let's say you  
14 lose a shingle on that neighbor's  
15 side and you've got to put a ladder  
16 up. The ladder has to be on your  
17 neighbor's property, and that's a  
18 challenge, you know.

19 I'm glad you get along with  
20 your neighbors. You know, fences  
21 make good neighbors and he put his on  
22 his property.

23 How difficult would it be to,  
24 after you're done with your addition,  
25 because I know you've got a lot of



1           JOSEPH FINNEGAN

2           action going on out there --

3           MR. FINNEGAN: Yes.

4           CHAIRMAN SCALZO: How difficult  
5           would it be -- you said you'd have  
6           Mr. Shed come in if you were ever to  
7           move, because that's an awesome shed  
8           you have.

9           MR. FINNEGAN: Thank you.

10          CHAIRMAN SCALZO: If you were  
11          to ever move, you would take it with  
12          you. But how difficult do you think  
13          that would be after --

14          MR. FINNEGAN: Well, you would  
15          take the roof off, you know, if you  
16          really -- you know, if my heart -- my  
17          heart is in it. I built it. If I  
18          really want to take it with me to go  
19          somewhere, it is possible.

20          MR. DONOVAN: I think he only  
21          wants to go a couple feet.

22          CHAIRMAN SCALZO: Okay. I was  
23          only asking about a couple of feet.

24          MR. FINNEGAN: Yeah, okay.

25          CHAIRMAN SCALZO: I just wanted

1           JOSEPH FINNEGAN

2           to get your --

3                   MR. FINNEGAN:  Yeah.  It would  
4           be -- you know, it would be for them  
5           to come out, move it, re-lay the  
6           item 4 and re-support the beams on  
7           the bottom.

8                   CHAIRMAN SCALZO:  All right.  
9           At this point I'm going to open it up  
10          to any members of the public that  
11          wish to speak about this application.  
12          Is there anyone here that wants to  
13          speak about the application for Mr.  
14          Finnegan?

15                   (No response.)

16                   CHAIRMAN SCALZO:  Seeing  
17          none --

18                   MR. FINNEGAN:  Thank you.

19                   CHAIRMAN SCALZO:  Hold on.  
20          Don't go anywhere.

21                   MR. FINNEGAN:  No, no.

22                   CHAIRMAN SCALZO:  I'm going to  
23          go back to the Board.  Mr. Bell,  
24          anything after the comments that you  
25          heard?

1 JOSEPH FINNEGAN

2 MR. BELL: Well, I know we did  
3 just have one that related to the  
4 back.

5 CHAIRMAN SCALZO: This is in  
6 the front yard.

7 MR. BELL: It was the front  
8 yard setback?

9 MR. FINNEGAN: Yes.

10 MR. BELL: Okay. So it's a  
11 little different.

12 CHAIRMAN SCALZO: All right.  
13 It's a little different story. In  
14 this case, like I say, when I visited  
15 the property I didn't notice around  
16 your particular lot if anyone else  
17 had sheds. I don't know.

18 MR. FINNEGAN: My neighbor on  
19 the left side has one.

20 MR. BELL: I saw two  
21 additional.

22 MR. FINNEGAN: Yeah.

23 MR. BELL: I saw two  
24 additional.

25 CHAIRMAN SCALZO: Mr. Hermance,

1 JOSEPH FINNEGAN

2 anything else since then?

3 MR. HERMANCE: No.

4 CHAIRMAN SCALZO: Mr. Eberhart?

5 MR. EBERHART: I would just say  
6 I was a little concerned that it's  
7 over the line.

8 CHAIRMAN SCALZO: Okay.

9 Mr. Gramstad, anything else?

10 MR. GRAMSTAD: No. Nothing.

11 CHAIRMAN SCALZO: Mr. Masten?

12 MR. MASTEN: I have nothing.

13 CHAIRMAN SCALZO: And

14 Mr. Marino?

15 MR. MARINO: No.

16 CHAIRMAN SCALZO: All right.

17 So at this point I'm going to look to  
18 the Board for a motion to close the  
19 public hearing.

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

22 MR. MARINO: I'll second it.

23 CHAIRMAN SCALZO: We have a  
24 motion from Mr. Masten. We have a  
25 second from Mr. Marino. Roll on

1 JOSEPH FINNEGAN

2 that, Siobhan.

3 MS. JABLESNIK: Mr. Bell?

4 MR. BELL: Yes.

5 MS. JABLESNIK: Mr. Hermance?

6 MR. HERMANCE: Yes.

7 MS. JABLESNIK: Mr. Gramstad?

8 MR. GRAMSTAD: Yes.

9 MS. JABLESNIK: Mr. Eberhart?

10 MR. EBERHART: Yes.

11 MS. JABLESNIK: Mr. Marino?

12 MR. MARINO: Yes.

13 MS. JABLESNIK: Mr. Masten?

14 MR. MASTEN: Yes.

15 MS. JABLESNIK: Mr. Scalzo?

16 CHAIRMAN SCALZO: Yes.

17 The public hearing is closed.

18 At this point this is a Type 2  
19 action under SEQRA. We're going to  
20 go through the area variance criteria  
21 and discuss the five factors, the  
22 first one being whether or not the  
23 benefit can be achieved by other  
24 means feasible to the applicant.  
25 I'll look to the Board on this.

1           JOSEPH FINNEGAN

2           Whether or not the benefit can be  
3           achieved by other means, meaning --  
4           it could be.

5           MR. BELL: It could have been.  
6           It could have been moved.

7           CHAIRMAN SCALZO: It could be  
8           moved.

9           MR. BELL: Because it's not  
10          really -- it's not stationary. It's  
11          not locked down.

12          CHAIRMAN SCALZO: It would be a  
13          challenge, but it certainly could be  
14          done.

15          MR. BELL: Kind of costly.

16          CHAIRMAN SCALZO: Second, if  
17          there's an undesirable change in the  
18          neighborhood character or a detriment  
19          to nearby properties. I don't  
20          believe there is.

21          MR. BELL: No.

22          CHAIRMAN SCALZO: The third,  
23          whether the request is substantial.  
24          Well, when you look at a 5-foot  
25          offset and he's at 2.5 feet, he's 50

1 JOSEPH FINNEGAN

2 percent closer than he should be.

3 Pardon me. I said that backwards.

4 You know, he's half the distance.

5 The fourth, whether the request

6 will have adverse physical or

7 environmental effects.

8 MR. BELL: No.

9 MR. EBERHART: No.

10 MR. GRAMSTAD: No.

11 MR. HERMANCE: No.

12 MR. MARINO: No.

13 MR. MASTEN: No.

14 CHAIRMAN SCALZO: It does not  
15 appear so.

16 And the fifth, whether the  
17 alleged difficulty is self-created

18 which is relevant but not

19 determinative. Of course it's

20 self-created. He just built the

21 shed. It's a lovely shed.

22 If the Board approves, it shall  
23 grant the minimum variance necessary

24 and may impose reasonable conditions.

25 Having gone through the

1 JOSEPH FINNEGAN

2 balancing test of the area variance,  
3 what is the pleasure of the Board?  
4 Does the Board have a motion of some  
5 sort?

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

8 MR. GRAMSTAD: I'll second it.

9 CHAIRMAN SCALZO: We have a  
10 motion to approve from Mr. Bell. We  
11 have a second from Mr. Gramstad.  
12 Roll on that, please.

13 MS. JABLESNIK: Mr. Bell?

14 MR. BELL: Yes.

15 MS. JABLESNIK: Mr. Eberhart?

16 MR. EBERHART: Yes.

17 MS. JABLESNIK: Mr. Gramstad?

18 MR. GRAMSTAD: Yes.

19 MS. JABLESNIK: Mr. Hermance?

20 MR. HERMANCE: Yes.

21 MS. JABLESNIK: Mr. Marino?

22 MR. MARINO: Yes.

23 MS. JABLESNIK: Mr. Masten?

24 MR. MASTEN: Yes.

25 MS. JABLESNIK: Mr. Scalzo?



1 JOSEPH FINNEGAN

2 CHAIRMAN SCALZO: No.

3 The motion is carried and you  
4 are approved.

5 MR. FINNEGAN: Thank you.

6 (Time noted: 7:12 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 11th day of November 2021.

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

MICHAEL POIDOMANI

47 Hickory Hill Road, Newburgh  
Section 47; Block 1; Lot 64.11  
R-1 Zone

----- X

Date: October 28, 2021  
Time: 7:12 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, New York

BOARD MEMBERS: DARRIN SCALZO, Chairman (recused)  
DARRELL BELL  
JAMES EBERHART, JR.  
ROBERT GRAMSTAD  
GREGORY M. HERMANCE (recused)  
ANTHONY MARINO  
JOHN MASTEN

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

APPLICANT'S REPRESENTATIVE: MICHAEL POIDOMANI

----- X

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

1           MICHAEL POIDOMANI

2                   CHAIRMAN SCALZO:  Our second  
3           applicant this evening is at  
4           46 Hickory Hill Road in Newburgh,  
5           Michael Poidomani

6                   MR. POIDOMANI:  It's 47.

7                   CHAIRMAN SCALZO:  47 Hickory  
8           Hill, seeking an area variance for  
9           the front yard to keep a 12 by 20  
10          accessory building.

11                   Do you have mailings on that,  
12          Siobhan?

13                   MS. JABLESNIK:  Yes.  He sent  
14          out 14 letters.

15                   CHAIRMAN SCALZO:  Very good.

16                   In this case Mr. Hermance and I  
17          need to step away.  The agency that  
18          we work for is within 500 feet of the  
19          applicant.

20                   Therefore, Counselor, can you  
21          take over from here?

22                   MR. DONOVAN:  Thank you,  
23          Mr. Chairman.

24                   (Chairman Scalzo and  
25          Mr. Hermance left the room.)

1           MICHAEL POIDOMANI

2                   MR. DONOVAN: For the record,  
3                   you could tell us who you are and  
4                   what you are seeking from the Board.

5                   MR. POIDOMANI: My name is  
6                   Michael Poidomani and I'm seeking a  
7                   variance for a shed 20 by 12 in the  
8                   front of my property -- in the front  
9                   of my house.

10                  MR. DONOVAN: And do you want  
11                  to tell the Board why it's in the  
12                  front yard?

13                  MR. POIDOMANI: It's in the  
14                  front yard because the way the house  
15                  was built and the way the leach field  
16                  is set on a diagonal, anywhere I try  
17                  and put the shed it would actually  
18                  impinge on the leach field.

19                  MR. DONOVAN: Anything else you  
20                  want to tell the Board about the  
21                  nature of your neighborhood or impact  
22                  or no impact on the neighbors?  
23                  Anything like that?

24                  MR. POIDOMANI: There's no  
25                  impact on the neighbors. The side

1           MICHAEL POIDOMANI

2           that the shed is on is on a  
3           landlocked area which is all wooded.  
4           The shed sits back about 500 feet  
5           from the road, so it's not even seen  
6           from the road itself.

7           MR. DONOVAN: Okay. Anything  
8           else you want to tell us?

9           MR. POIDOMANI: It's also 5  
10          foot off the edge of the property  
11          line. There's a rock wall that runs  
12          along there. It's 5 feet from the  
13          rock wall. I actually had to run a  
14          mason string from one end to the  
15          other because about 200 foot of the  
16          rock wall is missing completely.

17          MR. DONOVAN: I'll turn to the  
18          Board. Mr. Bell, any questions,  
19          comments?

20          MR. BELL: Yeah. You mentioned  
21          about the string that's running along  
22          the back side. I was concerned as  
23          far as making sure that it was the  
24          proper distance and it's not seen  
25          from the road at all.

1           MICHAEL POIDOMANI

2                         That's all.

3                         MR. DONOVAN:   Mr. Eberhart?

4                         MR. EBERHART:   The only  
5                         question I had is that for the wooded  
6                         area in the back, did you ever  
7                         consider just clearing the area and  
8                         then elevating the shed?

9                         MR. POIDOMANI:   That wooded  
10                        area doesn't belong to me.  I only  
11                        own from the wall -- the rear wall of  
12                        the shed 5 foot in.  It actually  
13                        measures out almost 6 feet, and  
14                        there's a big tree right there.  I'll  
15                        say it's 5.5 feet from the back of  
16                        the shed.  So it really can't be  
17                        moved anywhere.  There's a tree on  
18                        the front side, also.

19                        MR. DONOVAN:   Anything else?

20                        MR. EBERHART:   That's it for  
21                        me.

22                        MR. DONOVAN:   Mr. Gramstad?

23                        MR. GRAMSTAD:   No questions.

24                        MR. DONOVAN:   Mr. Masten?

25                        MR. MASTEN:    I have nothing.

1           MICHAEL POIDOMANI

2                   MR. DONOVAN: Mr. Marino?

3                   MR. MARINO: No questions.

4                   MR. DONOVAN: Do any members of  
5 the public have any comments on this  
6 application?

7                   (No response.)

8                   MR. DONOVAN: Hearing none,  
9 does the Board have any motions  
10 relative to the public hearing?

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

13                   MR. DONOVAN: Mr. Bell has made  
14 a motion to close the public hearing.

15                   MR. MASTEN: I'll second it.

16                   MR. DONOVAN: Second by  
17 Mr. Masten. Roll call, please,  
18 Siobhan.

19                   MS. JABLESNIK: Mr. Bell --

20                   MR. DONOVAN: Before you do  
21 that roll call, you can tell us how  
22 many mailings there were because I  
23 forgot to ask.

24                   MS. JABLESNIK: 14. No, you  
25 remembered.

1           MICHAEL POIDOMANI

2                   MR. DONOVAN: I did?

3                   MS. JABLESNIK: Maybe Darrin  
4           did.

5                   MR. DONOVAN: I don't think I  
6           did.

7                   MS. JABLESNIK: Mr. Bell?

8                   MR. BELL: Yes.

9                   MS. JABLESNIK: Mr. Eberhart?

10                  MR. EBERHART: Yes.

11                  MS. JABLESNIK: Mr. Gramstad?

12                  MR. GRAMSTAD: Yes.

13                  MS. JABLESNIK: Mr. Marino?

14                  MR. MARINO: Yes.

15                  MS. JABLESNIK: Mr. Masten?

16                  MR. MASTEN: Yes.

17                  MR. DONOVAN: The public  
18           hearing is closed.

19                   Gentlemen, we'll go through the  
20           five-part balancing test. The first  
21           factor is whether the benefit can be  
22           achieved by other means feasible for  
23           the applicant to pursue. He's  
24           testified that he can't put the shed  
25           anywhere else on his property.



1           MICHAEL POIDOMANI

2                   Does anybody else have any  
3           comments on that factor?

4                   MR. BELL:    No.

5                   MR. EBERHART:  No.

6                   MR. GRAMSTAD:  No.

7                   MR. MARINO:    No.

8                   MR. MASTEN:    No.

9                   MR. DONOVAN:   The second factor  
10           is whether or not it will cause an  
11           undesirable change in the  
12           neighborhood or a detriment to any  
13           nearby properties.

14                   MR. BELL:    No.

15                   MR. EBERHART:  No.

16                   MR. GRAMSTAD:  No.

17                   MR. MARINO:    No.

18                   MR. MASTEN:    No.

19                   MR. DONOVAN:   The third is  
20           whether or not the request is  
21           substantial.  I think, as we've  
22           discussed before, from a mathematical  
23           calculation it would be substantial,  
24           but you can take into consideration  
25           the overall impact on the

1           MICHAEL POIDOMANI

2           neighborhood in determining the  
3           substantiality of the request.

4           The next factor is whether or  
5           not the variance would have an  
6           adverse impact on the neighborhood,  
7           physical or environmental effects,  
8           and whether that difficulty is  
9           self-created, which it obviously is,  
10          but that's not the determinative  
11          issue.

12          Having gone through the five  
13          factors, does the Board have a  
14          motion?

15          MR. GRAMSTAD: I'll make a  
16          motion to grant the variance.

17          MR. DONOVAN: Motion by  
18          Mr. Gramstad.

19          MR. BELL: I'll second it.

20          MR. DONOVAN: Second by  
21          Mr. Bell. Roll call, please,  
22          Siobhan.

23          MS. JABLESNIK: Mr. Bell?

24          MR. BELL: Yes.

25          MS. JABLESNIK: Mr. Eberhart?

1           MICHAEL POIDOMANI

2                   MR. EBERHART:   Yes.

3                   MS. JABLESNIK:   Mr. Gramstad?

4                   MR. GRAMSTAD:   Yes.

5                   MS. JABLESNIK:   Mr. Marino?

6                   MR. MARINO:      Yes.

7                   MS. JABLESNIK:   Mr. Masten?

8                   MR. MASTEN:      Yes.

9                   MR. POIDOMANI:   Thank you.

10

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

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M I C H A E L P O I D O M A N I

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 11th day of November 2021.

*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

MICHAEL CALALUCA  
JIFFY LUBE

1231 Route 300, Newburgh  
Section 96; Block 1; Lot 3  
IB Zone

----- X

Date: October 28, 2021  
Time: 7:20 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, New York

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

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

APPLICANT'S REPRESENTATIVE: BRADY CARLUCCI

----- X

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

1           J I F F Y   L U B E

2                   CHAIRMAN SCALZO:  The next is  
3           Michael Calaluca, 1231 Route 300,  
4           Newburgh, seeking an area variance  
5           for lot area, front yard and two side  
6           yards to construct a Jiffy Lube  
7           Multi-Care Service Facility.  The  
8           applicant also seeks area variances  
9           for the maximum allowed signage for  
10          directional signs and building  
11          signage totaling 150 square feet.

12                  Siobhan, do we have mailings on  
13          this one?

14                  MS. JABLESNIK:  Yes.  This  
15          applicant sent out 10.

16                  CHAIRMAN SCALZO:  10.  Okay.  
17          Well, it's an industrial type area.

18                  In this case we have heard  
19          also back from the County.  It is on  
20          a State road and the County --  
21          Siobhan, I don't have that.  Is that  
22          in the package?  Very good.  Thank  
23          you, Dave.

24                  The Orange County Department of  
25          Planning has determined that the

1 JIFFY LUBE

2 proposed action has the potential to  
3 cause negative intra-municipal or  
4 Countywide watershed impacts. The  
5 County recommendation is  
6 modification. I don't know if you're  
7 aware of this.

8 MR. CARLUCCI: Yes. We  
9 received that yesterday.

10 CHAIRMAN SCALZO: Very good.  
11 I'm sorry. My fault. I did this.  
12 Please identify yourself.

13 MR. CARLUCCI: My name is Brady  
14 Carlucci.

15 CHAIRMAN SCALZO: Okay. And  
16 you are here this evening  
17 representing the Jiffy Lube  
18 application?

19 MR. CARLUCCI: Yes.

20 CHAIRMAN SCALZO: Thank you.

21 So having gone through what I  
22 had just said, what you're looking  
23 for -- we have all been out to the  
24 site there on Route 300 and took a  
25 look. It's the old brick building

1           J I F F Y   L U B E

2                   right next to the entrance into  
3                   Lowe's. Right?

4                   MR. CARLUCCI: Correct.

5                   CHAIRMAN SCALZO: We have  
6                   plans. We have stuff. So please go  
7                   ahead and present.

8                   MR. CARLUCCI: Also, I have  
9                   some colorized renderings if the  
10                  Board would like to see those.

11                  CHAIRMAN SCALZO: We will  
12                  certainly look at them. Keep in mind  
13                  that most things that we see in  
14                  Zoning Board of Appeals meetings, we  
15                  should have them in advance of what  
16                  we're trying to do so we have time to  
17                  digest what it is you're handing us  
18                  so we don't make a rash snap  
19                  decision. We'd be willing to take a  
20                  look at what you've got. If you have  
21                  anything that you want to put on the  
22                  easel, go right ahead.

23                  Sir, you've got 10 mailings  
24                  out. That's right, Siobhan. You've  
25                  identified yourself. We have the



1 JIFFY LUBE

2 renderings in our hands. Have at it.

3 MR. CARLUCCI: All right. So  
4 to give a background on the project,  
5 we are proposing to develop an  
6 existing .7 acre site located at  
7 1231 Union Ave. It's an existing  
8 residence building there, as you had  
9 mentioned earlier.

10 We are proposing a service  
11 station which would be a commercial  
12 retail business which is allowed  
13 under the IB Zone. We are surrounded  
14 by commercial businesses and similar  
15 businesses along New York 300.

16 We do propose improvements to  
17 the existing site entrance to allow  
18 better circulation for waste  
19 management and emergency vehicles.

20 Our site is limited in area and  
21 grading constraints. This is due to  
22 the slopes that generally come from  
23 the northeast to the southwest. The  
24 slopes run directly into a tributary  
25 ditch along the -- I apologize for my

1 JIFFY LUBE

2 pronunciation.

3 CHAIRMAN SCALZO: Quassaick  
4 Creek.

5 MR. CARLUCCI: The land is  
6 heavily wooded on both sides, both  
7 moderately well drained and poorly  
8 drained hydraulic SOI group B soils.

9 Our proposed development will  
10 include stormwater drainage  
11 facilities, including water quality  
12 treatment and other soil erosion and  
13 sedimentation controls as required.

14 We are here to request the  
15 following variances: The first being  
16 a lot area variance. The existing  
17 site is 30,502 square feet. The  
18 minimum allowable lot size is 40,000  
19 square feet.

20 Variance number two, a front  
21 yard variance. The minimum front  
22 yard setback from New York 300 is 60  
23 feet. The proposed front yard  
24 setback to the east is 50.3 feet.  
25 This is due to grading constraints on

1 JIFFY LUBE

2 the site.

3 We have two side yard  
4 variances, the first being the  
5 minimum 50-foot setback. This would  
6 be the setback to the north. It is  
7 10.3 feet, once again due to grading  
8 constraints. The variance to the  
9 50-foot setback on the south is  
10 currently 49 feet due to grading  
11 constraints.

12 Additionally, we are requesting  
13 5.32 square foot directional signs  
14 mounted on the exterior walls instead  
15 of the 4 foot -- 4 square foot  
16 maximum allowable. We are requesting  
17 a total of 150 square foot total  
18 signage area opposed to the 92 square  
19 foot allowable based on the front  
20 wall of the building.

21 We also have a special use  
22 permit to note, and that would be for  
23 an electronic message board being  
24 attached to the pylon.

25 CHAIRMAN SCALZO: That's all

1 JIFFY LUBE

2 you've got?

3 MR. CARLUCCI: Yes.

4 CHAIRMAN SCALZO: Okay. You  
5 mentioned more than once grading  
6 constraints. I'm looking at your  
7 grading plan and your topography is  
8 indicated in 1-foot increments. It  
9 doesn't look like a particularly  
10 challenging grading plan. So as far  
11 as you being able to push the  
12 building back, I'm kind of at a loss  
13 as to why that's a challenge. So  
14 perhaps, you know, think about it.  
15 That was the first observation on my  
16 part.

17 Like I say, it's a great  
18 rendering, a nice facility. I think  
19 it looks great. You know, it fits  
20 what the neighborhood does.

21 As I mentioned earlier, we got  
22 indication from the County for  
23 modification of the plan. My concern  
24 with that recommendation from the  
25 County is that perhaps any

1           J I F F Y   L U B E

2           modification that you need to  
3           complete to satisfy what the County  
4           is looking for may change what your  
5           site plan is.

6                        So my concern as presented is  
7           that if we were to issue the  
8           variances that you're looking for  
9           here and now, that the County's  
10          modifications that they're looking  
11          for may change that.  So that's my  
12          position, but there's seven of us  
13          here.

14                       So with that I'm going to go  
15          down to Mr. Marino and ask Mr.  
16          Marino, do you have any comments on  
17          this application?

18                       MR. MARINO:  My greatest  
19          concern is the traffic flow.  If you  
20          come out of the Lowe's parking lot,  
21          make a sharp right, it's going to  
22          take you right past your place of  
23          business.

24                       MR. CARLUCCI:  Yes.

25                       MR. MARINO:  But is that going

1           J I F F Y   L U B E

2           to create more traffic dumping up at  
3           the side down by Cosimo's? You have  
4           a real thorough traffic study to show  
5           us how that area is going to be  
6           affected?

7                     CHAIRMAN SCALZO: I believe the  
8           Planning Board -- Ken Wersted is  
9           going to evaluate all the traffic  
10          considerations for this, Mr. Marino.

11                    MR. MARINO: Okay.

12                    CHAIRMAN SCALZO: And once they  
13          do that, they would -- I'm sure if I  
14          asked for it, that Mr. Wersted would  
15          supply that to us if you'd like to  
16          get a look at it.

17                    MR. MARINO: All right.  
18          Basically that's my main concern, the  
19          traffic. Is it going to be  
20          congested? Is it going to pile up  
21          there, the right-hand turn at Lowe's  
22          heading to Cosimo's? I'm just  
23          concerned about the heavy traffic.

24                    CHAIRMAN SCALZO: It's a  
25          heavily traveled corridor.

1 JIFFY LUBE

2 Absolutely.

3 MR. MARINO: Yes, it is.

4 CHAIRMAN SCALZO: Although that  
5 extra -- there is an extra -- it's a  
6 luxury lane right in front of where  
7 you are right there. It's much wider  
8 than 12 feet. Very good.

9 Mr. Masten?

10 MR. MASTEN: I had the same --  
11 I was going to say the same thing,  
12 the traffic control.

13 CHAIRMAN SCALZO: Again, the  
14 gentleman asked that. That's a  
15 Planning Board issue.

16 MR. MASTEN: I know.

17 CHAIRMAN SCALZO: I don't want  
18 to get in the Planning Board lane  
19 because they don't get in the Zoning  
20 Board lane.

21 Mr. Gramstad?

22 MR. GRAMSTAD: The same with  
23 the traffic, but also the runoff is a  
24 concern.

25 CHAIRMAN SCALZO: That's where

1           J I F F Y   L U B E

2           the County recommendation was pointed  
3           at, the runoff into the creek. That  
4           was one of their concerns, which is  
5           why they were looking for  
6           modification. And perhaps, as I  
7           said, just what I looked at with your  
8           grading plan, perhaps that could be  
9           mitigated with a -- I don't know.  
10          Maybe you can raise the elevation of  
11          everything two feet or lower it. I  
12          don't know. Lowering doesn't sound  
13          like an option.

14                   MR. EBERHART: No.

15                   CHAIRMAN SCALZO: You don't  
16           want to be under water. Anyway,  
17           that's something I'm looking at.

18                   Mr. Eberhart?

19                   MR. EBERHART: My concern is  
20           that the modifications should be  
21           considered first and then maybe come  
22           back to us after the modifications  
23           have been looked at.

24                   CHAIRMAN SCALZO: We'll get to  
25           that. Yup.



1 JIFFY LUBE

2 MR. EBERHART: I also have a  
3 concern also with the environment.

4 CHAIRMAN SCALZO: And again,  
5 the environmental issue is also  
6 something that the Planning Board  
7 will review. Their professionals  
8 will review that as well. Maybe we  
9 can also get a look at what their  
10 review stuff is as well.

11 Mr. Hermance?

12 MR. HERMANCE: Just to expand  
13 on what you were talking about, the  
14 setback from the road I think could  
15 still be achieved with some different  
16 engineering.

17 CHAIRMAN SCALZO: The side  
18 yards, I see where you are. The  
19 front yard at least you can. Sorry,  
20 Mr. Hermance.

21 MR. HERMANCE: That's all I  
22 had.

23 CHAIRMAN SCALZO: Mr. Bell?

24 MR. BELL: By the time you got  
25 down here I was running out of

1 JIFFY LUBE

2 things.

3 Yes, the first thing is that  
4 setback. I think that's number one.

5 The second thing I want to  
6 address is what the County is asking  
7 for as modifications, to make those.

8 CHAIRMAN SCALZO: Okay. Very  
9 good.

10 At this point I'm going to open  
11 it up to any members of the public  
12 that wish to speak about this  
13 application. Does anyone here want  
14 to speak about the Jiffy Lube?

15 Mr. Hughes. We have a new  
16 stenographer here so you're going to  
17 have to -- not everybody knows you  
18 like we do.

19 MR. HUGHES: Well, I hope they  
20 don't hold it against me like you  
21 guys do.

22 MR. DONOVAN: I'm dying to say  
23 this. Nice hair cut.

24 MR. HUGHES: I was going to  
25 beat you to the punch. So now it's

1        J I F F Y   L U B E

2            the high water marks.  Although most  
3            of it is flesh any longer.

4            Good evening.  Good to see you  
5            all.  For those of you that are new  
6            Members, my condolences.

7            Quassaick Creek, major issue.

8            Animal Hughes, Middlehope, New  
9            York.

10           There's problems there, lots of  
11           problems.  I happen to be a  
12           representative of the property across  
13           the street, the Palmerones, the two  
14           lots there.

15           The creek runs down through the  
16           middle.  It comes over 300, still in  
17           modern times as well.  So we've got  
18           to be real careful.  It's a critical  
19           area.  It's in the hundred year  
20           floodplain and it doesn't take that  
21           long for it to show up.  It burps  
22           quite often.

23           I admire your outlook on that  
24           particular project because there's a  
25           lot of things that can be done there.

1           J I F F Y   L U B E

2           We don't need to give all these  
3           mitigations with the excesses.  So  
4           I'll leave it at that.

5                     There's a lot more problems  
6           here.

7                     I agree with all of you about  
8           the traffic problems and everything  
9           else.

10                    Let's keep an eye on that  
11           Quassaick.  If it ever opens up  
12           again, we may need to use that for  
13           drinking water at some point.

14                    CHAIRMAN SCALZO:  Thank you,  
15           Mr. Hughes.

16                    MR. HUGHES:  Thank you for  
17           hearing me.

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

21                    (No response.)

22                    CHAIRMAN SCALZO:  Looking back.  
23           I'm going to look back to the Members  
24           of the Board here.  Mr. Bell,  
25           anything else?

1 JIFFY LUBE

2 MR. BELL: No.

3 CHAIRMAN SCALZO: Mr. Hermance?

4 MR. HERMANCE: No.

5 CHAIRMAN SCALZO: Mr. Eberhart?

6 MR. EBERHART: No.

7 CHAIRMAN SCALZO: Mr. Gramstad?

8 MR. GRAMSTAD: No.

9 CHAIRMAN SCALZO: Mr. Masten?

10 MR. MASTEN: No.

11 CHAIRMAN SCALZO: And Mr. Marino?

12 MR. MARINO: No.

13 CHAIRMAN SCALZO: Very good.

14 In this case I'll look to the  
15 Board for a motion to close the  
16 public hearing in this case, however  
17 I don't know that I -- Dave, how --  
18 Counselor, how do we -- I don't feel  
19 as though we have enough information.  
20 I think it needs to be sent back to  
21 the Planning Board. That's just my  
22 opinion. I see a bunch of nodding  
23 heads behind me.

24 Do we necessarily close the  
25 public hearing in this case or do we

1           J I F F Y   L U B E

2           opt to leave it open until the  
3           applicant -- we kick it back to the  
4           Planning Board?

5                   MR. DONOVAN:  Let me make sure  
6           that I understand exactly what you  
7           want to do.  You have issues raised  
8           by the Orange County Department of  
9           Planning relative to what's in front  
10          of you.  Do you want to see that  
11          modification before they go back to  
12          the Planning Board?

13                   CHAIRMAN SCALZO:  Actually, I'd  
14          like to see the modification go to  
15          the Planning Board and then --  
16          because I have a feeling that the  
17          Planning Board would be looking at  
18          slightly different drawings.

19                   MR. DONOVAN:  Let me ask you if  
20          you know the answer to this question.  
21          I'll put you on the spot.  Will the  
22          Planning Board take you back at this  
23          stage or do they want some sort of  
24          resolution from the Zoning Board?

25                   If you don't know, say you

1 JIFFY LUBE

2 don't know. Don't guess.

3 MR. CARLUCCI: I do not know.

4 MR. DONOVAN: Okay. So my  
5 suggestion to the Board is that you  
6 continue the public hearing without a  
7 date with a suggestion to the  
8 applicant to return to the Planning  
9 Board to develop your plans a little  
10 bit more to address the issues that  
11 have been raised by the County  
12 Planning Department.

13 Also I think, I don't mean to  
14 speak for the Board, but to take a  
15 look at maybe pushing the building  
16 back a little bit.

17 CHAIRMAN SCALZO: I completely  
18 understand what you're saying,  
19 Counselor.

20 If the application were to be  
21 denied in its current state, would  
22 that also kick it back to the  
23 Planning Board for modifications?  
24 That way we don't have to maintain  
25 the open public hearing.

1 JIFFY LUBE

2 MR. DONOVAN: I don't think I  
3 really would suggest that you go in  
4 that --

5 CHAIRMAN SCALZO: No problem.  
6 Option 1 sounds good to me.

7 So in this case I will look to  
8 the Board for a motion to keep the  
9 public hearing open until the  
10 applicant gets back to the Planning  
11 Board with the modifications, after  
12 reviewing the modifications that the  
13 Orange County Planning Department has  
14 recommended, and any modifications,  
15 therefore, should be re-submitted to  
16 the Planning Board and then make its  
17 way back to us.

18 MR. HERMANCE: (Raising hand.)

19 MR. MASTEN: I'll second it.

20 CHAIRMAN SCALZO: All right.

21 So Mr. Hermance raised his hand on  
22 the motion for that. Mr. Masten is  
23 on the second. Roll call on that  
24 then, for keeping the public hearing  
25 open.



1 JIFFY LUBE

2 MS. JABLESNIK: Mr. Bell?

3 MR. BELL: Yes.

4 MS. JABLESNIK: Mr. Eberhart?

5 MR. EBERHART: Yes.

6 MS. JABLESNIK: Mr. Gramstad?

7 MR. GRAMSTAD: Yes.

8 MS. JABLESNIK: Mr. Hermance?

9 MR. HERMANCE: Yes.

10 MS. JABLESNIK: Mr. Marino?

11 MR. MARINO: Yes.

12 MS. JABLESNIK: Mr. Masten?

13 MR. MASTEN: Yes.

14 MS. JABLESNIK: Mr. Scalzo?

15 CHAIRMAN SCALZO: Yes.

16 Motion carried. The public  
17 hearing, we're going to keep it open,  
18 and we want to send you back to do a  
19 little homework. We'll see you when  
20 we see you.

21 MR. CARLUCCI: Thank you.

22 MR. DONOVAN: If I could make a  
23 suggestion. When you go back to the  
24 Planning Board, you're probably going  
25 to want to get the minutes of the

1 JIFFY LUBE

2 meeting, which will be posted online,  
3 so they know exactly why you're  
4 headed back there. They're likely to  
5 ask. It's always good to have an  
6 answer for that.

7 (Time noted: 7:38 p.m.)

8

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

10

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

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

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

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

23

24

25

*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

SCANNELL PROPERTIES, LLC  
  
124 Route 17K, Newburgh  
Section 95; Block 1; Lot 58  
IB Zone

----- X

Date: October 28, 2021  
Time: 7:38 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, New York

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

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

APPLICANT'S REPRESENTATIVE: CHARLES GOTTLIEB,  
CHUCK UTSCHIG, ADAM FRANKENBERG & MARK WILLSON

----- X

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

1 SCANNELL PROPERTIES, LLC

2 CHAIRMAN SCALZO: Our next  
3 applicant this evening is Scannell  
4 Properties, LLC, 124 Route 17K in  
5 Newburgh. It's a Planning Board  
6 referral for an area variance to  
7 construct a warehouse 381 feet away  
8 from State Route 17K where 500 feet  
9 is required.

10 Siobhan, do we have mailings on  
11 this?

12 MS. JABLESNIK: Yes. This  
13 applicant sent out 17.

14 CHAIRMAN SCALZO: 17. That is  
15 a pretty industrial area. Very good.

16 When the applicant is ready,  
17 they can step up and introduce  
18 themselves and then we can start  
19 listening.

20 MR. GOTTLIEB: Good evening,  
21 Mr. Chairman, Members of the Board.  
22 For the record, Charles Gottlieb from  
23 the law firm of Whiteman, Osterman &  
24 Hanna in Albany, New York, land use  
25 counsel. I'm here on behalf of

1 SCANNELL PROPERTIES, LLC

2 Scannell Properties.

3 For the record, I did get the  
4 Seinfeld quote. That was a good one.  
5 I hadn't heard that one in a while.

6 CHAIRMAN SCALZO: Thank you.

7 MR. GOTTLIEB: I'm here tonight  
8 with Mark Willson and Adam  
9 Frankenberg from Scannell, just in  
10 case the Board has any questions from  
11 the developer, as well as Chuck  
12 Utschig from Langan Engineering who  
13 is the project engineer.

14 We submitted to this Board a  
15 package dated September 23rd which  
16 set forth our arguments and related  
17 exhibits for the requested area  
18 variance. We're seeking an area  
19 variance for property located at  
20 124 Route 17K which is within the IB  
21 Zoning District and noted on the  
22 plans there by Chuck.

23 Scannell is seeking to  
24 construct a 127,200 square foot  
25 commercial and industrial building.

1 SCANNELL PROPERTIES, LLC

2 We've been using the term that right  
3 now it is a flex building. The  
4 question then becomes what is a flex  
5 building. There is no specific  
6 tenant yet at this time for this  
7 building, but the building could  
8 potentially host and will be marketed  
9 towards multiple commercial and  
10 industrial tenants. Uses that are  
11 permitted within that zoning district  
12 include manufacturing, processing,  
13 laboratories, offices, fabrication,  
14 in addition to what I'm calling  
15 general warehouse uses, including  
16 warehouse, storage, transportation  
17 facilities. Those warehouse uses  
18 that I just listed, however, require  
19 a 500-foot setback from Route 17K.  
20 All of those other uses that I  
21 listed, manufacturing, fabrication,  
22 processing, only require a 50-foot  
23 setback.

24 Because the potential uses in  
25 the building may actually include

1 SCANNELL PROPERTIES, LLC

2 warehousing, because it is such a hot  
3 market right now for quality  
4 warehouse tenants, we're seeking an  
5 area variance for a portion of the  
6 building that is within that 500-foot  
7 setback that's required for warehouse  
8 uses.

9 I think Chuck is going to put  
10 the site plan up now. You'll see  
11 we've drawn a line through the front  
12 of the property where the 500-foot  
13 setback line is. It's about 20  
14 percent of the building that is  
15 within that 500-foot setback line.  
16 So the majority of the building is  
17 further away than 500 feet. It's  
18 just that 20 percent is within the  
19 setback.

20 So we're requesting -- the  
21 building is 381 feet right now from  
22 Route 17K. We would need an area  
23 variance of 119 feet to have the  
24 proposed building. We are currently  
25 before the Planning Board.

1 SCANNELL PROPERTIES, LLC

2 The lot line area variance  
3 before you this evening is a SEQRA  
4 Type 2 action. As I noted, our  
5 September submission is quite  
6 comprehensive. It has a lot of  
7 information in it.

8 We could run through the area  
9 variance balancing test and where we  
10 feel we fit within those factors.  
11 I'm just going to run through some  
12 quick highlights.

13 One, that the requested area  
14 variance isn't going to result in an  
15 undesirable change to this  
16 neighborhood. This neighborhood has  
17 commercial uses up and down  
18 Route 17K. Some close to Route 17,  
19 some around 300 feet back from  
20 Route 17.

21 One of the other key points  
22 we'd like to point out is this same  
23 exact building in this same exact  
24 location would be permitted and we  
25 wouldn't have to be here this evening



1 SCANNELL PROPERTIES, LLC

2 if we weren't seeking that warehouse  
3 use for a potential warehouse tenant.  
4 So let's say it was just going to be  
5 a manufacturing facility which often  
6 has noise impacts and so forth, we  
7 wouldn't need an area variance.

8 Because it is that warehouse use for  
9 that small portion of the building,  
10 we need the area variance.

11 We're not proposing kind of a  
12 giant mega warehouse that a lot of  
13 people see in the news. You know,  
14 the 1.5 million square foot  
15 warehouses. This is only a 127,000  
16 square foot warehouse.

17 The property is directly  
18 adjacent to I-84, I-87, Stewart Air  
19 Force Base, which makes it a prime  
20 location for a potential warehouse  
21 tenant.

22 We've provided aerials in  
23 Exhibit 11 in your package. Some of  
24 the other similar uses up and down  
25 Route 17 in the area of this project

1 SCANNELL PROPERTIES, LLC

2 include the Big Shine LED building  
3 which I think is a warehouse use.  
4 I'm not quite certain. That's set  
5 back 334 feet from Route 17K. So  
6 it's closer to Route 17K than our  
7 building. U.S. Global Airways, 40  
8 feet from Route 17K. Textron, 170  
9 feet from Route 17K. Xavier's  
10 Foreign Car Service, 87 feet from  
11 Route 17K. Orange County Choppers,  
12 355 feet from Route 17K. Lowe's, 355  
13 feet from 17K.

14 CHAIRMAN SCALZO: Let me just  
15 stop you. The first one that you had  
16 mentioned in your example, can you  
17 repeat?

18 MR. GOTTLIEB: Sure. Big Shine  
19 LED.

20 CHAIRMAN SCALZO: Big Shine  
21 LED. What is that?

22 MR. GOTTLIEB: It's a lighting  
23 company we believe. We just kind of  
24 poked around on the internet. We do  
25 believe that facility is used for the

1 SCANNELL PROPERTIES, LLC

2 storage of its lighting components.  
3 Not verified, but that's what we  
4 believe that building is used for.

5 CHAIRMAN SCALZO: Okay.

6 MR. GOTTLIEB: So we think the  
7 proposed project is consistent with  
8 this area of the neighborhood and  
9 wouldn't result in any undesirable  
10 changes.

11 In looking over the code, I'm  
12 trying to think of the reason for the  
13 500-foot setback. It appears to me  
14 the 500-foot setback is there to  
15 protect against visual impacts of  
16 potentially a larger warehouse.  
17 Again, the same size building in the  
18 same exact location for any other use  
19 other than those warehouse uses could  
20 be permitted and we wouldn't even be  
21 here this evening.

22 But we have demonstrated  
23 through a fairly robust landscape  
24 plan that's Exhibit 7 in your packet  
25 that there's significant

1 SCANNELL PROPERTIES, LLC

2 landscaping -- let me test my  
3 orientation now -- on the south side  
4 of the building, so it's between the  
5 building facade and Route 17K, as  
6 well as along the side lot lines.  
7 That will mitigate any visual impacts  
8 from Route 17K.

9 To show what that landscaping  
10 will do, Exhibit 8 has project  
11 visuals that shows existing  
12 conditions without the building. It  
13 also shows proposed conditions with  
14 mature landscaping. You'll be able  
15 to see with the warehouse set in  
16 place in there what will it look like  
17 from Route 17K with the projected  
18 landscaping.

19 We also included in Exhibit 9  
20 project elevations. So you'll notice  
21 how we oriented the building. The  
22 narrow side is facing Route 17K.  
23 There's not a large wall facing Route  
24 17K. There are also no trucking bays  
25 facing Route 17K. So from Route 17K

1 SCANNELL PROPERTIES, LLC

2 it really does just look like a  
3 commercial building and not a  
4 proposed warehouse.

5 All other uses, let's say it  
6 was a manufacturing facility, it  
7 could be permitted 50 feet from  
8 Route 17K. We're set back 381 feet  
9 which is almost eight times the  
10 required setback for any other use.

11 No other alteration of the  
12 building is feasible to give the  
13 benefit to the applicant. Scannell  
14 does need this size building to make  
15 the project viable. This is probably  
16 why this property has been sitting  
17 vacant for some time. This size of  
18 the building makes the project  
19 viable.

20 We need the full building  
21 approved for warehousing so that  
22 Scannell can market an approved  
23 building to high-quality tenants.  
24 Right now, as I'm sure you're seeing,  
25 high-quality tenants need warehousing

1 SCANNELL PROPERTIES, LLC

2 immediately. You're hearing it on  
3 the news, you're hearing supply chain  
4 issues, and this location is perfect  
5 for that. You have an airport, you  
6 have major thoroughfares.

7 If we change the orientation of  
8 the building, right, so we put the  
9 big face along 17K, you have a much  
10 longer facade on 17K with potentially  
11 trucking bays facing that direction.  
12 In addition, you run into side yard  
13 setback variances. So an orientation  
14 of the building in that manner would  
15 create more zoning inconsistencies  
16 than what we've proposed.

17 The requested area variance is  
18 not substantial. Cases tell us we  
19 have to look at the totality of the  
20 circumstances as to what's  
21 substantial. You have a commercial  
22 industrial area. Only 20 percent of  
23 the building is within that 500-foot  
24 setback, so the remaining 80 percent  
25 is 500 feet away from Route 17K. The

1 SCANNELL PROPERTIES, LLC

2 percentage of the area variance we're  
3 requesting is 24 percent, so you're  
4 right in that 20 percent area.

5 So with that said, I'm done  
6 with my lawyer spiel. I can hand it  
7 over to Chuck to quickly run through  
8 some of the site plan elements.

9 We also have some of the  
10 visualizations on the big board, but,  
11 as I noted, they're in your packet as  
12 well.

13 Mark and Adam are here from  
14 Scannell if you'd like to ask them  
15 any questions as well.

16 CHAIRMAN SCALZO: Thank you  
17 very much.

18 MR. GOTTLIEB: Thank you.

19 CHAIRMAN SCALZO: Chuck, please  
20 introduce yourself so the  
21 stenographer can record the  
22 information.

23 MR. UTSCHIG: Good evening.  
24 For the record, my name is Chuck  
25 Utschig. I'm a professional engineer

1 SCANNELL PROPERTIES, LLC

2 and I work for Langan Engineering.

3 We've developed most of the  
4 documents that are included -- at  
5 least the graphic documents that are  
6 included in your package. All the  
7 drawings and representations.

8 Good evening, Mr. Donovan.

9 MR. DONOVAN: Chuck, nice to  
10 see you. It's been a long time.

11 MR. UTSCHIG: It has been.

12 So you've gotten the legal side  
13 to this. I'm going to try and put a  
14 little bit in context the surrounding  
15 area and what we're proposing to help  
16 kind of screen the visual impact of  
17 this building. So that's my  
18 objective tonight, to try to help you  
19 understand that a little bit.

20 This is an overlay of the  
21 aerial view of our site. 17K is  
22 along the left of the property. The  
23 area setbacks -- this is an odd  
24 shaped piece of property. We have  
25 this narrow piece of property that



1 SCANNELL PROPERTIES, LLC

2 comes in off of 17K which primarily  
3 is being left in its natural  
4 condition.

5 Now, there is some topography  
6 that we're dealing with. We are  
7 proposing stormwater management  
8 basins here. But in addition to  
9 that, we've heavily screened around  
10 the perimeter of that area along with  
11 our other frontage along 17K.

12 So if you look at the graphics  
13 in your documents, you'll see some  
14 before and after pictures. Granted  
15 they're after with reasonable growth.  
16 For all intents and purposes, we're  
17 able to screen this building from 17K  
18 with the planting that we proposed.

19 We've been sensitive to --  
20 although this whole area is zoned IB,  
21 we understand that there are still  
22 some existing residential uses in the  
23 area. We've also been sensitive to  
24 those and tried to wrap our  
25 landscaping around in such a way that

1 SCANNELL PROPERTIES, LLC

2 we would also be screening our  
3 proposed development from those  
4 existing residential areas.

5 I think to reinforce something  
6 that Charlie said about this  
7 building, right, two things. One is  
8 in the IB Zone we could extend a  
9 building all the way out to 17K.  
10 That could be a manufacturing use.  
11 That's not being proposed. This  
12 building is going to be exactly the  
13 same in the proximity and the  
14 location to the property line and the  
15 distance to 17K.

16 This is about the distinction  
17 of a warehouse use versus the other  
18 uses, which, if you think about  
19 manufacturing and some of the others,  
20 they can be fairly intensive. They  
21 can have similar truck traffic, they  
22 can have, you know, employees of the  
23 same kind coming and going.

24 One of the thoughts is that at  
25 the time when the warehouse concept

1 SCANNELL PROPERTIES, LLC

2 was applied to this kind of setback  
3 requirement, if you think about it,  
4 we weren't building nor did we have  
5 the need for warehouse space, if you  
6 think back when this was put into  
7 your code, right. So we've come full  
8 circle with warehouse spaces. Now  
9 they are an integral part of how we  
10 live, right, and the need for it.  
11 Not just for the Amazons of the  
12 world, but for your hospitals to  
13 store their materials and all the  
14 other things. Warehouses have become  
15 an integral part to this. I think  
16 you should take that into  
17 consideration as you look at the  
18 minimal impact that the front 119  
19 feet of this building as warehouse  
20 space will have in the bigger picture  
21 of this variance request.

22 And then I'd be glad to answer  
23 any questions you have about the site  
24 features.

25 CHAIRMAN SCALZO: I have no

1 SCANNELL PROPERTIES, LLC

2 questions.

3 MR. UTSCHIG: Thank you.

4 CHAIRMAN SCALZO: That's just  
5 me.

6 Is this only a two-part  
7 presentation or is there more? I'm  
8 just asking.

9 MR. UTSCHIG: Just two.

10 CHAIRMAN SCALZO: All right.  
11 Gentlemen, very comprehensive,  
12 thorough presentation. Thank you  
13 very much. It certainly helps me  
14 understand and the Members of the  
15 Board understand a little better what  
16 you're trying to accomplish here.

17 Just because I'm the Chairman  
18 and get to talk first, I'm going  
19 to -- as I look at what's up on the  
20 easel at this moment, I can't help  
21 but notice that the size of your  
22 building dwarfs every other building  
23 around.

24 The other issue that we -- we  
25 follow code. We don't create the

1 SCANNELL PROPERTIES, LLC

2 code here at the Zoning Board of  
3 Appeals. We follow code that's been  
4 handed to us by the Town.

5 Having purchased the piece of  
6 property or in contract, or whatever  
7 the case may be, just let's say  
8 developing a piece of property, I  
9 would assume that you would try to  
10 develop a lot within the constraints  
11 that the lot would give you. I'm  
12 struggling with that.

13 And 500 feet may just be an  
14 arbitrary number that the Town Board  
15 chose many years ago. I'm not sure.

16 I will say that you gave great  
17 examples with what is closer to the  
18 road.

19 We're looking at a warehouse.  
20 Every other building that's around  
21 that, perhaps they do store things  
22 within them. Again, that building  
23 that is on the plan right there  
24 dwarfs every other building around.  
25 I have to imagine perhaps some of the

1 SCANNELL PROPERTIES, LLC

2 airplane hangars on the other side of  
3 17K may be of the same size we're  
4 looking at, but we're not talking  
5 about those.

6 We're going to go through six  
7 other people and perhaps some might  
8 have other comments. That's where  
9 I'm landing at this point.

10 MR. UTSCHIG: If we can, maybe  
11 it will help to keep responding to  
12 that.

13 So you talked about code. This  
14 building is fully compliant from a  
15 coverage perspective. Now, just off  
16 the edge of this picture here, if I  
17 were to go out, I have a Matrix  
18 building that's bigger.

19 CHAIRMAN SCALZO: That's right  
20 at the opposite side of the Thruway.

21 MR. UTSCHIG: If you go down  
22 here on Corporate Park Drive, there  
23 is one building bigger, maybe not,  
24 but there are six commercial  
25 buildings that surround the site in

1 SCANNELL PROPERTIES, LLC

2 the back. And remember, you put this  
3 in context of it's a big building.

4 CHAIRMAN SCALZO: Sure. It is.

5 MR. UTSCHIG: It's zoning  
6 compliant and it could be bigger.

7 CHAIRMAN SCALZO: Sure.

8 MR. UTSCHIG: So just again, in  
9 your balancing act, right, that's all  
10 we ask you to consider.

11 CHAIRMAN SCALZO: Okay.  
12 Perhaps I recognized maybe the wrong  
13 criteria.

14 However, should that have been  
15 scaled back to the 500-foot setback,  
16 it wouldn't look as large. It might  
17 look as large as the one to the  
18 northwest. It doesn't really matter.

19 As you just reiterated, you're  
20 meeting all the other requirements of  
21 code. So the reason why you're here  
22 is the front yard setback.

23 The other issue that I struggle  
24 with as well is let's say you guys  
25 are successful tonight. I'm going to

1 SCANNELL PROPERTIES, LLC

2 have other people standing here  
3 looking for warehouses 381 feet away  
4 from the road. What do I say?

5 We need to maintain a  
6 consistency here, and the code is  
7 there for a reason.

8 MR. GOTTLIEB: Just one thing.  
9 You said you follow the zoning code.  
10 Of course. Of course you do. The  
11 reason why area variances exist is to  
12 allow development of property that  
13 might be challenged from a  
14 development perspective or might be  
15 hindered by, let's say, a front yard  
16 setback requirement that wouldn't  
17 allow the applicant to get the  
18 benefit sought.

19 This property is vacant. It  
20 has been vacant for a very long time,  
21 likely because developers are having  
22 trouble finding a project that they  
23 can size and realize to come to  
24 fruition.

25 With this area variance it



1 SCANNELL PROPERTIES, LLC

2 would allow the project to go  
3 forward, realizing that the impacts  
4 of this area variance have been  
5 mitigated and, you know, go to the  
6 overall economic development of this  
7 very commercial and industrial  
8 corridor.

9 CHAIRMAN SCALZO: Perfect.

10 Thank you. You can sit down.

11 You also mentioned that this is  
12 a Type 2 action under SEQRA, which it  
13 is. The balancing test that we  
14 discuss for other applicants, you  
15 know, there's five criteria that we  
16 look at. If you look at what we're  
17 looking at for your particular  
18 project, you only hit two out of five  
19 of those. Now, is that really a  
20 problem? Well, I'm not sure.

21 I mean if you look at the first  
22 one, whether or not the benefit can  
23 be achieved by other means feasible  
24 to the applicant, sure, you can knock  
25 it back down and meet the 500-foot

1 SCANNELL PROPERTIES, LLC

2 setback.

3 The second, if there's an  
4 undesirable change in the  
5 neighborhood. That's debatable. I  
6 think you're right. I don't think  
7 you're going to notice it in the  
8 neighborhood. Quite honestly, you  
9 won't. There's a good part of that  
10 that you've got screened.

11 The third, whether the request  
12 is substantial. From a percentage  
13 standpoint it is substantial. 25  
14 percent of the building is in front  
15 of where it should be, or 22 percent.

16 MR. GOTTLIEB: So yeah.

17 CHAIRMAN SCALZO: But the  
18 fourth is adverse physical and  
19 environmental effects. You guys have  
20 mitigated those. So there is your  
21 two.

22 MR. GOTTLIEB: Sure.

23 CHAIRMAN SCALZO: The  
24 undesirable change, you're okay.

25 The fourth, adverse physical

1 SCANNELL PROPERTIES, LLC

2 and environmental effects, you're  
3 going to be good.

4 The fifth, is the difficulty  
5 self-created. Sure it is.

6 So like I said, you've got a  
7 hill to climb with me, but you've got  
8 six other people to convince.

9 MR. GOTTLIEB: Sure. Sure. I  
10 understand. That's why the balancing  
11 test is there, right, to balance the  
12 overall application.

13 It's certainly self-created.  
14 We all try to make the argument as to  
15 why we're not self-created in the  
16 area variance.

17 I would say in this instance  
18 you have a property that's hard to  
19 develop in a manner that can be  
20 actually realized from a financial  
21 perspective without relief from the  
22 zoning code.

23 CHAIRMAN SCALZO: Very good.  
24 At this point I think I've talked way  
25 too much.

1 SCANNELL PROPERTIES, LLC

2 I'm going to actually look over  
3 to Mr. Bell. Mr. Bell, do you have  
4 any comments on this application?

5 MR. BELL: Well, that's a lot.  
6 That was a lot.

7 You said that there's going to  
8 be additional marketing spaces in  
9 this warehouse. What are you talking  
10 about?

11 MR. GOTTLIEB: Sure. So either  
12 Mark or Adam can also chime in.

13 The idea right now is it's a  
14 spec building with no potential  
15 tenant. Scannell would like the  
16 ability to market this when it gets  
17 approval for all commercial uses,  
18 whether it be manufacturing, whether  
19 it be processing, office space. But  
20 we're now seeing that warehousing  
21 will probably get the quickest  
22 tenant, the most high-quality tenant  
23 in this space sooner because the  
24 demand for warehousing is so high.

25 So that's why we're requesting

1 SCANNELL PROPERTIES, LLC

2 the warehouse use, so that when we go  
3 to market this once all approvals are  
4 obtained, you can say you can use  
5 this space for manufacturing,  
6 warehouse, and then the list.

7 MR. BELL: Okay. I'm good  
8 right now.

9 CHAIRMAN SCALZO: Mr. Hermance?

10 MR. HERMANCE: With that said,  
11 if it's going to be a mixed occupancy  
12 of different types of businesses, it  
13 could still be achieved without a  
14 variance. If the warehouse section  
15 were advertised towards the back of  
16 the property and a different mixed  
17 occupancy towards the front half of  
18 the property, then you wouldn't need  
19 the variance.

20 CHAIRMAN SCALZO: Hang on.  
21 Hold on a minute. Break point,  
22 Mr. Hermance.

23 I'm going to actually look at  
24 Code Compliance who is with us  
25 tonight. Is that a possibility?

1 SCANNELL PROPERTIES, LLC

2 MR. CANFIELD: Is what a  
3 possibility?

4 CHAIRMAN SCALZO: That if the  
5 warehousing were in the rear half of  
6 the building, or do we consider the  
7 entire building to be warehousing?

8 MR. CANFIELD: I believe the  
9 code applies that if any portion of  
10 the building is not compliant with  
11 the setback, it needs the variance.

12 CHAIRMAN SCALZO: Thank you,  
13 Jerry.

14 MR. CANFIELD: I don't know  
15 that you could dissect the building  
16 and say that 20 percent of the  
17 building has a variance and the other  
18 does not, or vice versa.

19 CHAIRMAN SCALZO: Thank you for  
20 the clarification. All right. I  
21 just didn't want you to run amuck  
22 here.

23 MR. HERMANCE: Well, because  
24 they do allow other types of  
25 businesses.

1 SCANNELL PROPERTIES, LLC

2 MR. GOTTLIEB: Sure. The exact  
3 language of the code is warehouse,  
4 storage and transportation  
5 facilities, including truck and bus  
6 terminals, not within 100 feet of  
7 Route 17K.

8 So we would take -- likely take  
9 the position that we would be able to  
10 use warehousing in the back because  
11 that language doesn't say the  
12 building has to be, it just  
13 references the use.

14 But again, that's an  
15 interpretation question. We're not  
16 here seeking that. We're hoping to  
17 kind of avoid that and just allow  
18 that front 20 percent to be able to  
19 be used for warehousing.

20 CHAIRMAN SCALZO: Thank you.

21 Mr. Hermance, are you all set?

22 MR. HERMANCE: I'm good.

23 Thanks.

24 CHAIRMAN SCALZO: Mr. Eberhart?

25 MR. EBERHART: I'm good.

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2 CHAIRMAN SCALZO: Mr. Gramstad?

3 MR. GRAMSTAD: So you're saying  
4 if you took that 21 percent you're  
5 looking for off the front, that  
6 monetarily is not feasible to you?

7 CHAIRMAN SCALZO: Just identify  
8 yourself, please, for the record.

9 MR. GOTTLIEB: I don't deal  
10 with the financials.

11 MR. FRANKENBERG: Adam  
12 Frankenberg with Scannell Properties.

13 That's absolutely correct. If  
14 we were -- so if you think about the  
15 economy, you know, if we're building  
16 this building and it's now shrunken  
17 down to 100,000 square foot, all the  
18 costs that go into it that aren't  
19 able to be spread over that full  
20 125,000 square foot, it would make  
21 the project financially unfeasible  
22 because we won't be able to market a  
23 building at that cost. As our costs  
24 go up per square foot, the rent has  
25 to go up to support that. There



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2 won't be anybody willing to pay that  
3 amount.

4 So the building is sized right  
5 now as small as we can go to make it  
6 financially feasible. Otherwise, we  
7 just can't do the project.

8 CHAIRMAN SCALZO: Thank you.

9 Mr. Gramstad, has your question  
10 been answered?

11 MR. GRAMSTAD: Yes, it has.

12 CHAIRMAN SCALZO: And do you  
13 have anything further?

14 MR. GRAMSTAD: Nothing else.

15 CHAIRMAN SCALZO: How about  
16 you, Mr. Masten?

17 MR. MASTEN: You asked the same  
18 question I was going to ask.

19 CHAIRMAN SCALZO: Okay. No  
20 problem.

21 Mr. Marino?

22 MR. MARINO: Just so I can pin  
23 it down in my mind, looking at that  
24 diagram there, your building is on  
25 the north side of 17K?

1 SCANNELL PROPERTIES, LLC

2 MR. GOTTLIEB: Correct.

3 MR. FRANKENBERG: Correct.

4 MR. MARINO: Whereabouts  
5 exactly on 17K would you be building?

6 MR. GOTTLIEB: Do you want to  
7 pull up the overall aerial?

8 MR. UTSCHIG: Okay.

9 MR. GOTTLIEB: So that aerial  
10 right there, which is also in Exhibit  
11 11 in your packets, or it should be,  
12 shows exactly where the project site  
13 is. So it's right across the street,  
14 basically, from the airport  
15 structures.

16 CHAIRMAN SCALZO: Is that the  
17 Kia dealership that's right next to  
18 that?

19 MR. UTSCHIG: That's Healey.  
20 That's here. The site is in red so  
21 it stands out a little bit more.  
22 That's the Kia dealership. This is  
23 the driveway to the ABC Amscan  
24 building here. This is your ramp to  
25 your 84/87 interchange. This is the

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2 driveway to Corporate Park Drive as  
3 you go in this direction and then  
4 into the airport.

5 CHAIRMAN SCALZO: It's not too  
6 far past the entrance, also, to the  
7 Orange County Transfer Station.

8 MR. MASTEN: That's right  
9 across from the east/west runway.

10 CHAIRMAN SCALZO: You can see  
11 the runway in the aerial.

12 MR. UTSCHIG: That's the runway  
13 you're referring to here and we're  
14 here.

15 CHAIRMAN SCALZO: Very good.  
16 All set, Mr. Marino?

17 MR. MARINO: Yes.

18 CHAIRMAN SCALZO: All right.  
19 At this point we're going to open  
20 this up to any members of the public.

21 I see Mr. Hughes' hand up.  
22 Please step forward, sir.

23 MR. HUGHES: I don't want to  
24 catch anything in the middle of all  
25 these lawyers.

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2 MR. UTSCHIG: I'm an engineer.

3 MR. HUGHES: So he's on the  
4 curb and you're in the gutter.

5 All right. So I'm a trapper  
6 and a hunter and I'm not used to  
7 walking into a fishing trip. We're  
8 walking into a fishing trip here.  
9 That's a lot of building.

10 CHAIRMAN SCALZO: You know  
11 what, Mr. Hughes. We sit here a lot  
12 and say that building is big. That's  
13 not why they're here.

14 MR. HUGHES: I know. Believe  
15 me, I know why they're here.

16 First of all, the fishing trip  
17 includes many players and this is  
18 contract on top of contract,  
19 speculation and contingency, and  
20 maybe if we can get by the Board, we  
21 can find a buyer and a developer.  
22 This is all if, if, if, if, if.

23 That's 3.5 acres of building on  
24 a footprint of 125,000 square feet.  
25 All the traffic of what might be

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2 coming in and out of that place on an  
3 entrance on 17K that's only 100 feet  
4 wide. What are they going to do with  
5 all that when there's another  
6 stoplight on both sides and more  
7 traffic coming in and out of there  
8 now?

9 The reason they're having a  
10 problem with this thing is they can't  
11 come in and out of the industrial  
12 park.

13 CHAIRMAN SCALZO: I don't  
14 believe they have road frontage on  
15 the industrial park.

16 MR. HUGHES: Right, right. So  
17 this is why they're trying to stuff  
18 10 pounds of dung in a 3 pound bag  
19 here in our municipality.

20 There are some residences on  
21 17K that have been run out and run  
22 out and run out.

23 Now, the guy that has  
24 possession of the land by contract at  
25 present was a little bit testy and

1 SCANNELL PROPERTIES, LLC

2 intimidating and threatening. He was  
3 going to do this and he was going to  
4 do that. Maybe he thinks we fell off  
5 the potato wagon last week. It was  
6 100 years ago. We've learned a lot  
7 since then.

8 Everywhere we've had properties  
9 we've been run out by industrial and  
10 developers that come and rape and  
11 take and put a lot of money in their  
12 pocket and walk out the door and  
13 leave shitty projects besides.

14 Now, I can see what's coming  
15 here. There's no reason on earth,  
16 with modern day engineering and  
17 everything else, that they can't find  
18 a way in there that isn't going to do  
19 the havoc that's going to be created.

20 And with the five points that  
21 have to be met, it's not necessarily  
22 a balancing act. The guys that  
23 slither throw that term in there so  
24 that they make the Board think that  
25 they can jostle a little more than

1 SCANNELL PROPERTIES, LLC

2 they're supposed to.

3 You have five points that need  
4 to be met and they hit two of them.  
5 Three of them are rotten to the core,  
6 especially the one about the  
7 hardship.

8 Their diligence is to see what  
9 the property is before they buy it.  
10 Don't let this thing happen.

11 And nobody mentioned anything  
12 about the 239 from the County on this  
13 thing. Nobody mentioned anything  
14 about Patton Brook and the watershed  
15 that's there.

16 There's so much deficiency  
17 stuff here that I hope these guys get  
18 a little more experienced before they  
19 try to fool some old farmers.

20 CHAIRMAN SCALZO: Mr. Hughes,  
21 thank you for your comments.

22 MR. HUGHES: Thank you for  
23 listening to me.

24 CHAIRMAN SCALZO: All comments  
25 that we get from the public are all

1 SCANNELL PROPERTIES, LLC

2 very important.

3 Mr. Hughes, I will just mention  
4 that, you know, you did mention  
5 traffic. That is all --

6 MR. HUGHES: I know it's  
7 planning.

8 CHAIRMAN SCALZO: That's  
9 Planning Board.

10 MR. HUGHES: I was the planning  
11 president of this federation in this  
12 County for four years. I know what  
13 you're supposed to be doing. These  
14 guys are depending on us not knowing  
15 what we're supposed to be doing.

16 CHAIRMAN SCALZO: Thank you,  
17 Mr. Hughes.

18 MR. HUGHES: Thank you for  
19 listening to what I have to say.

20 CHAIRMAN SCALZO: Okay. Do any  
21 other members of the public wish to  
22 speak about this?

23 Please identify yourself, sir.

24 MR. PACINO: My name is Pio  
25 Pacino. I grew up in that area.



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2 And I know -- I can't see where  
3 it is. I'd like to see where --  
4 124 17K, it's two parts. One is 13.3  
5 or 5 acres which we sold several  
6 years ago. There's 1 acre on the  
7 left side which we still have.

8 First of all, I don't know  
9 which side is closer to the area.  
10 The 1 acre is right at the entrance  
11 of the trucking and there's a lake.

12 CHAIRMAN SCALZO: Gentlemen, do  
13 you have a tax map, a large tax map  
14 perhaps you can put up there?

15 MR. PACINO: I tried to go on  
16 and I couldn't get it on the  
17 computer. I'd like to know which one  
18 it is.

19 CHAIRMAN SCALZO: Gentlemen,  
20 you're not looking at consolidating  
21 any lots for this, are you?

22 MR. GOTTLIEB: No. So it's --

23 MR. PACINO: I'm not looking --

24 CHAIRMAN SCALZO: Not you.

25 MR. GOTTLIEB: It's one lot,

1 SCANNELL PROPERTIES, LLC

2 14.9 acres, and it's one tax parcel  
3 ID. It's 95-1-58.

4 MR. PACINO: We don't know.  
5 There's one right by the entrance to  
6 the trucking.

7 MR. UTSCHIG: Is it the parcel  
8 directly adjacent to the car  
9 dealership?

10 MR. PIACCI: My name is John  
11 Piacchi. We used to own the whole  
12 area and we lived there. We grew up  
13 there.

14 There are three houses after  
15 this property, and after the three  
16 houses there is a piece which I think  
17 is 200 by 200. We still own that  
18 piece. That's why we want to know  
19 how the building is going to go.

20 CHAIRMAN SCALZO: So if you say  
21 you have a 200 by 200, it appears, as  
22 I'm looking at the tax map, that you  
23 may be lot number 8.

24 MR. PACINO: It could be.

25 MR. GOTTLIEB: Do you see how

1 SCANNELL PROPERTIES, LLC

2 there's tax lots on that one? That's  
3 the project site.

4 MR. CANFIELD: 64.

5 CHAIRMAN SCALZO: Tax map lot  
6 number 64.

7 MR. GOTTLIEB: Is it like a  
8 square that fronts on 17K?

9 CHAIRMAN SCALZO: Yes. They're  
10 not contiguous with this proposed  
11 application. Correct?

12 MR. CANFIELD: No.

13 CHAIRMAN SCALZO: Sir, you're a  
14 few lots away from -- well, not a few  
15 lots away. You appear to be 200 to  
16 300 feet away.

17 MR. CANFIELD: There's three  
18 parcels in between there and this.

19 MR. PACINO: Three houses.

20 MR. GOTTLIEB: It's right here.

21 CHAIRMAN SCALZO: I'm looking  
22 at the southwest corner, Jerry. If  
23 you're coming down that line to  
24 lot 7, you're probably 250 feet away.

25 MR. PACINO: What I want to

1 SCANNELL PROPERTIES, LLC

2 know is what kind of -- what's the  
3 effect to our property?

4 CHAIRMAN SCALZO: That's quite  
5 a general statement. I don't know.  
6 The impacts to your lot, they are  
7 required to contain -- any  
8 improvement and any runoff or  
9 anything else from the improvement is  
10 supposed to be contained within their  
11 lot. So regarding that, I believe  
12 that they are required to do that.

13 Regarding traffic, that's a  
14 question that the --

15 MR. PACINO: Traffic is  
16 ridiculous.

17 CHAIRMAN SCALZO: That's also a  
18 Planning Board issue.

19 Thank you very much. Your  
20 comments are very important, sir.  
21 Thank you very much.

22 And if you grew up there and  
23 you live there -- and I golfed there  
24 once in my life before they converted  
25 it.

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2 Mr. Hughes has his hand up.

3 MR. HUGHES: 239 report?

4 CHAIRMAN SCALZO: GML 239.

5 Siobhan, do we have -- we have  
6 from the Orange County Department of  
7 Planning the recommend -- I could  
8 read through the whole thing but I'll  
9 give you the bottom line. The  
10 recommendation is a Local  
11 determination.

12 MR. HUGHES: Can you then read  
13 the --

14 CHAIRMAN SCALZO: "The Planning  
15 Department has reviewed the submitted  
16 materials regarding the appeal for an  
17 area variance for the proposed  
18 127,000 square foot building with the  
19 potential for a warehouse and/or  
20 storage/trucking terminal within 500  
21 feet of State Route 17K, a 119-foot  
22 variance. While the Zoning Board of  
23 Appeals must weigh the local issues  
24 in balancing the needs of the  
25 applicant with the potential impacts

1 SCANNELL PROPERTIES, LLC

2 on the surrounding area, it does not  
3 appear that intra-municipal or  
4 Countywide impacts would result if  
5 the Board finds that granting relief  
6 is warranted in this matter."

7 MR. HUGHES: Thank you for  
8 reading that.

9 CHAIRMAN SCALZO: You're  
10 welcome, Mr. Hughes. It's now going  
11 to be in the meeting minutes.

12 Siobhan, is that posted online?

13 MS. JABLESNIK: I don't have it  
14 posted online. I just received them.

15 CHAIRMAN SCALZO: Very good.  
16 Okay. But it is now recorded into  
17 the minutes, Mr. Hughes.

18 MR. HUGHES: Thank you. When  
19 did they come in? Today?

20 MS. JABLESNIK: They came in --  
21 that one --

22 MR. DONOVAN: Only if you know,  
23 Siobhan.

24 MS. JABLESNIK: I'm not sure of  
25 the exact date. It was only within

1 SCANNELL PROPERTIES, LLC

2 the last few days.

3 MR. HUGHES: So if I could  
4 suggest to the Chairman that in the  
5 future we have our materials ten days  
6 ahead of the meeting.

7 CHAIRMAN SCALZO: Well, you  
8 know, Mr. Hughes, you've sat up here  
9 yourself.

10 MR. HUGHES: I know.

11 CHAIRMAN SCALZO: The County is  
12 very difficult. And if we don't  
13 hear -- and you should know just as  
14 well as I do, if we don't hear from  
15 the County in thirty days -- pardon  
16 me, the allotted time that they give  
17 us, then we don't have to follow  
18 their recommendations.

19 MR. HUGHES: You can put it off  
20 until the next meeting and be  
21 informed.

22 CHAIRMAN SCALZO: But in this  
23 case we have a Local determination.  
24 That doesn't make us look at the  
25 application any differently whereas

1 SCANNELL PROPERTIES, LLC

2 the previous application this evening  
3 we did have something that they were  
4 looking for.

5 MR. HUGHES: I'm not critiquing  
6 anybody or complaining. I'm just  
7 saying that there's a way that you  
8 can take control. If they don't  
9 bring it to you ten days ahead of  
10 time, you make them wait for another  
11 month.

12 We're supposed to be driving  
13 the bus here to control what goes on  
14 in our municipality for the  
15 protection of the citizens, not for  
16 the benefit of developers.

17 CHAIRMAN SCALZO: Mr. Hughes,  
18 your comments are very valuable,  
19 although I'm not sure that we're  
20 getting where you want to get at this  
21 point. So please keep --

22 MR. HUGHES: I'll let you know  
23 when I get there.

24 CHAIRMAN SCALZO: Please keep  
25 your comments pointed to why the



1 SCANNELL PROPERTIES, LLC

2 applicant is here this evening.

3 Thank you.

4 MR. HUGHES: Thank you.

5 CHAIRMAN SCALZO: Does anyone  
6 else from the public wish to speak  
7 about this application?

8 MR. KANE: I would. My name is  
9 Michael Kane. I live at  
10 128 Route 17K, the middle of the  
11 three houses.

12 I, for one, am against this  
13 warehouse being in my backyard. I  
14 don't need the tractor trailers, the  
15 downshifting, the running engines,  
16 the smog.

17 CHAIRMAN SCALZO: Sir, again,  
18 your comments are important as well.  
19 Keep in mind if they were 119 feet  
20 further back, they could have that.

21 MR. KANE: Well, I haven't seen  
22 any of these pictures. I can't find  
23 them anywhere. I don't know what  
24 they plan.

25 But, you know, I just know that

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2 I entertain on my property, my grand  
3 kids in the backyard with the  
4 swimming pool and stuff, and I don't  
5 need trucks back there or truckers  
6 looking into my backyard, watching us  
7 do our thing or whatever, you know.

8 They want to put in a pond. We  
9 already have a pond on the Grainger  
10 side there. You know, there are  
11 millions of mosquitos. You want to  
12 put another one on the other side.

13 CHAIRMAN SCALZO: Mr. Kane,  
14 again, your comments are important.  
15 You haven't seen their proposed  
16 landscaping plan.

17 Can you pull that up, please?

18 And with regards to the  
19 stormwater management ponds, it's  
20 been -- and the engineer of the  
21 project can help me out on this. For  
22 these types of situations, when you  
23 have a stormwater retention pond that  
24 generates mosquitos for most of that,  
25 you have a mosquito eating bug that

1 SCANNELL PROPERTIES, LLC

2 goes right along with it.

3 MR. UTSCHIG: That's one of the  
4 alternatives that we have to treat  
5 the basins.

6 CHAIRMAN SCALZO: I see you  
7 have underground systems as well.

8 MR. UTSCHIG: The current  
9 requirements are going away.

10 So the systems that will be  
11 designed here will not have permanent  
12 standing pools. They will be  
13 bio-retention areas that won't have  
14 standing water. The stormwater  
15 practices that hold the bigger storms  
16 which are filled in will be empty  
17 over 24 hours.

18 So the intent is to avoid the  
19 old-fashioned stormwater management  
20 basins that filled up with water. A  
21 certain amount stayed and did become  
22 a mosquito breeding area.

23 MR. KANE: Can you show me on  
24 this map where I am?

25 MR. UTSCHIG: So I think what

1 SCANNELL PROPERTIES, LLC

2 we're talking about is 1, 2, 3. So  
3 that would be 2.

4 MR. KANE: I entertain in this  
5 area. All these trucks would be  
6 coming around, you know, creating  
7 noise. The noise is going to be the  
8 biggest concern. They're going to be  
9 running their engines during the  
10 whole wintertime.

11 MR. DONOVAN: Sir, if I can  
12 just interrupt a second. If you want  
13 your remarks on the record, just kind  
14 of --

15 MR. KANE: I'm sorry.

16 CHAIRMAN SCALZO: She needs to  
17 hear what you're saying.

18 MR. KANE: Mainly it's going to  
19 be the noise. It's noisy enough  
20 around that area with them all  
21 turning into the industrial complex  
22 where Grainger used to be. I mean  
23 the noise alone, running engines,  
24 wintertime, smog.

25 I have COPD. I don't need to

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2 smell more, you know, diesel fuel.

3 The place right now, it's been  
4 left unattended for at least ten  
5 years. There's all kinds of wildlife  
6 back there. I've got turkeys and  
7 deer and hawks and owls. You name  
8 it. I have them coming into my yard.  
9 I mean, you know, it's basically  
10 turned into a wildlife sanctuary.

11 I'll tell you right now that --  
12 you know, I just wanted to voice my  
13 concerns about this.

14 CHAIRMAN SCALZO: And I  
15 appreciate anything you want to tell  
16 us.

17 MR. KANE: I mean if you want  
18 to turn the Town of Newburgh into  
19 another Secaucus, you go right ahead,  
20 but you can buy me and the other two  
21 houses out because we are both  
22 willing to sell.

23 CHAIRMAN SCALZO: We're kind of  
24 getting off why we're here. Let's  
25 stay to why we're here.

1 SCANNELL PROPERTIES, LLC

2 MR. KANE: I'm out of here if  
3 you're going to do something like  
4 that.

5 CHAIRMAN SCALZO: Thank you for  
6 your comments. They're very  
7 important.

8 Is there anyone else from the  
9 public that wishes to speak about  
10 this application?

11 Mr. Hughes, I'm going to give  
12 you one more shot. I want you to --  
13 you have to stay on point here, sir.

14 MR. HUGHES: It says on the  
15 agenda that the building is under 40  
16 feet. If it's over 35, there should  
17 be another variance request here.  
18 Nobody has told me how tall the  
19 building is.

20 CHAIRMAN SCALZO: Code  
21 Compliance, did you review the  
22 application? We're not looking for  
23 height variances here, are we?

24 MR. CANFIELD: We're not  
25 looking for a height variance, no.

1 SCANNELL PROPERTIES, LLC

2 MR. HUGHES: Did you miss it or  
3 do you know how tall the building is?

4 MR. DONOVAN: Well, I think --

5 MR. CANFIELD: I think it's 40  
6 feet.

7 MR. HUGHES: If it's under 40  
8 feet -- if it's under 35, we're in  
9 nowhere land.

10 MR. DONOVAN: The Board will  
11 entertain the application that's  
12 before them. It may or may not be  
13 before them.

14 CHAIRMAN SCALZO: Thank you,  
15 Counselor.

16 So tonight we're here,  
17 Mr. Hughes, looking at a front yard  
18 setback.

19 MR. HUGHES: Okay.

20 CHAIRMAN SCALZO: If the  
21 applicant comes in with a 40-foot  
22 building, they're going to be back  
23 here because they're not asking for  
24 that tonight.

25 MR. HUGHES: So am I correct in

1 SCANNELL PROPERTIES, LLC

2 presuming they hit two of the five  
3 things they were supposed to?

4 CHAIRMAN SCALZO: You heard me  
5 read it.

6 MR. HUGHES: Okay.

7 MR. DONOVAN: So if I may,  
8 Mr. Chairman, it's a good time to  
9 come back to this.

10 We had a little refresher  
11 course for the Board. We started at  
12 5:00 tonight. One of the things we  
13 talked about is that it's a five-part  
14 balancing test. Very specifically  
15 what we talked about is that in the  
16 context of an area variance, the  
17 applicant doesn't need to prove that  
18 they've satisfied each of the five  
19 points. You just need to consider  
20 and balance each of the five points.  
21 Whether they've all been met or not  
22 doesn't drive your decision. It's  
23 not a three to two vote. It's an  
24 overall totality of the  
25 circumstances, evaluation.



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2 At the end of the day what  
3 you're ultimately supposed to  
4 evaluate is whether or not the  
5 benefit to the applicant outweighs  
6 any detriment to the neighborhood.  
7 That's what your mission is. That's  
8 what the rules are. This is a rules-  
9 based proceeding. You follow the  
10 rules.

11 They don't need to satisfy  
12 every one of the five points. In the  
13 use variance they do need to satisfy  
14 every one of the five points. In an  
15 area variance they do not.

16 It's in the Board's discretion  
17 what they want to do. I just want to  
18 be clear on what the law is as it  
19 relates to area variances.

20 CHAIRMAN SCALZO: Thank you,  
21 again, Counselor.

22 One opportunity more. Are  
23 there any members of the public that  
24 wish to speak about this application?

25 MR. PALMERONE: Good evening.

1 SCANNELL PROPERTIES, LLC

2 I'm Joseph Palmerone. I am the  
3 single member owner of an LLC, TJT  
4 Realty, which owns --

5 CHAIRMAN SCALZO: I apologize,  
6 Mr. Palmerone. Can you start over?  
7 I was a little distracted.

8 MR. DONOVAN: That's my fault.  
9 I apologize for that. I won't do  
10 that again.

11 MR. PALMERONE: I am the single  
12 member owner of an LLC which owns the  
13 property at 126 Route 17K, directly  
14 adjacent to this project.

15 I grew up there. It was a  
16 quiet little area, as quiet as it  
17 could be next to Stewart  
18 International Airport. But it was a  
19 nice little area.

20 This is going to change the  
21 neighborhood dramatically. I just  
22 wanted to voice my disapproval to the  
23 project. Thank you.

24 CHAIRMAN SCALZO: Thank you.  
25 Very good.

1 SCANNELL PROPERTIES, LLC

2 Do any other members of the  
3 public wish to speak?

4 (No response.)

5 CHAIRMAN SCALZO: All right.  
6 I'm going to look back to the Board.  
7 We've heard quite a bit.

8 I'll start down with  
9 Mr. Marino. Do you have any  
10 additional comments on this?

11 MR. MARINO: No.

12 MR. MASTEN: I have nothing  
13 right now.

14 CHAIRMAN SCALZO: Mr. Masten,  
15 no.

16 Mr. Gramstad?

17 MR. GRAMSTAD: No.

18 CHAIRMAN SCALZO: Mr. Eberhart?

19 MR. EBERHART: No.

20 MR. HERMANCE: No.

21 MR. BELL: No.

22 CHAIRMAN SCALZO: I'm  
23 struggling with this myself. The  
24 applicant has given us quite a bit.  
25 I almost feel as though me reading

1 SCANNELL PROPERTIES, LLC

2 our meeting minutes from everything  
3 that you've presented tonight -- you  
4 gave us oral testimony and you  
5 recited just about everything that's  
6 in the application. Again, I'm  
7 struggling with where we're at here.

8 Members of the Board, are you  
9 satisfied with what you've heard that  
10 we can close the public hearing at  
11 this point? I'm not sure that I am.

12 MR. BELL: Well, since you  
13 forgot me before --

14 CHAIRMAN SCALZO: I said  
15 Mr. Bell. You must have missed it.

16 MR. BELL: I must have missed  
17 that.

18 I feel the same way. I would  
19 like to go back. I made a lot of  
20 notes. I would like to read back  
21 through this.

22 CHAIRMAN SCALZO: The other  
23 thing I'd like to do, too, is -- you  
24 know, I've been to the site. I've  
25 been around the site.

1 SCANNELL PROPERTIES, LLC

2 MR. BELL: I have, too.

3 CHAIRMAN SCALZO: I think I  
4 would like to revisit the site  
5 physically myself. Go there.

6 That being said, I'll look to  
7 the Members of the Board. Do we have  
8 a motion of some sort regarding the  
9 public hearing?

10 MR. GOTTLIEB: Mr. Chairman, if  
11 I just may address some of the public  
12 comments prior to the close of the  
13 hearing or after. Whatever. It's  
14 your --

15 CHAIRMAN SCALZO: Well, I don't  
16 know that we're closing the public  
17 hearing yet.

18 MR. GOTTLIEB: Okay. Well, at  
19 some point I'd like to just address  
20 some of the --

21 MR. BELL: Keep it open.

22 CHAIRMAN SCALZO: Then someone  
23 make that motion.

24 MR. BELL: I'll make a motion  
25 to keep the public hearing open.

1 SCANNELL PROPERTIES, LLC

2 MR. DONOVAN: So we'll continue  
3 the public hearing to November?

4 MR. BELL: So we'll continue to  
5 the November meeting. Yes.

6 CHAIRMAN SCALZO: Site revisit.  
7 Again, this is probably the biggest,  
8 most comprehensive package we've had  
9 in a little while. We've got a few  
10 new members we're going to help.

11 All right. So we have a motion  
12 to keep the public hearing open to  
13 November from Mr. Bell.

14 MR. GRAMSTAD: I'll second it.

15 CHAIRMAN SCALZO: We have a  
16 second from Mr. Gramstad. Roll on  
17 that, please, Siobhan.

18 MS. JABLESNIK: Mr. Bell?

19 MR. BELL: Yes.

20 MS. JABLESNIK: Mr. Eberhart?

21 MR. EBERHART: Yes.

22 MS. JABLESNIK: Mr. Gramstad?

23 MR. GRAMSTAD: Yes.

24 MS. JABLESNIK: Mr. Hermance?

25 MR. HERMANCENCE: Yes.

1 SCANNELL PROPERTIES, LLC

2 MS. JABLESNIK: Mr. Marino?

3 MR. MARINO: Yes.

4 MS. JABLESNIK: Mr. Masten?

5 MR. MASTEN: Yes.

6 MS. JABLESNIK: Mr. Scalzo?

7 CHAIRMAN SCALZO: Yes.

8 We're going to -- the public  
9 hearing is going to remain open until  
10 the November meeting. So we will all  
11 be speaking again.

12 However, since it is still  
13 open, if you wanted to continue, go  
14 right ahead.

15 MR. GOTTLIEB: Sure. Just a  
16 few questions to clarify.

17 I just want to make sure the  
18 Board stays focused on one of the  
19 main points here. If it wasn't for  
20 the fact of the warehouse use  
21 potentially being within the front 20  
22 percent, we would not be here this  
23 evening.

24 CHAIRMAN SCALZO: Well, you say  
25 front 20 percent. We got

1 SCANNELL PROPERTIES, LLC

2 clarification from our Code  
3 Compliance that the building is the  
4 building and everything that goes on  
5 in the building now applies to -- if  
6 you had warehousing in the back of  
7 the building, it's still part of the  
8 building.

9 Correct, Jerry? Am I  
10 understanding that right?

11 MR. CANFIELD: That's correct.

12 MR. GOTTLIEB: And also, just  
13 for procedure in my head for when I  
14 get back to the office and get a  
15 million questions, is that an  
16 official determination that was made  
17 this evening or is that something  
18 that will be followed up in writing?

19 Dave, I think you know where my  
20 head is going with this.

21 MR. DONOVAN: I don't think an  
22 answer by Code Compliance at the  
23 meeting is an official determination.

24 MR. GOTTLIEB: And then my last  
25 comment was the permitted building



1 SCANNELL PROPERTIES, LLC

2 height is 40 feet. We also have to  
3 realize that that picture right there  
4 also shows the substantial character  
5 of the neighborhood with those large  
6 warehouses in the rear of the  
7 property and then Stewart Air Force  
8 Base on the other side.

9 CHAIRMAN SCALZO: Right.  
10 There's been no argument about the  
11 character of the neighborhood.

12 MR. GOTTLIEB: And then lastly,  
13 related to the site visit, I can give  
14 Siobhan my card and we can get the  
15 site visit scheduled.

16 That's all I have for now,  
17 unless --

18 CHAIRMAN SCALZO: Very good.  
19 Then we'll see you in November.

20 MR. GOTTLIEB: Okay. We'll  
21 schedule the site visit?

22 MS. JABLESNIK: Yes.

23 MR. GOTTLIEB: Thank you.

24

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

1 SCANNELL PROPERTIES, LLC

2

3

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

4

5

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

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

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

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

18

19

20

21

*Michelle Conero*

22

\_\_\_\_\_  
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

NICK CITERA  
(CPK UNION - T-MOBILE)  
  
1217 Route 300, Newburgh  
Section 96; Block 1; Lot 11.1  
R-3 Zone

----- X

Date: October 28, 2021  
Time: 8:25 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, New York

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

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

APPLICANT'S REPRESENTATIVE: JOSEPH FLYNN,  
NICK CITERA

----- X

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

1       NICK CITERA (CPK UNION - T-MOBILE)

2                   CHAIRMAN SCALZO: Our next  
3                   applicant this evening is Nick  
4                   Citera, 1217 Route 300 in Newburgh  
5                   for area variances to keep a roof  
6                   mounted sign and third freestanding  
7                   sign on the property. Code allows up  
8                   to two freestanding signs on the  
9                   property, shall not hang over any  
10                  property lines and shall not be  
11                  located any less than 15 feet from  
12                  any side or front property line or a  
13                  distance to the height of said sign,  
14                  whichever is greater. That's like  
15                  one of the longest sentences I've  
16                  ever read.

17                 MR. BELL: There's no period in  
18                 there.

19                 MS. JABLESNIK: No punctuation.

20                 CHAIRMAN SCALZO: Mailings on  
21                 that, Siobhan?

22                 MS. JABLESNIK: This applicant  
23                 sent out 15 letters.

24                 CHAIRMAN SCALZO: 15. All  
25                 right. Our first one was the winner.

1       NICK CITERA (CPK UNION - T-MOBILE)

2                   All right. So who do we have  
3                   tonight representing what is going  
4                   on?

5                   MR. FLYNN: Joseph Flynn. I'm  
6                   here representing Nick Citera. He's  
7                   the owner of the Cosimo's plaza.

8                   It seems as though the signs  
9                   that were put up well over 20 years  
10                  ago for Sprint were changed when  
11                  T-Mobile purchased Sprint. This is  
12                  when this all came into being a  
13                  problem. So there were approvals,  
14                  from what we understand, 20 something  
15                  years ago for the signage the way it  
16                  was. Once it changed to T-Mobile, it  
17                  became a problem.

18                  CHAIRMAN SCALZO: That's one of  
19                  the variances that we're talking  
20                  about. The other is the three.

21                  As I sat there in the parking  
22                  lot today, I was like T-Mobile is on  
23                  the new sign that went up when they  
24                  did the Smoothie King in the back.  
25                  And then I'm standing underneath the

1       NICK CITERA (CPK UNION - T-MOBILE)

2           sign for T-Mobile and then I turn  
3           around and look and it said roof  
4           mounted.

5                   Now, the question I actually  
6           had for Code Compliance, it says roof  
7           mounted, but is that because the roof  
8           is on a slant? If it was on a  
9           facade, we wouldn't be having this  
10          conversation?

11                   MR. MATTINA: Correct.

12                   CHAIRMAN SCALZO: Okay. I just  
13          wanted to understand how that works.

14                   MR. FLYNN: There's really no  
15          other place to put the sign.

16                   CHAIRMAN SCALZO: Right. I  
17          understand that.

18                   If that was a squared up  
19          building face, then I don't know if  
20          we would have this conversation at  
21          all.

22                   MR. MATTINA: Right.

23                   MR. CANFIELD: Also, I would  
24          like to add that the reason why --  
25          the biggest reason why this is here

1       N I C K   C I T E R A   ( C P K   U N I O N   -   T - M O B I L E )

2           also is because of the new sign law  
3           that went into effect which said that  
4           anything nonconforming is  
5           nonconforming and it's out.

6           CHAIRMAN SCALZO:   So there is  
7           no preexisting nonconforming?

8           MR. CANFIELD:   No.   There's a  
9           specific line in that new signage  
10          code that eliminates that.

11          So when the applications came  
12          in, Mr. Mattina read that and said  
13          well, these signs don't comply now.  
14          They may have complied yesterday, but  
15          they don't now.

16          CHAIRMAN SCALZO:   Well, that's  
17          interesting.   Mr. Mattina is going to  
18          recite.

19          MR. MATTINA:   251 of the new  
20          sign code, existing legal signs can  
21          remain intact until they are changed,  
22          modified, altered or, you know,  
23          colors of any type.   So even though  
24          it's existing legal, the new sign law  
25          says once you touch it, it must

1       NICK CITERA (CPK UNION - T-MOBILE)

2               comply with today's requirements.  
3               Today's requirements do not allow  
4               this signage.

5               That's why we've sent so many  
6               gas stations here with existing pylon  
7               signs. When they change from Mobil  
8               to Speedy Joe's, even though it's  
9               legal and had permits and COs at the  
10              time, this new law says you've got to  
11              be 35 feet from the property line or  
12              you're no longer conforming and you  
13              must obtain a variance.

14              CHAIRMAN SCALZO: Okay. And  
15              what are you applying that to? Are  
16              you applying that to the three signs  
17              or the sign that's roof mounted?

18              MR. MATTINA: We're talking  
19              roof mounted signs at this point.

20              CHAIRMAN SCALZO: I know it's  
21              on a slope.

22              MR. MATTINA: It's a mansard  
23              roof and it's considered a roof.

24              CHAIRMAN SCALZO: Okay. The  
25              code is the code. We're the Zoning



1       NICK CITERA (CPK UNION - T-MOBILE)

2               Board of Appeals and that's why  
3               they're here.

4               As I mentioned, we've been to  
5               the site. We've seen it. You heard  
6               my comments actually in the questions  
7               to the Code Compliance folks.

8               It's an oddity. Like I say,  
9               the oddity for me -- the one that  
10              stands out more to me is the three  
11              signs. As I'm looking around, the  
12              T-Mobile sign is the only one that  
13              stands on its own, but yet it's on  
14              the entrance where the other signs  
15              are on the top of the building.  
16              That's my observation. I'm not going  
17              to go where I'm thinking at this  
18              point.

19              I'm going to actually turn --  
20              as Mr. Bell felt slighted before  
21              that I didn't call on him, now I'm  
22              going to ask for Mr. Bell's comments  
23              and I'm going to weigh on every word.

24              MR. BELL: I'm good.

25              CHAIRMAN SCALZO: That's it?

1       NICK CITERA (CPK UNION - T-MOBILE)

2           I'm good? Let the record show  
3           Mr. Bell said I'm good.

4           CHAIRMAN SCALZO: Mr. Hermance?

5           MR. HERMANCE: Well, that was  
6           my question, whether this was  
7           considered actually a roof or just a  
8           facade. You answered my question.

9           CHAIRMAN SCALZO: All right.  
10          I'm going in this direction. Let me  
11          ask you, gentlemen. I'm still hung  
12          up on that three sign thing. Would  
13          you be willing to remove that  
14          freestanding T-Mobile sign that's out  
15          front?

16          MR. FLYNN: He'd lose the  
17          tenant.

18          CHAIRMAN SCALZO: Boy, that's  
19          tough. That's a tough line in the  
20          code, too.

21          Mr. Eberhart, any questions?  
22          It's a lot to think about.

23          MR. EBERHART: No.

24          CHAIRMAN SCALZO: You thought  
25          this was going to be a lot of fun.

1 NICK CITERA (CPK UNION - T-MOBILE)

2 Sometimes you walk out of here  
3 worried your tires are going to be  
4 slashed. It's a tough one. I'll  
5 come back to you.

6 Mr. Gramstad?

7 MR. GRAMSTAD: No. You asked  
8 my question.

9 CHAIRMAN SCALZO: Mr. Masten?

10 MR. MASTEN: You answered for  
11 me.

12 CHAIRMAN SCALZO: I'm doing  
13 that a lot tonight. Very good.

14 Mr. Marino?

15 MR. MARINO: My question for  
16 Joe would be did it actually say that  
17 once the law had been changed you've  
18 got to remove the sign? In other  
19 words, you said it was good yesterday  
20 but not today.

21 MR. MATTINA: Just to clarify  
22 something, 185-G, the changing of the  
23 sign, is for the roof mounted sign  
24 only.

25 The freestanding sign never had

1       NICK CITERA (CPK UNION - T-MOBILE)

2           a building permit. So it's an  
3           illegal sign, period.

4           The roof mounted sign is the  
5           one that says the lawful use of a  
6           sign or signs existing at the time of  
7           adoption of this chapter may continue  
8           even though the design does not  
9           conform to the regulations limited in  
10          this section until one or more of the  
11          following occurs, the size,  
12          structure, location, accessory,  
13          previously granted approvals, permits  
14          or altered or modified, changed,  
15          reconstructed or moved.

16          So once you touch that sign,  
17          it's done.

18          MR. EBERHART: It seems to me  
19          it should be grandfathered.

20          CHAIRMAN SCALZO: Do you have  
21          that -- is that handy or is that in  
22          Mr. Gramstad's new book?

23          MR. MATTINA: It should be in  
24          the book.

25          CHAIRMAN SCALZO: Well, you

1       NICK CITERA (CPK UNION - T-MOBILE)

2           have it already opened. So do we  
3           send out mailers to everybody that's  
4           got a sign, hey, guess what --

5           MR. MATTINA: They should know  
6           the code. It's online.

7           CHAIRMAN SCALZO: The lawful  
8           use of a sign or signs existing at  
9           the time of adoption of this chapter  
10          may be continued even though the sign  
11          does not conform to the regulations  
12          and limitations of this section until  
13          one or more of the following occurs.

14          And what one of these occurred?

15          MR. MATTINA: Right here.

16          CHAIRMAN SCALZO: The first  
17          one. How about that. A, the  
18          structure, size, location or  
19          accessories of any or all signs  
20          previously granted approval and  
21          permits are altered, modified,  
22          changed, reconstructed or removed.

23          So we're talking about when it  
24          went from Sprint to T-Mobile. That's  
25          what you're talking about?

1 NICK CITERA (CPK UNION - T-MOBILE)

2 MR. MATTINA: Right. It was  
3 modified.

4 CHAIRMAN SCALZO: It was  
5 modified. And when did this occur?

6 MR. CITERA: Two years ago.  
7 They bought them about a year -- they  
8 bought them about a year and-a-half  
9 ago. They changed the signs maybe  
10 seven months after that, eight  
11 months.

12 CHAIRMAN SCALZO: All right.

13 MR. EBERHART: When did this go  
14 into effect?

15 CHAIRMAN SCALZO: When did this  
16 sign law go, Joe?

17 MR. DONOVAN: It's got to be  
18 four or five years ago.

19 MR. MATTINA: Law number 3 of  
20 2018. 2018.

21 CHAIRMAN SCALZO: 2018. If  
22 it's law number 3, it was probably  
23 early in the year.

24 MR. MATTINA: Yes.

25 MR. BELL: 2018.

1       NICK CITERA (CPK UNION - T-MOBILE)

2                   CHAIRMAN SCALZO: Thank you,  
3       Joe. That's interesting. All right.  
4       I'm sorry. We stopped the meeting.

5                   You read what you read. I'll  
6       give it a second to sink in and I'll  
7       go to Mr. Gramstad and ask him what  
8       his comments are.

9                   MR. GRAMSTAD: You already  
10      asked him that one question about  
11      taking that one sign down.

12                  CHAIRMAN SCALZO: I steal  
13      everybody's question.

14                  MR. GRAMSTAD: That was my  
15      thing.

16                  CHAIRMAN SCALZO: Mr. Masten?

17                  MR. MASTEN: What's written  
18      is for the mounted sign.

19                  CHAIRMAN SCALZO: Mr. Marino?

20                  MR. MARINO: Nothing right now.

21                  CHAIRMAN SCALZO: Joe Mattina,  
22      back to you. The sign out front, the  
23      T-Mobile sign that's illegal, does  
24      that also happen to be over the  
25      property line? I mean are we going

1       NICK CITERA (CPK UNION - T-MOBILE)

2               to double dose here or what?

3               MR. MATTINA: That I'm unsure.  
4               The survey is not very clear whether  
5               it extends or not.

6               CHAIRMAN SCALZO: I need a  
7               magnifying glass.

8               Well, the stonewall is -- it  
9               appears the stonewall is on the State  
10              right-of-way. That's what it  
11              appears. I can't tell. It's very  
12              difficult to tell.

13              Anybody here from the public  
14              that wishes to speak about this  
15              application?

16              Go ahead, sir.

17              MR. GALLI: Frank Galli,  
18              19 Willella Place.

19              If you drive around the Town of  
20              Newburgh, you see signs all over the  
21              place. You'll see signs on  
22              buildings. You'll see signs on  
23              lawns. You'll see businesses that go  
24              into business and put signs in the  
25              window. There are signs all over,



1       NICK CITERA (CPK UNION - T-MOBILE)

2               haphazard all over the place.

3               CHAIRMAN SCALZO: I call it  
4               sign pollution, sir.

5               MR. GALLI: And now with  
6               Election Day it's even worse.

7               CHAIRMAN SCALZO: You bet ya'.

8               MR. GALLI: And then a month  
9               after elections they're still up.

10              This gentleman has been in  
11              business in the Town for, I don't  
12              know, 20 years, 25 years --

13              MR. CITERA: 30.

14              MR. GALLI: -- 30 years trying  
15              to make a living through the pandemic  
16              and we're going to push him about a  
17              sign.

18              I mean that's all I have to  
19              say.

20              CHAIRMAN SCALZO: Thank you,  
21              sir.

22              Anyone else here to speak about  
23              this application?

24              (No response.)

25              CHAIRMAN SCALZO: I'm going to

1       NICK CITERA (CPK UNION - T-MOBILE)

2               look back to the Board. I'll start  
3               with you, Mr. Bell, now that you've  
4               heard a couple things.

5               MR. BELL: I got all my  
6               answers. I'm good.

7               CHAIRMAN SCALZO: You got all  
8               your answers.

9               Mr. Hermance?

10              MR. HERMANCE: I have all the  
11              answers I need.

12              CHAIRMAN SCALZO: Mr. Eberhart?  
13              You're having a tough time.

14              MR. EBERHART: I'm having a  
15              tough time.

16              CHAIRMAN SCALZO: Welcome to  
17              the Board. It's definitely sometimes  
18              not fun.

19              Mr. Gramstad?

20              MR. GRAMSTAD: I'm good.

21              CHAIRMAN SCALZO: Mr. Masten?

22              MR. MASTEN: I'm good.

23              CHAIRMAN SCALZO: Mr. Marino?

24              MR. MARINO: I'm all right.

25              CHAIRMAN SCALZO: All right.

1 NICK CITERA (CPK UNION - T-MOBILE)

2 So we're looking at two different  
3 variances here, folks. We're looking  
4 at the roof mounted and we're looking  
5 at the T-Mobile freestanding sign.

6 No other comments? Last time,  
7 comments from the public?

8 (No response.)

9 CHAIRMAN SCALZO: Nothing. All  
10 right.

11 So I'm going to look to the  
12 Board for a motion to close the  
13 public hearing.

14 MR. GRAMSTAD: I'll make a  
15 motion to close the public hearing.

16 MR. MASTEN: I'll second it.

17 CHAIRMAN SCALZO: I have a  
18 motion to close the public hearing  
19 from Mr. Gramstad. We have a second  
20 from Mr. Masten. Will you roll that,  
21 please, Siobhan.

22 MS. JABLESNIK: Mr. Bell?

23 MR. BELL: Yes.

24 MS. JABLESNIK: Mr. Eberhart?

25 MR. EBERHART: Yes.

1 NICK CITERA (CPK UNION - T-MOBILE)

2 MS. JABLESNIK: Mr. Gramstad?

3 MR. GRAMSTAD: Yes.

4 MS. JABLESNIK: Mr. Hermance?

5 MR. HERMANCE: Yes.

6 MS. JABLESNIK: Mr. Marino?

7 MR. MARINO: Yes.

8 MS. JABLESNIK: Mr. Masten?

9 MR. MASTEN: Yes.

10 MS. JABLESNIK: Mr. Scalzo?

11 CHAIRMAN SCALZO: Yes.

12 The public hearing is closed.

13 I just can't get off this third  
14 sign. That is the only business in  
15 that complex that has three. The  
16 only one.

17 All right. Now, I'm not sure  
18 if -- is this a Type 2 action under  
19 SEQRA, Counselor?

20 MR. DONOVAN: This is actually  
21 an Unlisted action.

22 CHAIRMAN SCALZO: We went  
23 through that stuff earlier. Unlisted  
24 action under SEQRA.

25 The Board, if we're going to

1 NICK CITERA (CPK UNION - T-MOBILE)

2 make a motion to approve this  
3 application, do we need a motion for  
4 a negative declaration in this case?

5 MR. DONOVAN: You would, yes.

6 CHAIRMAN SCALZO: All right.  
7 So we're going to need a motion for a  
8 negative declaration under SEQRA.  
9 Now, I'm going to -- I need a motion  
10 from the Board for that, a negative  
11 declaration.

12 MR. HERMANCE: I'll make a  
13 motion for a negative declaration.

14 MR. BELL: Second.

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

18 All in favor?

19 MR. BELL: Aye.

20 MR. HERMANCE: Aye.

21 MR. EBERHART: Aye.

22 MR. GRAMSTAD: Aye.

23 MR. MARINO: Aye.

24 MR. MASTEN: Aye.

25 CHAIRMAN SCALZO: Aye.

1 NICK CITERA (CPK UNION - T-MOBILE)

2 We still need to move through  
3 the criteria there, don't we?

4 MR. DONOVAN: If I do a card  
5 act here, your question is do we need  
6 to vote on them all together or do we  
7 vote on them separately? Is that  
8 your question?

9 CHAIRMAN SCALZO: That was  
10 exactly going to be my question.

11 MR. DONOVAN: It's up to the  
12 Board. You could vote all together  
13 or you could vote separately.

14 CHAIRMAN SCALZO: Okay. Board  
15 Members, would you like to lump these  
16 together?

17 MR. BELL: Yes.

18 MR. EBERHART: Yes.

19 MR. GRAMSTAD: Yes.

20 MR. HERMANCENCE: Yes.

21 MR. MARINO: Yes.

22 MR. MASTEN: Yes.

23 CHAIRMAN SCALZO: All right.  
24 So in this case we still have to run  
25 through the criteria?

1       N I C K   C I T E R A   ( C P K   U N I O N   -   T - M O B I L E )

2                   MR. DONOVAN:  Yes, you do,  
3       Mr. Chairman.  That is correct.

4                   CHAIRMAN SCALZO:  Very good.  
5       Whether the benefit can be achieved  
6       by other means feasible to the  
7       applicant.  It sounds like this is,  
8       whether we want to say it was old or  
9       new, a preexisting condition.  But  
10      not since 2018.  That's why we're  
11      here.  That's a tough one.

12                  Second, if there's an  
13      undesirable change in the  
14      neighborhood character or a detriment  
15      to nearby properties.  I would say  
16      that there is no change to the  
17      neighborhood character in this case.

18                  The third, whether the request  
19      is substantial.

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

23                  MR. BELL:  No.

24                  MR. EBERHART:  No.

25                  MR. GRAMSTAD:  No.

1       N I C K   C I T E R A   ( C P K   U N I O N   -   T - M O B I L E )

2                   MR. HERMANCCE:   No.

3                   MR. MARINO:    No.

4                   MR. MASTEN:    No.

5                   CHAIRMAN SCALZO:   Seeing how  
6                   it's exactly as it was before.

7                   And the fifth, whether the  
8                   alleged difficulty is self-created  
9                   which is relevant but not  
10                  determinative.   Of course it's  
11                  self-created.

12                  MR. BELL:    It is, but --

13                  CHAIRMAN SCALZO:   Therefore, if  
14                  the Board approves, it shall grant  
15                  the minimum variance necessary and  
16                  may impose reasonable conditions.

17                  Does the Board have a motion of  
18                  some sort?

19                  MR. EBERHART:   I'll move that  
20                  we approve the variance.

21                  CHAIRMAN SCALZO:   For?

22                  MR. EBERHART:   Both.

23                  CHAIRMAN SCALZO:   Very good.

24                  So we have a motion for  
25                  approval from Mr. Eberhart.



1       NICK CITERA (CPK UNION - T-MOBILE)

2                   MR. GRAMSTAD: I'll second it.

3                   CHAIRMAN SCALZO: We have a  
4                   second from Mr. Gramstad. Now you  
5                   can roll on that.

6                   MS. JABLESNIK: Mr. Bell?

7                   MR. BELL: No.

8                   MS. JABLESNIK: Mr. Eberhart?

9                   MR. EBERHART: Yes.

10                  MS. JABLESNIK: Mr. Gramstad?

11                  MR. GRAMSTAD: Yes.

12                  MS. JABLESNIK: Mr. Hermance?

13                  MR. HERMANCE: No.

14                  MS. JABLESNIK: Mr. Marino?

15                  MR. MARINO: Yes.

16                  MS. JABLESNIK: Mr. Masten?

17                  MR. MASTEN: Yes.

18                  MS. JABLESNIK: Mr. Scalzo?

19                  CHAIRMAN SCALZO: No.

20                  That would be four to three. I  
21                  believe it still passes. Correct?

22                  MR. DONOVAN: That is correct,  
23                  Mr. Chairman. That was pretty  
24                  exciting.

25                  CHAIRMAN SCALZO: I haven't

1 N I C K C I T E R A ( C P K U N I O N - T - M O B I L E )

2 seen one of those in awhile.

3 So your variances are approved,  
4 gentlemen. Good luck.

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

6

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

8

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 11th day of November 2021.

22

23

24

25

*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

KEITH HEIGEL  
(CANDLESTICK MHC, LLC)

165 Lattintown Road, Newburgh  
Section 7; Block 1; Lot 38.12  
AR Zone

----- X

Date: October 28, 2021  
Time: 8:42 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, New York

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

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

APPLICANT'S REPRESENTATIVE: KEITH HEIGEL &  
KATRINA RICKS

----- X

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

1 KEITH HEIGEL (CANDLESTICK MHC, LLC)

2 CHAIRMAN SCALZO: Next up is  
3 Keith Heigel, Candlestick MHC, LLC,  
4 165 Lattintown Road, Newburgh. Here  
5 we go with another run-on sentence.  
6 For the following area variances on  
7 four lots: Lot 28 and Lot 21, no  
8 mobile home shall be less than 40  
9 feet from any other mobile home and  
10 all mobile homes shall be set back at  
11 least 15 feet from any side or rear  
12 lot line. Lot 34, no mobile home  
13 shall be less than 40 feet from any  
14 other mobile home. Lot 63, all  
15 mobile homes shall be set back at  
16 least 25 feet from the edge of the  
17 pavement providing access to the  
18 mobile home plot and shall be set  
19 back 15 feet from any side or rear  
20 lot line.

21 Okay. Siobhan, do we have  
22 mailings on this?

23 MS. JABLESNIK: This applicant  
24 sent out 33 letters.

25 CHAIRMAN SCALZO: 3-3. I don't

1 KEITH HEIGEL (CANDLESTICK MHC, LLC)

2 believe that's a winner yet.

3 MS. JABLESNIK: No. That 50  
4 was.

5 CHAIRMAN SCALZO: 50 was the  
6 first one.

7 If you could introduce  
8 yourself, sir. This is quite the  
9 interesting application. So have at  
10 it.

11 MR. HEIGEL: Good evening. I'm  
12 Keith Heigel. I prepared the  
13 application. Katrina Ricks is to  
14 your right. She is the community  
15 manager.

16 Candlestick MHC, LLC hired a  
17 company to acquire permits, install  
18 and place new manufactured homes on  
19 the four lots that you mentioned.  
20 All did not go as planned which is  
21 why we're here tonight.

22 The community fronts on  
23 Lattintown Road and is approximately  
24 34 acres.

25 Would you like me to walk

1 KEITH HEIGEL (CANDLESTICK MHC, LLC)

2 through each lot individually?

3 CHAIRMAN SCALZO: Sure.

4 MR. HEIGEL: Okay. Lot 21, the  
5 separation distance from the home to  
6 the right is 36.9 feet. It's 3.1  
7 feet short of the required 40. The  
8 distance from the interior access  
9 road is 21.1 feet, not the required  
10 25 feet. We do believe that the  
11 difference is almost imperceptible at  
12 the site, and certainly not visible  
13 from the public road or from  
14 adjoining properties. I have a map  
15 that we have highlighted so that you  
16 can see where Lot 21 is.

17 CHAIRMAN SCALZO: Do we have  
18 that in our packages?

19 MR. HEIGEL: No. You've been  
20 to the site. I believe you've seen  
21 the sites.

22 Katrina, if you could point to  
23 Lot 21. All four lots are somewhat  
24 central to the park itself. I  
25 believe the closest one is about 200

1 KEITH HEIGEL (CANDLESTICK MHC, LLC)

2 feet from the actual perimeter of the  
3 property line.

4 MS. RICKS: So this is 21.  
5 This is 34. 28, 63.

6 MR. HEIGEL: So on Lot 21  
7 there's -- if you can see it to the  
8 left, there's an older shed  
9 foundation that is there that keeps  
10 the shift difficult to make to the  
11 left, as well as the parking that we  
12 have to the right.

13 We do not believe that the  
14 waiver of the distances that we're  
15 requesting is going to impair the  
16 health or the safety or the welfare  
17 of the Town. We do believe that the  
18 new stock will improve the aesthetics  
19 of the community, and that's why  
20 we're simply asking to have a newer  
21 stock or a newer home situated on Lot  
22 21.

23 Would you like me to  
24 continue --

25 CHAIRMAN SCALZO: Please.

1 KEITH HEIGEL (CANDLESTICK MHC, LLC)

2 MR. HEIGEL: -- with Lot 28?

3 CHAIRMAN SCALZO: Sure.

4 MR. HEIGEL: Lot 28, the  
5 separation between the homes is 30.9  
6 feet and 19.7 feet instead of the 40.  
7 Lot 28, you may have seen, is on a  
8 steep slope -- in front of a very  
9 steep slope. There's also a 30-inch  
10 tree that is to the right side of the  
11 mobile home that we would like to be  
12 able to save. The distance from the  
13 interior access road is 20.1 feet  
14 which is short of the required 25  
15 feet. The home is also 6.5 feet from  
16 the interior lot line and the 15 feet  
17 is required. We also believe the  
18 same reasons I gave for the relief on  
19 Lot 21 apply to Lot 28.

20 The third lot, Lot 34, the  
21 distance between the homes is 29.9  
22 feet, 30.7 feet and 35.4 feet. All  
23 three are short of the 40 feet that's  
24 required. The distance from the  
25 interior access road is 16.6 feet



1 KEITH HEIGEL (CANDLESTICK MHC, LLC)

2 which is 8.4 feet short of the  
3 required 25 feet. Lot 34 also has  
4 steep slopes to the rear and to the  
5 side. There's a protective fence  
6 that is along the rear of the home  
7 that we'd like to keep, protecting  
8 the steep slope to the down slope  
9 side on the adjoining lot which  
10 prevents us from complying. Again, I  
11 would believe that the same reasons  
12 that I have stated for Lots 21, 28  
13 also apply to Lot 34.

14 And then the last lot, 63, the  
15 distance to the interior lot line is  
16 13.8 feet, not the 15 feet required.  
17 The distance to the interior access  
18 road is 24.7 feet, three-tenths of a  
19 foot shy of the 25 feet. Lot 63 also  
20 has steep slopes to the rear and to  
21 the one side that limits where the  
22 building envelope would be placed.  
23 Again, I would believe that the same  
24 reasons that I quoted for Lots 21,  
25 28, 34 also apply to Lot 63.

1 KEITH HEIGEL (CANDLESTICK MHC, LLC)

2 I'll just keep my comments  
3 brief and answer any questions that  
4 you might have.

5 CHAIRMAN SCALZO: Again, that  
6 park has been there as long as I can  
7 remember. We're not looking at  
8 adding any new trailers in this area.  
9 Correct? It's just replacing with  
10 new?

11 MR. HEIGEL: Replacing trailers  
12 that had been there that are older.  
13 Correct.

14 CHAIRMAN SCALZO: This is the  
15 first time I don't have a lot to say.

16 I'm going to look to Mr.  
17 Marino.

18 MR. MARINO: Darrin sort of  
19 said what I was going to ask you.

20 So you're basically replacing  
21 four homes with newer homes?

22 MR. HEIGEL: That's correct.  
23 We're not expanding the park. We're  
24 just replacing.

25 MR. MARINO: I was concerned

1 KEITH HEIGEL (CANDLESTICK MHC, LLC)

2 about whether or not there was  
3 expansion going on there.

4 CHAIRMAN SCALZO: Very good.

5 Mr. Masten?

6 MR. MASTEN: That was the same  
7 question I was going to ask.

8 They're older units that are  
9 being replaced.

10 CHAIRMAN SCALZO: Very good.

11 Mr. Gramstad?

12 MR. GRAMSTAD: That was my  
13 question.

14 CHAIRMAN SCALZO: Mr. Eberhart?

15 MR. EBERHART: No.

16 CHAIRMAN SCALZO: Mr. Hermance?

17 MR. HERMANCE: So all four of  
18 these were preexisting nonconforming?

19 MR. HEIGEL: That's correct.

20 MR. HERMANCE: When they were  
21 set up initially, they were  
22 nonconforming from the beginning?

23 MR. HEIGEL: I cannot stand  
24 here before you and tell you the  
25 exact size that had been there

1 KEITH HEIGEL (CANDLESTICK MHC, LLC)

2 previously. I really can't answer  
3 that they were noncompliant, but the  
4 sites are the same site. The old  
5 trailer was removed and new trailers  
6 were placed.

7 CHAIRMAN SCALZO: Right. Just  
8 looking at the -- each one of the  
9 packages has its own on the back  
10 ther. Obviously, the largest wide  
11 structure is the one on 63, or at  
12 least it appears that way.

13 MR. HEIGEL: Right.

14 CHAIRMAN SCALZO: But other  
15 than that -- I mean I don't know how  
16 much thinner you're going to get if  
17 you're going to replace. I'm just  
18 stating that.

19 All right. Mr. Hermance, I'm  
20 sorry I stepped on your comments.

21 MR. HERMANCE: And you're  
22 replacing in kind? There's no  
23 increase to the footprint of the  
24 building?

25 MR. HEIGEL: Again, I can't

1 KEITH HEIGEL (CANDLESTICK MHC, LLC)

2 tell you that it's exactly the same  
3 size that has been there before. I  
4 cannot say that because I don't know.

5 MR. HERMANCENCE: That's all I  
6 have.

7 CHAIRMAN SCALZO: Mr. Bell?

8 MR. BELL: Other than that, I'm  
9 good.

10 CHAIRMAN SCALZO: Very good.

11 Does anyone from the public  
12 wish to speak about this application?

13 Sir, please step forward.  
14 Please state your name for the  
15 record.

16 MR. JACKSON: My name is  
17 Mr. Jackson. I'm an adjoining  
18 property owner. I did get the  
19 notice.

20 These trailers that were there,  
21 let's just say they were like 16 by  
22 60 or 70. Now you're putting in a  
23 doublewide.

24 CHAIRMAN SCALZO: Only on one  
25 lot. Right? Only on 63?

1 KEITH HEIGEL (CANDLESTICK MHC, LLC)

2 MS. RICKS: Only one lot.

3 MR. HEIGEL: Correct.

4 MR. JACKSON: So the other  
5 three are still going to be single  
6 units?

7 MS. RICKS: They're all single  
8 units. They're all 16 by 66.

9 MR. JACKSON: That was my big  
10 question. Because if you're putting  
11 in doublewides, you're doubling the  
12 roof area.

13 And like you said, there's a  
14 slope and, you know, with the  
15 drainage, you're going to have all  
16 your downspouts that are going to be  
17 going downhill.

18 CHAIRMAN SCALZO: Absolutely.

19 MR. JACKSON: There's a  
20 drainage problem now.

21 CHAIRMAN SCALZO: Most things  
22 we don't like flow downhill.

23 MR. JACKSON: What I'm saying  
24 is if you're increasing the roof  
25 area, you're going to have twice as

1 KEITH HEIGEL (CANDLESTICK MHC, LLC)

2 much water. You know, drainage was  
3 the big thing. if they're going to  
4 point all the downspouts that are  
5 going downhill, you know.

6 CHAIRMAN SCALZO: I do that at  
7 my house. I try to get it to go  
8 down.

9 MR. JACKSON: So the  
10 doublewide, how many points of egress  
11 does it have?

12 MR. HEIGEL: Two.

13 CHAIRMAN SCALZO: They all meet  
14 code.

15 MR. JACKSON: The question is  
16 is one of them in the rear? I mean  
17 it would face Candlestick.

18 MR. HEIGEL: As I recall, in  
19 the photograph I believe there's one  
20 in the front and one in the rear.

21 MS. RICKS: Yes.

22 MR. JACKSON: Okay. So now the  
23 building meets or does not meet the  
24 setback from the rear lot, which  
25 would be Candlestick Road.

1 KEITH HEIGEL (CANDLESTICK MHC, LLC)

2 So now my question is are you  
3 going to put a deck there? So now  
4 the building doesn't meet the code  
5 and --

6 CHAIRMAN SCALZO: Well, if  
7 they're going to put a deck, then  
8 they need to be in front of us again  
9 for a variance for that.

10 MR. JACKSON: But they have to  
11 get out.

12 CHAIRMAN SCALZO: I'd be hard  
13 pressed to believe that just about  
14 every lot in there probably doesn't  
15 meet side yard setbacks.

16 I see Mr. Mattina sort of  
17 nodding over there.

18 MR. JACKSON: It's the drainage  
19 and then, you know, the doublewide.  
20 is it going to be perpendicular or is  
21 it going to be --

22 CHAIRMAN SCALZO: Is it going  
23 to be in the same footprint that  
24 the -- well, it's the same footprint  
25 that the old one was in. Is that



1 KEITH HEIGEL (CANDLESTICK MHC, LLC)

2 what I'm assuming?

3 MS. RICKS: We're not aware.

4 MR. HEIGEL: It runs parallel  
5 to the access road. The interior  
6 road, the old one ran parallel to the  
7 access road.

8 MS. RICKS: And also, just to  
9 answer his question, we're not  
10 looking to put a deck in. We  
11 actually already have steps there.

12 MR. JACKSON: Okay.

13 CHAIRMAN SCALZO: Thank you for  
14 your comments, sir. It's very  
15 important.

16 Does anyone else from the  
17 public wish to speak about this  
18 application?

19 (No response.)

20 MS. RICKS: I would like to  
21 make a comment.

22 CHAIRMAN SCALZO: Sure. Please  
23 state your name for the record.

24 MS. RICKS: My name is Katrina  
25 Ricks and I'm the community manager

1 KEITH HEIGEL (CANDLESTICK MHC, LLC)

2 at Candlestick.

3 For the two and-a-half, going  
4 on three years that we actually took  
5 over Candlestick, we actually made  
6 major capital improvements.

7 He spoke about the drainage,  
8 and of course referring to the storm  
9 basins, we actually just contracted  
10 Earth Care to clear out all of those  
11 storm drains.

12 Also, at the moment we have a  
13 big crew who is doing all of the  
14 roads at Candlestick. So the  
15 drainage issue has been remediated.

16 Also, we are putting in a park  
17 for the children so they at least  
18 have somewhere to play, because  
19 there's nowhere for them to play and  
20 there are a lot of kids in that park.

21 The residents are extremely  
22 happy with the major capital  
23 improvements that we've made and they  
24 are looking forward to more to come.  
25 They do feel that their environment

1 KEITH HEIGEL (CANDLESTICK MHC, LLC)

2 is more safer and they do appreciate  
3 what we've done with the park since  
4 the last owner who owned the park for  
5 anywhere from 28 to 30 years.

6 CHAIRMAN SCALZO: Thank you  
7 very much.

8 MS. RICKS: Thank you.

9 CHAIRMAN SCALZO: One last  
10 opportunity. Anyone from the public?

11 (No response.)

12 CHAIRMAN SCALZO: I'll look to  
13 the Board. Mr. Marino, anything  
14 else?

15 MR. MARINO: No.

16 CHAIRMAN SCALZO: Mr. Masten?

17 MR. MASTEN: No.

18 CHAIRMAN SCALZO: Mr. Eberhart?

19 MR. EBERHART: No.

20 CHAIRMAN SCALZO: Mr. Gramstad?

21 MR. GRAMSTAD: No.

22 CHAIRMAN SCALZO: Mr. Hermance?

23 MR. HERMANCE: No.

24 CHAIRMAN SCALZO: Mr. Bell?

25 MR. BELL: No.

1 KEITH HEIGEL (CANDLESTICK MHC, LLC)

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

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

7 MR. MARINO: Second.

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

12 MR. BELL: Aye.

13 MR. EBERHART: Aye.

14 MR. GRAMSTAD: Aye.

15 MR. HERMANCE: Aye.

16 MR. MARINO: Aye.

17 MR. MASTEN: Aye.

18 CHAIRMAN SCALZO: Aye.

19 All right. This is a Type 2  
20 action under SEQRA.

21 We have four separate  
22 applications here for four separate  
23 lots. Can we handle those all  
24 together?

25 MR. DONOVAN: Yes, you may,

1 KEITH HEIGEL (CANDLESTICK MHC, LLC)

2 Mr. Chairman.

3 CHAIRMAN SCALZO: Very good. I  
4 would like to handle them all  
5 together if you folks don't mind.  
6 They're very similar in nature.

7 This is also a Type 2 action  
8 under SEQRA because it is --

9 MR. DONOVAN: Still.

10 CHAIRMAN SCALZO: Still. I  
11 talk a lot. What can I tell you.

12 So we're going to the balancing  
13 act here. The first one being  
14 whether or not the benefit can be  
15 achieved by other means feasible to  
16 the applicant. It appears as though  
17 we're replacing in kind.

18 Second, if there's an  
19 undesirable change in the  
20 neighborhood character or a detriment  
21 to nearby properties. It appears as  
22 though it's going to remain the same.

23 The third, whether the request  
24 is substantial. Sure it is, but  
25 every lot in there I believe has

1 KEITH HEIGEL (CANDLESTICK MHC, LLC)

2 constraints on it very similar to the  
3 ones that we're looking at.

4 The fourth, whether the request  
5 will have adverse physical or  
6 environmental effects. Well, if the  
7 surface area, impervious surface area  
8 is remaining the same, then I don't  
9 see how that would cause any impact.

10 And then the fifth, whether the  
11 alleged difficulty is self-created.  
12 It's relevant, but not determinative.  
13 Again, the lot layout is the lot  
14 layout.

15 So having gone through the  
16 balancing test, does the Board have a  
17 motion of some sort?

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

20 MR. MARINO: Second.

21 CHAIRMAN SCALZO: We have a  
22 motion for approval from Mr. Bell.  
23 We have a second from Mr. Marino. This  
24 we have to roll on, Siobhan.

25 MS. JABLESNIK: Mr. Bell?

1 KEITH HEIGEL (CANDLESTICK MHC, LLC)

2 MR. BELL: Yes.

3 MS. JABLESNIK: Mr. Eberhart?

4 MR. EBERHART: Yes.

5 MS. JABLESNIK: Mr. Gramstad?

6 MR. GRAMSTAD: Yes.

7 MS. JABLESNIK: Mr. Hermance?

8 MR. HERMANCE: Yes.

9 MS. JABLESNIK: Mr. Marino?

10 MR. MARINO: Yes.

11 MS. JABLESNIK: Mr. Masten?

12 MR. MASTEN: Yes.

13 MS. JABLESNIK: Mr. Scalzo?

14 CHAIRMAN SCALZO: Yes.

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

17 MR. HEIGEL: Thank you.

18 MS. RICKS: Thank you.

19

20 (Time noted: 8:58 p.m.)

21

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KEITH HEIGEL (CANDLESTICK MHC, 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 11th day of November 2021.

*Michelle Conero*  
\_\_\_\_\_  
MICHELLE CONERO



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

SANIL SHAH  
(ORANGE LAKE MOTEL)

427 South Plank Road, Newburgh  
Section 47; Block 1; Lot 39.2  
B Zone

----- X

Date: October 28, 2021  
Time: 8:58 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, New York

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

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

APPLICANT'S REPRESENTATIVE: MANOJKUMAR PATEL

----- X

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

1           S A N I L   S H A H   ( O R A N G E   L A K E   M O T E L )

2                   CHAIRMAN SCALZO:  Our next  
3           applicant is Sanil Shah (Orange Lake  
4           Motel), 427 South Plank Road,  
5           Newburgh.  This is a Planning Board  
6           referral for an area variance of the  
7           rear yard to add a vehicle rental  
8           business at the existing motel.

9                   Siobhan, do we have mailings on  
10          this?

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

13                   CHAIRMAN SCALZO:  47.  Almost  
14          the winner.  Almost.  You're close.

15                   All right.  So I just described  
16          what it is.  If you could just  
17          briefly go over -- first identify  
18          yourself and then go over briefly  
19          what it is you want to do.

20                   MR. PATEL:  Good evening.  My  
21          name is Manojkumar Patel.

22                   CHAIRMAN SCALZO:  Very good.

23                   MR. PATEL:  So the application  
24          in front of you referred to you by  
25          the Planning Board, as you mentioned

1           S A N I L   S H A H   ( O R A N G E   L A K E   M O T E L )

2           Mr. Chairman, is for an existing  
3           condition that's nonconforming for  
4           the rear yard.

5           The applicant is planning on  
6           adding a use to the existing property  
7           of renting out U-Haul rentals. No  
8           new structures. No new lighting. No  
9           new fencing. Nothing is proposed.

10          Since the existing property has  
11          a nonconformance, we have to come in  
12          front of you.

13          CHAIRMAN SCALZO: The existing  
14          nonconformance is what?

15          MR. PATEL: The rear yard  
16          setback. That's why the area  
17          variance is requested.

18          CHAIRMAN SCALZO: Okay. And  
19          I'm going to assume -- and this has  
20          nothing to do with your application,  
21          but I'm going to assume that you have  
22          a private well and septic?

23          MR. PATEL: Yes.

24          CHAIRMAN SCALZO: I'm assuming  
25          the septic is out front.

1           S A N I L   S H A H   ( O R A N G E   L A K E   M O T E L )

2                       MR. PATEL:   I'm not totally  
3                       sure.   Sorry.

4                       CHAIRMAN SCALZO:   Okay.   And  
5                       all the office functions for this  
6                       would be occurring right in the  
7                       office for the motel?

8                       MR. PATEL:   That's right.   I  
9                       have the same drawing sheet on the  
10                      easel here that you have in your  
11                      package.

12                      CHAIRMAN SCALZO:   I have to  
13                      tell you it's kind of concerning,  
14                      that if you don't know where the  
15                      septic is.   You're proposing for this  
16                      60 by 60 parking lot, as an engineer  
17                      doesn't that concern you?

18                      MR. PATEL:   Yes.   I don't know  
19                      the exact location, if that's what  
20                      you're saying.   It's not marked out  
21                      on the plan.   It is in the front of  
22                      the building.

23                      CHAIRMAN SCALZO:   Okay.   You  
24                      say it is in the front of the  
25                      building?

1       S A N I L   S H A H   ( O R A N G E   L A K E   M O T E L )

2                   MR. PATEL:   Yes.

3                   CHAIRMAN SCALZO:   That makes me  
4                   feel better.   Okay.

5                   And again, this is not why  
6                   you're here, but I'm going to ask the  
7                   question.   You're on a private well?

8                   MR. PATEL:   Yes.

9                   CHAIRMAN SCALZO:   All right.  
10                  And how close is that well to this  
11                  proposed 60 by 60 parking area?

12                  MR. PATEL:   Let me check.   I  
13                  don't think I have the exact distance  
14                  on here.

15                  CHAIRMAN SCALZO:   Well, I just  
16                  wouldn't want it underneath the  
17                  parking lot.

18                  MR. PATEL:   No.   It's obviously  
19                  not.

20                  CHAIRMAN SCALZO:   Okay.   I  
21                  don't have much more to add.

22                  I'm going to look to Mr. Bell.  
23                  Do you have any questions?

24                  MR. BELL:   Yes.   You just  
25                  stated that the operation is going to

1           S A N I L   S H A H   ( O R A N G E   L A K E   M O T E L )

2           work out of the office. The  
3           gentleman told me today that it was  
4           going to be an app rental, that you  
5           go on the app. You download an app,  
6           you reserve on the app and then you  
7           go and pick it up. I guess I was  
8           kind of confused.

9                   MR. PATEL: So that's exactly  
10           right. The reservation of the  
11           vehicle is done online. You can do  
12           it on the app or you can do it on the  
13           computer.

14                   MR. BELL: Right.

15                   MR. PATEL: That's how usually  
16           the businesses are running now.

17                   MR. BELL: I understand that.

18                   MR. PATEL: When you mention  
19           the running of operations, that's  
20           mostly done online.

21                   If the customer needs to talk  
22           to someone, drop the keys off or  
23           something, that's where the office  
24           comes in to play.

25                   The reservation and their

1       S A N I L   S H A H   ( O R A N G E   L A K E   M O T E L )

2           timing of when they come and go,  
3           that's online.

4           MR. BELL:   Okay.   And I did ask  
5           the question was there going to be an  
6           office attendant.   He was just like  
7           no, that it was going to be app ran.  
8           That's why I asked the question.   I  
9           understand how you reserve with the  
10          computer automation, downloading,  
11          iPhone, IOS.

12          MR. PATEL:   It's more like a  
13          drop box for the keys.

14          MR. BELL:   And that's where it  
15          really connects.   He said something  
16          about there would just be a drop box.  
17          Okay.   I'm good right now.

18          CHAIRMAN SCALZO:   Thank you,  
19          Mr. Bell.

20          Mr. Hermance?

21          MR. HERMANCE:   So when they  
22          return the vehicles for rental,  
23          there's no cleaning of the vehicles  
24          to prep them for the next use?

25          MR. PATEL:   Not at this

1 SANIL SHAH (ORANGE LAKE MOTEL)

2 facility, no.

3 MR. HERMANCE: They'll just  
4 park them and turn the keys in?

5 MR. PATEL: Right. That's the  
6 basis of this use here. Yes.

7 MR. BELL: So we rent, we drop  
8 off at another location where it's  
9 being cleaned and then transported  
10 back to the rental spot?

11 MR. PATEL: So that's all done  
12 supposedly by U-Haul. That's the  
13 U-Haul corporate responsibility. So  
14 the actual location is more dealing  
15 with the customer.

16 MR. BELL: Okay.

17 MR. HERMANCE: I was just  
18 wondering if there's going to be  
19 outlets for vacuum cleaners and  
20 things like that.

21 MR. PATEL: No. Nothing like  
22 that.

23 CHAIRMAN SCALZO: Purely  
24 storage of vehicles?

25 MR. PATEL: Just parking.



1       S A N I L   S H A H   ( O R A N G E   L A K E   M O T E L )

2                   MR. HERMANCE:   Okay.   That's  
3       all I have.

4                   CHAIRMAN SCALZO:   Mr. Eberhart?

5                   MR. EBERHART:   No.   No  
6       questions for me.

7                   This is a U-Haul facility.   Is  
8       that what you're saying?

9                   MR. PATEL:   Correct.

10                  CHAIRMAN SCALZO:   Did the  
11       Planning Board -- this is a Planning  
12       Board referral.   Did they want the  
13       stalls laid out for where the parking  
14       was going to -- we have a 60 by 60  
15       lot.   Approximately how many vehicles  
16       is that for?

17                  MR. PATEL:   On the drawing  
18       sheet there is a layout.

19                  CHAIRMAN SCALZO:   I'm sorry.   I  
20       see it.   Sorry.   It's hiding in front  
21       of me.

22                  MR. PATEL:   No problem.   So  
23       it's laid out to house four trucks.

24                  CHAIRMAN SCALZO:   That's it?  
25       Just four?

1           S A N I L   S H A H   ( O R A N G E   L A K E   M O T E L )

2                   MR. PATEL:   It's a small  
3                   operation.

4                   CHAIRMAN SCALZO:   The diagram  
5                   is showing they're only going to have  
6                   four vehicles.

7                   MR. BELL:   I know.   But this  
8                   morning he told me there would be  
9                   about ten.   That's why I was looking  
10                  at -- that's not what he told me this  
11                  morning.   He told me ten.

12                  CHAIRMAN SCALZO:   The gentleman  
13                  at the facility told you that?

14                  MR. BELL:   The gentleman at the  
15                  facility came outside this morning.  
16                  I asked him how many trucks there was  
17                  going to be and he said no more than  
18                  ten.

19                  CHAIRMAN SCALZO:   That won't  
20                  fit in a 60 by 60 spot.

21                  MR. BELL:   No, it won't fit in  
22                  there.   No, it won't.

23                  MR. PATEL:   It's right in front  
24                  of you.

25                  MR. BELL:   I'm just saying the

1       S A N I L   S H A H   ( O R A N G E   L A K E   M O T E L )

2               gentleman that I spoke to this  
3               morning escorted me to the rear. We  
4               walked the property. I asked him  
5               specific questions and I wrote them  
6               down. I asked him how many trucks  
7               and he said no more than ten.

8               CHAIRMAN SCALZO: Well, I'll  
9               tell you what then, Mr. Bell. We  
10              have the ability here, should we  
11              proceed with this application and  
12              they get a favorable review from us,  
13              we can put conditions on our  
14              variance.

15             MR. BELL: Of course.

16             CHAIRMAN SCALZO: You are aware  
17             of that.

18             MR. BELL: Of course.

19             CHAIRMAN SCALZO: So we can cap  
20             it. If the parking lot layout shows  
21             stalls for four vehicles --

22             MR. BELL: I wrote ten when we  
23             were talking.

24             CHAIRMAN SCALZO: Then we can  
25             help out -- it's tough to enforce

1           S A N I L   S H A H   ( O R A N G E   L A K E   M O T E L )

2           because you're not seeing these.

3           Okay. Thank you.

4           I stopped at Mr. Gramstad.

5           MR. GRAMSTAD: No questions.

6           CHAIRMAN SCALZO: Mr. Masten?

7           MR. MASTEN: Is it going to be  
8           like a U-Haul --

9           CHAIRMAN SCALZO: Now, is it  
10          trailer type or is it box trucks?

11          MR. PATEL: It's more like box  
12          trucks. It is U-Haul, yes.

13          MR. MASTEN: A 60 by 60 area?

14          MR. PATEL: Correct.

15          MR. MASTEN: All right. That's  
16          all I've got.

17          CHAIRMAN SCALZO: Mr. Marino?

18          MR. MARINO: How close would  
19          those trucks be stored to the motel  
20          where the people are living? Is  
21          there going to be congestion there?

22          MR. PATEL: No. It's in the  
23          rear of the property. So like by  
24          where the dumpsters are.

25          MR. MARINO: The trucks will

1       S A N I L   S H A H   ( O R A N G E   L A K E   M O T E L )

2               not be by the motel rooms?

3               MR. PATEL:  No.  No.  They are  
4               separate, in the back in the parking  
5               lot.

6               CHAIRMAN SCALZO:  They will  
7               pass between the office and the motel  
8               the way the diagram is laid out.

9               And it appears, Mr. Marino,  
10              that maybe the parking lot may be  
11              about 100 feet -- between 75 and 100  
12              feet from the corner of the motel.  
13              At least that's the way --

14              MR. PATEL:  Yes.

15              CHAIRMAN SCALZO:  I've got a  
16              scale.  I can lay it on there.  All  
17              right.

18              MR. DONOVAN:  May I ask Code  
19              Compliance a question?

20              CHAIRMAN SCALZO:  Yes.

21              MR. DONOVAN:  I know this comes  
22              from a Planning Board referral.  Why  
23              does this need a variance?

24              MR. CANFIELD:  There's a  
25              section of the code that indicates

1           S A N I L   S H A H   ( O R A N G E   L A K E   M O T E L )

2           that if a site goes before the  
3           Planning Board for a new site plan or  
4           any amendment to the site plan, any  
5           existing nonconformity has lost its  
6           protection.

7                       MR. DONOVAN:   So my question is  
8           it's a parking lot, right?  And it's  
9           here for a rear yard variance.  Rear  
10          yard is defined as the area between  
11          the building and the lot line.

12                      MR. CANFIELD:   Yes.  The rear  
13          yard variance and the side yard is  
14          from buildings, not the parking lot.

15                      MR. DONOVAN:   Okay.  So it's  
16          not the parking lot.

17                      MR. CANFIELD:   No.

18                      CHAIRMAN SCALZO:  We're here  
19          for the 46 feet from the back of the  
20          hotel to the property line?

21                      MR. CANFIELD:   It's supposed to  
22          be 60.

23                      CHAIRMAN SCALZO:  Boy, did I  
24          take a lot of time that I didn't need  
25          to take.  I kind of got pulled in

1           S A N I L   S H A H   ( O R A N G E   L A K E   M O T E L )

2           this direction here, folks.

3                   MR. DONOVAN: Well, you threw  
4           me off, too.

5                   MR. PATEL: It's an existing  
6           nonconforming. It's been there for  
7           over 20 years.

8                   CHAIRMAN SCALZO: Very good.  
9           Do any members of the public  
10          wish to speak about this application?

11                   (No response.)

12                   CHAIRMAN SCALZO: Negative.  
13          Any final comments from the  
14          Board?

15                   (No response.)

16                   CHAIRMAN SCALZO: All right.  
17          I'll look to the Board for a motion  
18          to close the public hearing.

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

21                   MR. GRAMSTAD: Second.

22                   CHAIRMAN SCALZO: Motion from  
23          Mr. Masten. We have a second from  
24          Mr. Gramstad. All in favor?

25                   MR. BELL: Aye.

1           S A N I L   S H A H   ( O R A N G E   L A K E   M O T E L )

2                           MR. EBERHART:   Aye.

3                           MR. GRAMSTAD:   Aye.

4                           MR. HERMANCE:   Aye.

5                           MR. MARINO:     Aye.

6                           MR. MASTEN:     Aye.

7                           CHAIRMAN SCALZO:  Aye.

8                           This is a Type 2 action under  
9                           SEQRA because it is just that rear  
10                          yard 46-foot setback, the preexisting  
11                          nonconforming condition. As I said  
12                          before, this is a Type 2 action under  
13                          SEQRA.

14                          The first balancing test,  
15                          whether or not the benefit can be  
16                          achieved by other means feasible to  
17                          the applicant. Preexisting  
18                          nonconforming, it can't.

19                          Second, if there's an  
20                          undesirable change to the  
21                          neighborhood character or a detriment  
22                          to nearby properties. It's going to  
23                          be virtually unnoticed because it's  
24                          been there.

25                          The third, whether the request



1       S A N I L   S H A H   ( O R A N G E   L A K E   M O T E L )

2               is substantial.

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

7               The fifth, whether the alleged  
8               difficulty is self-created. It's  
9               preexisting.

10              If the Board approves, it shall  
11              grant the minimum variance necessary  
12              and may impose reasonable conditions.

13              We're not even talking about  
14              the parking lot at this point, folks.  
15              All we're talking about is that  
16              46-foot rear offset. We don't have  
17              anything to say about how many  
18              cars --

19              MR. MATTINA: And the side.  
20              And the side.

21              MR. CANFIELD: And the side  
22              yard.

23              CHAIRMAN SCALZO: And the side  
24              yard, both preexisting nonconforming  
25              conditions.

1           S A N I L   S H A H   ( O R A N G E   L A K E   M O T E L )

2                   MR. CANFIELD:   Correct.

3                   CHAIRMAN SCALZO:   Thank you,  
4           Code Compliance.

5                   MR. CANFIELD:   That's why we're  
6           here.   Don't mention it.

7                   CHAIRMAN SCALZO:   Having gone  
8           through the balancing test of the  
9           area variance, what's the pleasure of  
10          the Board?   Do we have a motion of  
11          some sort?

12                   MR. MARINO:   I'll make a motion  
13          we approve the variance.

14                   MR. EBERHART:   Second.

15                   CHAIRMAN SCALZO:   We have a  
16          motion from Mr. Marino.   We have a  
17          second from Mr. Eberhart.   Siobhan,  
18          can you roll on that, please.

19                   MS. JABLESNIK:   Mr. Bell?

20                   MR. BELL:   Yes.

21                   MS. JABLESNIK:   Mr. Eberhart?

22                   MR. EBERHART:   Yes.

23                   MS. JABLESNIK:   Mr. Gramstad?

24                   MR. GRAMSTAD:   Yes.

25                   MS. JABLESNIK:   Mr. Hermance?

1           S A N I L   S H A H   ( O R A N G E   L A K E   M O T E L )

2                   MR. HERMANCE:   Yes.

3                   MS. JABLESNIK:   Mr. Marino?

4                   MR. MARINO:    Yes.

5                   MS. JABLESNIK:   Mr. Masten?

6                   MR. MASTEN:    Yes.

7                   MS. JABLESNIK:   Mr. Scalzo?

8                   CHAIRMAN SCALZO:   Yes.

9                   The motion is carried.  The  
10                  variances are approved.  Thank you.

11                  I didn't mean to mislead the  
12                  Board into five minutes worth of  
13                  conversation we didn't need to have.

14                  MR. PATEL:   Thank you very  
15                  much.

16

17                  (Time noted:   9:12 p.m.)

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SANIL SHAH (ORANGE LAKE MOTEL)

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 11th ay of November 2021.

*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

ADS PROPERTIES, LLC  
1295 Route 300, Newburgh  
Section 95; Block 1; Lot 14.1  
IB Zone

----- X

Date: October 28, 2021  
Time: 9:12 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, New York

BOARD MEMBERS: DARRIN SCALZO, Chairman (recused)  
DARRELL BELL  
JAMES EBERHART, JR.  
ROBERT GRAMSTAD  
GREGORY M. HERMANCE (recused)  
ANTHONY MARINO  
JOHN MASTEN

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

APPLICANT'S REPRESENTATIVE: NICHOLAS RUGNETTA,  
GLEN SHEELEY

----- X

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

1       A D S   P R O P E R T I E S ,   L L C

2                   CHAIRMAN SCALZO:  Our final  
3                   item on the agenda this evening is  
4                   ADS Properties, LLC, 1295 Route 300.  
5                   It's a Planning Board re-referral for  
6                   an alteration to the site plan that  
7                   differs from what was previously  
8                   submitted to the Board.  The amount  
9                   of variances have not increased.

10                   However, in this case I believe  
11                   this is right across from the old  
12                   diner.  Mr. Hermance and I need to  
13                   step away because the right-of-way to  
14                   the Thruway, the old ramp, comes  
15                   through there.  We need to recuse  
16                   ourselves from this application.

17                   Counselor, if you could be so  
18                   kind.

19                   MR. DONOVAN:  Will do.

20                   CHAIRMAN SCALZO:  Very well.

21                   (Mr. Hermance left the room.)

22                   MS. JABLESNIK:  Before you  
23                   started, though, I did -- they did  
24                   re-notice.  They sent out 10  
25                   mailings.  I sent it to the County

1       A D S   P R O P E R T I E S ,   L L C

2               just in case, but I didn't know if it  
3               was needed. I did send it. We  
4               haven't received --

5                       MR. DONOVAN: Mr. Chairman, --

6                       CHAIRMAN SCALZO: Yes, sir.

7                       MR. DONOVAN: -- I'm going to  
8               ask you if you could have a seat --

9                       CHAIRMAN SCALZO: Sure.

10                      MR. DONOVAN: -- just because I  
11               have a procedural question that I  
12               want --

13                      Could you identify yourself for  
14               the record and tell us what the -- I  
15               just want to know briefly what the  
16               difference is and why the Planning  
17               Board sent you back.

18                      MR. RUGNETTA: Yeah, no  
19               problem. Nick Rugnetta from  
20               Pietrzak & Pfau Engineering. This is  
21               Glen Sheeley, the applicant.

22                      The only thing that's changed  
23               is the building was shifted more  
24               towards the front 6 feet. Our  
25               previous variance that we received in

1       A D S   P R O P E R T I E S ,   L L C

2                May was for a 10-foot rear yard  
3                variance.

4                        We went to design on the  
5                project and determined that we had a  
6                retaining wall in the back of the  
7                property so we had to shift the  
8                building up 6 feet.  Now we're  
9                showing 16 feet for the rear.

10                      MR. DONOVAN:  The rear yard  
11                variance was what before and what  
12                now?

13                      MR. RUGNETTA:  10 feet and now  
14                it's 16 feet.

15                      MR. DONOVAN:  My question was,  
16                Mr. Chairman, sometimes these come  
17                back because the site has changed but  
18                the variances haven't.

19                      In that circumstance you may  
20                wish to consider just confirming to  
21                the Planning Board that nothing has  
22                changed.  So you don't need another  
23                decision from this Board, in other  
24                words, to try to streamline the  
25                process at some point.



1       A D S   P R O P E R T I E S ,   L L C

2                   CHAIRMAN SCALZO:   Sure.

3                   MR. DONOVAN:   What he's saying  
4                   now is it is a different variance, so  
5                   I think we need to go through the  
6                   process.

7                   CHAIRMAN SCALZO:   Very good.

8                   And specifically to this one --  
9                   I understand your point.  
10                  Specifically to this one, I have  
11                  never voted on this one before.

12                  MR. DONOVAN:   I didn't want you  
13                  to vote.

14                  Sometimes we get a Planning  
15                  Board referral, we issue a variance,  
16                  send it to the Planning Board,  
17                  something happens during the site  
18                  plan approval process, they get sent  
19                  back here.

20                  I don't know that we always  
21                  necessarily need to -- Gas Land being  
22                  an example.  Nothing changed in terms  
23                  of the variance.  They're the same  
24                  variances, but there was -- the  
25                  subdivision application had been

1       A D S   P R O P E R T I E S ,   L L C

2               dropped. In that circumstance I'm  
3               just considering asking the Board to  
4               consider whether or not you could  
5               write a letter to the Planning Board  
6               to say nothing has changed, our  
7               decision is still valid.

8                       Remember, no timeframe is  
9                       running. The timeframe is cold when  
10                      it goes back to the Planning Board.

11                     CHAIRMAN SCALZO: I would be  
12                     happy to John Hancock any letter that  
13                     you prepare for me, Counselor.

14                     MR. DONOVAN: It's a slightly  
15                     different variance, but it is a  
16                     variance.

17                     You can go now.

18                     CHAIRMAN SCALZO: Thank you.

19                     (Chairman Scalzo left the  
20                     room.)

21                     MR. RUGNETTA: That's really  
22                     it.

23                     The building, like I said, it  
24                     didn't get any closer to the rear  
25                     property line.

1       A D S   P R O P E R T I E S ,   L L C

2                   The side yard setbacks are the  
3                   same, which we also received a  
4                   variance for, and lot area.

5                   We just shifted the building up  
6                   for design purposes. Still meet the  
7                   previous granted variance for 10  
8                   feet.

9                   MR. DONOVAN: Do any Members of  
10                  the Board have any questions for the  
11                  applicant?

12                  MR. MARINO: I have one  
13                  question. If you move further to the  
14                  road, because you're picking up more  
15                  footage for the back of the building,  
16                  is that going to create a traffic  
17                  problem on the road with cars backing  
18                  up since there's less room now for  
19                  them?

20                  MR. RUGNETTA: So what we did  
21                  with the Planning Board is we did  
22                  give a full submission of our design  
23                  set and we provided a stacking plan  
24                  on the final sheet of the drawing.

25                  Really everything shifted up.

1       A D S   P R O P E R T I E S ,   L L C

2               We weren't really losing much cue  
3               area, anyway, but we were able to  
4               stack plenty of vehicles. We have an  
5               alternate stacking plan as well to go  
6               through the vacuum area. So really  
7               we didn't lose any stacking area.

8               MR. MARINO: And they won't be  
9               backing up on the highway?

10              MR. RUGNETTA: No.

11              MR. DONOVAN: Do any members of  
12              the public have any comments on this  
13              application?

14              (No response.)

15              MR. DONOVAN: Do any Members of  
16              the Board have a motion relative to  
17              the public hearing?

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

20              MR. GRAMSTAD: I'll second it.

21              MR. DONOVAN: Roll call,  
22              please, Siobhan.

23              MS. JABLESNIK: Mr. Bell?

24              MR. BELL: Yes.

25              MS. JABLESNIK: Mr. Eberhart?

1       A D S   P R O P E R T I E S ,   L L C

2                   MR. EBERHART:   Yes.

3                   MS. JABLESNIK:   Mr. Gramstad?

4                   MR. GRAMSTAD:    Yes.

5                   MS. JABLESNIK:   Mr. Marino?

6                   MR. MARINO:      Yes.

7                   MS. JABLESNIK:   Mr. Masten?

8                   MR. MASTEN:      Yes.

9                   MR. DONOVAN:     The public  
10                   hearing is closed.

11                   This is a Type 2 action under  
12                   SEQRA. We'll go through the  
13                   five-part balancing test. The first  
14                   factor is whether or not the benefit  
15                   can be achieved by other means  
16                   feasible for the applicant to pursue.  
17                   Does anybody feel that way?

18                   MR. BELL:        No.

19                   MR. EBERHART:    No.

20                   MR. GRAMSTAD:   No.

21                   MR. MARINO:      No.

22                   MR. MASTEN:      No.

23                   MR. DONOVAN:     The second is  
24                   whether or not there would be an  
25                   undesirable change in the

1       A D S   P R O P E R T I E S ,   L L C

2               neighborhood character or a detriment  
3               to nearby properties if the variance  
4               is granted.

5               The third is whether the  
6               requests are substantial.

7               MR. BELL:  It is not, but it's  
8               relevant to us.

9               MR. DONOVAN:  So yeah.  There  
10              is in terms of the lot area, but the  
11              overall affect is it's an existing  
12              lot.

13             MR. BELL:  Right.

14             MR. DONOVAN:  The next is  
15             whether or not the request will have  
16             an adverse physical or environmental  
17             effect.

18             And the last is whether the  
19             alleged difficulty is self-created  
20             which is relevant but not  
21             determinative.

22             MR. BELL:  Right.

23             MR. DONOVAN:  Having gone  
24             through the five-part balancing test,  
25             does anybody have a motion relative

1       A D S   P R O P E R T I E S ,   L L C

2               to the requested variances?

3               MR. EBERHART: I'll vote we  
4               approve the variances.

5               MR. GRAMSTAD: I'll second it.

6               MR. DONOVAN: Roll call.

7               MS. JABLESNIK: Mr. Bell?

8               MR. BELL: Yes.

9               MS. JABLESNIK: Mr. Eberhart?

10              MR. EBERHART: Yes.

11              MS. JABLESNIK: Mr. Gramstad?

12              MR. GRAMSTAD: Yes.

13              MS. JABLESNIK: Mr. Marino?

14              MR. MARINO: Yes.

15              MS. JABLESNIK: Mr. Masten?

16              MR. MASTEN: Yes.

17              MR. DONOVAN: The variances are  
18              reapproved.

19              Thanks for hanging out all  
20              night with us.

21              (Chairman Scalzo and  
22              Mr. Hermance came back in the room.)

23              CHAIRMAN SCALZO: I don't think  
24              we have any other business, do we?

25              We could talk about meeting

1       A D S   P R O P E R T I E S ,   L L C

2               minutes, if anybody has read them and  
3               if we want to approve them.

4               MR. DONOVAN: I have, but I  
5               don't get to vote.

6               CHAIRMAN SCALZO: We had two  
7               separate ones. If you folks have  
8               read the meeting minutes, if you want  
9               to make a motion to approve the  
10              meeting minutes?

11              MR. MASTEN: I'll make a motion  
12              to approve them.

13              CHAIRMAN SCALZO: Both?

14              MR. MASTEN: Yes.

15              MR. MARINO: Second.

16              CHAIRMAN SCALZO: The ones that  
17              we have seen that we have in our  
18              possession.

19              We have a motion from  
20              Mr. Masten. I thought I saw a second  
21              when Mr. Marino's hand was up.

22              MR. MARINO: Yes, you did.

23              CHAIRMAN SCALZO: All in favor?

24              MR. BELL: Aye.

25              MR. EBERHART: Aye.



1       A D S   P R O P E R T I E S ,   L L C

2                   MR. GRAMSTAD:   Aye.

3                   MR. HERMANCE:   Aye.

4                   MR. MARINO:    Aye.

5                   MR. MASTEN:    Aye.

6                   CHAIRMAN SCALZO:   Aye.

7                   MR. DONOVAN:    It does occur to  
8                   me that probably Mr. Eberhart and  
9                   Mr. Gramstad should abstain from the  
10                  August minutes.  They weren't here.

11                  CHAIRMAN SCALZO:  They read  
12                  them.

13                  I'm looking for a motion to  
14                  adjourn the meeting.

15                  MR. BELL:  I'll make a motion  
16                  to adjourn.

17                  MR. HERMANCE:  Second.

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

22                  MR. BELL:  Aye.

23                  MR. EBERHART:  Aye.

24                  MR. GRAMSTAD:  Aye.

25                  MR. HERMANCE:  Aye.

1       A D S   P R O P E R T I E S ,   L L C

2                       MR. MARINO:   Aye.

3                       MR. MASTEN:   Aye.

4                       CHAIRMAN SCALZO:   Aye.

5                       (Time noted:   9:20 p.m.)

6

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

8

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

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

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

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

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*Michelle Conero*

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MICHELLE CONERO