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

----- X

In the Matter of

DAVID MARTINO

16 Delaware Road, Newburgh
Section 54; Block 1; Lot 9
R-2 Zone

----- X

Date: November 24, 2020
Time: 7:00 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

ALSO PRESENT: DAVID DONOVAN, ESQ.
SIOBHAN JABLESNIK

APPLICANT'S REPRESENTATIVE: (NOT PRESENT)

----- X

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

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CHAIRMAN SCALZO: I'd like to call the meeting of the Zoning Board of Appeals to order. The order of business this evening are the public hearings scheduled. The procedure of the Board is that the applicant will be called upon to step forward, state their request and explain why it should be granted. The Board will then ask the applicant any questions it may have, and then any questions or comments from the public will be entertained. The Board will then consider the applications in the order heard, and will try to render a decision this evening but may take up to 62 days to reach a determination.

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

We are running a hybrid meeting this evening. The applicants are in the building with us. The public has the opportunity to comment via Zoom.

As I said earlier, we will hear comments from the applicant and the Board, and then we will open up any comments to the public.

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Roll call, please.

MS. JABLESNIK: Darrell Bell.

MR. BELL: Here.

MS. JABLESNIK: Greg Hermance.

MR. HERMANCE: Here.

MS. JABLESNIK: Richard Levin.

MR. LEVIN: Present.

MS. JABLESNIK: Anthony Marino.

MR. MARINO: Here.

MS. JABLESNIK: John Masten.

MR. MASTEN: Here.

MS. JABLESNIK: John McKelvey.

MR. MCKELVEY: Here.

MS. JABLESNIK: Darrin Scalzo.

CHAIRMAN SCALZO: Here.

MS. JABLESNIK: Also present is David
Donovan, our Attorney, and Michelle Conero, our
Stenographer.

CHAIRMAN SCALZO: Very good. If we
could please rise for the Pledge. Mr. Hermance,
could you lead us, please.

(Pledge of Allegiance.)

CHAIRMAN SCALZO: Very good. We've got
quite the agenda this evening.

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DAVID MARTINO

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The first applicant this evening is David Martino at 16 Delaware Road in Newburgh, seeking an area variance for the front yard to keep a prior built 4 x 5 front deck.

Siobhan, mailings on this?

MS. JABLESNIK: This applicant sent out 81 letters.

CHAIRMAN SCALZO: 81. Okay. That's quite a bit.

Do we have Mr. Martino among us?

(No response.)

MS. JABLESNIK: I don't see him.

CHAIRMAN SCALZO: Okay. Counselor, can we move --

MR. DONOVAN: So you have the ability to move forward with the hearing if you so wish. You have the ability to do what we lawyers call second call, move it down the calendar.

CHAIRMAN SCALZO: Second call it is. Thank you, Mr. Donovan. We will push that and give Mr. Martino an opportunity to get here.

(Time noted: 7:03 p.m.)

(Time resumed: 9:02 p.m.)

CHAIRMAN SCALZO: As far as additional

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DAVID MARTINO

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Board business this evening -- Mr. Martino never arrived. Having been to the site, I would actually like to address this application now.

Mr. Donovan, am I --

MR. DONOVAN: I do not see anything in the code that requires an applicant to be here.

CHAIRMAN SCALZO: Very good. I'm going to.

Now folks, this was the first one on the agenda this evening, David A. Martino, 16 Delaware Road in Newburgh. Mr. Martino was seeking an area variance for the front yard to keep a prior built 4 x 5 front deck. Now, although Mr. Martino is not here, we are all obliged by position to have viewed this.

Now driving up Delaware last night, as I was looking for Mr. Martino's home, I realized that the home next door had a front porch which was the full width of the house, which appeared to stick out further than what Mr. Martino is asking for. His is a very simple deck and stair which the applicant is seeking a variance for.

I myself had no comments. He may be in violation, however it's very small. It's very

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DAVID MARTINO

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similar to the other decks that are in the neighborhood, or smaller. It's not showy. It doesn't grab your attention. It kind of blends right in. I have no comments.

I'm going to look to the Board. Mr. Marino, do you have any comments on that?

MR. MARINO: I wouldn't even call it a deck.

CHAIRMAN SCALZO: Thank you.

MR. DONOVAN: I think it's just a front porch.

MR. BELL: It is.

CHAIRMAN SCALZO: With a couple stairs. It's one of the best applications I've seen in a long time because his answer for question 6 A, B, C, D and E is the same sentence. That's great.

So Mr. Bell, do you have any comments on this?

MR. BELL: None.

CHAIRMAN SCALZO: Mr. Hermance?

MR. HERMANCE: No.

CHAIRMAN SCALZO: Mr. Levin?

MR. LEVIN: No comments.

CHAIRMAN SCALZO: Mr. McKelvey?

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DAVID MARTINO

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MR. McKELVEY: He needs it to get in the house.

CHAIRMAN SCALZO: I would agree with you. There was probably one there before that he just covered over. If he had done anything else he probably would have been in violation and would have been here anyway.

Mr. Masten, anything out of you?

MR. MASTEN: No.

CHAIRMAN SCALZO: Very good. Therefore, a motion to close the public hearing.

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

MR. McKELVEY: I'll second.

CHAIRMAN SCALZO: Very good. We have Mr. Levin motioned, Mr. McKelvey seconded. All in favor on closing the public hearing?

MR. BELL: Aye.

MR. HERMANCE: Aye.

MR. LEVIN: Aye.

MR. MARINO: Aye.

MR. MASTEN: Aye.

MR. McKELVEY: Aye.

CHAIRMAN SCALZO: Aye.

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DAVID MARTINO

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Opposed?

(No response.)

CHAIRMAN SCALZO: Nay. Very good.

Moving on. This is also a Type 2
action under SEQRA.

The first criteria being whether or not
the benefit can be achieved by other means
feasible. I think Mr. McKelvey just said he needs
to find a way to get into his house. He may have
been able to do one smaller but I suspect he
would have still been in violation because of the
setbacks in the neighborhood.

MR. MCKELVEY: It's very neat, too.

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

I think Mr. McKelvey's comment is very
helpful to that. He says it's very neat. I
don't believe there's an undesirable change in
the neighborhood character.

Third, whether the request is
substantial. As I looked at that house compared
to the house next door, no.

MR. LEVIN: No.

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DAVID MARTINO

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MR. MASTEN: No.

The fourth, whether the request will have adverse physical or environmental effects. It doesn't appear so.

MR. BELL: No.

MR. HERMANCE: No.

MR. LEVIN: No.

MR. MARINO: No.

MR. MASTEN: No.

MR. McKELVEY: No.

The fifth, whether the alleged difficulty is self-created, relevant but not determinative. Sure it's self-created. Again, it's very simple. It's not anything more.

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

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

MR. LEVIN: I'll second.

CHAIRMAN SCALZO: I was waiting for you. I have a motion from Mr. McKelvey, a second from Mr. Levin who hung out on that one. All in favor?

MR. BELL: Aye.

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DAVID MARTINO

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MR. HERMANCE: Aye.

MR. LEVIN: Aye.

MR. MARINO: Aye.

MR. MASTEN: Aye.

MR. McKELVEY: Aye.

CHAIRMAN SCALZO: Aye.

Any opposed?

(No response.)

CHAIRMAN SCALZO: No. Very good. The motion carried. The variances are approved.

I'm sure Mr. Martino will be very happy to hear that.

MR. LEVIN: That's a first that we approved something and the guy wasn't here.

CHAIRMAN SCALZO: Mr. Donovan did such a great job last month, I had to do something to shock you.

Folks, as far as any additional Board business, I need to remind all the Members of the Zoning Board of Appeals that there is required training that is online for sexual harassment and workplace violence. It is a requirement that we all take it, so please.

MR. LEVIN: It has to be done by when?

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DAVID MARTINO

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CHAIRMAN SCALZO: I know I haven't done it yet but I need to. You're good if you haven't done it.

Siobhan, they actually had a class scheduled in person but they changed that.

I would assume as soon as possible. I would be willing to bet if we could get it done before the next meeting, that would be adequate.

MS. JABLESNIK: December 18th is technically the date, but --

MR. LEVIN: Okay.

CHAIRMAN SCALZO: Very good.

MR. McKELVEY: I don't have the internet.

CHAIRMAN SCALZO: Can you cuddle up next to a buddy and they'll take it, too? It doesn't have to be an individual. Perhaps we're going to explore some ways for you to do that, John.

I'm looking for a motion to adjourn.

MR. MASTEN: So moved.

MR. BELL: Second.

CHAIRMAN SCALZO: All in favor?

MR. BELL: Aye.

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DAVID MARTINO

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MR. HERMANCE: Aye.

MR. LEVIN: Aye.

MR. MARINO: Aye.

MR. MASTEN: Aye.

MR. McKELVEY: Aye.

CHAIRMAN SCALZO: Aye.

(Time noted: 9:10 p.m.)

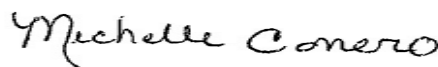
C E R T I F I C A T I O N

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

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

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

IN WITNESS WHEREOF, I have hereunto
set my hand this 29th day of November 2020.



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

JOHN & SAMANTHA ARCIUOLO

70 Old Little Britain Road, Newburgh
Section 101; Block 6; Lot 7.2
R-2 Zone

----- X

Date: November 24, 2020
Time: 7:03 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

ALSO PRESENT: DAVID DONOVAN, ESQ.
SIOBHAN JABLESNIK

APPLICANT'S REPRESENTATIVES: JOHN & SAMANTHA ARCIUOLO

----- X

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CHAIRMAN SCALZO: Moving on to applicant number 2, John and Samantha Arciuolo, 70 Old Little Britain Road, Newburgh, seeking an area variance for four front yards to install a 15 x 30 inground pool.

Siobhan, mailings on that?

MS. JABLESNIK: This applicant sent out 50 letters.

CHAIRMAN SCALZO: 50 letters. Very good.

We have you here. Please step forward. There are people -- actually, I'm going to ask you to grab that microphone and head over that way in front of the laptop, because that has a camera on it, and anyone that may wish to comment on your application can do that.

Now, having introduced the application as just an area variance for four front yards to install a 15 x 30 inground pool, what we have here is the applicant lives on Old Little Britain Road and has road frontage Williams Avenue -- two parts of Williams Avenue as it scoots around him, and also Dewey Drive. So they are surrounded by

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roads. By code, they have a front yard for everywhere they have road frontage.

Now, having been to the site, you can see exactly that the front of the house, or what I would call the front of the house, is fronting on Old Little Britain Road. When you zip around on the side to Williams Avenue, it is partially cleared. When you go around to the backside of Williams Avenue, it's got quite a bit of brush. You really can't -- I'm sure in the summer you can't even see the back of the house. From what I understand, that is the area that the pool will be in, behind the house.

MR. ARCIUOLO: Correct.

CHAIRMAN SCALZO: And then Dewey Drive -- I'll call it between Dewey Drive, the applicant, Dewey Drive, and then it's a church.

MR. ARCIUOLO: Correct.

CHAIRMAN SCALZO: So there is no residence to the right of the home as you're facing the home.

If I've summarized your application well enough, great, and we can just move from there. If you have something you'd like to add,

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please do.

MR. ARCIUOLO: I think you summed it up very well. I'm going to leave it at that.

CHAIRMAN SCALZO: Very good. Thank you.

At this time I'm going to turn to the Members of the Board for any comments they may have. I'm going to start way off in right field. Mr. Marino?

MR. MARINO: I'm good. I saw the site. It's fine.

CHAIRMAN SCALZO: Very good. Mr. Bell?

MR. BELL: Same here. I've seen it. It's good enough.

CHAIRMAN SCALZO: Mr. Hermance?

MR. HERMANCE: I visited the site also and agree.

CHAIRMAN SCALZO: No objections. Mr. Levin?

MR. LEVIN: No objections at all.

CHAIRMAN SCALZO: Mr. McKelvey?

MR. MCKELVEY: No objections.

CHAIRMAN SCALZO: Mr. Masten?

MR. MASTEN: I have no questions.

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CHAIRMAN SCALZO: I honestly think the lot seems to be sizable enough that this is -- you're not trying to squeeze everything into a small bag. So I would agree that there's really not a lot going on here.

At this time I'd like to open it up to any members of the public that wish to speak about this application.

Siobhan, if you can open it up.

Is there anyone here to speak about the application at 70 Old Little Britain Road?

(No response.)

MS. JABLESNIK: No. Nobody looks like they want to volunteer.

CHAIRMAN SCALZO: Actually, for our Zoom participants, I won't ask you to scream but if you can hear me adequately, can you raise your hand.

I saw one from here. Very good. So I know I'm getting through. That's all I was interested in. Very good.

So we have no comments from the public, it appears, for this application.

Siobhan, if you could mute them now,

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please.

MS. JABLESNIK: They're good.

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

MR. McKELVEY: Everything is fine.

CHAIRMAN SCALZO: Hearing none, at this point I'm going to look for a motion from the Board to close the public hearing.

MR. LEVIN: I'll make a motion.

MR. MASTEN: I'll second it.

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

MS. JABLESNIK: Mr. Bell?

MR. BELL: Yes.

MS. JABLESNIK: Mr. Hermance?

MR. HERMANCE: Yes.

MS. JABLESNIK: Mr. Levin?

MR. LEVIN: Yes.

MS. JABLESNIK: Mr. Marino?

MR. MARINO: Yes.

MS. JABLESNIK: Mr. Masten?

MR. MASTEN: Yes.

MS. JABLESNIK: Mr. McKelvey?

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MR. McKELVEY: Yes.

MS. JABLESNIK: Mr. Scalzo?

CHAIRMAN SCALZO: Yes.

The public hearing is closed.

Okay. From what I understand, this is a Type 2 action under SEQRA.

MR. DONOVAN: That's correct, Mr. Chairman.

CHAIRMAN SCALZO: Very good. Therefore we'll go through the area variance criteria and discuss the five factors which are going to be weighed, the first one being whether or not the benefit can be achieved by other means feasible to the applicant. Well, he's surrounded by roads, so my opinion is no.

MR. LEVIN: No.

MR. McKELVEY: No.

CHAIRMAN SCALZO: The second, if there's an undesirable change in the neighborhood character or a detriment to nearby properties. Again I would say no. It doesn't appear as though you'll even be able to see it during the time of the year that they're going to be using it.

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The third, whether the request is substantial. I don't believe it's substantial.

MR. LEVIN: I don't believe it is.

MR. McKELVEY: No.

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

MR. LEVIN: No.

CHAIRMAN SCALZO: I would say no as well.

The fifth, whether the alleged difficulty is self-created which is relevant but not determinative. They bought a house that's surrounded by roads. I don't know what they could have done differently.

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

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

MR. BELL: I'll second.

CHAIRMAN SCALZO: We have a motion for approval from Mr. McKelvey. We have a second from Mr. Bell. Roll call.

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MS. JABLESNIK: Mr. Bell?

MR. BELL: Yes.

MS. JABLESNIK: Mr. Hermance?

MR. HERMANCE: Yes.

MS. JABLESNIK: Mr. Levin?

MR. LEVIN: Yes.

MS. JABLESNIK: Mr. Marino?

MR. MARINO: Yes.

MS. JABLESNIK: Mr. Masten?

MR. MASTEN: Yes.

MS. JABLESNIK: Mr. McKelvey?

MR. MCKELVEY: Yes.

MS. JABLESNIK: Mr. Scalzo?

CHAIRMAN SCALZO: Yes.

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

MR. ARCIUOLO: I appreciate all your
time. Thank you.

(Time noted: 7:10 p.m.)

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

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

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

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

IN WITNESS WHEREOF, I have hereunto
set my hand this 29th day of November 2020.

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

ROBERT & SUZANNE BARR

609 Gardnertown Road, Newburgh
Section 60; Block 6; Lot 1.24
R-1 Zone

----- X

Date: November 24, 2020
Time: 7:10 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

ALSO PRESENT: DAVID DONOVAN, ESQ.
SIOBHAN JABLESNIK

APPLICANT'S REPRESENTATIVES: ROBERT & SUZANNE BARR

----- X

MICHELLE L. CONERO
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CHAIRMAN SCALZO: The next applicant this evening is Robert and Suzanne Barr, 609 Gardnertown Road, Newburgh, seeking area variances of the front yard and height to construct a 24 x 24 x 18.5 foot high garage.

Do we have mailings on that, Siobhan?

MS. JABLESNIK: 115 letters.

CHAIRMAN SCALZO: 115?

MS. JABLESNIK: 115. Well, because they have --

CHAIRMAN SCALZO: The condo complex.

MS. JABLESNIK: Yeah.

CHAIRMAN SCALZO: I see Mr. Barr waving his hand in the back. Sir, if you'd like to just come on up.

MR. BARR: Sure.

CHAIRMAN SCALZO: As he's making his way forward, I'll say all the Board Members, we have been to the site. We looked at your site. We looked at the neighborhoods surrounding your site. It's a straightforward application.

They're looking to put a 24 x 24 x 18.5 high garage on a lot that has -- it's a corner lot.

Having been to the neighborhood, if you

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fellow Board Members went down, it appears that there's some type of storage of building materials or autos or something down around the corner.

Mr. Barr, have I adequately summarized your application?

MR. BARR: Yes.

CHAIRMAN SCALZO: Is there anything you'd like to add to that?

MR. BARR: Well the reason we can't do it behind the house is because there's a stream and the septic is back there. And then the height, we just wanted some storage because there's going to be no storage in the house. No attic or anything.

CHAIRMAN SCALZO: Very good. Thank you.

At this point I'm going to move over to the Members of the Board for any comments. I'll start over here. Mr. Masten?

MR. MASTEN: I have no questions.

CHAIRMAN SCALZO: Mr. McKelvey?

MR. MCKELVEY: No questions.

CHAIRMAN SCALZO: Mr. Levin?

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MR. LEVIN: Not at this time.

CHAIRMAN SCALZO: Mr. Hermance, do you have any comments?

MR. HERMANCE: Yeah. The second story, what would you plan on doing with that? It's just storage?

MR. BARR: Yeah. Just storage, yup.

MR. HERMANCE: Will there be power or anything?

MR. BARR: I don't think upstairs, no. Just a couple lights downstairs.

MR. HERMANCE: It just invites for future upgrades to possibly renters and what not, --

MR. BARR: No.

MR. HERMANCE: -- which we wouldn't want to see.

MR. BARR: We have no intention of that.

CHAIRMAN SCALZO: Mr. Barr, I'm going to tack on to where Mr. Hermance is going. 18.5 feet as a height, not that it sends off a signal to us, but it's possible that if you have a low ceiling in the garage portion, you could actually

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make habitable space up above the garage. So that's why he's asking that question.

MR. BARR: Okay.

CHAIRMAN SCALZO: I'm going to move on to Mr. Bell. Do you have any questions, Mr. Bell?

MR. BELL: Those were some of the questions that I had myself. The one was to see if there was going to be any plumbing ran and things such as that?

MR. BARR: No. No plumbing at all.

MR. BELL: Right. He answered all that. We're good to go. Everything is good on my end.

CHAIRMAN SCALZO: Mr. Marino?

MR. MARINO: I'm assuming, based on his remarks, it's not going to be used for anything other than storage. That's fine.

CHAIRMAN SCALZO: And just for observation, the garage is going to be taller than the house.

MR. BARR: Yeah.

CHAIRMAN SCALZO: I don't know if you're aware of that.

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MR. BARR: The house is one level.

CHAIRMAN SCALZO: Right. Okay. And you're married to that 18.5 feet? Is it possible -- I mean do you have plans already in place?

MR. BARR: We do have plans. I know we had to get the plans made by an architect and everything. It's already been paid for all and that.

CHAIRMAN SCALZO: Okay. Should we move forward with this -- we're going to get there later -- perhaps a condition, if you were to get approval, would be under no circumstances could this ever be contemplated to be any living space.

MR. BARR: Absolutely.

CHAIRMAN SCALZO: I don't have any questions beyond that.

At this point I'd like to open it up to any members of the public. Siobhan, if you could unmute. Are there any members participating via Zoom for the Robert and Suzanne Barr, 609 Gardnertown Road, Newburgh area variance for a front yard and height to construct a 24 x 24 by 18.5 foot garage? Do any members of the public wish to speak to that?

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(No response.)

MS. JABLESNIK: No, it doesn't look like it.

CHAIRMAN SCALZO: That would be no. Very good.

I'll turn to the Members of the Board for any last comments?

MR. MASTEN: I have nothing.

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

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

MR. McKELVEY: I'll second it.

MR. MASTEN: -- the public hearing.

CHAIRMAN SCALZO: Very good. We have a motion to close from Mr. Masten. We have a second from Mr. McKelvey.

Do I need to roll call that, Dave, or can I just say all in favor?

MR. DONOVAN: You may say all in favor, Mr. Chairman.

CHAIRMAN SCALZO: All in favor?

MR. BELL: Aye.

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MR. HERMANCE: Aye.

MR. LEVIN: Aye.

MR. MARINO: Aye.

MR. MASTEN: Aye.

MR. McKELVEY: Aye.

CHAIRMAN SCALZO: Aye.

So the public hearing is closed.

Moving on. This also appears to be a
Type 2 action under SEQRA. Correct?

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

CHAIRMAN SCALZO: We're going to go
through the balancing tests that you heard ten
minutes ago. The first one, whether or not the
benefit can be achieved by other means feasible
to the applicant. Well they could not do it. It
appears as though they've taken into
consideration any delicate lands around them by
the stream. And they certainly don't want to
encroach upon their septic system. It appears
that they thought this out well enough.

Second, if there's an undesirable
change in the neighborhood character or a
detriment to nearby properties. I don't believe

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so. As I said, as I cruised down the road next to it, there's quite the industrial -- Mr. Barr, what is that that's next to you?

MR. BARR: Behind me?

CHAIRMAN SCALZO: Yes.

MR. BARR: It was supposed to be just like a mechanic building, storage. Now there's renters there and there's a whole crew of trucks going in and out every day. I don't know how legal that is, but it's not good for the --

CHAIRMAN SCALZO: Okay.

MR. BARR: -- neighborhood.

CHAIRMAN SCALZO: What you're saying is in your opinion your action is not going to really bother them at all.

MR. BARR: No. Not at all.

CHAIRMAN SCALZO: Very good.
Undesirable change to the neighborhood, I would say no.

Third, whether the request is substantial. Well it's a little higher than we typically look for. Mr. Barr has just agreed to us imposing a reasonable condition upon this, should be it be granted, to state that it would

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never have the opportunity to be any type of living quarters.

Fourth, whether the request will have adverse physical or environmental effects. I don't believe so. It sounds like they considered what the environmental effects would be by placing the garage where they're going to place it.

The fifth, whether the alleged difficulty is self-created. This is relevant but not determinative. Of course they could not do it, so it is self-created. However, it appears as though they've tried to mitigate it as best they can.

Do you agree?

MR. LEVIN: Yes.

CHAIRMAN SCALZO: They're nodding, Michelle. Very good.

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

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

MR. McKELVEY: Second.

CHAIRMAN SCALZO: I believe we had a

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

MR. BELL: Aye.

MR. HERMANCE: Aye.

MR. LEVIN: Aye.

MR. MARINO: Aye.

MR. MASTEN: Aye.

MR. MCKELVEY: Aye.

CHAIRMAN SCALZO: Aye.

Any opposed?

(No response.)

CHAIRMAN SCALZO: No. The motion is carried. The variances are approved.

MR. BARR: Thank you very much.

CHAIRMAN SCALZO: With the condition that in the decision, which you will be able to pick up in a few weeks, it will state that it will never be allowed to be living space.

MR. BARR: No problem. Thank you.

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

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

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

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

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

IN WITNESS WHEREOF, I have hereunto
set my hand this 29th day of November 2020.

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

TALCOTT ENGINEERING FOR MILLER ENVIRONMENTAL

6 Ridgeview Drive, Newburgh
Section 98; Block 1; Lot 20.1
IB Zone

10 Ridgeview Drive, Newburgh
Section 98; Block 1; Lot 18
R-3 Zone

77 Stewart Avenue, Newburgh
Section 98; Block 1; Lot 8.222
IB Zone

----- X

Date: November 24, 2020
Time: 7:18 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: DARRELL BELL
RICHARD LEVIN
JOHN MASTEN
ANTHONY MARINO
JOHN McKELVEY

ALSO PRESENT: DAVID DONOVAN, ESQ.
SIOBHAN JABLESNIK

APPLICANT'S REPRESENTATIVES: CHARLES BROWN

----- X

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

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CHAIRMAN SCALZO: Mr. Brown, Mr. Hermance and I actually have to step aside for this. It's a little close to the Thruway. I'm not allowed to do anything with regard to that.

Now, the other issue is you're over here and Siobhan just turned the mic around for the people that are going to try to hear you. If I could ask you to also grab the easel and bring it over there as well. I'm just a real pain this evening. If you could do that. We're going to step away briefly. Mr. Donovan is actually going to read through what's required here, and you guys give me a heads up when I can come back in.

MR. DONOVAN: Charlie, before you start, if I can just summarize briefly the application. This application comes to us on referral from the Planning Board.

MR. BROWN: Correct.

MR. DONOVAN: It concerns three different parcels of property --

MR. BROWN: Yes.

MR. DONOVAN: -- with multiple variances for each property. Most of it, I will say, is currently existing.

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MR. BROWN: Correct.

MR. DONOVAN: What I'll ask you to do, Charlie, if you could, briefly summarize what's going to be different than what we're seeing now. Also I want you to address -- I don't want to forget this. The Planning Board, in their referral to us, indicated the Board of Appeals should determine whether a use variance will be required for the residence given the proposed modification on the property. I'd like you to address that as well.

MR. BROWN: Briefly, this was a whole bunch of different lots when Miller bought it from Ira Conklin. They cleaned the site up. I instructed them to get behind all the lots because they have lot lines all over the place. We went to the Planning Board for two new buildings which are shown on the drawing. One is a containment building and the other is a processing building. What they do is they take oil contaminated water and clean it up.

After our first trip to the Planning Board, they said you have to address encroachments. There's two encroachments. The

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2 Conklin residence, which is in the B Zone,
3 Industrial Zone, his pool was over the property
4 line. We approached him. We said we'll give you
5 some property. In doing so we're modifying the
6 lot. Because we're modifying the lot, we have to
7 get all the variances reaffirmed. We're here to
8 do that.

9 The other one is the Burton lot down on
10 the bottom where Miller had a building that was
11 slightly over the corner of the property line.
12 He was nice enough to let us take some of his
13 property. Again, we're modifying the lots so we
14 have to reaffirm all the variances there.

15 All the other variances are existing
16 situations except for, like I said, the two new
17 buildings which are closer to Route 300. We want
18 to keep them away from the residences. Plus the
19 way the processing is, they process it right
20 through the building. That's it in a nutshell.

21 MR. DONOVAN: Charlie, if someone is
22 driving down Stewart Avenue, what will they see
23 different after the project is approved and
24 built?

25 MR. BROWN: A brand new building in the

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front, which will be a steel building.

MR. DONOVAN: Does that conform to all --

MR. BROWN: No. We're going for a side yard variance for that one. Both buildings are further away than the existing building -- the existing processing building.

MR. DONOVAN: If you could, the extent of the variance for that building?

MR. BROWN: That would be -- my guys were good, they labeled them all. A, 14 feet where 30 is required. B, 11 feet where 30 is required.

MR. DONOVAN: And what else will be different?

MR. BROWN: That's it. They already cleaned up the rest of the site.

MR. DONOVAN: Siobhan, the number of mailings please?

MS. JABLESNIK: All three applications had 42 letters go out.

MR. DONOVAN: Thank you. Just to be clear for the record, all three properties affected are applicants in this matter for this

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very oddly shaped parcel.

Anything else, Charlie?

MR. BROWN: No. That's it. I mean other than the two new buildings, there will be no changes to the site. Again, when my client bought it there were drums all over the place. It was a mess. The first thing he did was clean it all up.

MR. DONOVAN: I'll start at the end of the room. Mr. Marino, any questions?

MR. MARINO: The work that will go on there, is it the same as was going on there before the change?

MR. BROWN: Yes. Yes. Actually, the building closest to Stewart Avenue is going to go over a tank vault that we put into the ground last year. You can see the top sticks up about 8 inches. They want to get it covered so they can continue working.

MR. MARINO: The truck traffic, the noise, it will be the same as what was already there?

MR. BROWN: Yes.

MR. MARINO: Nothing new or extra?

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MR. BROWN: That's correct.

MR. DONOVAN: Mr. Bell?

MR. BELL: I'm good.

MR. DONOVAN: Mr. Levin?

MR. LEVIN: There's nothing across the street, is there?

MR. BROWN: No. Conklin still owns the building across the street. Now these are two different businesses.

MR. MCKELVEY: That's what I wanted to know. He answered the question -- asked the question.

MR. MASTEN: I have no question, Dave.

MR. DONOVAN: Siobhan, any members of the public?

MS. JABLESNIK: Are any members of the public here to speak about this application? You can unmute yourself.

(No response.)

MS. JABLESNIK: No, I don't think so.

MR. DONOVAN: Charlie, I do want to revisit again the referral from the Planning Board, in addition to calling out these area variances, called out and asked the ZBA to

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consider whether or not a use variance would be required for the residences.

MR. BROWN: This residence right here, the Conklin residence, is in the IB Zone. The IB Zone does permit an existing residence to continue to operate as a residence. Because, again, we're modifying that lot, the Planning Board asked this Board to make a determination, can the use continue, is it not affected by the area variances requested, or do we need a use variance so that that residence can continue to be a residence in the IB Zone.

MR. DONOVAN: Do you know, Charlie, approximately how many years the residence has been there?

MR. BROWN: A long time. I don't know off the top of my head. I can certainly pull the property report. It's been there a long time. These were all put in when they put in Ridgeview Drive. Ridgeview Drive, by the way, has sewer and water.

MR. DONOVAN: In your view is there any change to the character of the neighborhood as a result of the area variances?

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MR. BROWN: No.

MR. McKELVEY: It doesn't look like it.

MR. DONOVAN: With that, let's go around to the Board one more time. Any other comments from any Board Members? Comments, questions?

(No response.)

MR. DONOVAN: Does anyone have a motion relative to the public hearing?

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

MR. MARINO: Second.

MS. JABLESNIK: We have to speak louder and more clear, guys.

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

MR. MARINO: I'll second that.

MR. DONOVAN: All in favor?

MR. BELL: Aye.

MR. LEVIN: Aye.

MR. MARINO: Aye.

MR. MASTEN: Aye.

MR. McKELVEY: Aye.

MR. DONOVAN: So we'll go through the

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five-part balancing test. Before I do that, is it fair to say that the Board is of the opinion that the changes proposed are not to the level that this would cause the house to lose any protection it may have to result in the need for a use variance? A use variance would not be required in the opinion of the Board?

MR. McKELVEY: I don't think so.

MR. DONOVAN: I want to make sure it's clear to the Planning Board so Charlie can go back there.

Going through the five-part balancing test -- actually, what I'm going to do in this case is I'm going to ask the Board to adopt a negative declaration for what is potentially an Unlisted action. If someone could make a motion for a negative declaration.

MR. McKELVEY: I'll make a motion for a negative declaration.

MR. MASTEN: I'll second.

MR. DONOVAN: Motion by Mr. McKelvey. Second by Mr. Masten. All in favor?

MR. BELL: Aye.

MR. LEVIN: Aye.

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MR. MARINO: Aye.

MR. MASTEN: Aye.

MR. McKELVEY: Aye.

MR. DONOVAN: All right. Now we'll go through the five-part balancing test. First, would the variances requested result in any undesirable change in the character of the neighborhood?

MR. LEVIN: No.

MR. McKELVEY: No.

MR. DONOVAN: It will be essentially the same as it was.

Item number 2, is there any method for the applicant to pursue other than the requested variances.

MR. BELL: No.

MR. MARINO: No.

MR. MASTEN: No.

MR. LEVIN: No.

MR. DONOVAN: 3, are the variances substantial. Understanding that most of the improvements are there.

Number 4, any adverse physical or environmental effects.

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MR. BELL: No.

MR. McKELVEY: No.

MR. MASTEN: No.

MR. MARINO: No.

MR. DONOVAN: Number 5, is the difficulty self-created, which is not determinative. It is self-created.

MR. BELL: It is.

MR. DONOVAN: With that in mind, does anybody have a motion relative to the merits of the application?

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

MR. BELL: I'll second.

MR. DONOVAN: We have a motion from Mr. Levin and a second by Mr. Bell. Roll call.

MS. JABLESNIK: Mr. Bell?

MR. BELL: Yes.

MS. JABLESNIK: Mr. Levin?

MR. LEVIN: Yes.

MS. JABLESNIK: Mr. Marino?

MR. MARINO: Yes.

MS. JABLESNIK: Mr. Masten?

MR. MASTEN: Yes.

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MS. JABLESNIK: Mr. McKelvey?

MR. McKELVEY: Yes.

MR. BROWN: Thank you very much.

MR. DONOVAN: The application is approved. Have a good Thanksgiving.

MR. McKELVEY: Did the County come back?

CHAIRMAN SCALZO: I don't believe it did.

MS. JABLESNIK: I said that earlier.

CHAIRMAN SCALZO: It's on New York State Route 300.

MR. DONOVAN: That being the case; Charlie, you have to come back for Christmas.

MR. BROWN: We did submit more than thirty days before today by at least a week.

MS. JABLESNIK: So the first part of the application was submitted but the rest of it and the mailings were not. I have to wait for the whole, entire application. It didn't come in until the 9th.

MR. BROWN: All right. I better get that straightened out. I'll see you next month.

MR. McKELVEY: We have to hold that

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over then.

MR. DONOVAN: That's correct. So for the record, I didn't realize that the County referral did not come back and their thirty days to respond is not expired, so we're going to need to go through déjà vu all over again in December.

MR. BROWN: Thank you again.

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

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

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

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

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

IN WITNESS WHEREOF, I have hereunto
set my hand this 29th day of November 2020.

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

ALEJANDRO RIVERA

28 Rockwood Drive, Newburgh
Section 109; Block 1; Lot 28
R-3 Zone

----- X

Date: November 24, 2020
Time: 7:28 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

ALSO PRESENT: DAVID DONOVAN, ESQ.
SIOBHAN JABLESNIK

APPLICANT'S REPRESENTATIVES: ALEJANDRO RIVERA

----- X

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

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ALEJANDRO RIVERA

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CHAIRMAN SCALZO: Our next applicant this evening is Alejandro Rivera, 28 Rockwood Drive in Newburgh. They're seeking a special permit for a home occupancy -- for a home occupation subject to a special use permit to operate a small firearms dealer business in the basement of the dwelling.

Siobhan, do we have mailings on this?

MS. JABLESNIK: This applicant sent out 70 letters.

CHAIRMAN SCALZO: 7-0? 70 letters?

MS. JABLESNIK: 7-0.

CHAIRMAN SCALZO: Very good. Thank you.

Who do we have with us here this evening?

MR. RIVERA: Alejandro Rivera Junior.

CHAIRMAN SCALZO: Very good. Sir, the other applicants I did my best to try to summarize, but this is one of those unique applications that I really can't. I'm going to ask you to do your best to convey what it is you're looking to do here. This is not -- this is a special use. This is not our typical area

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ALEJANDRO RIVERA

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variance or use variance. So sir, if you could -- I have a feeling that a lot of folks are here for this application.

MR. RIVERA: I think so.

CHAIRMAN SCALZO: So we have received quite a bit of correspondence. As I'm sorting through that, I'm going to let you go ahead and start, and then we'll have the Board comment, and then we'll open the comments up to the public.

MR. DONOVAN: I would just ask if you could speak as loudly and clearly as possible.

MS. JABLESNIK: And slowly. I think it's kind of muffled and they are having a lot of trouble hearing.

CHAIRMAN SCALZO: I'll tell you what. Mr. Levin, can you scoot back a bit, just so we've got the six-foot maintenance?

Siobhan, if you want to scoot back as well. I'm going to ask Mr. Rivera to remove his mask.

MR. RIVERA: I think that would be helpful. Can everybody hear me?

CHAIRMAN SCALZO: You have to eat the mic.

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MR. RIVERA: First, thank you all for allowing me the opportunity. One thing is I have a question. Is it okay if I start with my background, because I believe that's pertinent to my request?

CHAIRMAN SCALZO: The floor is yours.

MR. RIVERA: Okay. So real quick. Susan, my wife, and I, of 34 years, have lived at the same address for the last almost 20 years. We raised our children there and now we entertain our little grandchild there. Okay.

My background --

CHAIRMAN SCALZO: We can hear you very well. There's a camera on the laptop. I need you to actually focus your direction that way.

MR. RIVERA: Sorry. So my background is related to my request. One, my experience with firearms, which is what this company is going to be based on, started in 1985 when I enlisted in the Marino Corp. I was trained in all kinds of firearms and other special arms related to my military occupational specialty. That training -- I kept on with that training when I was an agent of the Border Patrol. I was

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an agent of the U.S. Border Patrol for almost 4 years. There I was a member of the emergency response team. I was certified and qualified in a number of firearms. I did a lot of drug and addiction operations based on certain intelligence from various sources. In other words, I had a lot of training and a lot of experience with all kinds of firearms. I actually utilized them in my work.

UNIDENTIFIED SPEAKER ON ZOOM: That has nothing to do with this variance.

MS. JABLESNIK: We need you to mute yourself. There will be time for the public to speak but it's not right now, so you need to hold on a second.

MR. RIVERA: Maybe I'm not making it clear.

UNIDENTIFIED SPEAKER ON ZOOM: I agree. That's irrelevant. It's a waste of time right now.

MS. JABLESNIK: Ma'am, you really have to hold on a minute because there will be time for the public to speak.

UNIDENTIFIED SPEAKER ON ZOOM: I

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understand. I understand.

MS. JABLESNIK: You have to mute yourself.

MR. RIVERA: So let me see if I can make a nexus between my background and my request. First let me finish the background, if it's okay with you. One, that didn't end there. I vested out. I came back home to be with my family and I spent the next 20 plus years with the New York City Police Department. Again, various ranks, various capacities. In other words, I've been doing this a long time. My experience with firearms is over 35 years long. Even now, to a certain degree -- I work a per diem job now with the Orange County Sheriff's Office where I do what? Background investigation on people who want pistol permits. I've always served my community, my country, and I believe that my experience with firearms makes me qualified, not just to run the sale part of this business.

I think people are more concerned with the sale of the business and not focusing on what else I'm going to do. I do consultation.

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I'm an NRA certified instructor. I give safety courses. I'm going to be able to facilitate things for the community, like private sales, transfers. This is not going to be by any stretch of the imagination a brick and mortar, come by my house and see a display of guns. That's not what this is going to be. By no stretch of the imagination are we going to have a slew of people coming to my home, stopping by at all hours. That's not what this is.

Again, another thing is, with all my training, I've also been trained on how to do or conduct security threat assessments. Believe me when I tell you, I have to do everything by the numbers, because just to get my Federal Firearms License, that was quite a process. Even my investigator interviewed me for over three hours. I have to be willing, and they will come in and do on-site inspections whenever they want. This is not some sort of like pop-up business with no regulation. And even if I were approved, I can't start business tomorrow. I'm still awaiting my sales tax authority certificate. I'm still waiting for my actual New York State dealer's

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license. So there's a lot left to do. This is just so that I can start getting things ready in my home to operate the business. Does that make everything clear?

CHAIRMAN SCALZO: I understand what you're -- what you just said. We actually, three months ago, had a similar application out on Quaker Street. So are you through with your presentation, sir?

MR. RIVERA: I think I'll wait to see if maybe I can answer questions.

CHAIRMAN SCALZO: There's a process here. We allow you to speak, then the Board comments, and then we will open it up to the public.

So in this case we've received eleven individual letters regarding your application. I can tell you that out of the eleven, none of them were in favor of your application. We also received a petition, and there's got to be over thirty signatures on here with addresses, all people that are opposed to the application for the special use.

That being said, why we asked you to

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explain what was going on, or why you were looking for what you were looking or, you handled that. What we heard in our application three months ago is that you are also regulated by the ATF.

MR. RIVERA: Yes.

CHAIRMAN SCALZO: They have the right to enter your home to investigate how you store all of your equipment --

MR. RIVERA: Yes.

CHAIRMAN SCALZO: -- at any time.

MR. RIVERA: Correct.

CHAIRMAN SCALZO: The big difference -- and I understand the value of an FFL, I really do, because I have used one. So I understand why they're very valuable to communities. The application that we had three months ago, the mailings -- not certified but the mailings that had gone out for that one, there were 21. It was more rural an area than your neighborhood.

Siobhan, was it 51 or 71?

MS. JABLESNIK: 70.

CHAIRMAN SCALZO: 70. So we're quite a leap as far as the neighborhood goes. And that

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was for 500 feet is how far the mailings went. If we were to expand that to 1,000 feet, I think your -- the mailings probably would have tripled, whereas if I expanded the Quaker Street application out to 1,000 feet, I might have had 50 if I was lucky. So there's definitely a difference here between your presentation today and the presentation that we had heard three months ago. That's relative to the character of the neighborhood. Physically there's absolutely no change to what you're proposing. There might be an uptick in vehicles for appointments. I don't know if you were to work by appointment. Our previous applicant was by appointment only.

MR. RIVERA: That's what's going to happen.

CHAIRMAN SCALZO: You may see FedEx vehicles, or how ever they ship -- how ever things are shipped.

MR. RIVERA: That won't change.

CHAIRMAN SCALZO: As I say, I'm going to -- actually, I'm going to let other Members of the Board start to comment here. Mr. Rivera, each one of them may address a question to you,

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and after we're done, then we're going to open it up to the public.

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

MR. MARINO: My main concern -- Mr. Rivera is well qualified. No doubt about it. Excellent background. My concern is changing the residential area. We pride ourselves on having a good amount of residential area in the Town of Newburgh. I don't like chopping it up and giving away parts of it for this small business, that small business. It's clean and it's quiet as it might be. So it's a difficult question. Right now I'm not sure. I'm very impressed with Mr. Rivera's presentation, his background and qualifications. Excellent. I'm sure the business would be quiet, safe and well conducted.

CHAIRMAN SCALZO: Thank you, Mr. Marino.

Now, you just said something that made me think of our applicant from three months ago as well. They are required to maintain their FFL on a three-year basis. Is that correct?

MR. RIVERA: Every three years it has

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to be renewed, and inspections again are always -- I have to be ready for an inspection at any time. It's very heavily regulated by the ATF.

CHAIRMAN SCALZO: Correct. The applicant from three months ago, that applicant was granted with the condition that they needed to come back at the frequency of their renewal, which will allow that three-year cycle to occur. They'll have to re-public notice. If anything has occurred that is very concerning to the public, then I'm certain we would hear that. Again, their application is much more rural than yours.

So anyway. Mr. Marino, thank you for making me think of that.

Mr. Bell, I'm going to you. What do you have?

MR. BELL: Just listening to what you said, and I do agree that your background is highly impressive. You mentioned that people would not just be driving up or walking in. Are you having scheduled times or are they scheduled by appointment? How would they come to your home?

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MR. RIVERA: Right. So this business is so small, even when it starts. That's what it's going to be. It's pretty much going to be by appointment only. You have to understand, right now my client base is going to be pretty much all the cops that I know. Just more law enforcement officials. Again, if there are members of the community that want to come to me so I can provide them with some sort of service, I will definitely do that. I mean I'm also a certified Sig, Glock --

MR. BELL: I'm sorry. I understand that. If you can just stick to answering the question without going into other areas. I got that. I'm trying to get my understanding here.

So again, are they scheduled appointments or are they able to just walk in to buy and purchase?

MR. RIVERA: No.

MR. BELL: I didn't quite understand your answer.

MR. RIVERA: No walk ins. By appointment only.

MR. BELL: What are your hours of

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operation looking like?

MR. RIVERA: Right now it's going to be Monday 8 to 12, Tuesday 8 to 4, Wednesday 8 to 12, and then Friday from 8 to also 12.

MR. BELL: So basically Monday through Friday?

MR. RIVERA: Monday through Friday with the omission of Thursday.

MR. BELL: Weekends or --

MR. RIVERA: I won't do anything on the weekends.

MR. BELL: And storage of these -- if it's approved, storage of your weapons, how would they be stored inside of your home?

MR. RIVERA: So I actually bought a little -- so right now I'm looking into a bunch of different safes. That's another thing you have to consider is the storage. So the safe that I'm looking at, one in particular model, it's made by Liberty. It's burglar proof rated and fireproof rated. It weighs like 1,000 pounds. You don't need to bolt the thing in. It has the ability to be bolted in so no one can just come in and access this type of device or

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this mechanism to get into the firearms.

Again, to clarify, because it's going to be so small a business, I also won't be storing a lot of firearms. It will more likely be someone makes an order, I fulfill the order, and then the order will be stored only until I can have the individual come and pick up. There's not going to be a ton of firearms in my home.

MR. BELL: I'm good.

CHAIRMAN SCALZO: Thank you, Mr. Bell.

Mr. Hermance, if you could grab the microphone. I don't know how well it is or easy it is for public members to hear, but I want to make sure everybody hears all the comments from the Board.

MR. HERMANCE: As was stated earlier, your background seems more than sufficient. My question is would it -- why in a residential setting would you need to set this up? If you have that kind of interest, wouldn't it make more sense for like a commercial space to conduct your business?

MR. RIVERA: You know what, I agree

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with you. This is the issue with why I'm starting it so small. One, I'm pretty much doing this all on my own. I'm not taking any small business loans. I'm pretty much doing this on some of my retirement funds. I'm trying to start it now to see if I can get it started now so I can finally move it to a brick and mortar. Even then, when the move comes, the ATF gets involved, the licenses have to be amended. It's a very lengthy process. For now there's nothing more than to get started so that eventually I can move to a national brick and mortar. Does that answer it?

MR. HERMANCE: Yes. Thank you.

CHAIRMAN SCALZO: Mr. Levin?

MR. LEVIN: Yes.

CHAIRMAN SCALZO: Do you have comments?

MR. LEVIN: I assume that right now you're not using your house for anything.

MR. RIVERA: No. Not at all.

MR. LEVIN: Where are you doing it now? Storing everything?

MR. RIVERA: The only firearms I store now are my personal firearms in a safe.

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MR. LEVIN: You're not in the business of selling firearms?

MR. RIVERA: No, no, no. I can't start that.

MR. LEVIN: At whatever location?

MR. RIVERA: Right. Even with my Federal Firearms License that I already obtained, I cannot start the actual business without receiving my license from the State, which is now processing as well. So even with approval, it's still going to take some time before I'm up and running.

MR. LEVIN: I'm fine.

CHAIRMAN SCALZO: Thank you, Mr. Levin.

Mr. McKelvey?

MR. MCKELVEY: Back three months ago they had to have some control from the local police department, too.

CHAIRMAN SCALZO: I don't recall that.

Mr. Donovan, do you?

MR. DONOVAN: I don't recall that.

CHAIRMAN SCALZO: Perhaps you might be able to ask the applicant your question.

MR. MCKELVEY: Does the local police

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department have any control over this?

MR. RIVERA: So the application to the ATF must be filed with the chief law enforcement officer in the area. That just happens to be Sheriff Dubois. That was already done. It's been on file since September or August. So that was taken care of.

MR. McKELVEY: I think the same thing happened back then.

CHAIRMAN SCALZO: I'm glad you remembered. That was one thing that slipped my mind. Anything else, Mr. McKelvey?

MR. McKELVEY: No.

CHAIRMAN SCALZO: Mr. Masten?

MR. MASTEN: Yes. I agree with Mr. Marino and Mr. Bell that he's very qualified, yes. My point is why in a residential area to have a facility of that magnitude when there's plenty of other areas in the Town that can put up with a business like that. I'm against it.

CHAIRMAN SCALZO: Mr. Masten, the applicant did indicate that his intent was to eventually move into a brick and mortar type condition. This is his first -- actually, let me

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let the applicant answer for you.

MR. RIVERA: I'll reiterate. One, the main reason why I'm trying to start in my home -- and believe me, I care for my community. I understand the concern. I'm not asking to rezone the entire neighborhood. I do want a special permit to be able to start my business. Again, it's only because I want to do it on my own. I'm not looking to take out a bunch of different business loans to start this, which is why I'm starting it this way, one. Two, let me add this. There really will be no difference between what I have in my home now and with the business started. Right now I have firearms in my home. I've had firearms, again, for close to 35 years now, right. For the most part, the public, if they knew who I am, my neighbors, they know my background, they know I have firearms. For the most part, the rest of the general public does not. The same thing will be true with this business. Again, it's not as though you are going to go to one of these more well-known stores where you can walk in and see display case after display case of firearms. This is nothing

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more than a larger safe going into my home so that I can provide safety and security for the firearms that I will buy or facilitate the purchase for a client. Again, there will be no difference other than a larger safe and maybe an extra firearm here and there that will be delivered for a client at my home. That's it.

CHAIRMAN SCALZO: Are you satisfied with that answer, Mr. Masten?

MR. MASTEN: Somewhat.

CHAIRMAN SCALZO: All right. Do you have any other comments?

MR. MASTEN: Not right now.

CHAIRMAN SCALZO: Okay. And then I had started, and I'm going to wrap it up on the Board's side here, Mr. Rivera. Again, your qualifications are outstanding. I agree with that. I understand exactly what you do and why you do it. One of the criteria that we're probably going to get through later is a change in the character of the neighborhood.

Is that correct, Counsel?

MR. DONOVAN: Yes.

CHAIRMAN SCALZO: As I mentioned

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before, there's no physical change to your neighborhood. An uptick perhaps once in a while. With the participation that we have from our public via Zoom, there's certainly an anxiety that's occurring here. And whether it's a physical change or not, it's certainly a change to the neighborhood. It's a steep hill to climb at this point. That's what I'm saying.

Now, before I go to the members of the public, please understand that I have eleven letters from eleven residents of that neighborhood, and I have a petition that has thirty-six signatures on it. So we're going to open it up to members of the public to speak. I'm hoping that we can capture perhaps one or two members of the public. But for us to hear exactly the same thing from nineteen people is not going to be productive to the meeting. So I'm going to actually open it up.

Siobhan, if you could go ahead and let them start. Siobhan, I don't know how, somebody raises their hand. Whoever raises their hand first gets to go.

MR. MIELE: This is Joe Miele.

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CHAIRMAN SCALZO: Mr. Miele, the floor is yours.

MR. MIELE: I wrote one of those letters, and I'd like to say that I respect this gentleman's service to our country. I know, in my opinion, it's not relevant to this, but I do respect that and appreciate his service.

However, we bought this home, my wife and I, thirty years ago. All of our neighbors, we've been talking. We also bought in this area because of the family orientation. We appreciate the Rivera family in our neighborhood. It's going through a revitalization and there's young children in the neighborhood again, and we enjoy that.

The problem here -- I've heard several of the Board Members speak about his qualifications. The only reason his qualifications are relevant is because this is a gun-related store. Number one, this is a business in our neighborhood. That too is not acceptable via the codes. The reason we're here and the request that's being made is simple. It's cost effective for him to do it this way,

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and I appreciate that. However, I'm not in it to fund or make it cheaper for him to enter into a business. There are cheaper areas where I could have bought a home that I'm close to business and I pay less for my home because of it. We bought here to protect our property values because we had family orientation, no businesses in our neighborhoods. This is one of the very few of these tight-knit communities in our area. This is a very, very tight neighborhood. People walk together, they talk together, even in the social distancing times that we're in. We still stay together, and we want to protect that.

I'm sure we could debate forever the different pros and cons to this, but at the end of the day the laws are written to protect us. The code is written to protect us. We stand by that.

I could go on forever. I appreciate his service. I respect him as a neighbor. I wish him the best of luck. I just think he needs to find another way to do it. From what I can tell, all of my neighbors do, too.

Thank you for your time. I'll just

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turn it over to someone else. I appreciate it
and I urge the Board to not allow this.

CHAIRMAN SCALZO: Thank you.

Can you hold? Members of the public,
hold on for a moment. We've got something going
on here.

Mr. Rivera, I'm going to let a couple
of them go, I have a feeling we're going to have
some similar sentiments, --

MR. RIVERA: Okay.

CHAIRMAN SCALZO: -- and then we'll let
you hit those up.

Mr. Miele, thank you very much for your
comments.

Is there anyone else that would like to
speak that can add on to Mr. Miele's sentiment
without restating Mr. Miele's sentiment? Hands
up.

MS. COLACCHIO: You need to know my
name?

CHAIRMAN SCALZO: Yes, please. It's
being recorded.

MS. COLACCHIO: Laurie Colacchio. I
live on Rockwood Drive also. I have no problem

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with someone wanting to start a business. I have a problem, again, with the location of where the business would be. I just feel that it's not -- it's not the opportune -- it is a neighborhood, and we do all get along, but a firearms business, and I know some police officers, a firearms business -- I know he's just starting but I just -- I don't feel like this is the place for it. It is a residential neighborhood. I bought here for that reason. I didn't buy somewhere else. I bought because I wanted to be in a residential area. I moved from one residential area to another. I just feel that it shouldn't be allowed right now anyway. I don't think that it's -- I don't feel that he should have -- I don't know. It's just -- it doesn't make sense. I'm trying not to -- I'm trying to be positive but not be so negative. I wish him, you know, the best. But to have a firearms in his basement, whether it's small or it's large, I just don't feel it's right for a residential area. And just to rezone it or to make it -- what stops anybody else from wanting to have some other type of business in a neighborhood that

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might not be -- I don't know. It's just my opinion. I wouldn't want it here. I'm sorry, I know he's my neighborhood, he's up the street. I just don't feel it's safe in the neighborhood. We bought here because it was a neighborhood and it was residential.

CHAIRMAN SCALZO: Thank you very much for your comments.

I'm going to move on to one more. Perhaps if anybody could add to that without restating what we've already heard. Any new comments about this application?

MS. LAWSON: I have some.

CHAIRMAN SCALZO: The lady.

MS. LAWSON: My name is Barbara Lawson.

CHAIRMAN SCALZO: There you go.

MS. LAWSON: Hi. I wanted just to have a few concerns. Your home, do you have an exit? You stated that you're going to have the business in your basement. Is there an exit from your basement out onto your yard?

MR. RIVERA: Yes. In the rear of my home there's a door that leads into my basement.

MS. LAWSON: From your basement.

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Also, on your application you state that you're going to do consultation and training classes. How do you attract your customers? Do you advertise? How do people find you to facilitate the buying of a gun?

CHAIRMAN SCALZO: Pardon me one moment. The microphone, that was where the feedback was coming from. The microphone is useless to you. If you feel comfortable with it in your hand, that's great, but you just need to speak loud.

MR. RIVERA: So right now, again, my base of customers or clients is word of mouth. You're pretty much talking about people that know my background already and are going to utilize my services for the most part at the beginning. I mean my website -- I haven't even actually submitted all the changes to the website. So right now you really won't see any change in the neighborhood. As a matter of fact, I respect your concerns. Is it okay if I kind of go address your concerns one by one?

MS. LAWSON: Sure.

MR. RIVERA: Okay. So I heard one thing was safety. Believe me, I'm all about the

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safety, to the point where I take the training part and the safety part very serious. I even taught my children, when they were little, about firearms. Curiosity is one of the biggest problems with a firearm. You get a curious person that doesn't know what they are doing and that leads to accidents.

Another issue. Someone said our neighborhood is tight knit. I agree. So tight knit that when I broke my leg ages ago, my neighbor Hugo would help me with my lawn and, you know, snow blowing, and I reciprocated. That's the type of stuff that we do in the neighborhood. I understand that.

Also, think about this. In the twenty years that I've lived there, we've never had a problem in our neighborhood until this past July. This past July, I don't know if some of you in the community have the Ring camera or Neighborhood, I posted where an individual was seen on one of my cameras coming in from one neighbor's yard to my yard, checked my vehicle's door, closed, he went about his business and went to my neighbor's across the street, checked his

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doors. Mind you, the reason I know that is because it was 4 in the morning, my dog was going crazy and my wife shows me the video, oh my God, there's somebody at our car. I wouldn't recommend what I did to the public, but I got up, I stopped that individual, I called the police, the Town police came, they trespassed him. I don't know if it was because of what I did but I will say this, that individual has not returned. I check my cameras on a daily basis, especially since then. So believe me, I am as concerned with the safety and security of our neighborhood as all of you are, and I respect all of your concerns.

Is there anything else that you need me to -- think about this also --

MS. LAWSON: You said on your application you're going to provide training classes.

MR. RIVERA: Yes.

MS. LAWSON: Are you going to provide training in consultation at your home? Are you going to provide these classes at home?

MR. RIVERA: No. That will be done --

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you know, I'll do that exterior. I will rent a place, let's say from a range that I attend. There are places where I'll do that. I'm not going to have a bunch of people coming to my home for classes. The business portion is going to be -- predominately in my home is going to be the sale portion.

MS. LAWSON: What I'm trying to get from you, you don't know these people coming to your home. They're strangers off the street. Correct?

MR. RIVERA: Most of them are not because most of them are going to be people from this community. From the law enforcement community right now.

MS. LAWSON: Okay.

MR. MIELE: You need to hold the microphone to your face.

MR. RIVERA: I'm sorry. I'm doing the best I can.

MS. LAWSON: You can't hear me or him?

CHAIRMAN SCALZO: Okay. We here at the Town office, we have an issue with our microphone system, so we had to take it out for a short

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time. We can have Mr. Rivera speak as loud as I am and that may help.

MR. RIVERA: I can do that.

MS. LAWSON: I just have one more question. I am kind of -- I respect what you've done for a living, your service obviously to the Marines, the community. What surprises me the most is that as a police officer with, you said the NYPD for how many years?

MR. RIVERA: I retired from there in 2017 with 21 years of service.

MS. LAWSON: It surprises me that you'd want to put a gun -- a business like that in a residential neighborhood after what I'm sure you've seen in a career with the NYPD with guns on the street. That really upsets me. Adam Lanza's mother from Sandy Hook bought a gun for that kid and look what happened. That's what our fear is. You don't know the people coming to your house. That's our greatest fear.

MR. RIVERA: Let me address that.

MS. LAWSON: You don't know where these people are from. They could say I want a gun but they're buying it for somebody else.

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MR. RIVERA: Let me address that real quick. That shooting that you're referring to is important for a lot of reasons. I don't know if you saw in the news back then, there was an NYPD car that actually showed up in Connecticut. That vehicle was driven by Lieutenant Giblin who just happened to be my lieutenant. His nephew was killed on that day. So believe you me, I understand your concerns about firearms. I spent a lot of my career in anti-crime units like street crime, narcotics where my job was to remove drugs and illegal guns from the street. That's what I was doing the majority of my career. So believe me, I understand that. I'm talking about setting something up to teach people how to be responsible with firearms, how to facilitate proper and legal sales to people who can qualify. Understand, you can't just go anywhere and buy a firearm. There's a background check that has to be conducted. That next check, which is run through the FBI, which I'm now certified to do, has to be conducted, forms have to be filed. In my binder over there I have a package that was sent to me by the ATF with all

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the forms that I have to fill out for every single purchase. What you're talking about, an individual purchasing a firearm or attempting to do so for another individual, straw purchases, that's something that's addressed through the FBI and the ATF. That's something that they train you on before you even get your FFL. So in other words, I'm aware of that.

MS. LAWSON: That's very true. How many times are those guns stolen? A gun is purchased legally by someone who has the right to purchase a gun and then it's stolen and then used to commit a crime.

MR. RIVERA: That's part of my training classes. I'll teach you how to properly store a firearm.

CHAIRMAN SCALZO: I appreciate where we're going with this, but if I could at least just ask to move on to another member of the public.

MR. DUTCH: I'd like to speak. I'm a tax paying member here.

CHAIRMAN SCALZO: Very good. The floor is yours. Please identify yourself.

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MR. DUTCH: Can I just speak very briefly, please?

CHAIRMAN SCALZO: Yes.

MR. DUTCH: What I think the main thing --

CHAIRMAN SCALZO: Hold on, sir. One moment. Just please identify yourself. We have a stenographer recording.

MR. DUTCH: My name is Hank Dutch. I live on Ashwood Terrace, just off of Rockwood.

CHAIRMAN SCALZO: Very good. Thank you.

MR. DUTCH: This community is a more ethnically mixed community. We're very happy to be here. It's a quiet community. To really put a zoning variance here that would allow a commercial business in this neighborhood is going to denigrate this community. It's going to lower property values and it's going to lower assessments. It's going to lower money into coffers of our Town. Really it's like the old story, the camel with his nose in the tent. First the nose is in the tent, and before you know it the camel is in the tent more fully.

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That's what can happen here.

This is really a question of please protect our community. Our community is a neighborhood and we'd like to keep it as a neighborhood. Thank you.

CHAIRMAN SCALZO: Thank you very much.

Okay. I'm going to give one more member of the public here an opportunity to speak, please for new or additional information that we have not already heard from members of the public already. So if anybody has any ideas that they would like to convey to us, please raise your hand and we'll call on you.

MS. MANDEL: I would like to say something.

CHAIRMAN SCALZO: Very good. Please identify yourself.

MS. MANDEL: Hi. I'm Lauren Mandel at 7 Rockwood Drive in the neighborhood. My comment is that, first of all, this proceeding, and I want this on the record, it was really impossible as a public member to hear people's comments, and that applies to not just this issue but also to the other issues that we heard previously. So

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that is -- we need to sort that out before you guys go forward, because I feel that I missed critical elements of this conversation and previous conversations. I would like that to be on the record --

CHAIRMAN SCALZO: And it is. Yup.

MS. MANDEL: -- because that is really unacceptable.

And, you know, additionally, in this neighborhood regarding the businesses, I would just also like to second that we definitely do not want to open this up to businesses.

So that was my main comment is these proceedings need to be clear. The public needs to be involved. We need to have access to the information, and that was not possible during this meeting. So with that said, I just want to say that.

CHAIRMAN SCALZO: Thank you very much. Believe me, I wish nothing more than this room were full of people so I could actually hear them. It's difficult for us to hear you as well for some aspects of this meeting. Unfortunately, the times that we're in, we're doing the best we

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can. We do have the applicants here with us. We have the Board Members here with us.

Counselor, is there anything different that we could possibly do?

MR. DONOVAN: There is not, no. This is pursuant to the Governor's Executive Orders. This is the best that we can do.

CHAIRMAN SCALZO: Thank you.

I'm going to give one last opportunity here to the public. I thought I heard somebody was hoping to say something.

MS. ALEXANDER: I was.

CHAIRMAN SCALZO: Very good. Please identify yourself.

MS. ALEXANDER: Martha Alexander, I live at 11 Rockwood Drive. We bought this house maybe like sixteen years ago. When you establish a community and you buy into it, you create a contract between the residents and the elected officials. I don't think that we should be trying to change the rules of engagement right now and go in a different direction. I understand -- I'd love to see everybody who wants to own a business to own one, but not in a

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residential area, okay. I would encourage our applicant, our neighbor to try to find another way to finance his business. We do not -- I do not want to be a part of anyone else's vision. I don't want to be impacted by it, nor do I want to be feeling like this person is looking for a way to circumvent a lot of things and not having to get loans or whatever his cause is. We'd all like to do that. This is a residential area and we need it to remain as such.

CHAIRMAN SCALZO: Thank you very much.

At this time I'm actually going to ask Siobhan to mute the public.

I'm going to move back to the Members of the Board. With everything that we've heard from public comment; Mr. Masten, do you have anything that may have come to mind since the public spoke?

MR. MASTEN: No, I haven't.

CHAIRMAN SCALZO: Mr. McKelvey?

MR. MCKELVEY: I heard somebody talk about changing the code.

CHAIRMAN SCALZO: Mr. McKelvey, they probably can't hear you. You need to speak up.

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MR. McKELVEY: We're not changing the code.

CHAIRMAN SCALZO: It's a special use permit. Yes. We're not changing code. It's not an area variance. It's not a use variance. It is a special permit. Very good.

MR. DONOVAN: Mr. Chairman, maybe I can just chime in. What's being requested is a home occupation. Home occupations are permitted in the R-3 Zone subject to a special permit from the Zoning Board of Appeals. So that's the application this evening. It's a home occupation for a consultation, sales and safety training business, according to the application, which is allowed in the R-3 Zone subject to a special permit from the ZBA, subject to the criteria spelled out in the code applicable to special permits.

CHAIRMAN SCALZO: Thank you, Counselor.

Mr. Levin, do you have anything?

MR. LEVIN: Nothing more.

CHAIRMAN SCALZO: Mr. Hermance?

MR. HERMANCE: I have nothing further.

CHAIRMAN SCALZO: Mr. Bell, do you have

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any additional comments?

MR. BELL: No. I'm good.

CHAIRMAN SCALZO: No. Mr. Marino?

MR. MARINO: Just a question for Mr. Donovan. This is an R-3 Zone?

MR. DONOVAN: Correct.

CHAIRMAN SCALZO: Very good. I actually had a couple more comments myself.

Mr. Rivera, do you intend to employ anyone other than yourself?

MR. RIVERA: Not currently, no.

CHAIRMAN SCALZO: No. How about parking. Do you have any parking considerations here? I know you state that you're only going to be visited by singular, perhaps multiple people but not great groups of people.

MR. RIVERA: Right. I even prevent large scale gatherings at my home now because I don't like parking on my neighbor's side. So really what they're going to do is, if I get a client, they're going to come into my driveway, go into my basement, we'll get all the paperwork sorted out, all the background checks sorted out, and then the individual will leave with whatever

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legally purchased firearm they have. There will be no -- there will be no massive influx.

CHAIRMAN SCALZO: How about signage. Are you going to sign outside that you are --

MR. RIVERA: No. No.

CHAIRMAN SCALZO: I need to ask these questions.

MR. RIVERA: No.

CHAIRMAN SCALZO: What about advertising. Are you going to advertise on the internet?

MR. RIVERA: I will have a -- I'm trying to develop a web page just so that the people that are familiar with me can find me more easily. I haven't seen some of these guys in a few years now since I retired. That's it. It's not going to be some sort of --

CHAIRMAN SCALZO: I'm sorry. They're having difficulty hearing you. You need to speak slower and louder.

MR. RIVERA: There will be no type of constant advertising. It will be nothing more than a web page describing my services. Let me say that.

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CHAIRMAN SCALZO: Thank you. Pardon me
one moment.

Counselor, with some of our -- the
directive from the Governor's office, some public
meetings entertain a ten-day comment period in
meetings. Is that something that we could --

MR. DONOVAN: Absolutely.

CHAIRMAN SCALZO: Because we're having
-- one member of the public did have a comment
that it's very difficult to hear, in addition to
the correspondence we've received now.

Should we get to that point, I will
recommend that we have a ten-day comment period
before we take any action on this application.
We may not get there. We're going to see.

MR. DONOVAN: Siobhan, if I could just
put you on the spot for a second. These meetings
are recorded and then they're on the Town
website?

CHAIRMAN SCALZO: We are recording by
stenographer only. They are not video.

MS. JABLESNIK: I don't video this
meeting. I post Michelle's minutes on our
website.

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MR. DONOVAN: About how long after -- I hate to do this to you right before Thanksgiving, Michelle. About how long after the meeting would you approximate that the minutes would be available?

MS. CONERO: Usually two weeks. If you need them sooner I can.

MR. DONOVAN: Mr. Chairman, you may want to keep that in mind for those folks who have indicated that they haven't been able to hear the proceedings. These are difficult times. What's the saying. May you live in interesting times. I wish the times were not so interesting. It's difficult for the people here. It's difficult for the folks in the public. Maybe if you want to give some additional time to entertain written comments after a certain -- a period after the minutes are posted. Just a suggestion.

CHAIRMAN SCALZO: I think that's a wonderful suggestion, Counselor.

MR. LEVIN: What are you actually doing? Leaving it open?

CHAIRMAN SCALZO: We're not there yet,

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Mr. Levin. I just wanted to introduce that idea, just so any members of the public can be certain that they'll be heard. As I say, we may not get that far. If we do, that's what I'm going to propose.

MR. DONOVAN: Mr. Chairman, if I could just -- ammunition?

MR. RIVERA: No. I'm not going to do that. Ammunition will not be part of my business right now at all.

MR. DONOVAN: But it might be in the future?

MR. RIVERA: When I open brick and mortar, hopefully.

MR. DONOVAN: The question is will you have -- will you be selling ammunition or will you be providing ammunition with the guns that you're selling?

MR. RIVERA: That's not what I'm planning to do right now, no.

MR. DONOVAN: I hate to be a lawyer but it's a yes or no question. Either you are or you're not.

MR. RIVERA: No.

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MR. DONOVAN: How will the product be delivered to your house?

CHAIRMAN SCALZO: Mr. Rivera, mask off, speak loudly.

MR. RIVERA: That will be done by whatever distributor -- however the distributor gets the -- whatever the firearm is to my home, whether they use UPS or FedEx. That's up to --

MR. DONOVAN: Any estimate of about how many deliveries per week?

MR. RIVERA: Right now - right now I'm not even started. Zero.

MR. DONOVAN: Thank you.

CHAIRMAN SCALZO: Thank you, Counselor. I had notes to ask almost those same questions.

MR. DONOVAN: I'm sorry I jumped in.

CHAIRMAN SCALZO: That's quite all right. Very good.

At this point I'm going to open -- Mr. Bell, you have a question. Speak loudly, sir.

MR. BELL: Yeah. The ammo was one that I was writing down. Thank you, Dave.

The other one that you mentioned, and again it came back to displays. You said there's

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not going to be display cases of weapons in your basement. So how would I come in and identify what weapon I want if there's nothing there? I hear you say that it will be brought in. How would I know what I want to buy?

MR. RIVERA: Again, this type of business I'm trying to run is going to be pretty much a one-to-one type of business. Let's say you, especially if you're someone that I'm already familiar with, says you know what, I've been looking -- these are people familiar with firearms for the most part. I'm looking for this particular firearm. I would go to a distributor and try to obtain that firearm for that individual and then make the transfer in the home. That's really what this is about, one-to-one sale. If you want an idea of what type of firearm you're looking for, you can -- I mean they're all over the websites. I'm not going to have that type of system in my home. You can't come to my home, which again the basement will be the business area, and hope to see a display of firearms. That's not going to happen.

MR. BELL: You sound like a

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subcontractor basically. Just like a subcontractor. Basically I come in and say I want a Glock, and then you go to a place and find me a Glock and bring it to your house and I see it and purchase it from you or purchase it from --

MR. RIVERA: Again, that's -- all of the stores you ever went to to purchase a firearm could be considered that then because they all have a distributor. No one -- I'm not manufacturing at all. This is all going to be purchased from distributors, brought into the home and then released to the purchaser.

CHAIRMAN SCALZO: Thank you. All right. I'm going to suggest to the Board that we close the public hearing. However, we would have a -- once the meeting minutes are posted online, we will have a ten-day comment period, that anyone -- any member of the public can comment about this application. We will not vote on this application until our December meeting. That is what I'm going to propose to the Board.

I need a motion from or any other suggestions from the Board?

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(No response.)

CHAIRMAN SCALZO: Therefore, we're going to close the public hearing but receive written comments after the minutes are posted. Ten days after the minutes are posted to the website we will accept comments. Our next meeting is the Tuesday before Christmas.

Siobhan, the date on that is?

MS. JABLESNIK: The 22nd.

CHAIRMAN SCALZO: The 22nd. Very good.

Michelle, I'm going to ask if you could prioritize these minutes so they can be available as soon as you can.

MS. CONERO: Ten days before the 22nd.

UNIDENTIFIED SPEAKER: Yes. This is a Democracy and the neighborhood has come out clearly against it. I think that's pretty clear.

CHAIRMAN SCALZO: Sir, we are not voting this evening.

MS. ALEXANDER: I echo that sentiment. I'm just finding it difficult for us to sit here and allow one person to disrupt an entire community. He has no right to come in here and demand something that is only in his own self

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interest, his best interest. It is not in the best interest of anyone other than Mr. Rivera. I don't want to be a part of it and I don't want to be impacted adversely by it. I'm very appalled and disappointed that we're even sitting here now saying okay we have some more public comments. This is all about him. It's his best self interest, and it may not work out. I don't think he has a plan. I don't think he's very organized at all with what he thinks he's going to do. We're going to sit here and say we're going to allow him to do this to the rest of us.

CHAIRMAN SCALZO: That's not what's being -- let me back you up, ma'am. Your comments are very important. If you could just identify yourself again for the record.

MS. ALEXANDER: I'm Martha Alexander.

CHAIRMAN SCALZO: Thank you.

MS. ALEXANDER: Martha Alexander at 11 Rockwood Drive.

CHAIRMAN SCALZO: Thank you very much.

MR. MIELE: This is Joseph Miele again. I'm confused, Mr. Chairman. This ten-day waiting period --

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MS. ALEXANDER: I don't want any more comments.

MR. MIELE: It seems like we need more comments from the public. You have overwhelming comments from this community that are against this. What more are you waiting for, or do you just not want to deal with this right now?

CHAIRMAN SCALZO: That's not the case at all. What the case is --

MS. ALEXANDER: It appears to be the case very clearly.

CHAIRMAN SCALZO: Well, that's not the case.

MS. ALEXANDER: This guy's impacting everybody in this community because he wants to be selfish.

CHAIRMAN SCALZO: We are not voting on this application this evening. The comments that I've heard from the public are very similar in nature, and I would like for the members of the public, if they have other comments -- we were very happy to read all of the correspondence that we received. I encourage you -- if you have not written anything to the Town Zoning Board of

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Appeals, I encourage you to do that. We weigh many factors with our determinations, and we really think everything that everyone says is very important. We don't want to not hear everyone, but we also want to make sure everyone is heard. However, to get very similar information from -- we haven't heard a new concern, which everyone's concerns are very valid and they're very important. I would encourage anyone that's participating to please comment on this. We are not going to vote this evening. Please comment and we will take them under consideration. Please participate in the December meeting.

MR. MIELE: Are you suggesting,
Chairman --

MS. ALEXANDER: How will we know when you're --

MR. MIELE: Go ahead.

MS. ALEXANDER: How will we know when you're ready to make the decision? You're not deciding tonight despite having your stack of letters, and petitions, and comments, and all the public saying they don't want it. Why are you

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waiting after you post that?

MR. DONOVAN: The Board had a comment from the public --

MS. ALEXANDER: Nobody here wants it. What are you waiting for?

CHAIRMAN SCALZO: Counselor, could you just --

MR. DONOVAN: What I started to say is there were comments from the public this evening in which people said that they could not hear everything that was said. The intent in providing additional time is to make sure the members of the public have the opportunity to view and read the transcript of what all the members said this evening and what the applicant said this evening so everyone has a full opportunity to understand what was said, to read what was said, and the ability to make additional comments before the Board takes action at the December meeting. That is the purpose of waiting.

MR. MIELE: Are we to assume that the transcript or the notes from this meeting will be a hundred percent accurate?

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MR. DONOVAN: There is a stenographer in the room and a verbatim transcript is taken by an extraordinarily capable stenographer who has been coming to meetings as long as I can remember and does an extraordinary job. So the answer to your question is yes.

MR. MIELE: I don't think any of us doubt that. I think the thing that really we have a hard time getting our head around right now is we're looking at a code that lists occupations, like a barbershop or a hair salon, as not allowed, but we're going to sit and contemplate this for another ten days, already with overwhelming evidence and easily whatever percentage you want that is the ultimate cut off of the 85 homes that we could consider barbershop, hair salon not allowed but a gun shop might be. That's bizarre.

CHAIRMAN SCALZO: Okay, sir. Perhaps you didn't hear what the counselor had mentioned. One of the members of the public had a very valid -- well every member of the public had a very valid point. One of the things that's concerning to us is that the meeting, as it's live here, may

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not be heard as clearly on Zoom. Therefore, the meeting minutes are being recorded by a stenographer. This will give any member of the public the opportunity to read exactly what was said, so therefore they will have an opportunity to comment in writing on what was stated in the meeting. If anyone has difficulty hearing what any of the Members of the Board or the applicant has stated, then things could be misinterpreted. I'm giving the opportunity for that ten days after the meeting minutes are posted to the website for any members of the public to comment on accurate stenographer minutes. That's what we're doing.

MR. MIELE: This is Joseph Miele again. I want to see if I've got this clear. So what you're saying is I might not have heard Mr. Rivera properly, and if I read the minutes and I don't comment, you can just assume that oh, I'm good now because I got all those comments. I think you're going to lose things in the translation. I want to make sure that the public understands that if they don't re-comment after the minutes are posted, there's a possibility

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that the Board could assume that once we saw what Mr. Rivera said and it was more clear to us, we were good because we didn't post any comments. I think that's extremely misleading.

CHAIRMAN SCALZO: Well Mr. Miele, you make a solid point. However, we don't throw away everything that we got in our hands tonight. So everything that we have with us now is certainly what we're going to consider. I'm looking for the -- I'm giving the opportunity for anybody that has not commented in writing or that has not been heard through the Zoom meeting to have additional comment. Mr. Miele, all of your comments have been duly reported, and we will certainly be reviewing those before the next meeting. If you would like to comment again that you've received them and you've reviewed them and find them accurate, that is fine, you can. Although if you don't, I still have your comments that you orated this evening, and we will certainly read them all.

MR. MIELE: Very good. Thank you, Mr. Chairman. I appreciate the time.

CHAIRMAN SCALZO: Thank you.

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UNIDENTIFIED SPEAKER: We have with us a real estate professional and I would like to hear her as to her perception of property values. And also, does she know of any low rent commercial space.

CHAIRMAN SCALZO: I'll tell you what, sir. First of all, you needed to identify yourself. And as far as realtors go, they provide a very important service to us, although I would more suspect that perhaps an appraiser or another professional could also provide that. Again, we're going to give that ten days after. If the realtor that you are discussing this conversation with would like to comment after -- within that ten-day period, please, I encourage you to have that information available to us. We will consider everything.

That being said --

UNIDENTIFIED SPEAKER: I will do so.
And I thank you.

CHAIRMAN SCALZO: Thank you.

MS. COLACCHIO: Mr. Chairman, I have a question.

CHAIRMAN SCALZO: Identify yourself,

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please.

MS. COLACCHIO: Laurie Colacchio, again, on Rockwood Drive. My question is is that we listened to -- we couldn't hear the whole meeting from the beginning to the end, and I know that the pool person, I'm not even sure what the other guy was with the, I guess blueprints for something for three properties of land. We couldn't hear any of that, and yet you all voted to agree to allow them to put in a pool and whatever variance they needed to build buildings and a garage or something. We could not really hear this meeting. But to say that those of us that are on here that -- I don't know. Just to say that what we said was not important, I mean -- let me start over again. What you're saying is that you're going to allow another ten days to go by.

I'm sorry, Mr. Rivera. I thank you for your service to this country and for serving as a police officer. I know it wasn't an easy job.

Now back to the point. What you're saying is because we were having difficulty hearing, that you're going to hold this meeting

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off for another ten days until we read all these transcripts and then make another public comment. Is that correct?

CHAIRMAN SCALZO: Well, almost. When the meeting minutes are available, as soon as they are available --

MS. COLACCHIO: When do they become available?

CHAIRMAN SCALZO: I'm going to assume it's going to be very early next week. They will be posted on the Town's website. After they are posted, we will allow for ten days worth of comments, that way you can read -- you don't have to read the entire meeting minutes, all you need to read is for this particular application. So this is an opportunity for everyone to understand exactly what was said. Mr. Bell, Mr. Marino and Mr. Hermance are sitting behind the camera. No one can probably hear them as well as we can here. The opportunity to comment after the meeting minutes are posted will allow all the members of the public to hear and/or read and understand what was said, perhaps out of earshot or out of sight. So I think this is a wonderful

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opportunity to comment after the public has read the minutes. We will not be voting on this action. Our next meeting is the 22nd of December. There's going to be no action between now and then other than receiving comments and evaluating the comments that we already have.

So therefore, I'm going to look -- this is going -- these comments are very valuable, however we're hearing the same comments over and over.

I'm going to look to the Members of the Board to close the public hearing with the stipulation that ten days after the meeting minutes are posted we will accept comments, and we will review and assess those comments when we meet in December.

Now, it is possible that if we feel as though we don't have enough information, which we may have enough information now, we may hold it over even after -- into the January meeting. That is yet to be determined. We need to evaluate all the information that we receive, and that's how the Board will act on this application.

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So I'll look to the Members of the Board for a motion to close the public hearing with the ten-day comment period.

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

MR. MASTEN: Second.

CHAIRMAN SCALZO: So I have it from Mr. Levin. I have a second from Mr. Masten. All in favor?

MR. BELL: Aye.

MR. HERMANCE: Aye.

MR. LEVIN: Aye.

MR. MARINO: Aye.

MR. MASTEN: Aye.

MR. McKELVEY: Aye.

CHAIRMAN SCALZO: Aye.

-- any opposed to that?

(No response.)

CHAIRMAN SCALZO: Nay. All right.

Siobhan, can you now mute the public while we continue.

MR. MIELE: Mr. Chairman, will there be another open hearing?

CHAIRMAN SCALZO: That is what the

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comment period in the ten days after the meeting minutes are posted are. That is the opportunity to comment.

MR. MIELE: That will be an open hearing?

CHAIRMAN SCALZO: It will not be an open hearing. It will be written comments. It will be open to the public, yes. You can certainly view this. But the written comments are what we're looking for.

MR. MIELE: Okay. I understand. Will you announce your decision at this next meeting the Tuesday before Christmas?

CHAIRMAN SCALZO: We will do the best to do that, but, you know, sometimes things -- some applications take longer than a few meetings. We'll do our best to get to it for the December meeting and render a decision.

MR. MIELE: As a community we're very invested in this.

CHAIRMAN SCALZO: I understand. Please, please understand, during our time that we are evaluating all this, there's no action, there is no permissions granted. There is --

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there should be no change in anything. The application will stand as is without determination. So there will be no action between now and December other than receiving comment.

MR. MIELE: We appreciate your service, sir. We appreciate all your service. I know you're not paid for it, and we appreciate you listening to us. Thank you.

CHAIRMAN SCALZO: Thank you. So the public hearing is closed.

Sir, we're going to leave this public hearing open.

MR. RIVERA: Okay.

CHAIRMAN SCALZO: We're going to receive comments from the public, and we will see you in December.

MR. RIVERA: Thank you for your time. I appreciate it.

(Time noted: 8:35 p.m.)

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

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

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

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

IN WITNESS WHEREOF, I have hereunto
set my hand this 29th day of November 2020.

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

BOHLER ENGINEERING FOR HSC BALMVILLE, LLC

1 North Hill Lane, Newburgh
Section 24; Block 4; Lot 1.12
B Zone

----- X

Date: November 24, 2020
Time: 8:35 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

ALSO PRESENT: DAVID DONOVAN, ESQ.
SIOBHAN JABLESNIK

APPLICANT'S REPRESENTATIVES: CARYN MLODZIANOWSKI &
KEN FIORETTI

----- X

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

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2 CHAIRMAN SCALZO: Our next application
3 this evening is Bohler Engineering for HSC
4 Balmville, LLC, 1 North Hill Lane in Newburgh,
5 seeking an area variance of 26 parking spaces
6 where 61 are required.

7 Siobhan, do we have mailings on that?

8 MS. JABLESNIK: 50 letters. This one
9 did not receive County either.

10 CHAIRMAN SCALZO: We didn't get the
11 County referral back on this one yet either.
12 Siobhan, when was it sent and have they exceeded
13 their time?

14 MS. JABLESNIK: It was sent after the
15 other application, so they still have time.

16 CHAIRMAN SCALZO: What we're going to
17 do is we're going to hear you present. You need
18 to know that we can not act on your application
19 this evening.

20 MS. MLODZIANOWSKI: Understood.

21 CHAIRMAN SCALZO: As we have members of
22 the public, and you just heard some of the
23 struggles that we have with them hearing, our
24 amplification system is down, so please speak as
25 loudly through your mask as you can.

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MS. MLODZIANOWSKI: Certainly. For the record, I'm Caryn Mlodzianowski from Bohler Engineering, here with Ken Fioretti from HSC Balmville, LLC, the developer for this project.

We are here this evening for the property located at 1 North Hill Lane in the Town, which is in the B, Business, Zoning District. The property actually faces and fronts New York State Route 9W, and North Hill Lane as well. I just wanted to point that out as the address is North Hill Lane.

We are here this evening to seek an area variance for our proposed parking count. As the Chairman mentioned, 61 spaces are required for a retail store and we're proposing 26. The retail store will be 9,100 plus or minus square feet, which is what yields that parking count of 61 spaces.

The tenant for the store will be Dollar General, and based on that -- we've done dozens of these stores with Mr. Fioretti's team. Typically 25, 26 to about 30 or so spaces is a sweet spot for them that they feel is adequate to serve the retail store. They certainly aren't

1 going to propose something here that wouldn't be
2 adequate for their operations. So in looking at
3 that, the 26 spaces that are proposed are in line
4 with other stores in similar locations, similar
5 densities, trip counts and things like that on
6 the roadway that serves the store.
7

8 I've been to many Dollar Generals in my
9 life and I'm not sure I've ever seen 26 cars in
10 the parking lot. We feel that this is adequate
11 here.

12 As far as community character, the
13 neighborhood and impact on the environment, we
14 feel that this is extremely beneficial to have
15 the 26 spaces rather than the 61. As you can see
16 here, we're essentially leaving half the site as
17 green space and trees as it exists today. We're
18 hugging everything up in this front corner to
19 keep it up by the commercial area. You can see
20 that here. So on this map the development would
21 sit in this front corner across from other and
22 next to commercial uses.

23 We're required to have a 15-foot buffer
24 strip when abutting residential, which we are.
25 This proposal has over 100 feet. That's due to

1 shrinking the parking lot to just the number of
2 size of parking spaces that we need. If we were
3 to build the 61 spaces, this development would be
4 way back here, way over here, with an extremely
5 excessive amount of pavement that we just don't
6 see necessary. Therefore, the benefit to the
7 environment, and so we don't create an adverse
8 impact, is keeping and maintaining that green
9 space and vegetative buffer that is there for
10 less disturbance.

12 We also feel that this improves upon
13 the character of the neighborhood with that green
14 buffer and the reduced parking that is there so
15 that people aren't staring at an empty sea of
16 asphalt.

17 With that, I'll turn it over to the
18 Board for any comments or questions.

19 CHAIRMAN SCALZO: Thank you very much.
20 As I'm looking at the non-color version of your
21 presentation, I see wetlands flagging A-1 through
22 -- what's that -- A-11. It appears to me that
23 you are tucking it up in that corner to avoid the
24 wetlands.

25 MS. MLODZIANOWSKI: Correct.

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2 CHAIRMAN SCALZO: Correct. It also
3 appears that between A-6 and A-7 there is an
4 encroachment into the wetlands. Is this
5 something that's being mitigated? Is this
6 something that's required to be mitigated? Has
7 the Planning Board asked you for any mitigation
8 for that?

9 MS. MLODZIANOWSKI: The Planning Board
10 has not. We have introduced the project to them.
11 Essentially as far as we got in that one meeting
12 was a referral to this Board for the parking
13 variance before we continue so that we ensure the
14 layout.

15 As far as mitigation, it is not
16 required. We intend and we are staying under a
17 tenth of an acre.

18 CHAIRMAN SCALZO: It's Federal. I
19 understand.

20 MS. MLODZIANOWSKI: It's Federal so
21 there's no buffer. That disturbance you're
22 talking about here and a little bit here, we're
23 proposing retaining walls and a combination of
24 exposed foundation to hold the earth back to
25 ensure that that disturbance is not encroaching

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into the wetlands.

CHAIRMAN SCALZO: Regarding the parking layout, I actually did attend via Zoom the Planning Board meeting for this. The parking configuration along 9W, it appears as though you have additional room for, I don't know, perhaps 4, 5, 6 more to the north. Is there a reason why -- I mean 26 compared to 60, I understand it may be the sweet spot, but, holy smoke, that is one diversion from what code requires. Was there any -- did the Planning Board recommend that or are you just avoiding those perhaps additional spaces for design purposes?

MS. MLODZIANOWSKI: If we could build a few more there we would. This property is unique. It does have municipal water. It actually does not have sewer in this corridor. We're reserving the highest and driest land for a septic system.

If you're questioning the size of that area, they only use 100 gallons a day, if that, of water usage. It's an extremely small system. There's a men's room and a women's room that will be locked and will be key available to the

1 public, and a mop sink. There's not much usage
2 here at all. We've had to pull water bills from
3 stores that are on municipal water recently in
4 this area to prove that water usage for other
5 stores. We have a comfort level with that and
6 that a typical septic system could fit in this
7 area. That's also why we left this area over
8 here. If a reserve ever had to be built, we
9 could, but we don't anticipate it.

11 CHAIRMAN SCALZO: Thank you very much.
12 I may have more comments after the Board
13 comments.

14 At this point I'm going to look to Mr.
15 Masten. Do you have any comments?

16 MR. MASTEN: I have no questions,
17 Darrin.

18 CHAIRMAN SCALZO: Mr. McKelvey, do you
19 have any questions?

20 MR. MCKELVEY: I've seen Dollar
21 Generals and they don't have 61 parking spaces.

22 CHAIRMAN SCALZO: That's a function of
23 the square footage of the building. If you were
24 to reduce that -- what is the -- what's the
25 criteria? If you were to reduce that to say

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80,000 -- you said it's 9,100?

MS. MLODZIANOWSKI: Yes.

CHAIRMAN SCALZO: If you had an 80,000 square foot building, how many parking spaces would be required?

MR. FIORETTI: 80,000 or 8,000?

CHAIRMAN SCALZO: I'm sorry. This is 9,100. If you went to 8,000?

MR. FIORETTI: A fairly decent number.

MS. MLODZIANOWSKI: Yeah. Because the ratio here per code is 1 per 150 square feet.

CHAIRMAN SCALZO: You just answered my question.

MR. FIORETTI: It's substantially higher than industry standards also.

CHAIRMAN SCALZO: Okay. Thank you.

Mr. Levin, any comments on this?

MR. LEVIN: I don't think they need the extra spaces. I had a business on Broadway and they had a small store there and it was fine.

CHAIRMAN SCALZO: Okay. So from personal experience you think 26 is adequate?

MR. LEVIN: They don't need the extra spaces.

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CHAIRMAN SCALZO: Very good.

Mr. Hermance, do you have comments on this?

MR. HERMANCE: No. They were answered prior, my questions. Thank you.

CHAIRMAN SCALZO: Sorry.

Mr. Bell, do you have comments?

MR. BELL: I'm good.

CHAIRMAN SCALZO: How about you, Mr. Marino?

MR. MARINO: I'm good. I'm good with it.

CHAIRMAN SCALZO: All right.

MR. DONOVAN: Mr. Chairman, if I could ask, if I may be permitted.

CHAIRMAN SCALZO: Please.

MR. DONOVAN: So there's no area that you could shadow parking just in case you did really great and people were beating down the Dollar General door and they wanted to get in there for Black Friday sales and everything?

MS. MLODZIANOWSKI: We hope that's the case, first of all. It's possible. I can't commit to it at this time. It seems if we had to

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2 add more parking -- so this here is 3 parallel
3 spots on this north side of the building.
4 They're 11 feet wide. We could borrow the extra
5 9 feet from this area, say we didn't need it for
6 septic, or flip flop that and put some parking
7 over here and use this for septic. I think that
8 option is there. I don't see us using both of
9 these areas for a built septic system. I'm
10 confident that one area is adequate. If we had
11 to turn these 3 parallel spaces, you're only
12 adding 9 feet of width to the pavement, and then
13 you could fit multiple spaces.

14 MR. DONOVAN: Multiple like 3, 9, 12?

15 MS. MLODZIANOWSKI: We could probably
16 fit about 5 or 6 spaces instead of 3.

17 MR. DONOVAN: Mr. Chairman, if I may.
18 So I'm sorry, your name was mentioned before.

19 MR. FIORETTI: Ken Fioretti.

20 MR. DONOVAN: How many Dollar Generals
21 have you been involved with?

22 MR. FIORETTI: Me personally? I'm
23 working close to a dozen in New York. I handle
24 the Hudson Valley region. My company, Hix,
25 Snedeker, is currently involved in 6 states for

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Dollar General. We are the preferred developer and we have about 30 or 40 projects going on at any one time.

MR. DONOVAN: Is this your basic standard project, the 9,100 square foot building?

MR. FIORETTI: Yes. Dollar General provides us their prototypical store and we design it based on their standards.

MR. DONOVAN: Your experience is that 26 parking spaces is sufficient for a 9,100 square foot building?

MR. FIORETTI: Yes, sir. To be honest, Dollar General has to approve these site plans we design before we can go forward. They've accepted this layout and they know this will be successful and a perfectly suitable site plan.

CHAIRMAN SCALZO: Were you involved in the construction of the one in Plattekill on 32?

MR. FIORETTI: No. Plattekill was not -- Plattekill was not ours. We did Esopus. We have one under construction right now in Mount Hope.

CHAIRMAN SCALZO: And you had mentioned that our parking requirements in the Town code, I

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don't want to say are excessive but your other
box stores --

MR. FIORETTI: I didn't stay excessive.

CHAIRMAN SCALZO: I worded it for you.

MR. FIORETTI: Standards.

CHAIRMAN SCALZO: Your other locations
that you've built in the Hudson Valley, other
municipalities, not that that should matter to
us, but I would like to hear parking requirements
for other municipalities for a 9,100 square foot
building.

MR. FIORETTI: We do them somewhere
between 26 and 33. It depends on the area.
Again, Dollar General has to give their blessing
to any site plan. We couldn't come here before
you if they said this store wouldn't be suitable,
this layout. We make the investment in the
community, we build the stores for them. We're
their preferred developer, not just on the
entitlement side. We do their construction as
well. We make all of the investment in it. We
don't want to build and invest if it's not going
to be successful. We take all the risks. In
this case they told us this would work.

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CHAIRMAN SCALZO: Okay. Between 26 and 33 you say now. At 26 we are the low end of your typical design.

MR. FIORETTI: If you want to look at it that way. I mean it's a -- it is a perfectly designed location. It's suitable to the area. If we had to build the extra parking spaces, it would really just add additional impervious to the property. You're not going to see this parking lot packed. They just don't have that kind of traffic.

CHAIRMAN SCALZO: People don't come in and camp out, I'm sure.

MR. FIORETTI: You don't have the turnover like you have at a Quickchek or a fast food restaurant. It's a low-impact use. It's convenience items. People come in, they stop by on the way home, a dozen eggs, and then they head out. It's a local community convenience really.

MS. MLODZIANOWSKI: If I may. The other thing we've done here is provided 3 green space islands to break that up, which would typically be parking spaces.

CHAIRMAN SCALZO: Right. I don't have

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any other comments for now.

I'd like to open it up to any members of the public that wish to speak about the Dollar General application on Route 9W.

Siobhan, are they unmuted?

MS. JABLESNIK: Go ahead, Lauren.

MS. MANDEL: I would like to make the comment that I could not even hear what this was about. I would also like a ten-day wait for a vote. I need to read the transcript. It was impossible to hear anything. I didn't even know it was about Dollar General until you just said that again. You know, this is an unacceptable format and I would request a ten-day waiting period so I can read it and I can make a comment.

CHAIRMAN SCALZO: In this case we did not hear back from the County of Orange, because they comment on anything that is next to a County or a State highway, therefore this public hearing needs to remain open until December, until we hear back from the County. So you actually will have the opportunity to read these minutes as well. So thank you but I'm -- your comment is very important to us because we're trying to make

1 adjustments. Every meeting moving forward and
2 perhaps -- next month perhaps I can find a
3 splitter for the microphone and we put two
4 microphones in the room. This is a very
5 productive comment for me. Thank you very much.
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7 MS. CONKLIN: I would also like to jump
8 in. Donna Conklin. I own the property on the
9 other side of North Hill Lane. I'm more
10 concerned -- I'd just like to put it on the
11 record about the traffic issue there. It's a
12 continuous problem already. Being the DOT is
13 involved, we've had them out several times also
14 for the water problem there. I had to put a
15 100-year storm drain in, and the water is still
16 an issue on North Hill Lane now.

17 CHAIRMAN SCALZO: Okay. That's a great
18 comment. In the Zoning Board of Appeals we are
19 here to act on the variances that they are
20 requesting. Your concerns with drainage are to
21 be addressed by the Planning Board and the
22 Planning Board engineer. But that's a very good
23 comment. You will have an opportunity, at a
24 public hearing that the Planning Board hosts, to
25 comment on this for any design-related questions

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that you may have, any stormwater management questions that you may have. They will ask many of those questions at the Planning Board meeting which will be publicized for the public's input.

MS. CONKLIN: Thank you.

CHAIRMAN SCALZO: Thank you. Any other comments from the public?

MS. JABLESNIK: No.

CHAIRMAN SCALZO: Very good. Hearing none, I'm going to go back to the Board. Any comments, Mr. Marino?

MR. MARINO: No.

CHAIRMAN SCALZO: Mr. Bell?

MR. BELL: No.

CHAIRMAN SCALZO: Mr. Hermance?

MR. HERMANCE: No.

CHAIRMAN SCALZO: Mr. Levin?

MR. LEVIN: No.

CHAIRMAN SCALZO: Mr. McKelvey?

MR. MCKELVEY: No.

CHAIRMAN SCALZO: Mr. Masten?

MR. MASTEN: No.

CHAIRMAN SCALZO: No. Very good. As I mentioned earlier, this meeting we did not hear

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from the County. I'll look to the Board for a motion to keep the public hearing open until December 22nd.

MR. McKELVEY: I'll make the motion.

MR. LEVIN: Second.

CHAIRMAN SCALZO: That was all four of us. I'm going to -- Mr. McKelvey is sitting next to me, he's the winner. We're going to say he made the motion and Mr. Levin seconded the motion. All in favor?

MR. BELL: Aye.

MR. HERMANCE: Aye.

MR. LEVIN: Aye.

MR. MARINO: Aye.

MR. MASTEN: Aye.

MR. McKELVEY: Aye.

CHAIRMAN SCALZO: Aye.

We'll see you next month, folks.

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

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

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

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

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

IN WITNESS WHEREOF, I have hereunto
set my hand this 29th day of November 2020.

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

JEFFREY & BARBARA JOHNSON

51 Merritt Lane, Newburgh
Section 7; Block 1; Lot 55
AR Zone

----- X

Date: November 24, 2020
Time: 8:52 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

ALSO PRESENT: DAVID DONOVAN, ESQ.
SIOBHAN JABLESNIK

APPLICANT'S REPRESENTATIVES: JEFFREY & BARBARA JOHNSON

----- X

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

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CHAIRMAN SCALZO: All right. It appears that our final application for this evening are Jeffrey and Barbara Johnson, 51 Merritt Lane in Newburgh. They are seeking an area variance of the rear yard to keep a 30 x 40 pool deck.

Siobhan, do we have mailings on that?

MS. JABLESNIK: This applicant sent out 17 letters.

CHAIRMAN SCALZO: 17 letters were sent out. Very good.

Do we have anyone here to represent this application? All right. How are you?

MS. JOHNSON: Good. How are you?

CHAIRMAN SCALZO: We would like you to be informed that it is very difficult for members of the public to hear, therefore it's in your best interests to speak as loud as possible so they can hear anything that they need to hear.

MS. JOHNSON: Absolutely.

CHAIRMAN SCALZO: As I said, you're here for an area variance for the rear yard to keep a 30 x 40 pool deck. I visited the site last night. It was getting dark but I saw. I

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kind of crept around and looked a little bit.
That's a substantial deck. Beautiful deck. Boy,
it's big and it's -- you're here because you're
asking for forgiveness and not for permission.

So I just want to start off with asking
how did we get here? Did you build a deck
yourself and weren't aware that you needed
permits?

MR. JOHNSON: No. We --

CHAIRMAN SCALZO: Loud.

MR. JOHNSON: Can you hear me on the
phone? Or on the Zoom?

We started about a year ago and we
wanted to get a built-in pool. The contractor --
I'm sorry. An above-ground pool.

CHAIRMAN SCALZO: Slow it down, too.

MR. JOHNSON: The contractor that we
had hired to do so never fulfilled the pool. He
never came and did the work. We had to go after
him and get our money back. So we started the
process and said we're going to get a permit. We
started that whole thing. We found a place in
Kingston that provided the same pool, so we
contracted them. We got the permit going. We

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2 got the pool installed as soon as the weather
3 turned nice, and then we wanted to build a deck
4 around it and then COVID hit. My wife is an
5 essential worker. My two sons are essential
6 workers. Their future wives moved into the
7 house, which I think is pretty common nowadays.
8 All essential workers. I said this would be nice
9 if -- you know, we're all home, we build this
10 pool and then we build a nice deck around it just
11 for us.

12 As we started to go through the whole
13 process of doing that, we found that we needed
14 this, we needed that, we needed this. We had
15 already started the wheels in motion. Finally we
16 went back down to the Board and said this thing
17 is already started, it's already been built, it's
18 practically up. We're sorry we didn't know what
19 was going on or, you know, we fell on the sword.
20 We said tell us what we can do to make this
21 right. The first thing was send us the drawing
22 of your property and so forth. A couple of the
23 Members came out.

24 It's a very weird kind of plot line, if
25 you will, of the houses in this particular area.

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Very, very small backyards and very large frontage for the properties.

If you look at the position of the pool and everything, no matter where we moved that, there's not enough backyard to put it. So I think it was 50 feet or -- 50 feet for the property line, and I think we went over by 11 or we need 18 sort of thing to make it right.

For those that did come up and see the site, there's a pond that was built by the owners of the land.

MS. JOHNSON: It's a retention pond.

MR. JOHNSON: It's a retention pond.

It was an old apple orchard, so they used that for watering and so forth. There's also another pond on the other side of us, and then there's a runoff that comes off the back of it. There could never be any development on either side of us, or down below, or in back of us. Not to make that right or wrong or whatever. That's the way it is.

We're here today to ask if we can keep our deck and be able to swim and enjoy the atmosphere.

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CHAIRMAN SCALZO: Very good. Thank you.

I'm going to go to Mr. Masten here. Do you have any comments on this, sir?

MR. MASTEN: I have no questions.

CHAIRMAN SCALZO: Mr. McKelvey?

MR. MCKELVEY: No.

CHAIRMAN SCALZO: Mr. Levin?

MR. LEVIN: No.

CHAIRMAN SCALZO: Mr. Hermance?

MR. HERMANCE: You said the pool was permitted. Was the deck permitted also?

MR. JOHNSON: Yes. We went through the whole process. That will be the next step, I believe, if we get approval, then they have to come and inspect the deck. We were told that they can do the pool -- everything all together. So that's our next step.

MS. JOHNSON: We had followed through. We had applied for the permit and then they had asked for different things in between. So we relayed information three separate times during the process. They were building the deck. By the time we had gone through all the process of supplying everything, then the deck was built,

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so --

CHAIRMAN SCALZO: You're not -- this is not for you to -- you don't need this to sell the house?

MS. JOHNSON: No.

MR. JOHNSON: This is just for -- it's funny. We've been there 15 years and we always said, you know, let's get a pool, let's get a pool. We said no, no, no. Last year we decided to actually get one and then we found ourselves here. This is just strictly for our family and us.

If you came up and saw the site, you can see it's basically on a dead end.

CHAIRMAN SCALZO: I was there and I saw the undeveloped behind you with the pond. I did. You're not impacting anybody behind you. That's for sure. Nobody can build that close to you. I understand that as well.

Mr. Hermance, I kind of cut you off. Do you have anything else?

MR. HERMANCENCE: No. Nothing further.

CHAIRMAN SCALZO: Mr. Bell, do you have any comments?

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MR. BELL: No I'm good.

CHAIRMAN SCALZO: Mr. Marino?

MR. MARINO: No. I'm good with it.

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

MS. JABLESNIK: No.

MS. JOHNSON: Good. Thank you.

CHAIRMAN SCALZO: I'll say it one more time. Anyone from the public that would like to speak about this application?

(No response.)

CHAIRMAN SCALZO: Hearing none, I'll go back to the Board for any final comments.

MR. McKELVEY: No.

CHAIRMAN SCALZO: At this point I'll look to the Board. Do you have some sort of motion for the public hearing?

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

MR. MASTEN: Second.

CHAIRMAN SCALZO: We have a motion to close the public hearing from Mr. Levin. We have

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a second from Mr. Masten. All in favor on that?

MR. BELL: Aye.

MR. HERMANCE: Aye.

MR. LEVIN: Aye.

MR. MARINO: Aye.

MR. MASTEN: Aye.

MR. McKELVEY: Aye.

CHAIRMAN SCALZO: Aye.

Any opposed?

(No response.)

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

This is a Type 2 action under SEQRA, therefore we're going to discuss the five factors, the first one being whether or not the benefit can be achieved by other means feasible to the applicant. Well it's already there.

MR. McKELVEY: It's already there.

CHAIRMAN SCALZO: Already there.

The second, if there's an undesirable change in the neighborhood character or a detriment to nearby properties. My opinion is -- you know, it's not on a cul-de-sac, but boy, with the undeveloped land next to it, there's

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JEFFREY & BARBARA JOHNSON

141

only one neighbor I think that can actually see
your backyard.

MR. JOHNSON: Yes.

MS. JOHNSON: With the trees you can't
see it at all.

MR. JOHNSON: Right now you can but in
the summertime you can't see it.

MS. JOHNSON: Not at all.

CHAIRMAN SCALZO: The third, whether
the request is substantial. We're looking at 18
feet is what the variance is as opposed to --
they're looking for 18 feet. Really in the
character of things, I don't think it's
substantial.

MR. McKELVEY: I don't either.

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

Here's something I did not ask. Where
is your septic field?

MS. JOHNSON: To the right.

MR. JOHNSON: It's actually in the
front of the house --

CHAIRMAN SCALZO: Very good.

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MR. JOHNSON: -- and off to the right.

CHAIRMAN SCALZO: That's the right answer.

And the fifth, whether -- actually, I didn't get a response from the Board on that. So would the Board agree that there are no environmental or adverse physical effects?

MR. BELL: No.

MR. McKELVEY: I agree.

CHAIRMAN SCALZO: Very good. And the fifth, whether the alleged difficulty is self-created. Well we know that it's self-created. That's not relevant -- it's relevant but not determinative.

So in this case, having gone through the balancing test of the area variance, does the Board have a motion of some sort?

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

CHAIRMAN SCALZO: You have to speak up, Mr. Bell.

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

MR. MARINO: Second.

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CHAIRMAN SCALZO: We have a motion from Mr. Bell. We have a second from Mr. Marino because Mr. Hermance was not fast enough. All in favor?

MR. BELL: Aye.

MR. HERMANCE: Aye.

MR. LEVIN: Aye.

MR. MARINO: Aye.

MR. MASTEN: Aye.

MR. MCKELVEY: Aye.

CHAIRMAN SCALZO: Aye.

Any opposed?

(No response.)

CHAIRMAN SCALZO: No. Okay. Your variances are approved. Next time ask permission first.

MS. JOHNSON: We had no idea. We just thought you do the permit first. We had no idea. I'm sorry.

CHAIRMAN SCALZO: Very good. Good luck. Thank you very much.

MR. JOHNSON: Have a nice holiday.

(Time noted: 9:02 p.m.)

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JEFFREY & BARBARA JOHNSON

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

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

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

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

IN WITNESS WHEREOF, I have hereunto
set my hand this 29th day of November 2020.

Michelle Conero

MICHELLE CONERO