

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

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

STEVEN MOREAU  
386 Lakeside Road, Newburgh  
Section 28; Block 1; Lot 17  
R-1 Zone

----- X

Date: December 22, 2022  
Time: 7:00 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, New York

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

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

APPLICANT'S REPRESENTATIVE: VERONICA McMILLAN

----- X

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

1 STEVEN MOREAU

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

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

24 Roll call, please.

25 MS. JABLESNIK: Darrell Bell is

1 STEVEN MOREAU

2 absent.

3 James Eberhart.

4 MR. EBERHART: Here.

5 MS. JABLESNIK: Robert Gramstad.

6 MR. GRAMSTAD: Here.

7 MS. JABLESNIK: Greg Hermance.

8 MR. HERMANCE: Here.

9 MS. JABLESNIK: John Masten.

10 MR. MASTEN: Here.

11 MS. JABLESNIK: Donna Rein is  
12 also absent.

13 Darrin Scalzo.

14 CHAIRMAN SCALZO: Here.

15 MS. JABLESNIK: Also present is  
16 our attorney, Dave Donovan. From  
17 Code Compliance we have Joseph  
18 Mattina. Our Stenographer this  
19 evening is Michelle Conero.

20 CHAIRMAN SCALZO: If we could  
21 all please rise for the Pledge.

22 (Pledge of Allegiance.)

23 CHAIRMAN SCALZO: Our first  
24 applicant this evening is also our  
25 second applicant this evening. We

1           S T E V E N   M O R E A U

2           have Steven Moreau, 386 Lakeside Road  
3           in Newburgh, seeking area variances  
4           of the maximum allowed square  
5           footage, height and lot building  
6           coverage to build a 24 by 24 by 18  
7           accessory building.

8                     Do we have mailings on this,  
9           Siobhan?

10                    MS. JABLESNIK: This applicant  
11           sent out thirty letters.

12                    CHAIRMAN SCALZO: Thirty letters.

13                    All right. So who do we have  
14           with us this evening?

15                    MS. McMILLAN: Good evening,  
16           Mr. Chairman. I'm Veronica McMillan  
17           and I represent the applicant, Steven  
18           Moreau, with regard to his variance  
19           application for 386 Lakeside Road.

20                    CHAIRMAN SCALZO: Very good.  
21           There were only two sentences that I  
22           discussed for what this is. Is there  
23           anything else that you'd like to add  
24           to what we --

25                    MS. McMILLAN: The Board has

1        S T E V E N   M O R E A U

2            some copies, color copies, of the  
3            renderings. As some of you might  
4            know, this was a previously fairly  
5            dilapidated structure that Mr. Moreau  
6            has been rehabilitating and cleaned  
7            up quite a bit, as you can see from  
8            the house.

9            It doesn't presently have any  
10           storage, which is really the need for  
11           the garage. The tenant on the  
12           property has had some issues that  
13           have had to be remedied because of  
14           many things being stored outside.  
15           It's really an effort to clean up the  
16           lot as a whole and make it a more  
17           beautiful site for the neighborhood  
18           overall. It's a very nice structure  
19           that Mr. Moreau is proposing to add  
20           to the property.

21           The second page of your handout  
22           is several different views of the  
23           garage itself. The roof in its  
24           current state does exceed the height  
25           limitations under the code. That's

1           S T E V E N   M O R E A U

2           one of the variances that is being  
3           requested.  It's about 7 square feet  
4           over the maximum lot coverage allowed  
5           in this zone because of the square  
6           footage of the house and the square  
7           footage of the detached garage.  
8           That's one of the area variances  
9           required for this quarter acre lot.

10                   The final rendering in your  
11           packet is the before and after layout  
12           of the lot itself.  You can see where  
13           the garage would be positioned behind  
14           the house.

15                   Again, just an overall effort  
16           to clean up the property as a whole  
17           and make it more presentable in the  
18           neighborhood.

19                   CHAIRMAN SCALZO:  Thank you  
20           very much.  I would agree.  It was  
21           certainly an eyesore before.

22                   I have to ask you one question,  
23           though.  You had mentioned regarding  
24           building coverage.  Our chart in  
25           front of us says the variance being

1 STEVEN MOREAU

2 sought is 208 square feet.

3 MS. McMILLAN: For the maximum  
4 10 percent coverage?

5 CHAIRMAN SCALZO: Joe Mattina,  
6 can you help us out?

7 MR. MATTINA: It's 10 percent.  
8 They're allowed 1,120 and they are  
9 proposing 1,320, so 208 square feet  
10 which is 3.5 percent over -- 8.5  
11 percent over.

12 CHAIRMAN SCALZO: 18.5 percent  
13 over is what your chart says.

14 MR. DONOVAN: You should put  
15 those glasses on, Joe.

16 MR. MATTINA: It's 18 percent  
17 over what is permitted.

18 CHAIRMAN SCALZO: Very good. I  
19 was pretty sure of that but I  
20 wanted --

21 MS. McMILLAN: It's entirely  
22 possible that there's a reason why  
23 I'm a lawyer and not an accountant.  
24 It's entirely possible my math is  
25 wrong. The County records have the

1           STEVEN MOREAU

2           square footage of the first floor as  
3           520. The square footage of the  
4           footprint of the garage is 576. The  
5           building code enforcement officer --  
6           it's over. It's a question of how  
7           much.

8           CHAIRMAN SCALZO: Very good.  
9           Okay. Thank you very much.

10          Mr. Moreau, do you have  
11          anything to add to that?

12          MR. MOREAU: No.

13          CHAIRMAN SCALZO: Very good.

14          At this point I am going to  
15          look to any Members of the Board for  
16          comment here. I'll start with Mr.  
17          Gramstad.

18          MR. GRAMSTAD: Nothing. I went  
19          to the site and I saw, you know,  
20          you're doing a lot of work on the  
21          house. It's been fixed up. No  
22          comments right now.

23          CHAIRMAN SCALZO: Very good.

24          Mr. Eberhart?

25          MR. EBERHART: The same here.



1           S T E V E N   M O R E A U

2           I took a look at the property.

3                   CHAIRMAN SCALZO:  It will look  
4           great.  The house next door is  
5           relatively new, so hopefully --  
6           again, it's one of the more  
7           dilapidated properties in the area.  
8           It's certainly an improvement.

9                   Mr. Hermance?

10                   MR. HERMANCE:  I agree.  It  
11           looks like it would improve the area.

12                   CHAIRMAN SCALZO:  My question  
13           really has nothing to do with  
14           anything that's about the variance.  
15           I did see on the survey that  
16           currently the driveway, if you're  
17           facing the house, the left edge  
18           encroaches on the neighbor.  Am I  
19           looking at it right?  Yeah.  It  
20           appears on the survey that was  
21           submitted with the application  
22           package, it looks like there's 3.3  
23           feet encroaching onto the neighbor.  
24           During this, should we get that far,  
25           can you clean that up?

1 STEVEN MOREAU

2 MR. MOREAU: Mm'hm'.

3 MS. McMILLAN: Yeah. I don't see  
4 an encroachment on this schematic,  
5 but the one you have may be different.

6 CHAIRMAN SCALZO: Yeah. This  
7 is the one we had to review, so this  
8 is all -- I haven't had a chance to  
9 really dig into what was submitted  
10 here. Mr. Moreau has just given  
11 testimony that he will clean it up.

12 MR. MOREAU: Yes. We plan to  
13 pave. We'll make sure, working with  
14 the Building Department, we properly  
15 keep within the boundaries that are  
16 required.

17 CHAIRMAN SCALZO: Very good.  
18 Okay. This differs slightly than  
19 what we were submitted. Both what  
20 you submitted shows existing and  
21 proposed being within. As I say, Mr.  
22 Moreau says he's going to clean this  
23 up. That's very good. That's my  
24 comment.

25 Mr. Masten?

1 STEVEN MOREAU

2 MR. MASTEN: I had no questions.

3 CHAIRMAN SCALZO: At this point  
4 I'm going to turn it over to any  
5 members of the public that wish to  
6 speak about this application for 386  
7 Lakeside Road. Anyone?

8 (No response.)

9 CHAIRMAN SCALZO: All right.  
10 I'm going to go back to the Board for  
11 one last opportunity.

12 (No response.)

13 CHAIRMAN SCALZO: Mr. Moreau,  
14 are you married to that -- obviously  
15 you're only looking for 3 additional  
16 feet for the building height. Do you  
17 have trusses coming in for that?

18 MR. MOREAU: That's the plan,  
19 to bring trusses in.

20 CHAIRMAN SCALZO: I understand  
21 why.

22 Okay. So at this point I'll  
23 look to the Board for a motion to  
24 close the public hearing.

25 MR. MASTEN: I'll make a motion

1 STEVEN MOREAU

2 to close the public hearing.

3 MR. GRAMSTAD: I'll second it.

4 CHAIRMAN SCALZO: We have a  
5 motion from Mr. Masten. We have a  
6 second, I think it was Mr. Gramstad.

7 MR. GRAMSTAD: Yes.

8 CHAIRMAN SCALZO: Very good.

9 All in favor?

10 MR. GRAMSTAD: Aye.

11 MR. EBERHART: Aye.

12 MR. HERMANCE: Aye.

13 MR. MASTEN: Aye.

14 CHAIRMAN SCALZO: Aye.

15 Those opposed?

16 (No response.)

17 CHAIRMAN SCALZO: All right.

18 Very good.

19 This is a Type 2 action under  
20 SEQRA, Counsel?

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

23 CHAIRMAN SCALZO: Thank you,  
24 sir.

25 At this point we're going to go

1           S T E V E N   M O R E A U

2           through our balancing test here, the  
3           five factors we're weighing, the  
4           first one being whether or not the  
5           benefit can be achieved by other  
6           means feasible to the applicant. In  
7           this case the benefit can be  
8           achieved. Everybody needs more  
9           storage. I know I would. I would  
10          kill for a two-car garage. I only  
11          have one at my house.

12                    Second, if there's an  
13           undesirable change in the  
14           neighborhood character or a detriment  
15           to nearby properties.

16                    MR. GRAMSTAD: No.

17                    MR. EBERHART: No.

18                    MR. HERMANCE: No.

19                    MR. MASTEN: No.

20                    CHAIRMAN SCALZO: It does not  
21           appear so.

22                    The third, whether the request  
23           is substantial. You know, it's kind  
24           of a bowling alley of a lot, and it's  
25           not that large. There's well and

1           S T E V E N   M O R E A U

2           septic out there. Correct? I'm  
3           sorry. Is it well and sewer? You  
4           have Town sewer out there?

5                   MR. MOREAU: It is water and  
6           sewer Town.

7                   CHAIRMAN SCALZO: Water and  
8           sewer Town. Very good. Thank you.

9                   Third, whether the request is  
10          substantial. I think we hit that.  
11          We didn't appear to think so.

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

15                   MR. GRAMSTAD: No.

16                   MR. EBERHART: No.

17                   MR. HERMANCE: No.

18                   MR. MASTEN: No.

19                   CHAIRMAN SCALZO: No.

20                   The fifth, whether the alleged  
21          difficulty is self-created which is  
22          relevant but not determinative. Of  
23          course it's self-created. You could  
24          not put up the garage.

25                   So having gone through the

1 STEVEN MOREAU

2 balancing test of the area variance,  
3 what is the pleasure of the Board?

4 MR. GRAMSTAD: I'll make a  
5 motion to approve the variance.

6 MR. EBERHART: Second.

7 CHAIRMAN SCALZO: We have a  
8 motion for approval from Mr. Gramstad.  
9 We have a second from Mr. Eberhart.  
10 I'm going to make you roll on that,  
11 Siobhan.

12 MS. JABLESNIK: Mr. Eberhart?

13 MR. EBERHART: Yes.

14 MS. JABLESNIK: Mr. Gramstad?

15 MR. GRAMSTAD: Yes.

16 MS. JABLESNIK: Mr. Hermance?

17 MR. HERMANCE: Yes.

18 MS. JABLESNIK: Mr. Masten?

19 MR. MASTEN: Yes.

20 MS. JABLESNIK: Mr. Scalzo?

21 CHAIRMAN SCALZO: Yes.

22 There it is. The motion is  
23 approved. The variances are granted.

24 MS. McMILLAN: Thank you.

25 MR. MOREAU: Thank you.

1       S T E V E N   M O R E A U

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

3

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

5

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

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

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

16               IN WITNESS WHEREOF, I have hereunto  
17       set my hand this 7th day of January 2023.

18

19

20

21

22

23

24

25

---

MICHELLE CONERO



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

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

STEVEN MOREAU  
381 Lakeside Road, Newburgh  
Section 33; Block 1; Lot 15  
R-1 Zone

----- X

Date: December 22, 2022  
Time: 7:11 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, New York

BOARD MEMBERS: DARRIN SCALZO, Chairman  
JAMES EBERHART, JR.  
ROBERT GRAMSTAD  
GREGORY M. HERMANC  
JOHN MASTEN

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

APPLICANT'S REPRESENTATIVE: JONATHAN MILLEN  
and VERONICA McMILLAN

----- X

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

1           S T E V E N   M O R E A U

2                   CHAIRMAN SCALZO:  Our second  
3           applicant this evening is the same as  
4           our first applicant this evening,  
5           Steven Moreau, although this one is  
6           across the street, 381 Lakeside Road.  
7           This is a Planning Board referral for  
8           area variances of the minimum lot  
9           area, one side yard, the combined  
10          side yards, minimum lot width and  
11          maximum impervious surface for lot  
12          number 1, and area variances of the  
13          minimum lot area and lot width for  
14          lot 2 for a proposed two-lot subdivision.

15                  Siobhan, do we have mailings on  
16          this?

17                  MS. JABLESNIK:  This applicant  
18          also had thirty.

19                  CHAIRMAN SCALZO:  Thirty.  
20          Okay.  Consistent.  All right.

21                  We recognize this fellow.  It's  
22          Mr. Moreau, for Michelle taking the  
23          stenography notes there.  We have  
24          Jonathan Millen who is standing by  
25          the easel.

1           S T E V E N   M O R E A U

2                   I only gave a short paragraph  
3           there on what we're talking about  
4           here, but please expand on that.

5                   This actually has some  
6           correspondence from neighbors as  
7           well. I don't know if you saw those  
8           on the website.

9                   MR. MILLEN:    I did.

10                  CHAIRMAN SCALZO:   We will  
11           possibly be addressing those later.

12                  MR. MILLEN:    Okay.

13                  CHAIRMAN SCALZO:   Perhaps those  
14           folks are here.   Mr. Millen or Mr.  
15           Moreau, take it away.

16                  MR. MILLEN:    Well, I would like  
17           to discuss the project now, just to  
18           quickly -- although I'm assuming  
19           everybody has read the project  
20           narrative.

21                  CHAIRMAN SCALZO:   Don't ever  
22           assume that, sir.   Not only that, the  
23           members of the public that are here  
24           would like to hear it.

25                  MR. MILLEN:    Everybody can't

1           STEVEN MOREAU

2           see it, but we're proposing  
3           subdividing the existing lot into two  
4           lots.

5                   CHAIRMAN SCALZO:  Mr. Millen,  
6           if I could.  Just hang on one second.  
7           At the Board we have -- you just  
8           handed us that.  Can you spin that,  
9           please, so the members of the public  
10          can see that as well?

11                   UNIDENTIFIED SPEAKER:  Mr.  
12          Chairman, is it possible he could  
13          speak into the mic?  It's difficult  
14          to hear.

15                   CHAIRMAN SCALZO:  Mr. Millen,  
16          if you could grab that microphone.

17                   MR. MILLEN:  Yes, I will.

18                   As I mentioned, the project  
19          entails subdividing this lot into  
20          these -- the existing lot is the  
21          second lot.  This particular lot has  
22          a number of aspects of it which don't  
23          meet the zoning requirements now.  
24          Already this particular lot does not  
25          meet the zoning requirement for the

1           S T E V E N   M O R E A U

2           side yard -- both side yards in fact,  
3           the minimum lot width, the minimum  
4           lot depth. The minimum/maximum  
5           impervious coverage is fine. The  
6           building height is fine. The  
7           building coverage is also fine.

8                     This particular subdivided or  
9           proposed lot does not meet the zoning  
10          requirements for only two items. One  
11          is the minimum lot width and the  
12          other one is the minimum lot size  
13          required.

14                    This parcel is currently being  
15          served by community water and sewer.  
16          We're also proposing that for the new  
17          lot.

18                    I think that pretty much sums  
19          up what it is we're trying to do. I  
20          would like to address anybody else's  
21          concerns regarding that.

22                    CHAIRMAN SCALZO: Thank you,  
23          Mr. Millen. We're going to get to  
24          that.

25                    MR. MILLEN: Yes, sir.

1 STEVEN MOREAU

2 CHAIRMAN SCALZO: Again I will  
3 turn to any Members of the Board here  
4 for any comments on this application.  
5 I started to my right previously.  
6 I'll start to my left now. Mr.  
7 Masten?

8 MR. MASTEN: I have nothing  
9 right now.

10 CHAIRMAN SCALZO: Mr. Hermance?

11 MR. HERMANCE: I notice there's  
12 an easement here also on the property.

13 MR. MILLEN: Yes. The easement  
14 would be for allowing the existing  
15 water and sewer connection to go  
16 through the subdivided parcel.

17 MR. HERMANCE: And the current  
18 driveway to the back would be eliminated?

19 MR. MILLEN: At least half of  
20 it would be eliminated. Correct.  
21 The rear portion of it.

22 MR. HERMANCE: Okay. That's  
23 all I have.

24 CHAIRMAN SCALZO: Mr. Eberhart?

25 MR. EBERHART: No questions

1           STEVEN MOREAU

2           right now.

3                   CHAIRMAN SCALZO:   How about  
4           you, Mr. Gramstad?

5                   MR. GRAMSTAD:   Nothing right now.

6                   CHAIRMAN SCALZO:   All right.  
7           If you read through the code, you'll  
8           find a bunch of information there.  
9           We also have areas, I'm not going to  
10          call them sensitive areas, but we  
11          have different hamlets or areas,  
12          Orange Lake being one of them.  It's  
13          a unique area.  The homes there, a  
14          lot of them were cottages that were  
15          at one point just summer homes and  
16          then they mostly all were converted  
17          to year-around residences.

18                   Looking at the lots if you're  
19          facing this proposed subdivision,  
20          looking at the three or four lots  
21          immediately to the left, obviously  
22          we're looking at lots that would be  
23          -- there's really not a lot of road  
24          frontage there.  They're preexisting.  
25          They've been there forever.  They've

1           S T E V E N   M O R E A U

2           had the dwellings on them. They have  
3           done what they had to do.

4                     If you go a couple lots to the  
5           right, there are some lots that have  
6           been -- which were small, very  
7           similar to the alley lots that are to  
8           the left that have been subdivided.  
9           I believe the last time a subdivision  
10          of a lot that size, or even a lot  
11          over there, took place was in the  
12          '80s. The code has certainly been  
13          revised plenty of times -- not plenty  
14          of times but a handful of times  
15          between then and now.

16                    Also, going through the  
17          application I saw, and you're going  
18          to have to give me a second, this  
19          parcel lot and dwelling, they were  
20          purchased earlier this year. Correct?  
21          2022?

22                    MR. MOREAU: Yes.

23                    CHAIRMAN SCALZO: I'm going to  
24          assume, Mr. Moreau, when you did  
25          purchase this, you were aware of the



1 STEVEN MOREAU

2 current code and zoning regulations  
3 at the time.

4 MR. MOREAU: Yes.

5 CHAIRMAN SCALZO: I'm going to  
6 get to question 7, additional reasons  
7 if pertinent. It says one of the  
8 current owners requires living  
9 arrangements for herself, an elderly  
10 mother, and due to the generic high  
11 cost of homes in this economic  
12 environment, this is the only  
13 feasible solution available to them.  
14 So you just purchased this in  
15 February of this year. I think the  
16 deed just has your name on it.

17 MR. MOREAU: Mm'hm'.

18 CHAIRMAN SCALZO: Do you live  
19 there?

20 MR. MOREAU: No.

21 CHAIRMAN SCALZO: Okay. I've  
22 never seen a description in an  
23 application like that. I just wanted  
24 to -- perhaps you can address what  
25 you meant by that.

1           S T E V E N   M O R E A U

2                   MR. MILLEN: I can clarify  
3           that. There was a silent partner  
4           involved in this whose name is not on  
5           the deed.

6                   UNIDENTIFIED SPEAKER: Could he  
7           use the microphone? We can't hear.

8                   CHAIRMAN SCALZO: When I speak,  
9           it's all from the gut.

10                   MR. MILLEN: So Mr. Moreau, as  
11           in many situations, people have a  
12           silent partner who owns the property  
13           in addition to the owner listed on  
14           the deed. There is a woman that is  
15           the silent partner on this particular  
16           property who owns the house right  
17           now. However, because her mother  
18           cannot go up steps, and the house  
19           that they're living in now has a lot  
20           of steps in it, so they're seeking to  
21           build a house anywhere in a neighborhood  
22           where they could alleviate this  
23           situation. She would like to build a  
24           home on this subdivided lot which  
25           would have no steps involved and

1           STEVEN MOREAU

2           which would allow her to move there  
3           and live there with her mother.

4           Now, the part about the  
5           economic environment, as we all know  
6           it's difficult to purchase a home at  
7           this point, difficult to build a  
8           home. In this situation, being the  
9           silent partner in a property where  
10          it's been discussed between the two  
11          that this woman would be able to  
12          purchase this property as part of the  
13          arrangement and partnership, and then  
14          be able to build on it and move in it  
15          herself. This has nothing to do with  
16          that.

17          If we have any more questions  
18          on that, we'd be happy to attempt to  
19          address them. If not, we can move  
20          along.

21                   CHAIRMAN SCALZO: Okay.

22                   UNIDENTIFIED SPEAKER: Excuse  
23          me. Can I ask a question?

24                   CHAIRMAN SCALZO: We're getting  
25          there. I will call upon you.

1 STEVEN MOREAU

2 Mr. Millen, the photo that you  
3 have up there, is that -- if we get  
4 that far, that would be the proposed  
5 two-story dwelling?

6 MR. MILLEN: Yes, sir. This is  
7 a two-story dwelling with a bedroom  
8 on the first floor where the mother  
9 would only live on the first floor.

10 CHAIRMAN SCALZO: Okay.

11 MR. MILLEN: With respect to  
12 the steps, the daughter would live  
13 upstairs.

14 CHAIRMAN SCALZO: And who would  
15 be living in the house down by the  
16 lake?

17 MR. MILLEN: Right now it's  
18 primarily rented. It's a rental  
19 property.

20 UNIDENTIFIED SPEAKER: Airbnb.

21 CHAIRMAN SCALZO: I'll get to  
22 you. Please. This is being  
23 recorded. The meeting minutes will  
24 be public information. I appreciate  
25 your comments. They are very valuable.

1           S T E V E N   M O R E A U

2                   MR. DONOVAN: I know people  
3           don't come here the fourth Thursday  
4           of every month, but it's a great  
5           place to be if you want to come.  
6           There's a process, there is a  
7           procedure that the Board uses where  
8           they have the applicant make a  
9           presentation to the public, the  
10          Chairman will ask for input from the  
11          Board Members, then he's going to  
12          open it up to the public. If you  
13          could refrain from calling out, the  
14          meeting will proceed a lot more  
15          orderly. Believe me, having spent a  
16          lot of late nights in this chair, the  
17          Chairman will allow you as much time  
18          as you need to make your point.

19                   CHAIRMAN SCALZO: I've been  
20          accused of giving too much time and  
21          hearing comment upon comment upon  
22          comment which were very similar in  
23          nature.

24                   So that being said, and only  
25          because Mr. Moreau is a frequent

1           S T E V E N   M O R E A U

2           flyer here, we just did something in  
3           the September meeting where you were  
4           an applicant again on Old South Plank  
5           Road.

6                     M R .   M O R E A U :   Y e s .

7                     C H A I R M A N   S C A L Z O :   T h i s  
8           opportunity here for your silent  
9           partner wouldn't be viable there?

10                    M R .   M O R E A U :   T h e   o t h e r   h o u s e   i s  
11           much smaller. My daughters go there  
12           on the weekend. We use it more as a  
13           family.

14                    M R .   D O N O V A N :   I f   I   c o u l d ,   t h i s  
15           is not the time to listen to the  
16           attorney at these meetings.  
17           Variances relate to land. There are  
18           a number of court cases that indicate  
19           -- I don't mean to minimize anyone's  
20           personal situation, but a variance  
21           that relates to someone's personal  
22           circumstances, called generically  
23           variances of personal convenience,  
24           are not permitted as a general  
25           statement. They're not permitted.

1 STEVEN MOREAU

2 CHAIRMAN SCALZO: Thank you.

3 MR. DONOVAN: You have to look  
4 to the land to weigh the five factors.

5 CHAIRMAN SCALZO: Thank you, Counselor,  
6 for keeping me out of trouble.

7 At this point I'm sure everyone  
8 is ready. At this point I'm going to  
9 open it up to any members of the  
10 public that wish to speak about this  
11 application. I'm going to ask that  
12 you step forward, Mr. Millen will  
13 hand the microphone to you, state  
14 your name, because it is being  
15 recorded, and then your comments will  
16 be welcomed.

17 MR. DONOVAN: Everybody wanted  
18 to talk before.

19 MS. ABRAMS: Hi there.

20 CHAIRMAN SCALZO: There's  
21 always one to break the ice.

22 MS. ABRAMS: Sonia Abrams, 370  
23 and 397 Lakeside.

24 I have some questions.  
25 Presently what is the address we're

1 STEVEN MOREAU

2 talking about?

3 CHAIRMAN SCALZO: 386.

4 MR. MOREAU: 381.

5 CHAIRMAN SCALZO: 381. 386 was  
6 the other one. Sorry.

7 MS. ABRAMS: That was next to  
8 me, by the way. We're good.

9 381, why did it suspiciously  
10 get taken off the Airbnb website as  
11 we were approaching this meeting?

12 CHAIRMAN SCALZO: That's where  
13 I believe Counsel's last comment  
14 would apply here. We are here to  
15 speak about variances requested that  
16 are going to potentially run with the  
17 land. The use of that land is a  
18 different story at this point.

19 MS. ABRAMS: Okay. All right.  
20 So we don't want to get into that.

21 Next question. What prevents  
22 someone from putting in an electric  
23 chair to a second floor so this  
24 gentleman and his partner aren't  
25 inconvenienced?



1 STEVEN MOREAU

2 MR. DONOVAN: If I may.

3 Generally the public hearing is not a  
4 question and answer session. This is  
5 your opportunity to raise concerns.  
6 You raise them to the Board for the  
7 Board's consideration.

8 MS. ABRAMS: I have a clear  
9 objection to the second house, a two-  
10 story house at that, being built that  
11 will further impact us, our sewer,  
12 our water. I mean all of those  
13 things are already highly taxed with  
14 everybody that's there. We have  
15 issues. We have occasional water  
16 issues. The pressure is low. I  
17 cannot see that area, and this is  
18 just my objection, to have another  
19 home built on it in that immediate  
20 area. I'm just making my objections  
21 known.

22 I'm sure there's more. Anyone?

23 CHAIRMAN SCALZO: You can put  
24 it right in the mic holder. Your  
25 comments are very valuable. Thank

1           S T E V E N   M O R E A U

2                   you very much for speaking.  They  
3                   will be in the minutes.

4                   MS. ABRAMS:  Thank you.

5                   CHAIRMAN SCALZO:  Thank you.

6                   We've had our ice breaker.  Mr.  
7                   Bloom.

8                   MR. BLOOM:  Good evening,  
9                   Chairman.  My name is Dan Bloom and I  
10                  represent Richard Fracasse.  He's the  
11                  next door neighbor.  Richard Fracasse  
12                  Senior.

13                  I'm not going to go into the  
14                  nitty gritty of the specifics of the  
15                  application.  I believe Mr. Donovan  
16                  has placed the Board on notice and  
17                  certainly advised them well concerning  
18                  the personal basis for this application.

19                  What I would like to say, though,  
20                  is this primarily.  My client, obviously  
21                  like all the rest of the people in  
22                  this room are Newburgh taxpayers.  
23                  He's been in the community for an  
24                  extensive period of time.  He's built  
25                  a beautiful home.  He takes good care

1           S T E V E N   M O R E A U

2           of it like most of the people in this  
3           township do, and he's proud of it.

4           He was pleased to see his neighbor  
5           improve the property next to him, but  
6           then he found out also about  
7           intentions of Airbnbs.

8                     At the present time he has a  
9           tenant, and prior to that time he had  
10          another tenant. It brings into  
11          question the credibility of the  
12          applicant in terms of this application.

13                    I'll summarize it this way.  
14          The application seeks not a 2 or  
15          3-foot application for a variance for  
16          side yards. Not a 4 foot. It doesn't  
17          seek a lot size application in the  
18          nature of maybe 10 percent, maybe  
19          even 15 percent. We're talking 30 to  
20          40 percent or more.

21                    I respectfully suggest to this  
22          Board that when this gentleman  
23          purchased the property in 2022, he  
24          was aware what the zoning was, 40,000  
25          square feet. Now he's before the

1           STEVEN MOREAU

2           Board seeking variances in the nature  
3           of a use variance, in the nature of  
4           -- my immediate reaction was he  
5           should have made an application to  
6           the Town Board to change the zoning.  
7           You don't buy a piece of property and  
8           less than a year later say oh, you  
9           know what, I can only build one house  
10          on it, I really wanted two. I knew  
11          the zoning was what it is but I  
12          figured I'll give it a good college  
13          try. That's what he's doing tonight.

14                 I respectfully suggest to  
15          everybody here that this shows not  
16          only disrespect for my client, it  
17          shows disrespect for everybody in the  
18          Town. Thank you.

19                 CHAIRMAN SCALZO: Thank you,  
20          Mr. Bloom.

21                 Just as a clarification, Mr.  
22          Bloom did mention a use variance.  
23          That would not -- I don't believe  
24          this would qualify as a use variance  
25          unless he was trying to put two

1 STEVEN MOREAU

2 dwellings on a single lot. As a  
3 subdivision this would become -- just  
4 to clarify.

5 MR. BLOOM: That's correct.  
6 That's my point. That's my point,  
7 sir. If he wanted to put it on one  
8 lot he would need a use variance.  
9 Instead he goes and tries to get it  
10 subdivided so he can go for an area  
11 variance, not of 2 feet, 10 feet.  
12 Change the zoning, in other words.

13 CHAIRMAN SCALZO: Thank you for  
14 the clarification, Mr. Bloom.

15 MR. BLOOM: Thank you, sir.

16 CHAIRMAN SCALZO: Does anyone  
17 else wish to speak about this  
18 application on Lakeside Road?

19 MS. McMILLAN: Mr. Scalzo, --

20 CHAIRMAN SCALZO: Please.

21 MS. McMILLAN: -- Veronica  
22 McMillan again. I represent the  
23 applicant in addition to Mr. Millen.

24 I just have two comments. One  
25 with regard to a statement you made

1           S T E V E N   M O R E A U

2           earlier about there not having been  
3           any of these types of subdivisions in  
4           this area since the 1980s. In fact,  
5           to the south of this parcel in 2018  
6           there was a similar subdivision but  
7           it was a line that went down the  
8           middle of a smaller lot than this one  
9           so that both of the houses then got  
10          access to the lake as opposed to this  
11          one where the new proposed house  
12          would not have access to the lake.  
13          That was at 367 Lakeside Road.

14                   CHAIRMAN SCALZO: Thank you for  
15                   pointing that out. Were there two  
16                   existing homes?

17                   MS. McMILLAN: No. It was to  
18                   construct a new house with a similar  
19                   request for area variances to this  
20                   application.

21                   Then of course to the north of  
22                   Mr. Fracasse's parcel there are  
23                   several -- there are successive  
24                   parcels there that have the identical  
25                   configuration to what Mr. Moreau is

1 STEVEN MOREAU

2 requesting here.

3 CHAIRMAN SCALZO: That's the  
4 one I was referring to from the tax  
5 maps from the '80s.

6 MS. McMILLAN: 367 is a  
7 relatively new vintage subdivision  
8 that happened in 2018.

9 CHAIRMAN SCALZO: 367. That  
10 would be closer to New York State  
11 Route 52?

12 MS. McMILLAN: Just by a couple  
13 of parcels.

14 Jonathan, can you show the  
15 aerial view? It's right over here.  
16 It's just shy of the end of the  
17 picture.

18 Thank you.

19 MR. MILLEN: If I could, I  
20 would also like to point out that on  
21 the lake itself, I'm assuming the  
22 entire lake and the lots adjacent to  
23 the lake would be considered part of  
24 the neighborhood. In 1996 this  
25 particular parcel was subdivided into

1           S T E V E N   M O R E A U

2           two parcels.  There were also issues  
3           there where they needed variances for  
4           various aspects of the areas and  
5           setbacks.

6                   CHAIRMAN SCALZO:  Is there  
7           anyone else from the public that  
8           wishes to speak about this application?

9                   MS. LEASE:  My name is Marguerite  
10          Lease.  I'm surprised to find that my  
11          house has just been mentioned.  I  
12          live at 367 Lakeside Road.  I owned  
13          two lots, the lot our home is on and  
14          the lot next door.  My daughter  
15          wanted to live on the lake so we  
16          provided the empty lot for her to  
17          build her house on.  I do not recall  
18          getting a subdivision.  We may have  
19          made a lot line change or something  
20          like that, but it was minimal.  It  
21          was minimal.  I'm quite surprised.

22                   CHAIRMAN SCALZO:  Thank you  
23          very much.

24                   Please step forward, sir.

25                   MR. FRACASSE:  How are you guys



1           S T E V E N   M O R E A U

2           doing?

3                       CHAIRMAN SCALZO:   We're okay.

4                       MR. FRACASSE:   My name is  
5           Richard Fracasse.   I'm the adjoining  
6           neighbor that's going to be  
7           consequenced the most.

8                       What I don't understand is that  
9           there's a house there now, the  
10          existing house.   It's a one-story  
11          ranch.   If this girl's mother can't  
12          live in a two-story house, why don't  
13          she move her mother and herself in  
14          the single-story house that's there  
15          now instead of renting it out Airbnb,  
16          instead of building another two-story  
17          house on the upper lot of the same lot?

18                      I'm really disturbed about it,  
19          too, because there was a house  
20          alongside of me and we bought that  
21          house years ago.   I demo'd it and  
22          added on to my house to make it more  
23          livable, more nice.   Now I'm going to  
24          have a two-story humongous house  
25          that's 3,600 square feet, a house up

1           STEVEN MOREAU

2           on a road -- 50 feet from the road he  
3           says. It's going to be ridiculous to  
4           my property.

5                     Just to give you an idea, my  
6           house is -- we pay \$29,000 in taxes  
7           every year, school and county taxes.  
8           It's not a junky house. It's a nice  
9           little house. To do that, put that  
10          two-story house above my house, is  
11          going to just ruin -- it will  
12          depreciate my property, the value of  
13          it. You know it would.

14                    That's my concerns. I appreciate  
15          your time.

16                    CHAIRMAN SCALZO: Thank you.

17                    Is there anyone else from the  
18          public here that wants to speak about  
19          this application?

20                    MS. RESSLHUBER: My name is  
21          Barbara Resslerhuber, 387 Lakeside.

22                    CHAIRMAN SCALZO: Can you  
23          repeat your last name, please?

24                    MS. RUSSLHUBER: Russlhuber.  
25          I'm the neighbor to the right of

1           S T E V E N   M O R E A U

2           Fracasse.

3                     My point is that if you have a  
4           minimum area requirement of 40,000  
5           square feet and they are only going  
6           to have just over half the minimum  
7           requirement, it's just too much house  
8           for the small area of a lot.

9                     The personal hardship is  
10          unfortunate, but they're putting  
11          themselves in that position. You  
12          could buy a lot of land and build an  
13          appropriate house. They knew that  
14          going in.

15                    I understand that this is not  
16          about use, but there have been  
17          already parties last summer. We want  
18          to preserve the nature of the lake  
19          properties. They're all long-term  
20          residents like myself, over twenty-  
21          five years. This is not a necessary  
22          improvement to that lot.

23                    The Town of Newburgh should  
24          really consider regulating short-term  
25          rentals because the neighbors have no

1 STEVEN MOREAU

2 recourse and the absentee owners do  
3 not care. It's an investment.

4 That's all I have to say.

5 CHAIRMAN SCALZO: Thank you for  
6 your comments. Regarding the short-  
7 term rentals, that's something that  
8 the Town Board, if you would like to  
9 come and speak with those folks,  
10 that's the forum for those comments.

11 MS. RUSSLHUBER: Thank you.

12 CHAIRMAN SCALZO: Does anyone  
13 else wish to speak about this application?

14 MS. FRACASSE: I'm Carol Fracasse.  
15 I live next door.

16 My concern is when they moved  
17 in there -- we've been there forty  
18 years. In order for us to have our  
19 house made larger we had to buy the  
20 property next door and add on with  
21 respect to the fact we couldn't add  
22 on to our own house. We bought the  
23 house next door, tore it down and  
24 made ours bigger.

25 When they moved in they said

1           S T E V E N   M O R E A U

2           we're going to live here. The next  
3           story we heard is she was going to be  
4           a partner, was going to make the  
5           garage into a home for her mother and  
6           they would never Airbnb it. I know  
7           this is not the place to discuss it,  
8           but those people were all over our  
9           decks when they rented it. If they  
10          take this house and change their mind  
11          again, now they have a 3,600 square  
12          foot home that could have fifteen  
13          people in it Airbnb'ing it. That's a  
14          lot of traffic on a little tiny road.

15                   That's all I have to say.

16                   CHAIRMAN SCALZO: Thank you for  
17                   your comments.

18                   Does anyone else wish to speak  
19                   about this application?

20                           (No response.)

21                   CHAIRMAN SCALZO: All right.  
22                   I'm going to look back to the Board  
23                   here. We've heard some testimony  
24                   here that's interesting. I'm going  
25                   to go back to the Board one by one.

1           S T E V E N   M O R E A U

2                   Mr. Gramstad, did that stir  
3           anything up? Any other questions  
4           that you may want to ask at this  
5           point?

6                   MR. GRAMSTAD: No questions,  
7           but I need to go back and take  
8           another look at this.

9                   CHAIRMAN SCALZO: Okay. Mr.  
10          Eberhart?

11                   MR. EBERHART: I don't have any  
12          questions. I do understand a lot of  
13          the concern. I don't know if it's  
14          pertinent to what we have to decide  
15          tonight.

16                   CHAIRMAN SCALZO: Very good.

17                   MS. LEASE: Excuse me. Could  
18          we ask the Board to speak up a little  
19          bit?

20                   CHAIRMAN SCALZO: They don't  
21          have that gift that I have.

22                   Mr. Eberhart, from down low.

23                   MR. EBERHART: I understand the  
24          concerns of those folks that live in  
25          that community, however I don't

1           STEVEN MOREAU

2           really believe that it's pertinent to  
3           what we have to make a decision on  
4           regarding this variance tonight.  
5           That's where I stand now.

6                     CHAIRMAN SCALZO:  Very good.

7                     Mr. Hermance?

8                     MR. HERMANCE:  I have no  
9           further questions.

10                    CHAIRMAN SCALZO:  My comment,  
11           because I'm going this way, is I  
12           think there's certainly a change in  
13           the character of the neighborhood  
14           with what this application is asking  
15           for.

16                    I was mistaken apparently.  The  
17           1982 subdivision three or four lots  
18           away, I'm not sure if Mrs. Lease's  
19           lot line changed or whatever that  
20           case may be.

21                    It's well established that it  
22           used to be just a vacation type  
23           community.  My opinion is moving  
24           forward with this would certainly  
25           change the character of that

1           S T E V E N   M O R E A U

2           neighborhood.

3                     That being said, I'm going to  
4           move down to Mr. Masten.

5                     MR. MASTEN: I agree with Mr.  
6           Eberhart there and what you stated,  
7           it will change the character of the  
8           neighborhood. The neighborhood has  
9           been basically small cottages all  
10          over the years. Everything has been  
11          changing. I feel the change should  
12          not happen.

13                    CHAIRMAN SCALZO: Thank you  
14          very much, Mr. -- I didn't want to  
15          cut you off. Were you wrapping it  
16          up? Do you have anything more?

17                    MR. MASTEN: That's it.

18                    CHAIRMAN SCALZO: I'm actually  
19          going to look at Mr. Mattina here.  
20          Mr. Mattina, do you happen to have  
21          this?

22                    MR. MATTINA: Yes.

23                    CHAIRMAN SCALZO: Just help me  
24          out. Counsel had pointed out to me  
25          the minimum lot width in feet,



1 STEVEN MOREAU

2 existing is 135, required is 150.

3 Proposed lot 1 is 135.

4 MR. MATTINA: Correct. It's  
5 existing. It's already there.

6 CHAIRMAN SCALZO: That's  
7 measured at the building line or the  
8 street?

9 MR. MATTINA: It should be a  
10 measured line from the face of the  
11 building. Lot width is measured from  
12 the face of the building, line to  
13 line.

14 MR. DONOVAN: Joe, looking at  
15 the definition, lot width is the  
16 distance measured along the line  
17 drawn parallel to the front line at a  
18 distance equal to the minimum front  
19 yard setback requirement or at the  
20 building line.

21 MR. MATTINA: Correct.

22 CHAIRMAN SCALZO: Or at the  
23 building line. That's what you're  
24 referencing?

25 MR. MATTINA: Right.

1           S T E V E N   M O R E A U

2                   MR. DONOVAN: Not designated by  
3           your office because here, depending  
4           upon where you are, it could be  
5           different. If you go with the  
6           minimum setback from Lakeside Road,  
7           if you go 50 feet, right, it's a much  
8           smaller width. If you're at the  
9           building setback, it's much greater.

10                   MR. MATTINA: This came from  
11           the Planning Board. This didn't come  
12           from me.

13                   MR. DONOVAN: Yours counts.

14                   MR. MATTINA: I take mine from  
15           the face of the house. The face of  
16           the house, perpendicular out.

17                   MR. DONOVAN: You do it at the  
18           building line?

19                   MR. MATTINA: Correct. That  
20           way we're consistent all the time.

21                   CHAIRMAN SCALZO: Thank you,  
22           Joe. I appreciate it.

23                   All right. The public hearing  
24           is not closed, so if anyone else  
25           would like to come up and speak

1           S T E V E N   M O R E A U

2           again --

3                   MS. FRACASSE:   The other thing  
4           I want to say is I when we bought the  
5           property --

6                   CHAIRMAN SCALZO:   Ms. Fracasse.

7                   MS. FRACASSE:   Yes.   When we  
8           bought, the other property there had  
9           a home on it.   We were told that we  
10          could easily put a house at the top  
11          of the road because it was two pieces  
12          of property then.   We wouldn't do  
13          that to our neighbors and make that  
14          too crowded there.

15                   What we're afraid of is also  
16          setting a precedent that all of a  
17          sudden Orange Lake is going to be  
18          Airbnb.   If they can build a house at  
19          the top of the hill, so can someone  
20          else.   You can't equate the Lease  
21          property because that's a huge piece  
22          of property.   When you look at it  
23          you'll see that they are legal.   I  
24          just wanted to make you aware of it.  
25          We really don't want to become an

1 STEVEN MOREAU

2 Airbnb neighborhood.

3 CHAIRMAN SCALZO: As I  
4 mentioned earlier, that's a  
5 conversation for the Town Board.

6 MS. FRACASSE: I just want to  
7 put it out there.

8 MR. PAVLIK: Steve Pavlik. I  
9 live on 5 and I own 9 Jenny Lane.

10 My question is the 135 feet, is  
11 that from the garage to the road or  
12 is it from the house to the road?

13 CHAIRMAN SCALZO: That is the  
14 lot width across the front of the  
15 current house down by the lake.

16 MR. PAVLIK: So the garage that  
17 sits in front of that --

18 CHAIRMAN SCALZO: I see the  
19 dimension is 135.8.

20 MR. PAVLIK: There's a garage  
21 in front.

22 MR. DONOVAN: I had a  
23 definitional question. Code  
24 Compliance has answered it as the  
25 applicant has presented is correct.

1 STEVEN MOREAU

2 MR. MILLEN: Mr. Chairman, I  
3 would like to address some of the  
4 comments.

5 CHAIRMAN SCALZO: Mr. Millen,  
6 please jump right in. Please grab  
7 the microphone because you don't  
8 speak from down low.

9 MR. MILLEN: I could speak a  
10 little louder. How would this be?  
11 Can everybody hear me now?

12 UNIDENTIFIED SPEAKER: We'll  
13 let you know if we can't.

14 MR. MILLEN: What I would like  
15 to say is, as you mentioned, the Town  
16 Board can handle any questions  
17 regarding the Airbnb. Right now  
18 there's no law against it, right.  
19 They're certainly not proposing the  
20 second parcel would be used as an  
21 Airbnb. I think it's possible that  
22 many of the lots on this lake would  
23 take advantage of the Airbnb  
24 capability because there's  
25 significant income, much greater than

1 STEVEN MOREAU

2 a typical rental, which Mr. Moreau  
3 was able to realize. In fact, to  
4 such an extent that they really  
5 couldn't even afford to live in the  
6 main parcel -- I should say the main  
7 house with respect to that.

8 What I would like to say is I  
9 have a few aerials here to indicate,  
10 for example one neighbor who has this  
11 house here which obviously is about  
12 twice the size of the house that's on  
13 here right now. We have this parcel  
14 here which is larger than this house.  
15 It has a garage over here, halfway  
16 down. There's a garage over here  
17 halfway down. This parcel has two  
18 driveways -- two driveways and two  
19 curb cuts which are not allowed in  
20 the current zoning.

21 Is that correct, Mr. Mattina?

22 UNIDENTIFIED SPEAKER: That's  
23 two lots.

24 MR. DONOVAN: You don't have to  
25 answer if you don't know.

1           S T E V E N   M O R E A U

2                   UNIDENTIFIED SPEAKER:   That's  
3           two lots.

4                   MR. MILLEN:   It's not two lots.

5                   UNIDENTIFIED SPEAKER:   It is  
6           two lots.   Yes, it is.

7                   CHAIRMAN SCALZO:   Hold on.  
8           Hold everything.

9                   UNIDENTIFIED SPEAKER:   They  
10          bought a whole house.

11                   MS. FRACASSE:   We bought  
12          another house twenty years after we  
13          lived there.

14                   CHAIRMAN SCALZO:   It's very  
15          difficult for the stenographer to  
16          record this.   I don't know how you  
17          address that, Michelle.

18                   MS. FRACASSE:   Michelle, Ms.  
19          Fracasse again.

20                   We bought the first house forty  
21          years ago.   We bought the second  
22          house about twenty years ago.   That's  
23          why that driveway was there.   We just  
24          didn't take it out.   It was the  
25          neighbor's driveway.   We took the

1 STEVEN MOREAU

2 house down to the finish and we built  
3 another house -- another wing to our  
4 house. It was two separate houses  
5 purchased at two separate times.

6 MR. MILLEN: Right now it's one  
7 house by one owner living together in  
8 this house at one time. Is that  
9 correct?

10 UNIDENTIFIED SPEAKER: It's  
11 still two lots. No matter how you  
12 want to address that, it's still two  
13 lots.

14 CHAIRMAN SCALZO: Ma'am,  
15 please. You've got to help me here.  
16 I think we understand the two-lot  
17 issue. Perhaps it was combined. I  
18 don't know. That's not why we're  
19 here.

20 I have another question  
21 actually, Mr. Moreau, that you may or  
22 may not know. When the municipals  
23 were done for your closing, the  
24 garage that's currently on the lot  
25 sits in front of the dwelling. There



1           S T E V E N   M O R E A U

2           are certain provisions in the code  
3           for preexisting nonconforming.  Were  
4           you aware whether or not that garage  
5           had a variance to be in front of the  
6           dwelling or --

7                     MR. MOREAU:  I don't know.  
8           There were no violations on either.

9                     CHAIRMAN SCALZO:  Okay.  And  
10          Mr. Mattina, I wouldn't expect you to  
11          know either, whether or not it was  
12          there.  Should this move any further,  
13          that would also be a variance that  
14          would be required at that point,  
15          because now we're introducing that  
16          the garage is in front of the house?

17                    MR. MATTINA:  Correct.  At the  
18          Planning Board you would lose your  
19          protection.  It would need a variance.

20                    CHAIRMAN SCALZO:  Right.  We're  
21          on a roll here, folks.  Any other  
22          comments regarding this subdivision  
23          -- the proposed subdivision?  If  
24          there are, please step forward and  
25          state your name.

1           S T E V E N   M O R E A U

2                           (No response.)

3                   CHAIRMAN SCALZO:  Mr. Millen,  
4                   you look like you're ready to speak.

5                   MR. MILLEN:  What I want to do  
6                   is point out that there are many  
7                   garages that are ahead of the houses  
8                   on this street.

9                   CHAIRMAN SCALZO:  I'm sure  
10                   there are.  That's not my point.  My  
11                   point is you lose the preexisting  
12                   nonconforming --

13                   MR. MILLEN:  I understand that.  
14                   I understand that.

15                   CHAIRMAN SCALZO:  -- condition  
16                   when you --

17                   MR. MILLEN:  This particular  
18                   lot was, generally speaking,  
19                   nonconforming on various elements of  
20                   the area requirements.

21                   CHAIRMAN SCALZO:  Can you just  
22                   say what you said again?  The lot as  
23                   it exists is nonconforming?

24                   MR. MILLEN:  Is nonconforming  
25                   in -- very many aspects of it are

1           S T E V E N   M O R E A U

2           nonconforming. The lot that exists  
3           right now without the subdivision is  
4           nonconforming for the minimum rear  
5           yard, for the minimum side yard, for  
6           both yards and --

7                   CHAIRMAN SCALZO: Correct. The  
8           way the house is situated within the  
9           lot.

10                   MR. MILLEN: Right.

11                   CHAIRMAN SCALZO: I understand  
12           that.

13                   MR. MILLEN: And of course with  
14           respect to the lot width. Lot width,  
15           we're talking about taking the width  
16           of the lot across the front of the  
17           building. As you can see here, the  
18           lot size is 137 feet at this point in  
19           the back. At this point it's 135  
20           feet.

21                   Now getting back to what I feel  
22           is pertinent is that the neighborhood  
23           itself has many situations where you  
24           have lots with buildings on it that  
25           are very close to the road. I have a

1           STEVEN MOREAU

2           few different perspectives of this  
3           here where you can see the closeness  
4           to Lakeside Road of the various  
5           properties. Also here. Again you  
6           see the neighborhood. I mean I'm  
7           speaking with respect to changing the  
8           character of the neighborhood. I  
9           don't think that it's -- this being  
10          our parcel, I don't think that adding  
11          a house in here, which by the way  
12          it's -- the square footage of the  
13          house is on two levels. It's really  
14          only 1,800 square feet.

15                   UNIDENTIFIED SPEAKER: No.

16                   CHAIRMAN SCALZO: No. You  
17          don't want me to use my gavel, folks.

18                   MR. ABRAMS: Can I --

19                   CHAIRMAN SCALZO: Then step  
20          forward. Before you speak, we're  
21          talking about the land here. We're  
22          not going to talk about how many  
23          square feet of house it may be.

24                   MR. ABRAMS: A hundred percent.

25                   CHAIRMAN SCALZO: Please state

1           STEVEN MOREAU

2           your name.

3                   MR. ABRAMS:  John Abrams, 370  
4           Lakeside Road.  Literally looking to  
5           the side of me, I would look right at  
6           that house over my property.  My  
7           property sits back and it has a huge  
8           frontage.

9                   MR. MILLEN:  Which is your  
10          property?

11                  MR. ABRAMS:  Right here.  So  
12          I'm here.

13                  MR. MILLEN:  You're there.

14                  MR. ABRAMS:  My neighbor is  
15          here and a neighbor here.  Okay.  So  
16          all of a sudden we have --

17                  CHAIRMAN SCALZO:  Mr. Abrams,  
18          you're on the opposite side of  
19          Lakeside?

20                  MR. ABRAMS:  I also own on the  
21          lake as well.

22                  MR. MILLEN:  We're talking  
23          about putting a house here.

24                  CHAIRMAN SCALZO:  Mr. Abrams,  
25          I'm going to back you up.  Getting

1           STEVEN MOREAU

2           into details about what you would see  
3           if the lot was developed is something  
4           that we're not here to talk about.

5                   MR. ABRAMS: This is going to  
6           set precedent now. If you have a  
7           house in front now, now all of a  
8           sudden this gentleman can say oh, I  
9           want to have a subdivision and I want  
10          to have a house in front of my house.  
11          This guy can say I want to have a  
12          subdivision and put a house in front  
13          of mine. They'll want to say if he  
14          can do it, I can do it. So we can  
15          have a lot of that and the congestion  
16          would happen.

17                   CHAIRMAN SCALZO: You would  
18          anticipate that the Zoning Board of  
19          Appeals would be consistent within  
20          themselves. We try to be.

21                   MR. ABRAMS: That would start  
22          to be a big ball of everyone doing  
23          it.

24                   MS. ABRAMS: Sonia Abrams. In  
25          follow up to the statement you were

1           S T E V E N   M O R E A U

2           making about all of these other  
3           properties that have double lots,  
4           it's important to note that those  
5           properties that are being mentioned  
6           are directly in front of me and my  
7           husband, which we have no problems  
8           with because they're single-story  
9           homes rented long term to others.  
10          Just a statement. I just wanted  
11          everybody to know that when we're  
12          talking about those other properties  
13          that have other buildings on them,  
14          we're not talking 3,800 square feet.

15                 MR. MILLEN: Neither are we.

16                 MS. ABRAMS: Those are cottages.  
17          You're not making it clear. I want  
18          to come before everyone and make it  
19          clear that the other properties  
20          directly in front of me are cottages,  
21          single-story homes. Thank you.

22                 MR. MILLEN: I just wanted to  
23          make clear that someone mentioned it  
24          being 3,800 square feet. The  
25          footprint is only 1,800 square feet.

1 STEVEN MOREAU

2 CHAIRMAN SCALZO: I see Mr.  
3 Fracasse.

4 MR. FRACASSE: Thank you. You  
5 have an 1,800 square foot lower  
6 level. Right?

7 MR. MILLEN: Yes.

8 MR. FRACASSE: You have a full  
9 on top of it. You're not counting  
10 that square footage.

11 MR. MILLEN: In terms of the  
12 footprint on the parcel.

13 MR. FRACASSE: It's 3,800  
14 square feet. It's not 1,800 square  
15 feet.

16 MR. MILLEN: I understand that.

17 MR. FRACASSE: Don't keep  
18 saying it. If you understand it, say  
19 what it is. People want to know how  
20 big it is.

21 Thank you very much.

22 CHAIRMAN SCALZO: I'm going to  
23 backpedal nearly an hour. People are  
24 here for the public hearings. We are  
25 a seven-member Board. If you can



1           STEVEN MOREAU

2           count, you'll see there are only five  
3           of us. We do offer the opportunity  
4           to the applicants if they feel as  
5           though a full Board -- a full  
6           compliment of Board Members would be  
7           a better representation when any type  
8           of voting occurs, then we give the  
9           applicant that option. I just want  
10          to -- we're down two Members. People  
11          travel for the holidays. The public  
12          hearing is still open. I just wanted  
13          to let everybody know that that is  
14          also an option for this evening.

15                 MS. FRACASSE: I also think --  
16                 I understand people travel for the  
17                 holidays. We had to cancel all of our  
18                 plans because we only found out about  
19                 this twelve days ago. We weren't  
20                 even sent one. We're 385, the one  
21                 across the street. Nobody told us  
22                 about it at all. We just found out  
23                 about it.

24                 CHAIRMAN SCALZO: If they are  
25                 not within 500 feet of you --

1 STEVEN MOREAU

2 MS. FRACASSE: We are. We are.  
3 We're right across the street. We're  
4 385, they're 386. Even so, we only  
5 found out about it twelve days ago.  
6 We had to change all of our plans.  
7 That's all I'm saying. We need to  
8 have more notice than twelve days.

9 CHAIRMAN SCALZO: We did notice  
10 in accordance with the Town Code.

11 MS. FRACASSE: I thought it was  
12 thirty.

13 MR. DONOVAN: No.

14 MS. FRACASSE: So it's only  
15 twelve. Okay.

16 CHAIRMAN SCALZO: Typically  
17 it's ten.

18 MS. FRACASSE: If that's what  
19 it is, that's what it is. I was  
20 under the impression that it was  
21 thirty. Sorry.

22 CHAIRMAN SCALZO: That's quite  
23 all right.

24 Does anyone else from the  
25 public wish to speak about this

1 STEVEN MOREAU

2 application?

3 (No response.)

4 CHAIRMAN SCALZO: All right.

5 I'm going to go back to the Board.

6 Any questions from us on this side of

7 the table? I see a lot of head

8 shaking.

9 Michelle, that means they're

10 shaking their heads in a negative

11 fashion.

12 MR. HERMANCE: Is this a Type 2

13 action under SEQRA?

14 MR. DONOVAN: This is a Type 2

15 action under SEQRA.

16 MR. HERMANCE: So a lot of the

17 questions will be answered during

18 that session?

19 MR. DONOVAN: There would be a

20 subdivision application in front of

21 the Planning Board. This comes to us

22 from the Planning Board. Planning

23 issues would be determined then. If

24 the application is denied, there is

25 no subdivision.

1           S T E V E N   M O R E A U

2                    If I can, Mr. Chairman. I'm  
3                    going to summarize the options. You  
4                    can continue the hearing if you want  
5                    to get more public input. The  
6                    purpose of the public hearing is to  
7                    assist you in your decisionmaking.  
8                    If you think you have enough  
9                    information, you can close the public  
10                   hearing. You could close the public  
11                   hearing and vote if you think you're  
12                   ready to do that. The law gives you  
13                   up to 62 days. You can close the  
14                   public hearing and think about it.  
15                   If you're going to close the public  
16                   hearing, I would say you're not going  
17                   to get any more additional  
18                   information so that additional  
19                   information could be made available  
20                   to the public, you just decide based  
21                   upon the information you received.

22                   The other thing that the  
23                   Chairman talked about, and this is  
24                   kind of an option for the applicant,  
25                   the Chairman indicated it is a

1           STEVEN MOREAU

2           seven-member Board. You need four  
3           affirmative votes for your  
4           application to pass, which would be  
5           four out of the five people sitting  
6           here tonight. It's been the practice  
7           of this Board to afford you the  
8           opportunity to defer a vote until  
9           there are more members here, six or  
10          seven, but that's something for you  
11          to decide. I think those are the  
12          options.

13                   CHAIRMAN SCALZO: Thank you,  
14           Counselor.

15                   So in this case, one last  
16           opportunity, looking out over to the  
17           members of the public that are here.

18                   (No response.)

19                   CHAIRMAN SCALZO: No. I will  
20           look to the Members of the Board  
21           again.

22                   (No response.)

23                   CHAIRMAN SCALZO: Now I'll look  
24           to the applicant. Having stated  
25           there are five Members of the Board

1           S T E V E N   M O R E A U

2           here, do you -- I don't know that we  
3           would need any additional information  
4           for us to not close the public  
5           hearing, although I am one Member of  
6           five sitting here. If we should  
7           close the public hearing, no more  
8           comments would be received from the  
9           public, and then we would move  
10          forward. If we can make a  
11          determination this evening, then so  
12          be it. If not, we have 62 days.

13                 Counsel, what happens if we  
14                 close the public hearing? Are the  
15                 two Members that are absent this  
16                 evening able to vote on this?

17                 MR. DONOVAN: They are able to  
18                 vote but the public hearing is  
19                 closed. If that's an option the  
20                 applicant wishes to pursue, I think  
21                 the better course of action is to  
22                 leave the public hearing open because  
23                 there may be Members who want to hear  
24                 from the public. They can read the  
25                 minutes and get a flavor of it but

1           S T E V E N   M O R E A U

2           they may want to hear from members of  
3           the public before they feel  
4           comfortable in voting.

5                   CHAIRMAN SCALZO:  Thank you,  
6           Counselor.

7                   At this point I'll look to the  
8           applicant.  What is your choice here?

9                   MR. MOREAU:  I think I would  
10          like to leave it open.

11                   CHAIRMAN SCALZO:  You would  
12          like to leave the public hearing open  
13          until we have a full compliment of  
14          Members?

15                   MR. MILLEN:  Exactly.

16                   CHAIRMAN SCALZO:  Very good.

17                   Okay.  I'll look to the Board  
18          for a motion to keep the public  
19          hearing open --

20                   MR. MASTEN:  I'll make a  
21          motion --

22                   CHAIRMAN SCALZO:  -- to the  
23          January meeting.

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

1 STEVEN MOREAU

2 January 8th.

3 CHAIRMAN SCALZO: What's the  
4 date on that, Siobhan?

5 MS. JABLESNIK: January --

6 MR. MASTEN: The 5th.

7 MR. DONOVAN: It's the fourth  
8 Thursday.

9 MS. JABLESNIK: January 26th.

10 CHAIRMAN SCALZO: Mr. Masten is  
11 making a motion to keep the public  
12 hearing open until January 26th.

13 MR. GRAMSTAD: I will second  
14 that.

15 CHAIRMAN SCALZO: We have a  
16 second from Mr. Gramstad. All in  
17 favor?

18 MR. GRAMSTAD: Aye.

19 MR. EBERHART: Aye.

20 MR. HERMANCE: Aye.

21 MR. MASTEN: Aye.

22 CHAIRMAN SCALZO: Aye.

23 Folks that are here for this  
24 application, you will not be  
25 re-noticed. You will not get another



1           S T E V E N   M O R E A U

2           notification from the Town. Mark  
3           your calendars as you're walking out  
4           the door for the fourth Thursday in  
5           January. I will tell you this. It's  
6           going to be on the tail end of the  
7           meeting because we do new  
8           applications first. I'm not going to  
9           say I wouldn't recommend being  
10          promptly here at 7, but I wouldn't  
11          rush to get here right at 7.

12                   MS. JABLESNIK: If anyone has  
13           any additional information to submit  
14           to me, please get it to me by January  
15           12th, no later.

16                   CHAIRMAN SCALZO: All of your  
17           comments are very important. I thank  
18           you all. Your observations are very  
19           important. Please, if you have  
20           anything else that you want to say  
21           and prefer the written word, you want  
22           to send it in, it makes it to the  
23           website.

24                   Thank you very much.

25                   (Time noted: 8:02 p.m.)

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

STEVEN MOREAU

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 7th day of January 2023.

\_\_\_\_\_  
MICHELLE CONERO

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

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

KAREN PELLINO TRUST  
7 Russet Court, Wallkill  
Section 4; Block 2; Lot 85.1  
RR Zone

----- X

Date: December 22, 2022  
Time: 8:02 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, New York

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

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

APPLICANT'S REPRESENTATIVE: KENNETH LYTLE

----- X

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

1 KAREN PELLINO TRUST

2 CHAIRMAN SCALZO: Our next  
3 applicant, and I hope it's not  
4 another hour before we get to the  
5 fourth one, is the Karen Pellino  
6 Trust, 7 Russet Court, seeking an  
7 area variance of the rear yard  
8 setback to add a 13 by 31.8 deck  
9 extension onto a previously approved  
10 rear deck.

11 I'm going to guess it's low.

12 MS. JABLESNIK: They sent out  
13 twenty-five letters. We received the  
14 County referral back, Local  
15 determination.

16 CHAIRMAN SCALZO: Very good.

17 In front of us we have Mr.  
18 Lytle. Mr. Lytle, I already said a  
19 little bit. You can say much more.  
20 Just bring it from down below so  
21 everybody can hear you.

22 MR. LYTTLE: I'm here tonight  
23 representing Karen Pellino, 7 Russet  
24 Court. She has an existing home.  
25 With everything going on with COVID,

1 KAREN PELLINO TRUST

2 they're spending more time at home  
3 and she would like to increase the  
4 size of her rear deck, making more  
5 room for her family, get the kids  
6 together. There's a pool in the  
7 back.

8 All the neighbors around,  
9 there's solid woods behind her house.  
10 I think you've been out there and  
11 have seen it.

12 The disturbance is we'll be  
13 adding two new sonotubes in the  
14 ground and continuing on with the  
15 deck. The existing deck frame seems  
16 to be okay.

17 Again, we're looking for a  
18 variance for the additional square  
19 footage of the deck.

20 CHAIRMAN SCALZO: When you say  
21 two sonotubes, that's the only  
22 destruction of the environment?

23 MR. LYTTLE: The framing is all  
24 there.

25 CHAIRMAN SCALZO: Probably less

1 KAREN PELLINO TRUST

2 than 5 square feet.

3 MR. LYTLE: I'm thinking.

4 CHAIRMAN SCALZO: Very good.

5 Thank you.

6 Again, everything Mr. Lytle  
7 just said I concur with. I was in  
8 there today.

9 I would like a three-car  
10 garage. We talked about a two-car  
11 garage earlier. That's got a nice  
12 three-car garage.

13 I can't see their neighbors  
14 seeing it. We'll find that out in a  
15 minute perhaps. I have no comments.

16 I'm going to look down to Mr.  
17 Gramstad.

18 MR. GRAMSTAD: No. I was out  
19 there and she explained exactly what  
20 they want to do and why they want to  
21 do it. I have no comments at all.

22 CHAIRMAN SCALZO: Very good.

23 Mr. Eberhart?

24 MR. EBERHART: No comments.

25 CHAIRMAN SCALZO: Mr. Hermance?

1 KAREN PELLINO TRUST

2 MR. HERMANCE: It's almost  
3 self-explanatory.

4 CHAIRMAN SCALZO: I don't know  
5 if you heard what Mr. Hermance said.  
6 He said it's almost self-explanatory.

7 Mr. Masten?

8 MR. MASTEN: No comment. I saw  
9 a nice two wolves running through there.

10 CHAIRMAN SCALZO: All right.  
11 We're making up for lost time now.

12 Are there any members of the  
13 public here to speak about this  
14 application? Please step forward and  
15 state your name.

16 MS. CARRINGTON: Good evening.  
17 Andre Carrington. I'm at 5 Russet  
18 Court.

19 To what direction is this rear  
20 deck being built?

21 MR. LYTLE: Can I show him the  
22 map?

23 CHAIRMAN SCALZO: Absolutely.

24 MR. LYTLE: Here's your  
25 driveway going in. Here's your pool

1 KAREN PELLINO TRUST

2 in the back.

3 MR. CARRINGTON: So it's in  
4 this direction? The front of the  
5 house is actually --

6 MR. LYTTLE: It's a little  
7 deceiving. That's a triangle.

8 CHAIRMAN SCALZO: It may be  
9 difficult for you to actually see any  
10 improvements that they're proposing,  
11 Mr. Carrington, but I'm glad you're  
12 here. A lot of people don't show up.  
13 That's actually what the applicants  
14 prefer. We prefer they do.

15 MR. CARRINGTON: That's all I  
16 needed. Thank you very much for the  
17 time.

18 CHAIRMAN SCALZO: Is there  
19 anyone else from the public here to  
20 speak about this application?

21 (No response.)

22 CHAIRMAN SCALZO: No. Very  
23 good. I'll look back to the Board.  
24 Anything?

25 (No response.)



1 KAREN PELLINO TRUST

2 CHAIRMAN SCALZO: No. All  
3 right. So in this case it's very  
4 straightforward. I would look to the  
5 Board for a motion to close the  
6 public hearing.

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

9 MR. EBERHART: I'll second.

10 CHAIRMAN SCALZO: We have a  
11 motion from Mr. Gramstad. We have a  
12 second from Mr. Eberhart. All in  
13 favor?

14 MR. GRAMSTAD: Aye.

15 MR. EBERHART: Aye.

16 MR. HERMANCE: Aye.

17 MR. MASTEN: Aye.

18 CHAIRMAN SCALZO: Aye.

19 Those opposed?

20 (No response.)

21 CHAIRMAN SCALZO: Very good.  
22 So since this is a Type 2 action  
23 under SEQRA, we're going to run  
24 through our balancing test, or, as  
25 Darrell would say, the balancing act.

1           KAREN PELLINO TRUST

2           The first one, whether or not the  
3           benefit can be achieved by other  
4           means feasible to the applicant. Ms.  
5           Pellino could not do it. The  
6           extension of the deck would make  
7           things a little easier to navigate  
8           your way around the pool.

9                        Second, if there's an  
10           undesirable change in the neighborhood  
11           character or a detriment to nearby  
12           properties. We just heard from Mr.  
13           Carrington. He was satisfied. He  
14           won't be able to see it from his  
15           place. There's substantial woods  
16           between this deck and the other house  
17           behind it.

18                       The third, whether the request  
19           is substantial. By the numbers it's  
20           not terrible.

21                       The fourth, whether the request  
22           will have adverse physical or  
23           environmental effects. We discussed  
24           earlier maybe 5 square feet of  
25           excavation for the sonotubes. That's

1 KAREN PELLINO TRUST

2 nothing.

3 The fifth, whether the alleged  
4 difficulty is self-created which is  
5 relevant but not determinative. Of  
6 course it's self-created, however we  
7 have the ability to look at it a  
8 different way.

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

12 MR. HERMANCE: I'll make a  
13 motion to approve the variance.

14 MR. GRAMSTAD: I'll second it.

15 CHAIRMAN SCALZO: We have a  
16 motion to approve from Mr. Hermance.  
17 We have a second from Mr. Gramstad.

18 Can you roll on that, please,  
19 Siobhan.

20 MS. JABLESNIK: Mr. Eberhart?

21 MR. EBERHART: Yes.

22 MS. JABLESNIK: Mr. Gramstad?

23 MR. GRAMSTAD: Yes.

24 MS. JABLESNIK: Mr. Hermance?

25 MR. HERMANCE: Yes.

1 KAREN PELLINO TRUST

2 MS. JABLESNIK: Mr. Masten?

3 MR. MASTEN: Yes.

4 MS. JABLESNIK: Mr. Scalzo?

5 CHAIRMAN SCALZO: Yes.

6 The variances are approved.

7 MR. LYTTLE: Thank you. Have a  
8 good holiday.

9

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

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

KAREN PELLINO TRUST

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 7th day of January 2023.

\_\_\_\_\_  
MICHELLE CONERO

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

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

MICHELLE RIDER & GEOFFREY BRACKETT  
37 Dogwood Hills Road, Newburgh  
Section 78; Block 5; Lot 7  
R-1 Zone

----- X

Date: December 22, 2022  
Time: 8:11 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, New York

BOARD MEMBERS: DARRIN SCALZO, Chairman  
JAMES EBERHART, JR.  
ROBERT GRAMSTAD  
GREGORY M. HERMANC  
JOHN MASTEN

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

APPLICANT'S REPRESENTATIVE: JOSEPH McKAY

----- X

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

1 MICHELLE RIDER & GEOFFREY BRACKETT

2 CHAIRMAN SCALZO: Our next  
3 applicant is Michelle Rider and  
4 Geoffrey Brackett, 37 Dogwood Hills  
5 Road in Newburgh, seeking a use  
6 variance to convert a nonconforming  
7 accessory building into a second  
8 dwelling unit on the property. If  
9 use variances are granted, then area  
10 variances of the side yard and  
11 habitable floor area for the second  
12 dwelling unit.

13 Do we have mailings on this?

14 MS. JABLESNIK: Yes. This  
15 applicant sent out the most at forty-  
16 six.

17 CHAIRMAN SCALZO: You're the  
18 winner. Who do we have with us?

19 MR. MCKAY: Good evening. My  
20 name is Joe McKay. Good evening, Mr.  
21 Chairman, Members of the Board. I'm  
22 here representing the applicant, Ms.  
23 Rider and Mr. Brackett. Ms. Rider is  
24 also my law partner, so that means I  
25 have to do a good job.

1 MICHELLE RIDER & GEOFFREY BRACKETT

2 The first thing I'd like to  
3 point out to the Board is that the  
4 way the application is listed, in the  
5 first instance it seems to indicate  
6 that we are here for a use variance.  
7 That's not really so. We have filed  
8 an appeal from the building  
9 inspector's interpretation that a use  
10 variance is required. If you accept  
11 our interpretation, we believe a use  
12 variance would not be necessarily and  
13 that simply two area variances will  
14 be necessary with respect to the  
15 application.

16 I think some background would  
17 be helpful and give the Board some  
18 context. Ms. Rider and Mr. Brackett  
19 have five college age young adults,  
20 children. Some live at home with  
21 them, others are away at school.  
22 There's a lot of traveling back and  
23 forth. They're renovating their  
24 garage. Their garage is an old  
25 structure, being more than 100 years



1 MICHELLE RIDER & GEOFFREY BRACKETT

2 old, set back into a hill. They're  
3 converting one of the garage bays as  
4 a car bay, the second car bay into  
5 space, and there's a storage area  
6 above. What they are going to do is  
7 simply lift the roof structure 4 feet  
8 to create living space above.

9 We think the confusion stemmed  
10 from the architectural drawings,  
11 because the architectural drawings  
12 that were submitted along with the  
13 application indicated that this was  
14 an accessory apartment. We have some  
15 definitional issues. We believe when  
16 the building inspector looked at the  
17 application, he accepted it was for  
18 an accessory apartment. This  
19 application isn't really seeking an  
20 accessory apartment. If you look at  
21 the code -- the definitions in your  
22 code, there's an interrelated  
23 definition between accessory  
24 apartment and dwelling or dwelling  
25 unit. Essentially this is not an

1 MICHELLE RIDER & GEOFFREY BRACKETT

2 accessory apartment because in order  
3 to be an accessory apartment, you  
4 have to be a dwelling unit. It's not  
5 a dwelling unit because it doesn't  
6 have cooking facilities. In the  
7 plans that we provided there's no  
8 refrigerator, there's no stove,  
9 there's no means of cooking. The  
10 whole purpose of creating this new  
11 space is just that, to create a  
12 bedroom, some additional space so  
13 that these young people have their  
14 privacy when they come home, they're  
15 staying over on weekends or for  
16 longer periods of time. There's no  
17 kitchen proposed in the plan.  
18 There's no cooking facilities  
19 proposed in the plan. That's what  
20 makes it an accessory dwelling.  
21 That's why we would not need a use  
22 variance.

23 If you accept our interpretation  
24 of the code, then we would actually  
25 need two use variances -- I'm sorry,

1 MICHELLE RIDER & GEOFFREY BRACKETT

2 two area variances and no use  
3 variances.

4 As I said before, the roof line  
5 of the structure is going to be  
6 raised slightly. Under your code,  
7 185-15, there's a maximum 15 foot  
8 roof line height. Here the roof line  
9 would be at 19 feet 8 inches, or  
10 approximately an area variance of 4  
11 feet 8 inches.

12 As I indicated before, this  
13 garage structure is built  
14 substantially into a hill. There are  
15 actually properties with buildings  
16 above it but in the back. Really  
17 this is not going to be seen by  
18 virtually anyone. If anyone were to  
19 notice it at all, it would be looking  
20 from a downward angle.

21 The structure has been there  
22 probably more than 100 years already,  
23 so we don't think that 4 foot height  
24 variance is substantial in any way.

25 Since it is an accessory

1 MICHELLE RIDER & GEOFFREY BRACKETT

2 building, based upon the survey that  
3 we have it requires a 5 foot side  
4 line variance. According to our  
5 survey, it's approximately 4 feet 9  
6 inches.

7 CHAIRMAN SCALZO: Nine-tenths.  
8 An inch plus or minus.

9 MR. MCKAY: We would  
10 respectfully suggest to this Board  
11 that that is a minor variance that  
12 should be granted.

13 CHAIRMAN SCALZO: That's a pre-  
14 existing condition.

15 MR. MCKAY: And it's pre-  
16 existing. You can't move the  
17 building. It's been there for 100  
18 years.

19 CHAIRMAN SCALZO: How many  
20 square feet are we looking at here,  
21 and why are we going with that?

22 MS. RIDER: Of the entire  
23 structure or --

24 CHAIRMAN SCALZO: No. Just the  
25 top floor.

1 MICHELLE RIDER & GEOFFREY BRACKETT

2 MS. RIDER: 6 and change.

3 CHAIRMAN SCALZO: You actually  
4 would have, I'll call it living space  
5 on the lower level as well?

6 MS. RIDER: Yes.

7 CHAIRMAN SCALZO: Mr. Mattina,  
8 I'm going to quiz you now. If they  
9 are not calling it a dwelling, what  
10 do we call it?

11 MR. MATTINA: The plans say  
12 accessory apartment right on the  
13 front.

14 MR. MCKAY: We acknowledge  
15 that's probably how this mis-  
16 interpretation --

17 MS. RIDER: The architect.

18 MR. MCKAY: We understand  
19 exactly why that happened. Again, I  
20 think if you look at the definitions  
21 in the code --

22 MR. MATTINA: I'm well aware of  
23 the definitions.

24 CHAIRMAN SCALZO: Help me out,  
25 though. If it's not an accessory

1 MICHELLE RIDER & GEOFFREY BRACKETT

2 apartment and there are two bedrooms  
3 and a bathroom there, what is it?

4 MR. MCKAY: It's an accessory  
5 building under the code.

6 MR. DONOVAN: Again if I could  
7 put Mr. Mattina on the spot. Do  
8 accessory buildings -- here's my  
9 question, Joe. So looking at the  
10 bulk tables for R-1, it lists also  
11 accessory uses. For example, home  
12 occupations, private garage or  
13 carport, garden house, tool shed,  
14 wading or swimming pool. It lists  
15 twelve of them. Would you go into one  
16 of those categories, not go into one  
17 of those categories? Are you saying  
18 it's really part of your house even  
19 though it's in the accessory  
20 building? You're looking for the  
21 benefit of the accessory building,  
22 but I don't know where you fall in  
23 terms of the accessory use. It's not  
24 in the bulk tables, this use. I  
25 don't know how we --

1 MICHELLE RIDER & GEOFFREY BRACKETT

2 MR. MATTINA: Right. Well if  
3 it's not a permitted addressed use  
4 and the plans say accessory  
5 apartment, so that's why it says it's  
6 an accessory apartment. What use is  
7 it? It's not an addressed use.

8 MS. RIDER: I understand in the  
9 bulk table those are exclusive uses.

10 MR. DONOVAN: That's kind of my  
11 question. Newburgh is unique in that  
12 fashion. Not a lot of places list  
13 out accessory uses. They call out  
14 garden house, tool shed, tennis  
15 court, all of these accessory things.  
16 I'm trying to figure out what  
17 category we would put this use in.

18 MR. MCKAY: Those are all  
19 residential accessory uses?

20 MR. DONOVAN: It's in the R-1  
21 district for the R-1 bulk table.

22 MR. MCKAY: I don't have the  
23 table in front of me.

24 MS. RIDER: Our intention, if I  
25 may, is --

1 MICHELLE RIDER & GEOFFREY BRACKETT

2 CHAIRMAN SCALZO: Are you  
3 following this, Michelle?

4 MS. CONERO: Yes.

5 MS. RIDER: If I may, our  
6 intention is to use it as flex space  
7 that's accessory to the house. When  
8 the kids are home they'll use it for  
9 extra sleeping space. When they're  
10 not home we'll have a library  
11 downstairs. Jeff plays the guitar  
12 and sometimes I don't like to hear  
13 it. He'll go out and play. It's  
14 flex space for us because the house  
15 is not big enough to accommodate  
16 seven people when they're all home.

17 CHAIRMAN SCALZO: At times like  
18 right now.

19 MS. RIDER: Like tomorrow.

20 CHAIRMAN SCALZO: It's an  
21 oddity. They're better off calling  
22 it a kitchen than calling it an  
23 accessory apartment.

24 MR. DONOVAN: That's kind of my  
25 question. Only because the public



1 MICHELLE RIDER & GEOFFREY BRACKETT

2 hearing before you went on for a  
3 period of time, I was kind of  
4 skipping up to this file and I was  
5 reading the bulk tables.

6 MS. RIDER: I read the bulk  
7 tables and I did not read those as  
8 inclusive.

9 MR. MCKAY: If I understand the  
10 building inspector, if it's an  
11 accessory apartment he needs a use  
12 variance.

13 CHAIRMAN SCALZO: We allow up  
14 to 700 square feet --

15 MR. DONOVAN: I'd have to look.  
16 Obviously you're allowed an accessory  
17 apartment subject to whatever the  
18 rules are in an accessory building.

19 MR. MATTINA: 450 to 700.  
20 Anything over 700 makes it another  
21 dwelling unit. This would make it a  
22 dwelling unit if there was a  
23 microwave, a hot plate, any kind of  
24 appliance.

25 MR. DONOVAN: If I may, I'm

1 MICHELLE RIDER & GEOFFREY BRACKETT

2 sorry to interrupt. Let's look at  
3 the definition of dwelling unit. One  
4 or more rooms with provisions for  
5 living, cooking, sanitary and  
6 sleeping facilities arranged for the  
7 use of one family. I think your  
8 position, you make it very well Joe,  
9 is that you are not a dwelling unit  
10 because you don't have cooking  
11 facilities.

12 MR. MCKAY: That's right. That  
13 was the intent, because it was our  
14 understanding that if those things  
15 were included it would require a use  
16 variance. If the Board is now of the  
17 opinion that we could get the  
18 accessory apartment, put a little  
19 stove in there --

20 MS. RIDER: It was never our  
21 intention to put cooking facilities  
22 in there.

23 CHAIRMAN SCALZO: You can do  
24 that in 700 square feet or less.

25 MS. RIDER: I suppose we could

1 MICHELLE RIDER & GEOFFREY BRACKETT

2 make the downstairs into a two-bay  
3 garage and then the upstairs would be  
4 well over 700.

5 CHAIRMAN SCALZO: I'm not  
6 telling you what to do.

7 MR. DONOVAN: I think we're all  
8 going down this track because we know  
9 how difficult a use variance is.

10 MR. MCKAY: The building  
11 inspector is indicating we could have  
12 an accessory apartment without the  
13 use variance? Is that what you're  
14 saying?

15 CHAIRMAN SCALZO: That's  
16 correct. You can be at 700.

17 MR. MATTINA: The use variance  
18 comes in because you're over the 700  
19 square feet.

20 CHAIRMAN SCALZO: If you were  
21 699.5 --

22 MS. RIDER: We'll move the  
23 downstairs this way.

24 MR. MATTINA: You can put a  
25 stove, a microwave, a hot plate.

1 MICHELLE RIDER & GEOFFREY BRACKETT

2 Anything you want.

3 CHAIRMAN SCALZO: In that case  
4 you didn't even need to be here.

5 MR. DONOVAN: We're five  
6 members here tonight. You may want  
7 to continue the public hearing so you  
8 don't have to decide this while  
9 you're standing in front of us, and  
10 then you can figure it out. If you  
11 can just get the accessory apartment  
12 and then you're welcome back the  
13 fourth Thursday of every month.

14 MR. MCKAY: We may never have  
15 to come back.

16 MR. EBERHART: Could he just  
17 put a microwave in and then keep it  
18 moving?

19 CHAIRMAN SCALZO: There are  
20 square footage issues right now with  
21 what we have in front of us. I don't  
22 know how that would work with the  
23 Building Department. I'm not going  
24 to suggest we keep the public hearing  
25 open, but --

1 MICHELLE RIDER & GEOFFREY BRACKETT

2 MS. RIDER: I have one  
3 question. I'm looking at Mr.  
4 Mattina's response. So if we stay  
5 under the 700, which I don't think is  
6 a problem, we don't need a use  
7 variance. What's the setback?

8 CHAIRMAN SCALZO: We have a  
9 side yard issue as well. That's a  
10 preexisting condition. So you will  
11 be back here no matter what.

12 MS. RIDER: We would need a  
13 variance for that.

14 MR. DONOVAN: That would be an  
15 area variance.

16 MS. RIDER: To go from 30 feet  
17 to 4.9?

18 CHAIRMAN SCALZO: Correct.

19 MR. MATTINA: The accessory  
20 apartment needs 5 feet. The  
21 accessory apartment can be an  
22 accessory building by definition, and  
23 the accessory building only needs to  
24 be 5 feet from the property line and  
25 15 foot in total height. They would

1 MICHELLE RIDER & GEOFFREY BRACKETT

2 need a height variance and a side  
3 yard setback.

4 CHAIRMAN SCALZO: One-tenth of  
5 one foot.

6 MR. MATTINA: They would need  
7 two area variances, height and  
8 setback for the accessory building.

9 MR. DONOVAN: Both of which are  
10 existing now.

11 MR. MATTINA: Correct.

12 CHAIRMAN SCALZO: They're going  
13 up. The height is going up. Now,  
14 obviously if you're creating two  
15 bedrooms, if this is going to be --

16 MS. RIDER: One bedroom.

17 CHAIRMAN SCALZO: Even still.  
18 You have an engineer that's designing  
19 your septic?

20 MS. RIDER: It's already done.  
21 I just have to submit it.

22 CHAIRMAN SCALZO: That's not  
23 us. I think of that stuff.

24 MR. MCKAY: Is there a time  
25 that we could meet in your office to

1 MICHELLE RIDER & GEOFFREY BRACKETT

2 just kind of go through this and make  
3 sure that we --

4 MR. MATTINA: Yeah. Any time  
5 after the first of the year.

6 MR. MCKAY: Any time after the  
7 first of the year.

8 MR. MATTINA: Preferably before  
9 the 10th, her cutoff date.

10 MR. BRACKETT: Just so I'm  
11 clear on this, we're currently at  
12 724.

13 MS. RIDER: 744.

14 MR. BRACKETT: So a reduction  
15 of 44 or 45 square feet?

16 CHAIRMAN SCALZO: 44.5 square  
17 feet.

18 The public hearing is still  
19 open. Is there anyone here that  
20 wishes to speak about this application?

21 We did get one piece of  
22 correspondence with some concerns  
23 about it.

24 Other than that, is there  
25 anyone here from the public that

1 MICHELLE RIDER & GEOFFREY BRACKETT

2 wishes to speak about this  
3 application in Dogwood Hills?

4 (No response.)

5 CHAIRMAN SCALZO: Let me tell  
6 you it's not easy getting out on to  
7 9W from there.

8 MS. RIDER: Not if you're going  
9 left.

10 MR. BRACKETT: My daily commute.

11 CHAIRMAN SCALZO: Hearing  
12 nothing from the public, would the  
13 applicant like us to extend the  
14 public hearing?

15 MS. RIDER: Yes.

16 CHAIRMAN SCALZO: I'll look to  
17 the Board for a motion to keep the  
18 public hearing open until January.

19 MR. GRAMSTAD: I'll make a  
20 motion to keep the public hearing  
21 open.

22 MR. MASTEN: I'll second that.

23 CHAIRMAN SCALZO: We have a  
24 motion from Mr. Gramstad and we have  
25 a second from Mr. Masten. All in



1 MICHELLE RIDER & GEOFFREY BRACKETT

2 favor?

3 MR. GRAMSTAD: Aye.

4 MR. EBERHART: Aye.

5 MR. HERMANCE: Aye.

6 MR. MASTEN: Aye.

7 CHAIRMAN SCALZO: Aye.

8 Very good. We'll see you next  
9 month.

10 MR. MCKAY: Mr. Chairman,  
11 looking ahead, since we're keeping  
12 this open until January, we might  
13 submit revised plans.

14 CHAIRMAN SCALZO: Sure. It  
15 just needs to be ten days in advance.

16 MR. DONOVAN: If that becomes  
17 the direction and we think we're  
18 going to an area variance, I'm  
19 thinking you probably ought to  
20 re-notice just to be on the safe  
21 side.

22 MS. RIDER: We need a different  
23 application and plans?

24 CHAIRMAN SCALZO: You need to  
25 work through some things.

1 MICHELLE RIDER & GEOFFREY BRACKETT

2 MR. MCKAY: We may still come  
3 back with the same two height and  
4 setback variances. So if we adjourn  
5 it to January, what you're saying is  
6 -- could I send a letter in January  
7 saying we're working on this with the  
8 building inspector --

9 CHAIRMAN SCALZO: We can keep  
10 the public hearing open again. As  
11 long as the Board --

12 MR. DONOVAN: Joe, take a look  
13 at the code. Typically it's an area  
14 variance for a front yard setback.  
15 If we find out you need a side yard  
16 and rear yard, I view it as a de  
17 minimus change. I just want to make  
18 sure we don't run into a problem  
19 since we said use variance and now  
20 it's going to be an area variance in  
21 terms of potentially having to  
22 re-notice. Just give it some  
23 thought. Do you understand what I'm  
24 saying?

25 MR. MCKAY: Sure. Okay. Thank

1 MICHELLE RIDER & GEOFFREY BRACKETT

2 you for your help. Thank you, Mr.  
3 Mattina. I appreciate it. Have a  
4 good night.

5 (Time noted: 8:29 p.m.)

6

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

8

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

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

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

19 IN WITNESS WHEREOF, I have hereunto  
20 set my hand this 7th day of January 2023.

21

22

23

24

25

---

MICHELLE CONERO

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

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

OMAR CHIHUAHUA & FRANCISCO BARROSO  
109 Bennett Road, Newburgh  
Section 44; Block 2; Lot 5  
R-3 Zone

----- X

Date: December 22, 2022  
Time: 8:29 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, New York

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

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

APPLICANT'S REPRESENTATIVE: FLORA BARROSO,  
OMAR CHIHUAHUA and FRANCISCO BARROSO

----- X

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

1       OMAR CHIHUAHUA & FRANCISCO BARROSO

2                   CHAIRMAN SCALZO: Our last new  
3       applicant for the evening is Omar  
4       Chihuahua and Francisco Barroso at  
5       109 Bennett Road, seeking area  
6       variances of increasing the degree of  
7       nonconformity of the two front yards,  
8       Bennett Road and Ashley Drive, to add  
9       a 1,783 square foot second floor  
10      addition to an existing nonconforming  
11      structure.

12                  Siobhan, do we have mailings on  
13      this?

14                  MS. JABLESNIK: This applicant  
15      sent out twenty-eight letters.

16                  CHAIRMAN SCALZO: Twenty-eight.  
17      Okay. Who do we have with us this  
18      evening?

19                  MS. BARROSO: Good evening. My  
20      name is Flora Barroso. I'm just  
21      going to help my husband, Francisco,  
22      and Omar.

23                  CHAIRMAN SCALZO: Very good.  
24      Okay. I just read two sentences  
25      about what it is that you're trying

1       OMAR CHIHUAHUA & FRANCISCO BARROSO

2           to do. We saw the house burnt down.  
3           I'll say your burden right here is  
4           that you're on a corner lot and you  
5           have two front yards. You're looking  
6           to reestablish that second floor that  
7           had burnt down, if I'm correct.

8           MS. BARROSO: Yes.

9           CHAIRMAN SCALZO: I have read  
10          the application. I looked at what  
11          the setbacks are. As I say, you're  
12          burdened with two front yards.  
13          There's nothing you can do about that  
14          because the foundation is there.

15          You're looking to rebuild that  
16          second floor where the fire took it  
17          out?

18          MS. BARROSO: Yes.

19          CHAIRMAN SCALZO: Boy, that's  
20          not all that tricky. Is there  
21          anything that you'd like to add?

22          MS. BARROSO: Not at this time.

23          MR. DONOVAN: You did a really  
24          good job so far.

25          CHAIRMAN SCALZO: You're doing

1       OMAR CHIHUAHUA & FRANCISCO BARROSO

2               great. Okay. Sit tight.

3               Mr. Gramstad, do you have any  
4               comments on that?

5               MR. GRAMSTAD: No. I drove by  
6               it. You did great rebuilding the  
7               house.

8               CHAIRMAN SCALZO: Mr. Eberhart?

9               MR. EBERHART: Nothing.

10              MS. BARROSO: Thank you.

11              MR. HERMANCE: It's within the  
12              same footprint? It's not being  
13              cantilevered?

14              MS. BARROSO: No.

15              CHAIRMAN SCALZO: Mr. Masten?

16              MR. MASTEN: I have nothing.

17              CHAIRMAN SCALZO: Like I say,  
18              it really helps when you see what  
19              you're trying to do.

20              MS. BARROSO: Yes.

21              CHAIRMAN SCALZO: Is there  
22              anyone here from the public that  
23              wishes to speak about this  
24              application or ask any questions of  
25              the applicant? If you could step

1       OMAR CHIHUAHUA & FRANCISCO BARROSO

2               forward.

3               MS. ROMANO: Hi. My name is  
4               Angela Romano. I'm a resident of  
5               Ashley Drive. Actually, my home's  
6               driveway borders the backyard of 109  
7               Bennett Road.

8               You know, my property value has  
9               been negatively impacted when the  
10              house suffered a fire, and it's been  
11              in disrepair for a couple of years  
12              now. I welcome the opportunity for  
13              the reconstruction of their home.

14              Having said that, I do have  
15              some concerns that I would like to  
16              address.

17              CHAIRMAN SCALZO: Now is the  
18              time.

19              MS. ROMANO: Yes. So I would  
20              like to know if the building is going  
21              to expand? From what I gather, it's  
22              going to use the current blueprint,  
23              but I just want to make sure they are  
24              not expanding into the backyard or  
25              into the side yard on Ashley Drive,



1       OMAR CHIHUAHUA & FRANCISCO BARROSO

2             that it will remain in the current  
3             footprint.

4                     CHAIRMAN SCALZO: From what my  
5             review of the plans are, it does  
6             appear that they will be sitting on  
7             exactly where the original footprint  
8             of the house was. Mr. Hermance had  
9             asked if there was going to be any  
10            cantilevers, which means anything  
11            that would stick out any further than  
12            the foundation. The applicant has  
13            indicated no.

14                    Also, if you have access to the  
15            internet, Ms. Romano, these plans I  
16            believe are on there.

17                    MS. ROMANO: I saw the plans.

18                    CHAIRMAN SCALZO: You can take  
19            a look at those as well. It appears  
20            from what we've heard and what we've  
21            seen, that no, it won't be any bigger  
22            than it was before.

23                    MS. ROMANO: So my house is  
24            going to be shaded by the size of  
25            that second floor, literally and

1       OMAR CHIHUAHUA & FRANCISCO BARROSO

2               figuratively. That's not an issue  
3               for me. What I really need to  
4               understand is is Mr. Chihuahua and  
5               Mr. Barroso, are they planning to  
6               live in the house?

7               CHAIRMAN SCALZO: That I don't  
8               know. I see some nodding going on.

9               If you could stand up and --  
10              although we're here for area  
11              variances, when it comes to that sort  
12              of thing, that's not something that  
13              we really weigh when we do our  
14              balancing test.

15             MS. ROMANO: Well you know what  
16             I'm driving at.

17             CHAIRMAN SCALZO: Nobody likes  
18             to -- not many people like to live  
19             next door to rentals. It's a lovely  
20             neighborhood and --

21             MS. ROMANO: Yes. I don't have  
22             an issue other than I want to be  
23             reassured that this is going to  
24             remain a single-family, one-family  
25             residence. If they plan to sell it,

1       OMAR CHIHUAHUA & FRANCISCO BARROSO

2               that it remains that.

3               CHAIRMAN SCALZO:  Some of those  
4               things we don't have control over.

5               MS. ROMANO:  So you don't have  
6               control over whether this becomes a  
7               multiple family rental?

8               MS. BARROSO:  It will not.  Our  
9               intention is to keep it owner  
10              occupied, a one-family dwelling.

11              MS. ROMANO:  Okay.  I don't  
12              want to live next door to a group  
13              home, a daycare center or an Airbnb.  
14              That's my concern.

15              CHAIRMAN SCALZO:  I don't  
16              believe the code allows any of those,  
17              what you just mentioned.  I don't  
18              think a group home or -- perhaps a  
19              group home but I don't think so.  Mr.  
20              Mattina is our local expert on that.

21              MR. MATTINA:  Group homes are  
22              regulated and daycares are regulated  
23              by the State.  We can't speak for the  
24              State.  As far as a two family, any  
25              two family would have to have

1       OMAR CHIHUAHUA & FRANCISCO BARROSO

2               Planning Board approval.

3               CHAIRMAN SCALZO:  If that were  
4               the case there would be another  
5               meeting that you would be noticed  
6               for.  As we're hearing from the  
7               applicant, a single-family dwelling.

8               MS. ROMANO:  Okay.  Thank you.

9               CHAIRMAN SCALZO:  Does anyone  
10              else from the public wish to speak  
11              about this application?

12              (No response.)

13              CHAIRMAN SCALZO:  Very good.  
14              I'll look back to the Board.  Any  
15              questions?

16              MR. EBERHART:  No.

17              MR. GRAMSTAD:  No.

18              MR. HERMANCE:  No.

19              MR. MASTEN:  No.

20              CHAIRMAN SCALZO:  All right.

21              MS. MAZZEO:  I'm sorry.  One  
22              question.  Excuse me.  I have a bunch  
23              but I've narrowed them down.

24              CHAIRMAN SCALZO:  Thank for  
25              building up the courage to step

1       OMAR CHIHUAHUA & FRANCISCO BARROSO

2               forward.

3               MS. MAZZEO: Good evening. I'm  
4       Mary Mazzeo. I live at 4 Ashley  
5       Drive, Town of Newburgh.

6               I just wanted to add a comment  
7       to Angela, what she had said.

8               Mr. Barroso and Mr. Chihuahua,  
9       hello. Will you be occupying the  
10      property as owners?

11              MS. BARROSO: Legally we have  
12      the right -- it's going to be owner  
13      occupied and it's not going to be  
14      rented out.

15              MS. MAZZEO: Okay. I just  
16      wanted to clarify. Okay. Thank you.

17              Thank you, Chairman. Thank  
18      you, Board.

19              MR. DONOVAN: Just so we're  
20      clear, though, the Board can't make  
21      that a condition of any approval.  
22      People's circumstances can change.

23              MS. MAZZEO: I appreciate it.  
24      Thank you, Counselor.

25              CHAIRMAN SCALZO: Does anyone

1       OMAR CHIHUAHUA & FRANCISCO BARROSO

2               else from the public wish to speak  
3               about this application?

4                       (No response.)

5               CHAIRMAN SCALZO:   So now I'll  
6               look to the Board for a motion to  
7               close the public hearing.

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

10              MR. GRAMSTAD: I'll second it.

11              CHAIRMAN SCALZO: We have a  
12              motion from Mr. Masten. We have a  
13              second from Mr. Gramstad. All in  
14              favor?

15              MR. GRAMSTAD: Aye.

16              MR. EBERHART: Aye.

17              MR. HERMANCE: Aye.

18              MR. MASTEN: Aye.

19              CHAIRMAN SCALZO: Aye.

20              Those opposed?

21                       (No response.)

22              CHAIRMAN SCALZO: Very good.

23              This is a Type 2 action under  
24              SEQRA, so we will go through our five  
25              factors which we're weighing, the

1       OMAR CHIHUAHUA & FRANCISCO BARROSO

2               first one being whether the benefit  
3               can be achieved by other means  
4               feasible to the applicant. This is a  
5               restoration from a fire damage.

6               The second, if there's an  
7               undesirable change in the neighborhood  
8               character or a detriment to nearby  
9               properties. It's going to be quite  
10              the opposite. It's going to be a  
11              desirable change to the neighborhood.

12             The third, whether the request  
13             is substantial. It is a preexisting  
14             nonconforming condition with the side  
15             yards.

16             The fourth, whether the request  
17             will have adverse physical or  
18             environmental effects. Again, no. I  
19             think it's going to be great.

20             The fifth, whether the alleged  
21             difficulty is self-created, which  
22             it's not. It was caused by a fire.

23             Having gone through the  
24             balancing tests of the area variance,  
25             does the Board have a motion of some

1       OMAR CHIHUAHUA & FRANCISCO BARROSO

2               sort?

3               MR. GRAMSTAD: I'll make a  
4       motion to approve the variance.

5               MR. EBERHART: I'll second it.

6               CHAIRMAN SCALZO: We have a  
7       motion for approval of all variances  
8       from Mr. Gramstad. We have a second  
9       from Mr. Eberhart.

10              Can you roll on that, Siobhan.

11              MS. JABLESNIK: Mr. Eberhart?

12              MR. EBERHART: Yes.

13              MS. JABLESNIK: Mr. Gramstad?

14              MR. GRAMSTAD: Yes.

15              MS. JABLESNIK: Mr. Hermance?

16              MR. HERMANCE: Yes.

17              MS. JABLESNIK: Mr. Masten?

18              MR. MASTEN: Yes.

19              MS. JABLESNIK: Mr. Scalzo?

20              CHAIRMAN SCALZO: Yes.

21              That's it. The motion is  
22       carried. The variances are approved.  
23       Good luck, folks.

24

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



1        O M A R   C H I H U A H U A   &   F R A N C I S C O   B A R R O S O

2

3

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

4

5

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

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

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

16            IN WITNESS WHEREOF, I have hereunto  
17        set my hand this 7th day of January 2023.

18

19

20

21

22

---

MICHELLE CONERO

23

24

25

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

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

52 MONARCH DEVELOPMENT, INC.

Route 52 & Monarch Drive, Newburgh  
Section 103; Block 7; Lot 18  
Section 47; Block 1; Lot 46  
B Zone

----- X

Date: December 22, 2022  
Time: 8:38 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, New York

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

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

APPLICANT'S REPRESENTATIVE: JOHN CAPPELLO

----- X

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

1           52 MONARCH DEVELOPMENT, INC.

2                   CHAIRMAN SCALZO: Our next  
3           applicant is held open from the  
4           August 2021 meeting, 52 Monarch  
5           Development, Inc., an interpretation  
6           of a height limitation in the B Zone  
7           for senior housing, area variances of  
8           the maximum size of the one and  
9           two-bedroom units and the maximum  
10          building height. This is a Planning  
11          Board referral.

12                   Now, the Planning Board did  
13          send us their negative declaration  
14          for this. This is a Type 1 action, a  
15          coordinated review. I'm going to  
16          look at our Counsel and say guide me  
17          through this, sir.

18                   MR. DONOVAN: Well, if memory  
19          serves, and Mr. Cappello will confirm  
20          if my memory is faulty or not, the  
21          Board actually granted a favorable  
22          interpretation. Because interpretations  
23          are Type 2 actions, the Board -- from  
24          time to time this happens. When an  
25          action is a Type 1 action, which is

1           52 MONARCH DEVELOPMENT, INC.

2           think larger projects, and there is a  
3           lead agency declaration by the  
4           Planning Board, we can't act on any  
5           variance applications until such time  
6           as the lead agency, the Planning  
7           Board, finishes the SEQRA by adopting  
8           a negative declaration. They have  
9           done that. The applicant received  
10          the interpretation as requested a  
11          year-and-a-half ago or so and now is  
12          back on the variances.

13                     John, do I have that correct?

14                     MR. CAPPELLO: Yes.

15                     Good evening, everyone. My  
16          name is John Cappello. I'm an  
17          attorney with Jacobowitz & Gubits.  
18          I'm here with Michael Mahar, one of  
19          the principals of Monarch  
20          Development, the developers.

21                     We were here back in August  
22          '21. This project is 100 plus unit  
23          senior citizen development. As part  
24          of the overall approvals we were  
25          required to get the authorization

1           52 MONARCH DEVELOPMENT, INC.

2           from the Town Board. After the Town  
3           Board held a public hearing to pursue  
4           a senior development, which we  
5           obtained. After their public hearing  
6           and after two informational meetings  
7           at a local hotel, we then proceeded  
8           to your Board because of the senior  
9           citizen overlay, the way it was  
10          worded there was some question as to  
11          determine the appropriate height.  
12          This Board held a public hearing,  
13          issued the interpretation saying that  
14          was the Planning Board's purview as  
15          to the height of the building, and,  
16          as Mr. Donovan said, heard testimony  
17          regarding the one last item, which  
18          was the area variance for the size of  
19          the actual apartment units.

20                 There's a quirk in the senior  
21                 citizen overlay that has a maximum,  
22                 we're used to minimum sizes in most  
23                 zoning codes. Under the senior  
24                 overlay there's a maximum apartment  
25                 size of 700 square feet for one

1           52 MONARCH DEVELOPMENT, INC.

2           bedrooms and I believe --

3                   MR. DONOVAN: John, 700 for  
4           one, 900 for two.

5                   MR. CAPPELLO: 900 for two  
6           bedrooms. As we discussed at the  
7           prior public hearing, the applicant  
8           would like to make certain of the  
9           one-bedroom units, instead of 700,  
10          840 square feet, and certain of the  
11          two-bedrooms, instead of 900, 1,060  
12          square feet. The footprint of the  
13          building wouldn't change just because  
14          of the layout and the utilities.  
15          This lays out better for many of the  
16          units, and it also provides, as has  
17          become evidenced under COVID, since  
18          then a lot of people are now working  
19          from home, even the seniors. So this  
20          allows the apartments to have a  
21          little bit of an alcove where someone  
22          could have a computer workstation and  
23          actually work from home.

24                   That hearing was left open and  
25          was reheard because, as Mr. Donovan



1           52 MONARCH DEVELOPMENT, INC.

2           size of the one bedroom is going  
3           from?

4           MR. CAPPELLO: 700 to 840.

5           CHAIRMAN SCALZO: So 140 square  
6           feet?

7           MR. CAPPELLO: Right.

8           CHAIRMAN SCALZO: Which is not  
9           a lot. All right. And then the two  
10          bedroom?

11          MR. CAPPELLO: Is from 900 to  
12          1,060.

13          CHAIRMAN SCALZO: Okay. So a  
14          little over 160 square feet.

15          MR. CAPPELLO: Right.

16          MR. DONOVAN: Larger, not  
17          smaller.

18          CHAIRMAN SCALZO: So it's like  
19          if you were in a 13 by 13 room.

20          MR. CAPPELLO: Literally. Like  
21          I said, it doesn't change the  
22          footprint. If we had to make the  
23          unit smaller to comply, there would  
24          just be more facility space but it  
25          wouldn't change the building that was



1           52 MONARCH DEVELOPMENT, INC.

2           approved. It would really be a  
3           better use of the space, to provide  
4           an amenity for those seniors who will  
5           be occupying the units.

6                     CHAIRMAN SCALZO: Thank you.

7                     Mr. Mattina, what does the Town  
8           consider seniors? What's the age  
9           threshold?

10                    MR. MATTINA: I have no idea.

11                    MR. CAPPELLO: I believe it's  
12           62.

13                    CHAIRMAN SCALZO: 55 I'm  
14           getting from the back of the room.  
15           55. I qualify. You don't want to  
16           think you do.

17                    MR. CAPPELLO: Unfortunately  
18           I'm one year from qualifying for all  
19           of them.

20                    CHAIRMAN SCALZO: I recall  
21           seeing this before. I recall the  
22           architect was in here. Mr. Lockwood  
23           I think is who it was. I don't have  
24           any questions myself. I'm a fan.  
25           I'm just one of five.

1           52 MONARCH DEVELOPMENT, INC.

2                   Mr. Masten, do you have any  
3           thoughts on this?

4                   MR. MASTEN: Not as of right  
5           now, Darrin.

6                   CHAIRMAN SCALZO: Okay. How  
7           about you, Mr. Hermance?

8                   MR. HERMANCE: Do we know why  
9           the 700 foot parameters were  
10          established? I mean what was it  
11          based on? Do we know that? Joe,  
12          would we know that?

13                   MR. MATTINA: It's just a  
14          number they come up with. The same  
15          as the accessory apartments, they  
16          just pick a number.

17                   MR. DONOVAN: Hopefully there's  
18          more to it than that.

19                   MR. HERMANCE: Is it to avoid  
20          multiple --

21                   MR. MATTINA: I'm unaware of  
22          why the numbers were chosen.

23                   MR. HERMANCE: It just seems an  
24          odd thing.

25                   MR. CAPPELLO: Some of the

1           52 MONARCH DEVELOPMENT, INC.

2           affordable issues. They keep it at a  
3           maximum to make it more affordable.  
4           Here the layout would be the same.  
5           Since then I think the Town Board may  
6           want to address it, just space for  
7           home use and life has changed as we  
8           spend more time home.

9           CHAIRMAN SCALZO: Everybody  
10          wants more space. I know I do.

11          Mr. Hermance, is that --

12          MR. HERMANCE: That's all I  
13          have.

14          CHAIRMAN SCALZO: Mr. Eberhart?

15          MR. EBERHART: I have nothing.

16          CHAIRMAN SCALZO: Mr. Gramstad?

17          MR. GRAMSTAD: Nothing at all.

18          CHAIRMAN SCALZO: Counsel, this  
19          is actually a public hearing?

20          MR. DONOVAN: Correct.

21          CHAIRMAN SCALZO: Is there  
22          anyone here that wishes to speak  
23          about this application?

24          MR. BETCHER: My name is  
25          Charlie Betcher. I live right behind

1 52 MONARCH DEVELOPMENT, INC.

2 the units being built. I can't  
3 really -- my questions do not pertain  
4 to the inside. My questions still  
5 remain with the outside.

6 CHAIRMAN SCALZO: Sir, you need  
7 to go back to the Planning Board  
8 after you're done here. Correct?

9 MR. CAPPELLO: No. The  
10 Planning Board issued a conditional  
11 approval. There was a hearing. We  
12 provided renderings. We addressed  
13 the issues, provided landscaping,  
14 provided buffering.

15 CHAIRMAN SCALZO: Buffering or  
16 side yard setbacks, we're not here to  
17 talk about any of that. We're only  
18 here to talk about the size of the  
19 apartments.

20 MR. CAPPELLO: Exactly.

21 CHAIRMAN SCALZO: Anyone from  
22 the public?

23 (No response.)

24 CHAIRMAN SCALZO: No. Okay.  
25 So in this case I'll look back

1           52 MONARCH DEVELOPMENT, INC.

2           to the Board. Any other questions?

3                   MR. EBERHART: No.

4                   MR. GRAMSTAD: No.

5                   MR. HERMANCE: No.

6                   MR. MASTEN: No.

7                   CHAIRMAN SCALZO: Okay. I  
8           guess I'll look for a motion from the  
9           Board to close the public hearing.

10                   MR. GRAMSTAD: I'll make a  
11           motion to close the public hearing.

12                   MR. EBERHART: I'll second it.

13                   CHAIRMAN SCALZO: We have a  
14           motion to close the public hearing  
15           from Mr. Gramstad. We have a second  
16           from Mr. Eberhart. All in favor?

17                   MR. GRAMSTAD: Aye.

18                   MR. EBERHART: Aye.

19                   MR. HERMANCE: Aye.

20                   MR. MASTEN: Aye.

21                   CHAIRMAN SCALZO: Aye.

22                   Those opposed?

23                   (No response.)

24                   CHAIRMAN SCALZO: Counsel,  
25           where do we go from here?

1           52 MONARCH DEVELOPMENT, INC.

2                   MR. DONOVAN: You engage in the  
3                   five-part balancing test and vote on  
4                   the variances.

5                   CHAIRMAN SCALZO: All right.  
6                   Well I'm going to reiterate what we  
7                   already heard. The exterior of the  
8                   buildings will not change whether we  
9                   approve or deny. The exterior  
10                  dimensions are the exterior dimensions.

11                  So the first one being whether  
12                  or not the benefit can be achieved by  
13                  other means feasible to the applicant.  
14                  Yeah, I guess so. If they would make  
15                  them smaller there would be more  
16                  facility space, wider hallways.  
17                  Private and first class.

18                  Second, if there's an  
19                  undesirable change in the  
20                  neighborhood character or a detriment  
21                  to nearby properties. From the  
22                  outside there is absolutely no change  
23                  whatsoever.

24                  The third, whether the request  
25                  is substantial. Maybe. From the

1           52 MONARCH DEVELOPMENT, INC.

2           outside no one will notice.

3                   MR. DONOVAN:  If I can  
4           interject.  We talked about this  
5           before.  It's not just a mathematical  
6           computation.  When you're looking for  
7           substantiality of the variance,  
8           you're also looking at the overall  
9           effect or impact.  The overall effect  
10          or impact would be nonexistent  
11          because looking at the building from  
12          the outside, whether these apartments  
13          are smaller or larger, has no effect  
14          at all.  I would offer the opinion  
15          that it's not substantial.

16                   CHAIRMAN SCALZO:  Thank you,  
17          Counsel.  He's not voting, he's just  
18          telling me.

19                   MR. DONOVAN:  I said I'm  
20          offering the opinion.

21                   CHAIRMAN SCALZO:  Thank you.

22                   The fourth, whether the request  
23          will have adverse physical or  
24          environmental effects.  I don't think  
25          so.

1           52 MONARCH DEVELOPMENT, INC.

2                   The fifth, whether the alleged  
3           difficulty is self-created which is  
4           relevant but not determinative. Of  
5           course it's self-created. Everything  
6           just about that we get here except  
7           for the last one.

8                   So anyway, having gone through  
9           the balancing test, does the Board  
10          have a motion of some sort?

11                   What are we approving here,  
12          Counsel?

13                   MR. DONOVAN: You are approving  
14          two variances, to allow the one-  
15          bedroom apartments to have a size of  
16          844 where 700 square foot is the  
17          maximum and for the two-bedroom  
18          allowing the size of 1,060 where 900  
19          square feet is the maximum allowed.

20                   CHAIRMAN SCALZO: Thank you,  
21          Counsel. That prevents me from  
22          having to say it.

23                   In this case does the Board  
24          have a motion of some sort?

25                   MR. HERMANCENCE: I'll make a



1           52 MONARCH DEVELOPMENT, INC.

2           motion for approval.

3                   MR. BETCHER: Can I say one  
4           thing?

5                   CHAIRMAN SCALZO: Sir, you know  
6           what, I shouldn't but I'm going to  
7           let you go ahead. We just closed the  
8           public hearing.

9                   MR. BETCHER: At some hearing  
10          -- my name is Charlie Betcher. I'm  
11          at 5 Royal Circle. I had heard that  
12          there was supposed to be 102 units  
13          and I just heard you say 100 units.

14                   MR. CAPPELLO: I said  
15          approximately 100.

16                   MR. BETCHER: Is it going to be  
17          102?

18                   CHAIRMAN SCALZO: Sir, I would  
19          be willing to bet these gentlemen  
20          could answer these questions out in  
21          the hallway. We were just looking  
22          for the size of the apartments.  
23          Thank you.

24                   We had a motion for approval  
25          from Mr. Hermance. Did I hear a

1 52 MONARCH DEVELOPMENT, INC.

2 second?

3 MR. GRAMSTAD: I'll second it.

4 CHAIRMAN SCALZO: We have a  
5 second from Mr. Gramstad.

6 Can you roll on that, Siobhan?

7 MS. JABLESNIK: Mr. Eberhart?

8 MR. EBERHART: Yes.

9 MS. JABLESNIK: Mr. Gramstad?

10 MR. GRAMSTAD: Yes.

11 MS. JABLESNIK: Mr. Hermance?

12 MR. HERMANCE: Yes.

13 MS. JABLESNIK: Mr. Masten?

14 MR. MASTEN: Yes.

15 MS. JABLESNIK: Mr. Scalzo?

16 CHAIRMAN SCALZO: Yes.

17 The motion is carried. Good  
18 luck.

19 MR. CAPPELLO: Thank you very  
20 much. Happy holidays, everyone.

21 CHAIRMAN SCALZO: Sir, please  
22 discuss this with the gentleman in  
23 the hallway.

24

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

1 52 MONARCH DEVELOPMENT, INC.

2

3

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

4

5

6

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

9

10

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

11

12

13

14

15

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.

16

17

18

19

20

21

22

23

24

25

---

MICHELLE CONERO

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

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

BOARD BUSINESS

- 2102 PARTNERS, LLC
- APPROVAL OF NOVEMBER 2022 MINUTES

----- X

Date: December 22, 2022  
Time: 8:50 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, New York

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

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

----- X

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

1 BOARD BUSINESS

2 CHAIRMAN SCALZO: Folks, did  
3 you look at the map that was provided  
4 for Black Rock?

5 MS. JABLESNIK: It was e-mailed.

6 CHAIRMAN SCALZO: I think they  
7 met everything that we were requesting.

8 MR. DONOVAN: It was deferred.  
9 Actually, the Board deferred to you  
10 to make the final determination as to  
11 whether or not it was compliant, what  
12 was requested. Is it?

13 CHAIRMAN SCALZO: I feel as  
14 though it's in compliance with our  
15 request, therefore it's not a vote.

16 All right. How about meeting  
17 minutes, folks. Did we get a chance  
18 to look at the latest meeting  
19 minutes? If so, does anybody have a  
20 motion to approve those meeting  
21 minutes?

22 MR. HERMANCE: I'll make the  
23 motion to approve the meeting  
24 minutes.

25 CHAIRMAN SCALZO: I'll second

1 BOARD BUSINESS

2 that. All in favor?

3 MR. GRAMSTAD: Aye.

4 MR. EBERHART: Aye.

5 MR. HERMANCE: Aye.

6 MR. MASTEN: Aye.

7 CHAIRMAN SCALZO: Aye.

8 Can I have a motion to close  
9 the meeting for the evening.

10 MR. GRAMSTAD: I'll make a  
11 motion to close the meeting.

12 MR. EBERHART: Second.

13 CHAIRMAN SCALZO: I have a  
14 motion from Mr. Gramstad and a second  
15 from Mr. Eberhart. All in favor?

16 MR. GRAMSTAD: Aye.

17 MR. EBERHART: Aye.

18 MR. HERMANCE: Aye.

19 MR. MASTEN: Aye.

20 CHAIRMAN SCALZO: Aye.

21

22 (Time noted: 8:53 p.m.)

23

24

25

1 BOARD BUSINESS

2

3

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

4

5

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

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

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

16 IN WITNESS WHEREOF, I have hereunto  
17 set my hand this 7th day of January 2023.

18

19

20

21

22

---

MICHELLE CONERO

23

24

25