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

----- X

In the Matter of

NANCY MUNOZ

3 Dusty Drive, Wallkill
Section 3; Block 1; Lot 16.21
AR Zone

----- X

Date: November 26, 2019
Time: 7:00 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: DARRIN SCALZO, Chairman
JOHN MCKELVEY
RICHARD LEVIN
JOHN MASTEN
ANTHONY MARINO
DARRELL BELL
PETER OLYMPIA

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

----- X

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

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NANCY MUNOZ

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

The procedure of the Board is that the applicant will be called upon to step forward, state their request and explain why it should be granted. The Board will then ask the applicant any questions it may have, and then any questions or comments from the public will be entertained. After all of the public hearings have been completed, the Board may adjourn to confer with Counsel regarding any legal questions it may have. The Board will then consider the applications in the order heard and will try to render a decision this evening but may take up to 62 days to reach a determination.

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

Roll call, please.

MS. JABLESNIK: Darrell Bell.

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NANCY MUNOZ

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MR. BELL: Here.

MS. JABLESNIK: Richard Levin.

MR. LEVIN: Here.

MS. JABLESNIK: Anthony Marino.

MR. MARINO: Here.

MS. JABLESNIK: John Masten.

MR. MASTEN: Here.

MS. JABLESNIK: John McKelvey.

MR. MCKELVEY: Here.

MS. JABLESNIK: Peter Olympia.

MR. OLYMPIA: Here.

MS. JABLESNIK: Darrin Scalzo.

CHAIRMAN SCALZO: Present.

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

CHAIRMAN SCALZO: Thank you very
much.

If you could all please rise for the
Pledge.

Mr. McKelvey, if you would.

(Pledge of Allegiance.)

CHAIRMAN SCALZO: Before we actually

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NANCY MUNOZ

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start the formal meeting, anyone that is here for the application of Nancy Munoz at 3 Dusty Drive, Wallkill, they have asked for a deferment to next month. The public hearing will remain open provided the Board votes that way. You will not be re-noticed for that application.

If the Board is so inclined, I need a motion and a second.

MR. DONOVAN: To hold the hearing until December 26th.

MR. OLYMPIA: I'll make that motion.

MR. MCKELVEY: Second.

CHAIRMAN SCALZO: We have a motion from Mr. Olympia. We have a second from Mr. McKelvey. 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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NANCY MUNOZ

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MS. JABLESNIK: Mr. McKelvey?

MR. MCKELVEY: Yes.

MS. JABLESNIK: Mr. Olympia?

MR. OLYMPIA: Yes.

MS. JABLESNIK: Mr. Scalzo?

CHAIRMAN SCALZO: Yes.

The public hearing will remain open.

You will not be re-noticed.

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

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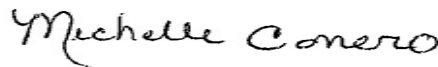
C E R T I F I C A T I O N

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 4th day of December 2019.



MICHELLE CONERO

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

----- X

In the Matter of

EMMA GASPARINI

125 Mill Street, Wallkill
Section 2; Block 1; Lot 64
RR Zone

----- X

Date: November 26, 2019
Time: 7:03 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: DARRIN SCALZO, Chairman
JOHN MCKELVEY
RICHARD LEVIN
JOHN MASTEN
ANTHONY MARINO
DARRELL BELL
PETER OLYMPIA

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

----- X

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EMMA GASPARINI

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CHAIRMAN SCALZO: Also asking for a
deferment from this meeting is the
application of Emma Gasparini, 125 Mill
Street, Wallkill.

What's the pleasure of the Board?
Do you want to extend that?

MR. McKELVEY: I'll make a motion
to extend it.

MR. BELL: I'll second it.

CHAIRMAN SCALZO: I have a motion from
Mr. McKelvey and a second from 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.

MS. JABLESNIK: Mr. McKelvey?

MR. McKELVEY: Yes.

MS. JABLESNIK: Mr. Olympia?

MR. OLYMPIA: Yes.

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EMMA GASPARINI

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MS. JABLESNIK: Mr. Scalzo?

CHAIRMAN SCALZO: Yes.

It shall remain open. No one in attendance will be re-noticed.

(Time noted: 7:05 p.m.)

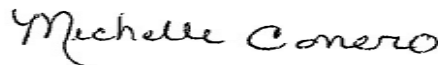
C E R T I F I C A T I O N

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 4th day of December 2019.



MICHELLE CONERO

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

----- X

In the Matter of

MARIA CHACHA

1879 Route 300, Newburgh
Section 13; Block 2; Lot 15
R-1 Zone

----- X

Date: November 26, 2019
Time: 7:05 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: DARRIN SCALZO, Chairman
JOHN McKELVEY
RICHARD LEVIN
JOHN MASTEN
ANTHONY MARINO
DARRELL BELL
PETER OLYMPIA

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

----- X

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MARIA CHACHA

11

CHAIRMAN SCALZO: The final one that is going to ask for a deferment is the application of Maria Chacha.

If I could get a motion from the Board.

MR. OLYMPIA: I'll make a motion to hold it over.

MR. BELL: I'll second it.

CHAIRMAN SCALZO: We had a motion from Mr. Olympia. We had a second from Mr. Bell.

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.

MS. JABLESNIK: Mr. McKelvey?

MR. MCKELVEY: Yes.

MS. JABLESNIK: Mr. Olympia?

MR. OLYMPIA: Yes.

MS. JABLESNIK: Mr. Scalzo?

CHAIRMAN SCALZO: Yes.

MR. MARINO: Darrin, what is the date?

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MARIA CHACHA

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CHAIRMAN SCALZO: The day after
Christmas. It's the 26th.

MR. MARINO: I won't be here. I travel.

CHAIRMAN SCALZO: I agree with you.
That's why I'm hoping it's a quick, fly-through
kind of meeting. However, that is our schedule.
It's the fourth Thursday of the month.

MR. MASTEN: What was held over?

CHAIRMAN SCALZO: Three of them, Munoz,
Gasparini and Chacha.

Chacha does not appear on your agenda
sheet, however it did remain open from last
month.

(Time noted: 7:08 p.m.)

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

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set my hand this 4th day of December 2019.

Michelle Conero

MICHELLE CONERO

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

----- X

In the Matter of

FIRST PRESTIGE PROPERTIES

5306 Route 9W, Newburgh
Section 23; Block 2; Lot 1
B Zone

----- X

Date: November 26, 2019
Time: 7:08 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: DARRIN SCALZO, Chairman
JOHN MCKELVEY
RICHARD LEVIN
JOHN MASTEN
ANTHONY MARINO
DARRELL BELL
PETER OLYMPIA

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

APPLICANT'S REPRESENTATIVE: ANTHONY COPPOLA

----- X

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CHAIRMAN SCALZO: Therefore, our first applicant this evening is First Prestige Properties, 5306 Route 9W in Newburgh. They're seeking a use variance to install logo, lettering and lighting on the gasoline and diesel canopies. This use is not permitted or addressed for gasoline filling stations.

Siobhan, mailings?

MS. JABLESNIK: This applicant sent out 26 letters. They also were sent to the County and we have not received it.

CHAIRMAN SCALZO: We have not received anything back from the County. Okay.

Before we begin, I see the applicant standing in front of me, I will have to let you know that according to General Municipal Law 239 we are unable to render a decision this evening until we hear back from the County. Since you are here we would love to hear your presentation, that way we can streamline the process at our next meeting.

MR. COPPOLA: I'll introduce myself first. My name is AJ Coppola, I'm the project architect. I'm here with Frank Hessari.

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We have two applications on the agenda tonight, two service stations, one on 9W, which is this one, and the second one on Route 52.

This is very straightforward. It's basically just a re-working of an existing pylon sign and the canopy that's over the pump tanks. We applied for a building permit and we were denied in the summer.

Basically over that first -- there are a couple of things that are going to be changed on the new signage. One is the logo. There's an existing Valero logo but we're adding a V. That's going to be changed on the canopy sign. There's going to be LED lighting that's going to be added on the canopy sign, too. Then the pylon sign is basically, again not changing in size but just changing the configuration of the sign.

All of these -- I was actually surprised this was a use variance.

CHAIRMAN SCALZO: As am I.

MR. DONOVAN: As was I.

CHAIRMAN SCALZO: Thank you, David.

MR. DONOVAN: Which leads to Mr. Canfield.

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2 MR. CANFIELD: If I may. Although it's
3 listed as not permitted, I think Mr. Mattina
4 correctly listed it. However, the reason why it's
5 not permitted is when the Town redid the signage
6 ordinance, which was approved in April of 2018,
7 unknown to them the canopy signage which was
8 previously permitted in the previous sign
9 ordinance was omitted.

10 I have spoken with some of the Board
11 Members -- the Council Members about it, and
12 Counsel for the Town. It is going to be
13 re-examined, as well as a number of other items
14 in the Zoning Board section of the Code. So to
15 say it's a use variance technically I believe is
16 correct, however the reason why it's a use
17 variance is that it was not the intention of the
18 Board to omit the signage on canopies. As you're
19 well aware, every station in the Town of Newburgh
20 has signage on the canopies. The reason why that
21 use variance is there -- the actual paperwork
22 that was processed listed it as an area variance,
23 which may be the case because of the 75 square
24 feet. It may or may not be a use variance.

25 MR. DONOVAN: If I could just weigh in

1
2 for a second. What I did is I pulled out the
3 definitions. The State law use variance shall
4 mean the authorization by the ZBA for the use of
5 land for a purpose which is otherwise not allowed
6 or is prohibited, whereas an area variance is
7 defined as the authorization by the ZBA for use
8 of land in a manner which is not allowed by the
9 dimensional or physical requirements of the
10 applicable zoning regulations.

11 Signs are allowed. The State law --
12 McKinney's is the publisher. They have what are
13 called commentaries. Right under Section 267-B of
14 the New York State Town Law is a dissertation on
15 the type of variance. I only bring that up
16 because the leading case that they cite is a case
17 that should be familiar to all of us, which is
18 Route 17K Real Estate, LLC v the Zoning Board of
19 Appeals of the Town of Newburgh. If you recall,
20 that was the case that said we have a hotel that
21 didn't have it's access on a State or County
22 highway but on an interior road. The code
23 requirement is it has to have access to a State
24 or County road. The objector indicated it needed
25 to be a use variance. We treated it as an area

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2 variance because the underlying use of the hotel
3 was permitted. We were sustained. The Supreme
4 Court upheld the decision of the Court of
5 Appeals. I point that out, kudos to the Newburgh
6 ZBA, A. B, signs are allowed. It's just this type
7 of sign is not allowed. I would view this as an
8 area variance, not as a use variance.

9 MR. CANFIELD: I agree. The use of
10 signage is permitted. It's a B Zone. It's a
11 commercial zone. I don't believe that's the
12 question at all. It's just the section of the
13 requirements that regulate the size, the style,
14 the type and lighting scheme are basically all
15 area variance requirements.

16 CHAIRMAN SCALZO: Thank you, Jerry.

17 Hearing what Dave just quoted out of
18 the law and what you had said, that you had
19 discussions with the Town Board and the Town
20 supervisor regarding this, and we can not vote on
21 this application this evening, could I look to
22 you for your office to provide a memorialization
23 that you had discussed this with the Town Board?

24 MR. CANFIELD: Absolutely.

25 CHAIRMAN SCALZO: We'll go from there.

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Even if the Town Board has not met and made a determination on this by the time we see the applicant next month, I feel we can still move forward with that.

MR. CANFIELD: You're looking for?

CHAIRMAN SCALZO: Just a memo that says you met with the Town Board and they are going to revisit it.

MR. CANFIELD: Is it the Board's position to agree this is an area variance?

CHAIRMAN SCALZO: I would agree.

I'll look to the Members of the Board.

(Board Members nodding.)

CHAIRMAN SCALZO: Michelle, everyone is nodding.

MR. CANFIELD: Dave, does that need some type of a vote?

MR. DONOVAN: I think you're asking for confirmation by communication.

MR. CANFIELD: With respect to it is an area, not a use variance.

MR. COPPOLA: We actually filled out the area variance. I never even thought it was a use variance. We just went right to that section

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of your application.

MR. DONOVAN: Let me ask you, Jerry. Technically speaking, we sit in review of the Code Compliance. Do you wish to revisit the issue with your office and then come back to us and say whether it's a --

MR. CANFIELD: I'm comfortable it's an area variance, again based on the definitions which I don't have access to that I did.

MR. DONOVAN: We lawyers keep the secrets to ourselves.

MR. CANFIELD: It further convinces me that yes, I would be comfortable that it's an area variance.

MR. DONOVAN: I think we have consensus on the issue.

MR. COPPOLA: Thank you for that clarification.

Again, just a couple of quick points. Again, we are not increasing the size of the pylon sign. We are not increasing the size of the canopy. It's just the configuration, and the lighting, and the orientation of the display.

I just want to mention two other

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things. Frank and his team have been at this location for 33 years. We were part of a project in 2000 when he renovated this location. That was I think the first project we did with Frank. It received a variance, I think in 2002 --

MR. HESSARI: 2001.

MR. COPPOLA: -- 2001 as part of that original work. We had asked Code Enforcement if that had any bearing on this and they said no. We did make it part of the record.

I think that's my presentation for this.

CHAIRMAN SCALZO: Thank you very much. I myself have no questions.

I'll look to the Members of the Board. Mr. Bell?

MR. BELL: I'm good.

MR. OLYMPIA: I'm fine.

MR. McKELVEY: He answered all of mine.

MR. LEVIN: He answered everything.

MR. MASTEN: No.

MR. MARINO: No.

CHAIRMAN SCALZO: Very good. Are there any members of the public here to speak about

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this application?

(No response.)

CHAIRMAN SCALZO: Hearing none, I'll look back to the Board for a motion to maintain the public hearing as open.

MR. BELL: I'll make that motion.

MR. MASTEN: I'll second it.

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

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.

MS. JABLESNIK: Mr. McKelvey?

MR. MCKELVEY: Yes.

MS. JABLESNIK: Mr. Olympia?

MR. OLYMPIA: Yes.

MS. JABLESNIK: Mr. Scalzo?

CHAIRMAN SCALZO: Yes.

Very good. Thank you. The public

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hearing shall remain open until the December 26th meeting.

MR. COPPOLA: County Planning has been noticed --

CHAIRMAN SCALZO: Right.

MR. COPPOLA: -- for the 30 days? That letter went out already?

MS. JABLESNIK: The letter went out. Unfortunately your office didn't submit until the last day, my cut off. I sent it out on the 13th.

CHAIRMAN SCALZO: They're allowed 30 days.

MR. COPPOLA: One month. December 13th and then --

CHAIRMAN SCALZO: They're usually pretty good about the 30 days. 13, not so much.

MR. COPPOLA: Thank you very much.

(Time noted: 7:21 p.m.)

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I further certify that I am not
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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

SOUTH PLANK HOLDINGS, LLC

209 South Plank Road, Newburgh
Section 60; Block 3; Lot 2
B Zone

----- X

Date: November 26, 2019
Time: 7:21 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: DARRIN SCALZO, Chairman
JOHN McKELVEY
RICHARD LEVIN
JOHN MASTEN
ANTHONY MARINO
DARRELL BELL
PETER OLYMPIA

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

APPLICANT'S REPRESENTATIVE: ANTHONY COPPOLA

----- X

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CHAIRMAN SCALZO: Our next applicant this evening is South Plank Holdings, LLC at 209 South Plank Road, Newburgh. They're seeking a use variance to install logo, lettering and lighting on the canopy. This use is not permitted or addressed for gasoline filling stations.

Mr. Coppola, I'm assuming your presentation is going to be nearly identical --

MR. COPPOLA: Yes.

CHAIRMAN SCALZO: -- to your previous one.

MR. COPPOLA: It will be identical. Again, the same proposal here. It's a reconfiguration of the pylon sign and reconfiguration of the canopy. We're adding a logo at the canopy, adding LED lighting at the canopy, one on each side, and then reconfiguring the display on the pylon. The pylon sign is not increasing and neither is the canopy sign. It's basically a very similar configuration to what is being proposed on 9W.

Frank, you've been in this location for 10 years?

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MR. HESSARI: Less.

MR. COPPOLA: Just under 10 years. We were part of the project when it was renovated 8 years ago I think. We're really proud of that location.

CHAIRMAN SCALZO: It looks fantastic. Absolutely.

MR. COPPOLA: Do you remember what was there?

CHAIRMAN SCALZO: I do. I do.

Actually, let me back you up for one moment. I missed my mark.

Siobhan, mailings on this one?

MS. JABLESNIK: There were 22 letters that went out.

CHAIRMAN SCALZO: Very good. Thank you. And published?

MS. JABLESNIK: Yes. The Mid-Hudson Times and The Orange County Post.

CHAIRMAN SCALZO: Very good.

I'll look to the Members of the Board. Any questions on this application?

MR. BELL: No.

MR. LEVIN: No.

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MR. McKELVEY: No.

MR. MASTEN: No.

MR. MARINO: No.

CHAIRMAN SCALZO: I'll open it up to any members of the public here to speak about this application?

(No response.)

CHAIRMAN SCALZO: Hearing none, I'll look back to the Board to hold the public hearing open until we hear back from Orange County.

MR. BELL: I'll make a motion that we hold the public hearing open.

MR. MASTEN: I'll second it.

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

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.

MS. JABLESNIK: Mr. McKelvey?

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MR. McKELVEY: Yes.

MS. JABLESNIK: Mr. Olympia?

MR. OLYMPIA: Yes.

MS. JABLESNIK: Mr. Scalzo?

CHAIRMAN SCALZO: Yes.

The public hearing shall remain open.

We'll see you December 26th.

MR. COPPOLA: Thank you very much.

Enjoy your holiday.

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

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

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

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

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

IN WITNESS WHEREOF, I have hereunto
set my hand this 4th day of December 2019.

Michelle Conero

MICHELLE CONERO

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

----- X

In the Matter of

FRANCO & KATHLEEN SAIANO

722 Route 32, Wallkill
Section 4; Block 2; Lot 39.41
RR Zone

----- X

Date: November 26, 2019
Time: 7:25 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: DARRIN SCALZO, Chairman
JOHN MCKELVEY
RICHARD LEVIN
JOHN MASTEN
ANTHONY MARINO
DARRELL BELL
PETER OLYMPIA

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

APPLICANT'S REPRESENTATIVE: FRANCO SAIANO

----- X

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

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CHAIRMAN SCALZO: We are moving on at this point to an applicant that was held open from the October 24th meeting, Franco and Kathleen Saiano, 722 Route 32, Wallkill, seeking an area variance to install a 12 by 30 foot accessory building with an existing 816 square feet where 1,000 is the maximum allowed.

This, as I mentioned, was held open from the October meeting. We had discussion during that meeting. The public hearing needed to remain open because we had not heard back from Orange County.

Siobhan, have we heard back?

MS. JABLESNIK: I received a letter back.

CHAIRMAN SCALZO: The letter recommended a Local determination?

MS. JABLESNIK: Yes.

CHAIRMAN SCALZO: I have no additional questions.

I'll look to the Board for one last opportunity?

(No response.)

CHAIRMAN SCALZO: Are there any members

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of the public here to speak about this application?

(No response.)

CHAIRMAN SCALZO: Hearing none, I'll look to the Board for a motion to close the public hearing.

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

MR. MARINO: I'll second it.

CHAIRMAN SCALZO: We have a motion from Mr. McKelvey. Mr. Marino finally got his second in that's he's been trying to. 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.

MS. JABLESNIK: Mr. McKelvey?

MR. McKELVEY: Yes.

MS. JABLESNIK: Mr. Olympia?

MR. OLYMPIA: Yes.

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MS. JABLESNIK: Mr. Scalzo?

CHAIRMAN SCALZO: Yes.

The public hearing is closed. We'll do our best to render a determination this evening.

MR. SAIANO: Thank you.

(Time noted: 7:27 p.m.)

(Time resumed: 7:35 p.m.)

CHAIRMAN SCALZO: The only thing that we have to revisit this evening is Frank and Kathleen Saiano, 722 Route 32.

Dave, as far as I can recall, this is a Type 2 action under SEQRA.

MR. DONOVAN: That is correct.

CHAIRMAN SCALZO: We're going to go through the area variance criteria and discuss the five factors we are weighing, the first one being whether or not the benefit can be achieved by other means feasible to the applicant.

MR. McKELVEY: I don't think so.

CHAIRMAN SCALZO: Second, if there's an undesirable change in the neighborhood character or a detriment to nearby properties. It really doesn't have neighbors that can see what's going on there.

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The third, whether the request is substantial. I really don't think so. It's back behind the canopy.

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

Fifth, whether the alleged difficulty is self-created. This is relevant but not determinative. Of course it's self-created, however I don't think that should be a factor in our determination of whether to approve or not to approve the variance.

Going through the balancing test of the area variance, what is the pleasure of the Board? Do we have a motion of some sort?

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

MR. MASTEN: Second.

CHAIRMAN SCALZO: We have a motion to approve from Mr. Bell. We have a multitude of seconds but I'll go with Mr. Masten in this case.

MS. JABLESNIK: Mr. Bell?

MR. BELL: Yes.

MS. JABLESNIK: Mr. Levin?

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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. Olympia?

MR. OLYMPIA: Yes.

MS. JABLESNIK: Mr. Scalzo?

CHAIRMAN SCALZO: Yes.

The motion is carried. The variances
are approved.

(Time noted: 7:37 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
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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 4th day of December 2019.

Michelle Conero

MICHELLE CONERO

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

----- X
In the Matter of

DANIEL DARRIGO AS TRUSTEE OF THE
FRANK DARRIGO REVOKABLE TRUST

84 Lakeside Road, Newburgh
Section 86; Block 1; Lot 96
R-1 Zone

----- X

Date: November 26, 2019
Time: 7:27.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: JOHN McKELVEY, Acting Chairman
RICHARD LEVIN
JOHN MASTEN
ANTHONY MARINO
DARRELL BELL
PETER OLYMPIA

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

APPLICANT'S REPRESENTATIVE: JEFFREY LEASE

----- X

MICHELLE L. CONERO
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CHAIRMAN SCALZO: Our next applicant was also held open from the October 24, 2019 meeting. It's the Daniel Darrigo as Trustee of the Frank Darrigo Revokable Trust, 84 Lakeside Road, Newburgh. They're seeking a use variance for Section 185-83, solar farms shall be located in an industrial district, to build a solar farm in a residential district.

I am going to step away from this application. Mr. McKelvey, if you could take over please.

MR. MCKELVEY: Okay.

MR. LEASE: I'm Jeff Lease and I'm representing the Frank Darrigo Revokable Trust in this application. We made a presentation last month. This application is essentially the same as the one presented a year ago. We were waiting, I believe, for a County letter of determination.

MR. MCKELVEY: We're also waiting -- Jerry, you visited the property?

MR. CANFIELD: Yes. The Code Compliance Department did visit the property. Mr. Lease has provided us with very helpful documentation and pictures. Joe Mattina and myself did a site

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DANIEL DARRIGO

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inspection. Mr. Darrigo was present.

What we discovered is that there were two separate businesses basically on the property, one being the farm, although there's a lot of ancillary or accessory equipment on the property that is accessory to the farm and is permitted per the farming requirements. The one other business that was there was a landscaping business. That's it. The other business that was there, the haunted house, --

MR. LEASE: Terror Dome.

MR. CANFIELD: -- is no longer in use. It wasn't used this year.

There are several accessory buildings totaling 14,480 square feet of accessory space which may need area variances from the Zoning Board, from you folks.

In speaking with Mr. Lease and Mr. Darrigo, they're willing to cooperate and file for the necessary area variances.

I should state that these items will also come up at the Planning Board stage during the site plan.

There are some other non-conformities

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DANIEL DARRIGO

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that they will lose once the site plan is applied for, which it has been. They will lose their existing nonconforming protection. Again, Mr. Lease and Mr. Darrigo are willing to address those issues.

MR. McKELVEY: Thanks, Jerry.

MR. LEASE: I don't have anything to add to the presentation that I made last month. If there are any questions I can answer.

MR. McKELVEY: Any questions, Mr. Bell?

MR. BELL: None.

MR. OLYMPIA: None.

MR. LEVIN: I do have one question. I drive by all the time and I see you have a sign for sale. What actually is for sale?

MR. LEASE: It wasn't for sale. It says available. We were looking for some type of a land lease on the property. Initially we looked to try to sell the property but then the Darrigos decided that they didn't want to part with the property, they really wanted to lease it. I then went to the Town to see if we could swap the property into the neighboring industrial or interchange business zone -- Gil said there was

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very little opportunity for that to happen --
because we were looking for some kind of
commercial use on the property. At the same time
the solar farm people started to court us, and so
we saw a rental opportunity possibly there.
That's what's occurred. I left the sign up to be
-- just, you know, if there's a balance of the
property that's still there. We haven't gotten
approval yet so I just left the sign up.

MR. McKELVEY: John?

MR. MASTEN: I don't have anything.

MR. MARINO: I'm good with it.

MR. LEASE: With your kind permission,
I went to the Planning Board last Thursday and
met with them and exposed them to the project.

MR. McKELVEY: You mentioned you were
going to do that.

MR. LEASE: Yes. Thank you.

MR. McKELVEY: Is there anybody from
the audience?

(No response.)

MR. McKELVEY: Once again I'll go to
the Board?

MR. BELL: I'm good.

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DANIEL DARRIGO

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MR. MARINO: Do we have to wait for you to hear back from the Planning Board for any reason, or that's not affecting --

MR. DONOVAN: Siobhan, we've heard from the County?

MS. JABLESNIK: Yes. I received a letter back.

MR. DONOVAN: Local determination?

MS. JABLESNIK: Yes.

MR. DONOVAN: We do not have to wait for the Planning Board. In fact, the Planning Board has to wait for us essentially.

MR. McKELVEY: He mentioned if he could just go and mention it to the Planning Board.

MR. LEASE: Yes. Thank you.

MR. DONOVAN: If it's the Board's pleasure, what would be in order would be a motion to close the public hearing.

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

MR. BELL: I'll second it.

CHAIRMAN SCALZO: Motion by Mr. Levin and a second by Mr. Bell.

MS. JABLESNIK: Mr. Bell?

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DANIEL DARRIGO

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MR. BELL: 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. Olympia?

MR. OLYMPIA: Yes.

CHAIRMAN SCALZO: Does anyone from the Board feel as though we need to take a short moment to confer with Counsel?

MR. LEVIN: I'll make a motion to waive it.

CHAIRMAN SCALZO: I don't think we have to do that. What we're going to do is just go ahead and continue.

(Time noted: 7:35 p.m.)

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

CHAIRMAN SCALZO: The other is the Daniel Darrigo as Trustee of the Frank Darrigo Revokable Trust, 84 Lakeside Road, seeking a use

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DANIEL DARRIGO

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variance for 185-83, solar farm shall be located in an industrial district, to build a solar farm in a residential district.

I will call it all out but I will abstain from the voting.

MR. DONOVAN: Mr. Chairman, just a suggestion. If the Board is so inclined -- you did this before. You did this back on June 28, 2018. If the Board is inclined, make a motion to readopt that decision.

MR. LEVIN: I'll make a motion to readopt that decision.

MR. OLYMPIA: Second.

CHAIRMAN SCALZO: We had a motion from Mr. Levin. It sounded like we had a second from Mr. Olympia.

MR. MARINO: What was that decision?

MR. LEVIN: To approve it.

CHAIRMAN SCALZO: Mr. Marino, are you clear now?

MR. MARINO: I'm perfectly clear.

CHAIRMAN SCALZO: Roll call.

MS. JABLESNIK: Mr. Bell?

MR. BELL: Yes.

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DANIEL DARRIGO

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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. Olympia?

MR. OLYMPIA: Yes.

CHAIRMAN SCALZO: Motion carried. The use variance is approved again.

I believe that concludes all the Board business on the agenda. Does anyone have any other business they'd like to discuss other than the approval of the previous meeting minutes?

(No response.)

CHAIRMAN SCALZO: May I have a motion for approval of the meeting minutes?

MR. BELL: I'll make a motion for approval of the minutes of the last meeting.

MR. OLYMPIA: Second.

CHAIRMAN SCALZO: We have a motion from Mr. Bell and a second from Mr. Olympia. All in

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DANIEL DARRIGO

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favor?

MR. BELL: Aye.

MR. OLYMPIA: Aye.

MR. McKELVEY: Aye.

MR. LEVIN: Aye.

MR. MASTEN: Aye.

MR. MARINO: Aye.

CHAIRMAN SCALZO: Aye.

(Time noted: 7:41 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
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I further certify that I am not
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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 4th day of December 2019.

Michelle Conero

MICHELLE CONERO

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

----- X
In the Matter of

- 1. ZONING BOARD OF APPEALS REAPPOINTMENTS
- 2. ZONING BOARD OF APPEALS TRAINING SESSIONS

----- X

BOARD BUSINESS

Date: November 26, 2019
Time: 7:41 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: DARRIN SCALZO, Chairman
JOHN McKELVEY
RICHARD LEVIN
JOHN MASTEN
ANTHONY MARINO
DARRELL BELL
PETER OLYMPIA

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

----- X

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

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MR. BELL: I turned in my letter the other day for an additional year.

CHAIRMAN SCALZO: That actually is something -- very good. Before we close the meeting, we have three members, I understand, that their terms are up at the end of this year. If you're going to ask for a continued appointment to the Board, please get those letters in order.

I was contacted by the Town Clerk. The Town Clerk had asked me if we were all up on our training. Rather than pull you all to ask you if you're up on your training, I'm going to remind you that we have training. Typically we can pick up a lot of the training from the County Planning Department.

MR. BELL: Is this the one we go to together out in Goshen?

CHAIRMAN SCALZO: We can go together, we can go apart.

MR. BELL: It was in the evening time.

CHAIRMAN SCALZO: Yes.

MR. DONOVAN: It was really good.

MR. BELL: The one I keep seeing is in

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the daytime and that doesn't work for my
schedule.

MR. OLYMPIA: Are there a certain
number of hours required?

CHAIRMAN SCALZO: Four.

MR. DONOVAN: And you can carry over.

CHAIRMAN SCALZO: I just wanted to
remind you Members of the Board that we are
required --

MR. MARINO: How can we find out if we
need the hours? I attended a session here. I
spent about two hours.

CHAIRMAN SCALZO: If you get those four
hours per year, I don't believe there's any
certificate received. I believe it's on the honor
system.

MR. DONOVAN: I believe so.

CHAIRMAN SCALZO: Very good. That was
all I had.

May I have a motion to adjourn?

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

MR. LEVIN: I'll second.

CHAIRMAN SCALZO: I thought Mr. Marino

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BOARD BUSINESS

made that motion. I'll say Mr. Levin was the
second. All in favor?

MR. BELL: Aye.

MR. OLYMPIA: Aye.

MR. McKELVEY: Aye.

MR. LEVIN: Aye.

MR. MASTEN: Aye.

MR. MARINO: Aye.

CHAIRMAN SCALZO: Aye.

Meeting adjourned.

(Time noted: 7:43 p.m.)

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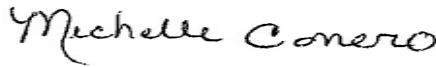
C E R T I F I C A T I O N

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 4th day of December 2019.



MICHELLE CONERO