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

- - - - - X
In the Matter of

PREMIER SIGN SYSTEMS
M&T BANK

5075 Route 9W, Newburgh
Section 79; Block 3; Lot 20
R-1/O Zone

- - - - - X

Date: May 25, 2023
Time: 7:00 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, New York

BOARD MEMBERS: DARRELL BELL, Acting Chairman
JAMES EBERHART, JR.
ROBERT GRAMSTAD
GREGORY M. HERMANCE
JOHN MASTEN

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

APPLICANT'S REPRESENTATIVES: CRAIG TESLER,
MICHAEL HYMAN & CYNTHIA ORSI

- - - - - X

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

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MR. BELL: I would like to call the meeting of the ZBA to order. Our Chairman is out this evening, so I am stepping in to take his place this evening.

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

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I would ask that if anybody has a cellphone, that you put it on silent or turn it off. When speaking -- well, we don't have a mic tonight. When speaking, be sure that our stenographer, which is recording, can hear you clearly, as the meetings are recorded.

At this time I would ask to stand to do the pledge of Allegiance to the flag.

(Pledge of Allegiance.)

MR. BELL: First we'll have a roll call. Siobhan.

MS. JABLESNIK: Darrell Bell.

MR. BELL: Present.

MS. JABLESNIK: James Eberhart.

MR. EBERHART: Present.

MS. JABLESNIK: Robert Gramstad.

MR. GRAMSTAD: Present.

MS. JABLESNIK: Greg Hermance.

MR. HERMANCE: Here.

MS. JABLESNIK: John Masten.

MR. MASTEN: Here.

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MS. JABLESNIK: Absent this evening are Donna Rein and Darrin Scalzo. Present also this evening is Dave Donovan, our Attorney; from Code Compliance, Joseph Mattina; and our Stenographer, Michelle Conero.

MR. BELL: The first applicant that we have this evening is Premier Sign Systems for M&T Bank, area variances of total signage, illumination, square footage, height and the setback to the property line to replace all existing signage on the property.

Who is here to represent? Step forward. Upfront, please.

MR. TESLER: Absolutely. Good evening. My name is Craig Tesler with Premier Sign Systems, 10 Excel Drive, Rochester, New York. With me this evening is Mike Hyman, vice president of construction, and Cindy Orsi, vice president of marketing with M&T Bank. We're here this

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evening to answer any questions you may have.

To summarize, basically the bank has rolled out a new corporate logo. It's just a slightly different letter type than what's existing at the branch. We're just looking, basically, to reface all the existing signage with the new logo. The square footage is not increasing. The colors are not changing. It's just literally the letter style. It's actually a thinner -- in our charting, a thinner stroke, meaning a thinner character. Other than that, nothing else is changing.

Like I said, we're here to answer any questions you may have.

MR. BELL: I'll start down to my right with Mr. Gramstad.

MR. GRAMSTAD: They're just looking to change what's there. No questions.

MR. EBERHART: Nothing.

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MR. HERMANCANCE: I have no questions.

MR. BELL: Mr. Masten?

MR. MASTEN: I have nothing.

MR. BELL: Nothing.

Okay. It seems like it's relatively simple.

We all are required to visit all the sites, okay. So we've all been out to each site. Even if someone was not home, we were still there. We are required by the Board to attend those.

Is there anybody here from the public that wishes to speak on this?

(No response.)

MR. BELL: The Board is good?

MR. GRAMSTAD: Yes.

MR. EBERHART: Yes.

MR. HERMANCANCE: Yes.

MR. MASTEN: Yes.

MR. BELL: So I'll ask for a motion to close the public hearing.

MR. GRAMSTAD: I'll make a

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motion to close the public hearing.

MR. MASTEN: I'll second it.

MR. BELL: There's a first by Mr. Gramstad and a second by Mr. Masten. All in favor?

MR. GRAMSTAD: Aye.

MR. EBERHART: Aye.

MR. HERMANCE: Aye.

MR. MASTEN: Aye.

MR. BELL: Aye.

You can have a seat.

This is a Type 2 action under SEQRA?

MR. DONOVAN: Correct, Mr. Chairman. It's a Type 2 action.

MR. BELL: We will go through the five balancing tests here. So the first is whether or not the benefits can be achieved by any other means feasible to the applicant. I don't see where there's an issue with that at all.

Second, is there an undesirable change in the neighborhood character

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or a detriment to nearby properties.

MR. EBERHART: No.

MR. GRAMSTAD: No.

MR. HERMANCE: No.

MR. MASTEN: No.

MR. BELL: I don't see that at all. They're actually just changing the logo facing of those signs. There aren't any height requirement changes or any additional signs.

The third is whether the request is substantial. It is, but that's not an issue.

The fourth is whether the request will have adverse physical or environmental effects.

MR. EBERHART: No.

MR. GRAMSTAD: No.

MR. HERMANCE: No.

MR. MASTEN: No.

MR. BELL: None at all.

And the fifth, whether the alleged difficulty is self-created. That is relevant but not

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determinative, so that's not an issue there.

With that said, is there a motion from the Board?

MR. MASTEN: I'll make a motion we go ahead.

MR. EBERHART: I'll second.

MR. BELL: We have a first by Mr. Masten and a second by Mr. Eberhart.

MS. JABLESNIK: For approval.

MR. DONOVAN: Motion to approve.

MR. BELL: Motion to approve.

MS. JABLESNIK: Mr. Bell?

MR. BELL: Yes.

MS. JABLESNIK: Mr. Eberhart?

MR. EBERHART: Yes.

MS. JABLESNIK: Mr. Gramstad?

MR. GRAMSTAD: Yes.

MS. JABLESNIK: Mr. Hermance?

MR. HERMANCE: Yes.

MS. JABLESNIK: Mr. Masten?

MR. MASTEN: Yes.

MR. BELL: The variance is granted.

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MR. TESLER: Thank you very
much.

MS. JABLESNIK: For the record,
the applicant sent out 26 mailings.

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

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

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

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

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

IN WITNESS WHEREOF, I have hereunto
set my hand this 9th day of June 2023.

Michelle Conero

MICHELLE CONERO

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

- - - - - X
In the Matter of

ELYSIA & TODD NESPOLI

23 Sommerfield Drive, Wallkill
Section 3; Block 1; Lot 133
AR Zone

- - - - - X

Date: May 25, 2023
Time: 7:08 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, New York

BOARD MEMBERS: DARRELL BELL, Acting Chairman
JAMES EBERHART, JR.
ROBERT GRAMSTAD
GREGORY M. HERMANCE
JOHN MASTEN

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

APPLICANT'S REPRESENTATIVE: ELYSIA & TODD NESPOLI

- - - - - X

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MR. BELL: The next one is a variance for -- an area variance to keep chickens on a 1.1 acre lot where 2 acres is the minimum.

Who is here to represent? If you can step forward.

MS. NESPOLI: My husband and I are here.

MR. BELL: How many mailings?

MS. JABLESNIK: This applicant sent out 18 letters.

MR. BELL: 18 letters.

Go ahead.

MS. NESPOLI: So during the Great Depression the government --

MR. BELL: Excuse me. If you can state your name.

MS. NESPOLI: Elysia Nespoli.

During the Great Depression the government called for people to raise chickens as their patriotic duty. With the cost of living increasing and food costs rising, it's becoming harder and more expensive to feed our

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family. Chickens require no acreage to be kept, and residents in all major cities, like New York City, LA, Denver, keep chickens. They are kept for many, many reasons, like eggs, they're pets, therapy animals. Hobbyists keep them. They're kept for their egg color variation. They provide chemical-free pest control and chemical-free weed control, which is super important, especially on our property because we are on well water. They produce a nitrogen-rich fertilizer which we use in our garden. I compare it to an average hen can produce about a quarter of a pound of fertilizer compared to a dog which produces about a half a pound of non-compostable, so it goes right in our waste. We have thousands of chickens, maybe hundreds of thousands of chickens already living in our town, and they're feeding our families. I think it's crazy that we

2 would have to get rid of them when
3 they do such good things. They help
4 with our compost. They're stopping
5 our food waste. I don't know what we
6 would do without them.

7 MR. BELL: Okay. Are these
8 chickens enclosed? Are they kept in
9 an enclosed facility?

10 MS. NESPOLI: They have an
11 enclosure. We had tried last year to
12 free range them, but hawks were
13 eating them. It was really, really,
14 really bad. We actually had just
15 bought a new run which we were
16 starting -- we bought and we had it.
17 It came and then we got the letter.
18 We want to keep them enclosed in on a
19 run. For a little while we were
20 trying to train them to stay in the
21 yard, because obviously now we have a
22 problem. We're trying to keep them
23 in the yard by sprinkling treats at
24 the end of the evening so they stay.
25 They eat our ticks, they help with

2 the yard and then they go back
3 inside. They've been doing a really
4 good job of staying in, but with the
5 new run, we don't have to really do
6 that.

7 MR. BELL: Are you aware that
8 the requirement is to keep them caged?

9 MS. NESPOLI: That's why we have
10 a new run.

11 MR. BELL: Because I did hear
12 you say that you're having a new run,
13 but you also want to train them to stay.

14 MS. NESPOLI: We're doing that
15 right now because we don't have the
16 run. It's not done.

17 MR. NESPOLI: We do have a run.
18 It's just --

19 MR. DONOVAN: Sir, you're
20 welcome to come on up and tell us --

21 MR. NESPOLI: I don't want to
22 leave him.

23 MR. DONOVAN: He looks like
24 he's pretty independent. Tell us who
25 you are.

2 MR. NESPOLI: Todd Nespoli. We
3 have a 8 by 10 -- a 4 by 4 for them
4 to stay in, and it's a 6 by 8 for
5 them to run. Over the summer -- over
6 the winter I ordered a 13 by 10, that
7 I couldn't put in because the ground
8 was frozen, so no critters get in
9 there. Then we got the notice that
10 we couldn't have that. So I spent
11 like \$600 on it. I wasn't going to
12 put it up if I had to rip it down.
13 But then I started feeling bad for
14 them, because it's too confined for
15 them. I started putting it together.
16 I haven't finished. I only have
17 Sundays, because I work six days a
18 week, but it's in the process. I
19 think he's seen it.

20 MS. NESPOLI: Somebody saw it.

21 MR. BELL: We all were out.

22 MR. NESPOLI: I haven't finished it.
23 I'm getting to it. It's up. We're
24 working and everything like that, you
25 know.

2 MS. NESPOLI: We don't want
3 them out either, because they were
4 getting eaten.

5 MR. NESPOLI: All the neighbors
6 were fine with it, even the one that
7 put in the complaint. She actually
8 told us that she loved watching them,
9 loved when they came over to her
10 yard. She actually told us that she
11 put water and feed out for them, and
12 then over the winter we got a notice
13 and we were shocked. We couldn't
14 believe it. All the kids would come
15 up from down the block to see them,
16 feed them, hold them. Everybody
17 loved them. All of a sudden we got
18 this complaint.

19 You know, we do eat a lot of
20 eggs. We give them to our family.
21 We actually bought an extra fridge
22 for them, you know, for our family to
23 come get them. We should be able to
24 keep them, I think personally.

25 MR. BELL: I do believe, if I'm

2 not mistaken, the one complaint was
3 because they were running -- they
4 were running free. There wasn't that
5 noise or that -- it was because they
6 were running free.

7 MR. NESPOLI: Yes, because our
8 neighbor absolutely enjoyed them, she
9 said. You know, if she would have
10 knocked on the door, we would have
11 gladly --

12 MS. NESPOLI: Corralled them.

13 MR. NESPOLI: Yes. Not let
14 them out anymore. We never got a
15 notice for it. We got it from you guys.

16 MR. BELL: You're not looking
17 to add any roosters or anything?

18 MS. NESPOLI: No, no.

19 MR. NESPOLI: No. We know
20 we're not allowed. We know that.

21 MR. BELL: All right. I've got
22 to ask the question.

23 MS. NESPOLI: No way.

24 MR. BELL: Okay. I'm going to
25 start down on this end with Mr.

2 Masten this time.

3 MR. MASTEN: I have no questions.

4 MR. BELL: No questions.

5 Mr. Hermance?

6 MR. HERMANCE: How long have
7 you had the chickens?

8 MR. NESPOLI: Over a year. A
9 little over a year.

10 MS. NESPOLI: A little over a
11 year.

12 MR. HERMANCE: How many do you
13 keep?

14 MR. NESPOLI: Eight. We had
15 ten but the hawks took two of them.
16 That's when we started to not let
17 them out as much. We were new at
18 this, you know.

19 MR. HERMANCE: Is the complaint
20 that their house is too close to the
21 neighbor?

22 MS. NESPOLI: No. That they
23 were out.

24 MR. NESPOLI: That they were out.

25 MS. NESPOLI: They were a nuisance

2 because they were out.

3 MR. NESPOLI: Because they were
4 out, yes.

5 MR. HERMANCE: If you were asked,
6 would you be able to relocate it to
7 another part of the property to --

8 MR. NESPOLI: It's dug in the
9 ground. We already spoke about this.
10 We do plan on doing that. I'm just
11 kind of waiting. I spent 1,500 bucks
12 on this thing. I'm kind of waiting
13 until it gets a little beat up and I
14 want to put it in the far back corner
15 where there's no neighbors on the
16 left or the right or in the back,
17 which we spoke about already. The
18 one that I bought now that the
19 gentleman seen, it's moveable.
20 Basically I can take the chickens out
21 and have it in the back right corner
22 for a week, then move it to the back
23 left corner so it doesn't destroy the
24 grass and they're not in the same
25 spot all the time, and picking up

2 ticks or whatever, beetles, you know.

3 MR. HERMANCE: That's all I had.

4 MR. BELL: Mr. Eberhart?

5 MR. EBERHART: Listen, my
6 grandparents had chickens.

7 MR. NESPOLI: They're great.
8 They're quiet, you know.

9 MR. EBERHART: Listen, I was
10 traumatized watching them kill the
11 chickens.

12 MR. NESPOLI: Which you're not
13 allowed to do these days. If neighbors
14 can see, you can't do that.

15 MS. NESPOLI: We just want the eggs.

16 MR. EBERHART: I have no issues with
17 it.

18 MR. BELL: Mr. Gramstad?

19 MR. GRAMSTAD: Nothing at all.

20 MR. BELL: And I will make that
21 comment that I grew up on a farm, so
22 I understand the relevancy of it.

23 Is there anyone from the public
24 here to speak on this matter? We
25 have four hands up. If you all would

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take a seat. We'll start with the lady in the back. If you would step forward and please state your name.

MS. VOLK: My name is Susan Volk. I live at 17 Sommerfield Drive, next door to the chickens.

I'm really here to support my neighbors in that I feel we all have a right to autonomy on our property. We bought our property and we pay our taxes. However, the chickens have proved to be not nice neighbors. They dug up everything I planted last year, ate it right down to the roots. When I mentioned it, I was told with a shrug, oh, well, they're free range, and they continued to be free range all through the summer, all through the fall, even the winter. They go around my dog run which is fenced in. They're too fat to get in there now, so they go around that, around my pool enclosure, down across my driveway, up the stonewall. As my granddaughter sits in her office, she's

2 watching chickens go back and forth,
3 looking for food obviously.

4 But they've caused considerable
5 damage to our property, which, less
6 than two years ago when we moved in,
7 looked like a park. The former
8 owners had everything immaculate.
9 There's no longer any mulch left in
10 the gardens. They've thrown it into
11 the grass, dug it right down to the
12 membrane, the weed membrane. They've
13 dug craters. I have videos of them
14 just kicking up. They make bigger
15 holes than my dogs make. We had
16 enjoyed the chickens when they were
17 chicks. It's been very difficult
18 since they've been bigger.

19 As few as two weeks ago, I was
20 walking my dog. I only take her out
21 on a leash when I walk her. I came
22 back on my own property. I put up a
23 couple of big windmills thinking that
24 maybe the movement of the windmills
25 would discourage them from coming

2 into the yard, into the garden.
3 They're fearless. They were not
4 intimidated at all by that. The wind
5 blew a couple of them down. With
6 my dog on a leash, I went back to
7 pick up these big windmills. When I
8 looked up, I was surrounded by chickens.
9 I called please, come get your chickens.
10 Nothing happened. Their dog, who is
11 fenced in with an electric fence,
12 didn't even come over, but my dog is
13 going nuts because she's surrounded
14 by chickens. She's springer spaniel,
15 so there's nothing she likes more
16 than fowl, birds of any kind. I
17 finally had to end up sounding like a
18 huge crow or osprey. Finally when I
19 screeched like that, one of the brown
20 chickens picked up her head and she
21 scurried off, and the rest of them
22 followed her.

23 I'm just in a quandary because I
24 feel we should all have autonomy on
25 our property, but, like I said, the

2 chickens have caused a great deal of
3 damage, and I don't know what to do.
4 I'm in a quandary because I want to
5 support my neighbors because I want
6 to have the same autonomy on my
7 property.

8 MR. BELL: All right.

9 MS. DELLAPORTA: My name is Liz
10 DellaPorta. I'm the first house on
11 the street where they have their
12 chickens.

13 So last Thanksgiving my kids
14 were all in the house, they were
15 acting crazy, so we took them for a
16 walk. We just happened to see the
17 chickens out. They had the best time
18 playing with the chickens. My son is
19 five, the other one is seven, and I
20 have a two-year old. They all played
21 with the chickens. I did not see
22 anything for concern. Like, they
23 weren't scared of them. Like, the
24 chickens were more scared of the
25 kids. It's kind of alarming to me

2 that my neighbor is saying that the
3 chickens are fearless and whatnot.

4 I know of several people who do
5 have chickens that we don't know
6 about, and they're not a nuisance.

7 I don't know. Like, I walk my
8 daughter up and down the street.
9 She's saying that her yard is being
10 torn up by the chickens, but yet her
11 yard is the best yard on the block.
12 I'm not sure where that's coming from.

13 I personally grew up in New
14 York City and we had chickens. They
15 didn't bother anyone. You know New
16 York City is rough. We had rough
17 chickens. They didn't bother anybody.

18 I personally think that our
19 neighbor should be able to keep their
20 chickens. It doesn't bother anyone.
21 I've been on this street longer than
22 both of them have been on there. We
23 bought it, I think, in 2016 or 2017.
24 We have had no issues with any
25 neighbors until now. I personally

2 think that they should, you know, be
3 able to keep their chickens,
4 especially since they take care of
5 the ticks.

6 Right now, especially now in
7 Orange County -- I work in the
8 healthcare field -- Lyme disease is
9 extremely prevalent. It costs about
10 \$3,000 a year for a person with Lyme
11 disease to take care of their
12 symptoms and everything. That's one
13 of the things that the chickens help
14 with. They help with taking care of
15 the ticks, taking care of the bugs,
16 especially in our area because we
17 have so many bugs.

18 That's it. That's all I have
19 to say.

20 MR. BELL: Okay.

21 MS. JABLESNIK: Thank you.

22 MR. BELL: Yes, sir. The
23 gentleman behind you.

24 MR. ACKER: I'm Robert Acker, I
25 live on 32 Sommerfield Drive.

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Up until April I worked full time from home. I'll confess to this Board, the first I knew that my neighbors had chickens was when the notice was sent out that there was a complaint about the chickens. I live one house down and across the street. So as far as free range goes, I've never seen them running around. They've never been on our property. They've never really been an issue.

We have community meetings where we all try to get together as a street association. It's a private street. We get together once a quarter. There's an e-mail group, we all e-mail each other. So, you know, my wife and I were very surprised that the complaint was risen to the Town of Newburgh first rather than reaching out to what has been, over the years we've lived here, a fairly close-knit community.

I'm here to support my

2 neighbors. Like I said, prior to
3 finding out about the complaint when
4 I saw it in my e-mail, because I'm
5 signed up for e-mail notices from you
6 guys, I didn't even know they had
7 chickens. For first-time chicken
8 farmers, they're doing a good job.

9 MR. BELL: All right. I
10 appreciate it.

11 MR. ANDERSON: Good evening.
12 I'm Jim Anderson, 53 Fostertown Road.

13 No chickens there. However, I
14 grew up in the Town. If you go to
15 the light and take a left down
16 Gardnertown Road, you go past what is
17 now Mirabito Oil, two houses there's
18 an old farmhouse. Anderson. I grew
19 up there in the '50s and '60s. I
20 know probably zoning regulations were
21 different than and it may have been
22 grandfathered in, but we had between
23 300 and 400 chickens at that
24 location. It's a 4-acre parcel. The
25 back 3 acres are hay. Basically

2 there was, at one time, 800 chickens.
3 We had a two-story barn and two other
4 chicken coops that were on what could
5 be said was 1.1 acres. Very similar
6 in size. It was not a problem. I
7 don't recall anybody ever complaining.
8 I lived there until I went in the
9 service in 1969. They were not free
10 range. They were in a coop. Chicken
11 wire, glass, doors. You didn't let
12 anybody get out when you went in to
13 get the eggs and feed. So that's
14 very important.

15 It sounds like it's important
16 here because the neighbor says the
17 chickens are running on her property.
18 What I've heard about the regulations,
19 I didn't study this, is that if you
20 have 2 acres you're allowed to have
21 25 chickens. They have a little over
22 1 acre. About half that. They have
23 less than half that, from what I
24 heard. It doesn't seem like it would
25 be a problem if they weren't free range.

2 I think it's excellent to have
3 chickens for economic reasons, for
4 health reasons. It's good to teach
5 responsibility to children. It's
6 excellent. I can speak firsthand
7 that you gather eggs in the morning
8 and have them for breakfast and you
9 go to school. You know what, it's
10 something special. You're different
11 from the other kids.

12 If this was a dog -- I don't
13 know how many dogs are allowed on 1.1
14 acres, but if it went on the neighbor's
15 property, the neighbor might call up
16 and say come get your dog. If they
17 didn't get the dog, you call animal
18 control and animal control steps in.
19 I don't see why animal control can't
20 be called if there's a problem.
21 First of all, you shouldn't have a
22 problem. They're not going to be
23 free-range chickens.

24 I don't know any of these
25 people, but chickens are chickens.

2 Thank you.

3 MR. BELL: All right. Sir, in
4 the back.

5 MR. TERBUSH: Good evening. My
6 name is Roger Terbush. My grandfather's
7 family has lived in Fostertown since
8 the '30s, since the Depression.
9 Originally they had a 40-acre farm.
10 Over the years it has whittled down
11 to just the house that I'm in right
12 now, which is 1.75 acres.

13 A lot of these people are
14 talking about a specific instance,
15 and I'd like to kind of step away
16 from the trees and look at the
17 forest. I had a long conversation
18 with Mr. Campbell, I believe that was
19 his name, when he came and told me I
20 had to get rid of mine. I said to
21 him, I said I've got an acre and
22 three-quarters. He said it doesn't
23 matter. On this sheet it says you
24 have to have 2. He says you could
25 have five dogs but you can't have

2 five chickens. I thought that was a
3 little -- I asked him point blank, I
4 said let me ask you something. I
5 said, how many people do you think in
6 the Town of Newburgh actually have 2
7 acres with a house on it? He said I
8 doubt very many. So I think that's
9 the issue that should be addressed
10 here, not a particular incident which
11 could be resolved with some chicken
12 wire, if you know what I mean.

13 That's basically all I have to
14 say.

15 MR. BELL: Okay. I appreciate
16 it, sir.

17 Ma'am, you spoke. What's your
18 address again?

19 MS. DELLAPORTA: 2 Sommerfield
20 Drive.

21 MR. BELL: Is there anyone else
22 from the public that wishes to speak?

23 MS. HOFFMAN: I do. I'm Jenny
24 Hoffman, 40 Sommerfield Drive. I
25 live in the last house -- we live on

2 a cul-de-sac, our road. I'm one of
3 the neighbors.

4 Last year -- last summer I'm
5 driving up the road and I almost ran
6 or hit one of these chickens. It
7 really wasn't funny because I
8 actually -- their house is not fenced
9 in. I already live in a cul-de-sac
10 where my house has bears, fox, deer,
11 geese. I'm already trying to make
12 sure that my kids don't get attacked
13 by a bear when they walk out of my
14 house, or the deer is coming around,
15 or the ticks and things like this. I
16 see a chicken running across the road
17 while I'm driving up to try to get
18 out of my road. I was very upset. I
19 wasn't told that they were having
20 chickens on the road. I wasn't told
21 that, hey, is it possible to have
22 chickens. What do you guys feel
23 about this. It came as a shock. I
24 see all of them gathering back into
25 their property. I just sat there

2 thinking like what the heck, what the
3 heck.

4 My parents are from the
5 Dominican Republic. I've been there
6 to visit. They've got chickens.
7 Chickens everywhere. They populate.
8 They're nasty. They have all kinds
9 of other diseases that come around.

10 Again, their property is not
11 fenced in.

12 So now, what scared me the most
13 that day was if I would have ran over
14 one of these chickens, my car would
15 have been nasty with roadkill. I
16 never hit an animal before. I sat
17 there thinking I would have been
18 traumatized. I would have been
19 traumatized if I would have ran over
20 one of these chickens. If I wanted
21 chickens on my road, I'd go back to
22 the Dominican Republic, and I'm not
23 even from that country. My parents
24 are from there. To go visit them
25 and see all -- and come back here and

2 I have chickens on the road.

3 Again, no one told us. I've
4 been on my road, 40 Sommerfield
5 Drive, for twenty years, and I came
6 from the Bronx. Those wasn't
7 chickens, they were pigeons. I don't
8 know if that's -- they were pigeons.
9 We saw pigeons in the Bronx. But
10 chickens, no. I didn't come upstate
11 to raise my children to see a whole
12 bunch of chickens running around my
13 road. Especially if I'm running out
14 early in the morning, you're going to
15 hit one of them. No.

16 You know, I feel bad. I
17 understand sometimes they're trying
18 to feed their family. I get it.
19 Like I said, I have a family in DR.
20 I get it. Things are rough. But no,
21 not on our road. I don't think
22 that's acceptable.

23 Like I said, there's maybe ten,
24 twenty houses on our road. No one
25 asked. This is a private road.

2 There's always something going on
3 with the road. We talk as a
4 community, or, you know, we're
5 texting. We have group texts and
6 things like that.

7 Like I said, the people moved
8 in and never said hey, how do you
9 guys feel about having chickens.

10 My kids were walking up and
11 down the road and told me yeah, mom,
12 there's chickens on the road. I
13 thought they're joking. It's just
14 like I said, a little frustrating
15 when you're not told and you see this
16 stuff.

17 There's no fence on their
18 property. To me, how I see it, they
19 can get out. We're driving up or
20 down, or my kids are running around.

21 Like I said, the way I also see
22 it, it's bringing more animals to our
23 road. I already have bears that come
24 up on the road, on my property, and
25 they're going down the road. I don't

2 need these chickens to attract any
3 more wildlife. There are kids on
4 this block. Now it is dangerous.
5 And the bears do attack. There's
6 bears that come with their little
7 babies. I have the Ring, I have
8 footage of all of that. To have more
9 wildlife on our property or on our
10 road, and we're already worried. The
11 fox, yes, they come. There's tons of
12 foxes, because we have geese and they
13 come with their babies. They're
14 constantly getting attacked. This is
15 just the geese. So imagine the
16 chickens. Again, don't they
17 populate? What does she do when they
18 start populating and they're all over
19 the place? It's not a fenced-in
20 house.

21 MR. BELL: Okay.

22 MS. HOFFMAN: I can keep going.
23 It's very upsetting, like I said, for
24 me to have to almost run over a chicken.

25 MR. BELL: I understand. Thank

2 you.

3 Ma'am.

4 MS. PAPALEO: I'm Theresa
5 Papaleo. We're part of the road --
6 management of the whole road. We do
7 have meetings, and they did not
8 attend. We're kind of torn with
9 everything, because they're our
10 neighbors. They did come in to my
11 yard. They were in the road. That
12 is a problem, like Jenny said. So I
13 really want to second what Jenny
14 said, because I do have a problem
15 with that.

16 MR. BELL: Where do you live?

17 MS. PAPALEO: I'm 26 Sommerfield.

18 MS. HOFFMAN: I'm sorry, but I
19 have teenagers that drive up and down
20 the road, so that's what I was most
21 afraid of.

22 MS. PAPALEO: I want to second
23 what Jenny said. We do all get along.
24 We always got along. I've been there
25 thirty years. We do have meetings.

2 We have regular meetings. You can
3 come to the meeting and tell us what
4 you want to do. Everybody is
5 invited. That's kind of where we
6 share all our questions. We didn't
7 hear this until the cops started
8 showing up, actually. We don't
9 really have cops. I don't know if
10 that's the reason. I don't know if
11 because the chickens were out --

12 MR. NESPOLI: The cops?

13 MS. PAPALEO: I've seen the
14 cops twice there.

15 MR. BELL: Excuse me. We don't
16 need any outbursts. If you're going
17 to talk, we'll call you up. No
18 sidebars.

19 MS. PAPALEO: We've seen cops
20 there a couple of times. We didn't
21 hear nothing with the chickens until
22 we got the letter -- to sign the
23 letter. My husband signed the
24 letter, not for nothing. We didn't
25 realize they were being harassed.

2 They were harassing them and we're
3 trying to make it a nice road. We
4 try to have meetings and keep
5 everything cool with everybody, and
6 this started.

7 Yes, there were cops there. I
8 don't know why.

9 MR. DONOVAN: Let's talk about
10 the chickens.

11 MR. BELL: Stay on the chickens.
12 Stay on the chickens. Thank you.

13 MS. PAPALEO: If it's fenced
14 in, that's fine. Keep them fenced
15 in. Now they're fenced in. Since
16 all this broke, they're fenced in.
17 Not literally fenced in, in the
18 house.

19 MR. BELL: Prior they were out?

20 MS. PAPALEO: They were out.
21 You do have to stop short.

22 MR. BELL: I understand.

23 MS. PAPALEO: Thank you.

24 MR. BELL: All right. You
25 wanted to make a comment, ma'am?

2 Come forward, please.

3 MS. DELLAPORTA: I just wanted
4 to say that I'm in the same situation
5 as my other neighbor. I came from
6 DR. There's chickens all over the
7 place. Chickens in DR and chickens
8 here are two different types of
9 chickens.

10 Also, yes, I've seen the
11 chickens walking around. I've also
12 seen, on my way over here, a raccoon
13 walking around. I could have hit
14 that raccoon. We live in the country.

15 MR. BELL: We understand.

16 MS. DELLAPORTA: We live in the
17 country. There's going to be animals
18 around. There were bears before the
19 chickens came. There were foxes
20 before. The bears were there. It's
21 not going to change anything.

22 MR. BELL: I understand. I
23 appreciate it.

24 MR. MASTEN: In the back, Darrell.

25 MR. BELL: Sir.

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MR. TERBUSH: Give me a second to get up there.

MR. BELL: Are you going to add anything new to what was said?

MR. TERBUSH: Well, I would like the Town Board to focus on the general 2 acre thing versus -- everybody here is talking about one specific incident. This involves how many thousands of property owners? This should not be based on one or two incidents. It should be based on, you know, if everybody has an acre in the Town of Newburgh, make it an acre and then let the individual cases sift through as they sift through. That's basically what I think you guys should focus on. I would not make a ruling for the whole Town based on one family. There's almost 600 people that signed that petition. I know not all of them are here tonight. They feel the same way, this should be focused on the 2

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acre minimum and go from there.

MR. BELL: Okay.

MR. DONOVAN: Mr. Chairman, if I could.

MR. NESPOLI: Can I say something else?

MR. DONOVAN: If I can. I'm sure the Chair will ask you.

There are rules, and the rule isn't how many people are in favor or how many people are opposed, right. The state law -- you heard the Board before, what's called the five-part balancing test. That's what is required for this Board to do, which is the Zoning Board, not the Town Board.

MR. NESPOLI: I understand.

MR. BELL: Sir, take a seat, please.

MR. DONOVAN: A long time ago I went law school, so I like to talk. Just bear with me for a second. You'll get your chance if I can say

2 this.

3 So the five factors that the
4 Board has to consider is whether you
5 can achieve the benefit that you seek
6 by any other means feasible for you
7 to pursue, whether or not what you
8 want, which is -- remember, if you
9 had 2 acres, you could have 25
10 chickens. So you're allowed to have
11 chickens. The issue here is the size
12 of your lot.

13 MR. NESPOLI: Correct.

14 MR. DONOVAN: The question is
15 will having chickens on a 1.1 acre
16 lot cause an undesirable change in
17 the character of the neighborhood,
18 whether the request will have adverse
19 physical or environmental effects,
20 and whether the request is self-
21 created. It's not a you meet two,
22 you don't meet three, you lose. It's
23 a balancing test. Overall the Board
24 is going to look at the impact on the
25 neighborhood. Basically the

2 character of the neighborhood is what
3 the Board generally looks at. So
4 those are the rules. It's not flip a
5 coin. It's not who is in favor, who
6 is opposed. The balancing tests are
7 the rules the Board goes by.

8 The other thing that I do want
9 to say, you'll notice that there are
10 a couple of empty seats here. Up
11 here, not over there. This is a
12 seven-person Board. That means that
13 four votes have to go in your favor
14 for you proposal to get approved.
15 That means for tonight you need to
16 get four out of five --

17 MR. NESPOLI: Correct.

18 MR. DONOVAN: -- as opposed to
19 four out of seven. It's been the
20 practice of the Board in the past,
21 when there's less than a full
22 compliment of Board Members, and you
23 don't need to decide this right now,
24 to give you the opportunity to defer
25 a vote until all seven Board Members

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are here.

MR. NESPOLI: I think we should do that. Are we going to have to go through this whole process again or are they going to be brought up to date?

MR. DONOVAN: After everybody gets their time to speak, if the Board is inclined to do that, and we've always let people do that in the past, the public hearing would be adjourned to the June meeting. You don't have to do new notices or anything, but you do have to come. Your neighbors would get the opportunity to speak again before the Board votes.

MR. NESPOLI: We can vote now. I don't want --

MR. DONOVAN: That's up to the Board. I give you the opportunity to wait, but the Board can close the public hearing and wait the 62 days or they can vote tonight. I afford

2 you the opportunity to say I'd rather
3 wait until there's more Board Members
4 here. There's no guarantee that they
5 vote tonight anyway.

6 MR. NESPOLI: Okay.

7 MR. DONOVAN: Sorry, Mr. Chairman.

8 MR. BELL: That was great. It's
9 always good to hear from you, from
10 the attorney.

11 Anyone else from the public?

12 (No response.)

13 MR. BELL: I'm going to close
14 the public hearing. Okay. A motion
15 to close the public hearing?

16 MR. HERMANCE: Do you want to
17 hold that open for the rest of the
18 Members? That's what I would do.

19 I propose to keep the public
20 hearing open until the other Members
21 are present.

22 MR. MASTEN: I'll second to
23 keep it open.

24 MR. DONOVAN: Someone needs to
25 make a motion and second, and then --

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MR. HERMANCE: I'll make a motion to keep the public hearing open.

MR. MASTEN: I'll second it.

MR. BELL: We have a motion to keep the public hearing open, a first by Mr. Hermance and a second by Mr. Masten. All in favor?

MR. GRAMSTAD: Aye.

MR. EBERHART: Aye.

MR. HERMANCE: Aye.

MR. MASTEN: Aye.

MR. BELL: Aye.

Okay. So what we're going to do is we're going to hold the public hearing open --

MR. DONOVAN: To the June meeting, for the folks in the audience.

MR. BELL: -- until all the personnel are here.

MR. DONOVAN: What's important to note is you will not get another notice. Follow the website. There's no new mailing. The folks that want

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to come, it's the fourth Thursday in
June.

MS. JABLESNIK: I'll tell you
what that date is. June 22nd.

MR. DONOVAN: On June 22nd this
matter will be heard again. You'll
have the opportunity to speak again.

MR. TERBUSH: A quick question.
Will the other Board Members have a
copy of the minutes of this meeting
so we don't have to come back and
repeat what --

MR. DONOVAN: Our stenographer
is wonderful.

MS. JABLESNIK: She's the best.

MR. BELL: You will be able to
read it all online as well.

MR. DONOVAN: Everything is
online.

MS. LUKACH: May I ask the
Board a quick question? It's broad.
It's not about this specifically.
It's more along of lines of what this
gentleman was asking.

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MS. JABLESNIK: Come up and state your name for the stenographer.

MS. LUKACH: I thought it was over, but sure.

MS. JABLESNIK: You're still speaking, so it's getting recorded.

MS. LUKACH: Marie McSharry Lukach, 32 Sommerfield Drive.

It's a more general question with regard to like -- of course I support our neighbors. We also would love to keep chickens in the future. We're just not at that point yet. I had actually called up the Town to find out what the rulings were and was told at the time six chickens, no roosters. I was shocked to find out, after the notice went out, it was 2 acres, twenty or -- twenty some odd chickens, which seems incredibly arbitrary given the agricultural residential zoning of our area and the agricultural history of the entire area.

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My question actually is, is the Town or your Board considering making a change to the zoning law?

MR. DONOVAN: So I don't mean to interrupt you, but this Board can't help you on that. That's the Town Board.

MS. LUKACH: My question is, is this the quorum, or, if it's not, what is?

MR. DONOVAN: The Town Board.

MS. JABLESNIK: The Town Board. You can actually go online. They're doing a whole new comprehensive plan, so you can write a letter and state what you want or what you want to see or whatever. It all goes to the Town Board. They're going to get together and reconfigure.

MS. LUKACH: Also with regard to this individual situation, is it the sort of thing where it can kind of take all of the neighbors' concerns into the variance with regard to you

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can or cannot keep the chickens? If the chickens are kept, they must be fenced? Like there's guidelines around that?

MR. DONOVAN: The Board takes into consideration everything that's heard, but they're guided by the five factors. That's how they make their ultimate determination. They have the ability to impose reasonable conditions.

MS. LUKACH: Which is broad speak for yes, they can say it can be fenced or not fenced?

MR. DONOVAN: That's up to the Board.

MR. BELL: It's up to the Board.

MS. LUKACH: Thank you.

MR. DONOVAN: Broad speak is what I do.

(Time noted: 7:46 p.m.)

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

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

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

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

IN WITNESS WHEREOF, I have hereunto
set my hand this 9th day of June 2023.

Michelle Conero

MICHELLE CONERO

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

- - - - - X
In the Matter of

RICHARD BARTLEY

6 Taft Avenue, Newburgh
Section 72; Block 9; Lot 24
R-3 Zone

- - - - - X

Date: May 25, 2023
Time: 7:46 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, New York

BOARD MEMBERS: DARRELL BELL, Acting Chairman
JAMES EBERHART, JR.
ROBERT GRAMSTAD
GREGORY M. HERMANCE
JOHN MASTEN

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

APPLICANT'S REPRESENTATIVE: RICHARD BARTLEY, JR.

- - - - - X

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

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MR. BELL: The next one is Richard Bartley, an area variance for a rear yard setback, maximum lot building coverage, surface coverage to build a 10 by 16 half covered rear deck.

MR. BARTLEY: My name is Richard Bartley Junior, so you're not confused with the one that was here last month.

I'm applying for an area variance of the rear yard setback, maximum lot building coverage and a surface coverage variance to build a 10 foot by 16 foot half covered rear deck, which is existing, however it wasn't approved. It's been existing since I purchased the house in 2002. It is in disrepair and I'm trying to build on the same footprint up to code.

MR. BELL: So you purchased the home in 2002 --

MR. BARTLEY: Yes.

2 MR. BELL: -- with this deck as
3 is?

4 MR. BARTLEY: Existing. Yes.

5 MR. BELL: All right.

6 MR. BARTLEY: It's on the same
7 footprint. The only difference is
8 it's a couple inches off because the
9 codes are different. They used
10 different cuts and stuff like that.
11 It will be completely up to code.

12 MR. BELL: I don't see any
13 issue.

14 Let me start down here with Mr.
15 Gramstad.

16 MR. GRAMSTAD: No. I understand
17 totally. I've been in that position.
18 I have no questions at all.

19 MR. BELL: Mr. Eberhart?

20 MR. EBERHART: I understand what
21 he's doing.

22 MR. BELL: Mr. Hermance?

23 MR. HERMANCE: It's pre-existing
24 nonconforming. I visited the property
25 also. He's just looking to upgrade.

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I think it will be an improvement.

MR. BELL: Okay.

MR. MASTEN: It's all pre-existing. There's no problem with it.

MR. BELL: Okay. Is there anyone here from the public?

(No response.)

MR. BELL: There's nobody here from the public. Okay.

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

MR. GRAMSTAD: I'll second it.

MR. BELL: We have a motion to close the public hearing, first by Mr. Hermance, second by Mr. Gramstad. All in favor?

MR. GRAMSTAD: Aye.

MR. EBERHART: Aye.

MR. HERMANCE: Aye.

MR. MASTEN: Aye.

MR. BELL: Aye.

We'll go through the -- this is a Type 2 action under SEQRA.

MR. DONOVAN: Correct, Mr. Chairman.

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MR. BELL: We'll go through the five balancing acts, the first being whether or not the benefit can be achieved by any other means feasible to the applicant. I don't think so. This deck is pretty much in disrepair. It needs a --

MS. JABLESNIK: Facelift.

MR. BELL: -- facelift. There we go.

Second, is there an undesirable change in the neighborhood character or a detriment to nearby properties.

MR. EBERHART: No.

MR. GRAMSTAD: No.

MR. HERMANCE: No.

MR. MASTEN: No.

MR. BELL: No, it's not.

Third, whether the request is substantial. It is but it's not.

Fourth, whether the request will have adverse physical or environmental effects. Physical, yes. It could cave in. That would

2 be pretty bad. It's not something
3 that is a detriment to anyone around
4 you.

5 Fifth, if the Board approves this,
6 it will grant the minimum variance
7 necessary and can impose reasonable
8 conditions.

9 So having gone through the
10 balancing test of the area variance,
11 what's the pleasure of the Board?

12 MR. GRAMSTAD: I'll make a motion
13 to approve.

14 MR. MASTEN: I'll second it.

15 MR. BELL: We got a first
16 approval by Mr. Gramstad and a second
17 by Mr. Masten. Roll call, Siobhan.

18 MS. JABLESNIK: Mr. Bell?

19 MR. BELL: Yes.

20 MS. JABLESNIK: Mr. Eberhart?

21 MR. EBERHART: Yes.

22 MS. JABLESNIK: Mr. Gramstad?

23 MR. GRAMSTAD: Yes.

24 MS. JABLESNIK: Mr. Hermance?

25 MR. HERMANCENCE: Yes.

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MS. JABLESNIK: Mr. Masten?

MR. MASTEN: Yes.

MR. BELL: Approved.

I have one question for you. I rung that doorbell a whole lot of times, with the trucks in the driveway, and nobody answered.

MR. BARTLEY: We have a lot going on. She works from home sometimes.

MR. BELL: I saw trucks but nobody answered. No problem.

MS. BARTLEY: Can I ask a question? Do we have to come and pick up any meeting minutes or any variance approvals to bring to the Building Department?

MS. JABLESNIK: No. What happens is I will give the application back to Mr. Mattina in the Building Department. If you are missing anything, like as far as that letter that he wrote you before he denied you, as far as plans or anything like

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that, then he will reach out to you.
You'll probably hear from him
sometime next week possibly. Next
week or the week after.

MR. BARTLEY: Thank you.

MR. BELL: Enjoy.

(Time noted: 7:51 p.m.)

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

I, MICHELLE CONERO, a Notary Public
for and within the State of New York, do
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I further certify that I am not
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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 9th day of June 2023.

Michelle Conero

MICHELLE CONERO

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

- - - - - X
In the Matter of

ROBERT ROWE

913 Route 32, Wallkill
Section 2; Block 1; Lot 51
RR Zone

- - - - - X

Date: May 25, 2023
Time: 7:51 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, New York

BOARD MEMBERS: DARRELL BELL, Acting Chairman
JAMES EBERHART, JR.
ROBERT GRAMSTAD
GREGORY M. HERMANCE
JOHN MASTEN

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

APPLICANT'S REPRESENTATIVE: ROBERT ROWE

- - - - - X

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MR. BELL: The next one is Mr. Robert Rowe of 913 Route 32, Wallkill, an area variance of increasing the degree of nonconformity of the side yard to do a 12 by 16 rear deck on the existing nonconforming dwelling.

How many letters?

MS. JABLESNIK: Twenty. I got one, too. You guys were in my neighborhood.

MR. BELL: Twenty.

MR. ROWE: My name is Robert Rowe. Basically we purchased the house. The previous owner had taken off the deck that was on there before. He told me it was rotten and stuff. He just never got the opportunity to put another one back on. We want to get a deck on there so the door leads somewhere to go out into the backyard. It's not as important as the chickens, but it's --

MR. DONOVAN: It's important to you.

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MR. ROWE: It's important to us. It's a deck. That's all. No roof or anything like that. It's just your basic deck, all designed the way the Town wanted it and stuff.

MR. BELL: So when you say there's no deck, there wasn't anything on the rear?

MR. ROWE: Yeah.

MR. BELL: Okay. So when you purchased it, it did not have it?

MR. ROWE: No. The way you guys went and saw it, the way it is right now, other than the pile of wood out there, that's how it was when we purchased it.

MR. BELL: Was there ever a --

MR. MATTINA: It's an older house. There's no record of any decks that were there. I doubt there would be a deck this large there with the original construction.

MR. BELL: Okay. All right. Is anybody here from the public,

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which I don't see, to speak on this matter?

(No response.)

MR. BELL: I will look to the Board.

MR. GRAMSTAD: I'll make a motion --

MR. EBERHART: Motion to close the public hearing.

MR. HERMANCE: I'll second.

MR. BELL: We have a motion by Mr. Eberhart and a second by Mr. Hermance. All in favor?

MR. GRAMSTAD: Aye.

MR. EBERHART: Aye.

MR. HERMANCE: Aye.

MR. MASTEN: Aye.

MR. BELL: Aye.

Okay. Do you have any questions?

MR. DONOVAN: Before you do that, we're going to summarize. We went through the five-part balancing test. We found there won't be any adverse impact on the character of

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the neighborhood, no adverse environmental effects. The request is not substantial. Actually, the difficulty is not self-created because it was there in this disrepaired state when he bought the house. He's just repairing it. Is that what we --

MR. BELL: Yes.

MR. EBERHART: Yes.

MR. GRAMSTAD: Yes.

MR. HERMANCE: Yes.

MR. MASTEN: Yes.

MR. DONOVAN: I feel better now. Thank you for cooperating with me.

MR. BELL: We can go right into the vote.

MR. DONOVAN: Where were we? Somebody made a motion?

MR. BELL: Mr. Eberhart made a motion for approval first. Who seconded it?

MR. HERMANCE: I'll second.

MR. BELL: Okay. Mr. Hermance.

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MS. JABLESNIK: Mr. Bell?

MR. BELL: Yes.

MS. JABLESNIK: Mr. Eberhart?

MR. EBERHART: Yes.

MS. JABLESNIK: Mr. Gramstad?

MR. GRAMSTAD: Yes.

MS. JABLESNIK: Mr. Hermance?

MR. HERMANCE: Yes.

MS. JABLESNIK: Mr. Masten?

MR. MASTEN: Yes.

MS. JABLESNIK: Approved.

(Time noted: 7:55 p.m.)

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

- - - - - X
In the Matter of

VINCENT ALIOTTA

288 Rock Cut Road, Walden
Section 31; Block 1; Lot 23.2
R-1 Zone

- - - - - X

Date: May 25, 2023
Time: 7:55 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, New York

BOARD MEMBERS: DARRELL BELL, Acting Chairman
JAMES EBERHART, JR.
ROBERT GRAMSTAD
GREGORY M. HERMANCE
JOHN MASTEN

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

APPLICANT'S REPRESENTATIVE: VINCENT ALIOTTA

- - - - - X

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MR. BELL: Vincent Aliotta, 288 Rock Cut Road, an area variance of the front yard to keep a 12 by 12 gazebo.

We've been by there and had a chance to look at that. Go ahead.

MR. ALIOTTA: My name is Vincent Aliotta, 288 Rock Cut Road.

I had created an outdoor patio/entertainment area in the front right -- side right of my property. I bought a 12 by 12 wooden gazebo from Overstock. We put it up. I had no idea that it was in any kind of violation to be put up on that until Jim Campbell came out -- he came out to inspect the electric out there, which got approved, and he said he didn't realize that there was a gazebo there. You're not allowed to have one in the front of your yard.

You've all been there. You've seen it. I mean, I have a privacy fence there. It doesn't really

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affect anyone or cause any kind of issues, in my opinion.

MR. BELL: So you put this up without an approval?

MR. ALIOTTA: Correct.

MR. BELL: And now -- if I'm not mistaken, I saw the for sale sign.

MR. ALIOTTA: My house is in contract.

MR. BELL: Okay. Under contract.

There's nobody here from the public to speak on this matter, so Mr. Gramstad?

MR. GRAMSTAD: No questions.

MR. EBERHART: No questions.

MR. HERMANCE: No. I saw you didn't have any room in the backyard to place it, unless you want to put it on the hill.

MR. ALIOTTA: There's also supposedly like a sinkhole area in the back corner possibly. The way it curves around, it goes down, I couldn't put anything back there.

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It's all slate.

MR. HERMANCE: I noticed
there's privacy fence on two sides.

MR. ALIOTTA: You can't really
see it from the road.

MR. MASTEN: I have no questions.

MR. BELL: Okay. I don't have
any.

MR. HERMANCE: Type 2 action?

MR. DONOVAN: Type 2 action
under SEQRA.

MR. BELL: That's what it is.

First we'll make a motion to
close the public hearing.

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

MR. MASTEN: I'll second it.

MR. BELL: Okay. All in favor?

MR. GRAMSTAD: Aye.

MR. EBERHART: Aye.

MR. HERMANCE: Aye.

MR. MASTEN: Aye.

MR. BELL: Aye.

Okay. So we'll go through the

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five-part balancing test. This is a Type 2 action under SEQRA. The first one being whether or not the benefit can be achieved by any other means feasible to the applicant. Other than to take it down, that would be the only thing that could be done.

Second, is there an undesirable change in the neighborhood character or a detriment to nearby properties. No, it's not.

MR. MASTEN: No.

MR. BELL: Third, whether the request is substantial.

Fourth, whether the request will have adverse physical or environmental effects. No, it will not.

Fifth, whether the alleged difficulty is self-created, which it is, but it's not relevant or determinative.

So what is the motion of the Board?

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

MR. MASTEN: I'll second it.

MR. BELL: We have a motion to approve by Mr. Gramstad and a second by Mr. Masten. Roll call, Siobhan.

MS. JABLESNIK: Mr. Bell?

MR. BELL: Yes.

MS. JABLESNIK: Mr. Eberhart?

MR. EBERHART: Yes.

MS. JABLESNIK: Mr. Gramstad?

MR. GRAMSTAD: Yes.

MS. JABLESNIK: Mr. Hermance?

MR. HERMANCE: Yes.

MS. JABLESNIK: Mr. Masten?

MR. MASTEN: Yes.

MR. BELL: Okay. Approved.

MR. ALIOTTA: Thank you.

(Time noted: 8:00 p.m.)

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

- - - - - X
In the Matter of

RAMON PEREZ & ISABEL INFANTE
45 Meadow Street, Newburgh
Section 17; Block 10; Lot 13
R-3 Zone

- - - - - X

Date: May 25, 2023
Time: 8:00 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, New York

BOARD MEMBERS: DARRELL BELL, Acting Chairman
JAMES EBERHART, JR.
ROBERT GRAMSTAD
GREGORY M. HERMANCANCE
JOHN MASTEN

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

- - - - - X

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Newburgh, New York 12550
(845) 541-4163

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MR. BELL: We have one holdover.

MS. JABLESNIK: You all got a letter in your packet from Ramon Perez and Isabel Infante for 45 Meadow Street. I don't know if you remember that application. They're just asking for a six-month extension to continue their application.

We're all good with that?

MR. BELL: All in favor?

MR. GRAMSTAD: Aye.

MR. EBERHART: Aye.

MR. HERMANCE: Aye.

MR. MASTEN: Aye.

MR. BELL: Aye.

Okay. The minutes. Did everybody get a chance to look at the minutes?

All in favor that we approve the minutes?

MR. GRAMSTAD: Aye.

MR. EBERHART: Aye.

MR. HERMANCE: Aye.

MR. MASTEN: Aye.

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MR. BELL: Aye.

Okay. Thank you for that.

A motion to close the meeting?

MR. HERMANCE: I'll make the
motion.

MR. MASTEN: Second.

MR. BELL: All in favor?

MR. EBERHART: Aye.

MR. GRAMSTAD: Aye.

MR. HERMANCE: Aye.

MR. MASTEN: Aye.

MR. BELL: Aye.

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

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