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

- - - - - X
In the Matter of

ANN HAIGHT

13 Princess Lane, Newburgh
Section 102; Block 7; Lot 3
R-2 Zone

- - - - - X

Date: August 24, 2023
Time: 7:00 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, New York

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

ALSO PRESENT: DAVID DONOVAN, ESQ.
JOSEPH MATTINA

APPLICANT'S REPRESENTATIVE: DEBRA LUCCHESI

- - - - - X

MICHELLE L. CONERO
Post Office Box 816
Dover Plains, New York 12522
(845) 541-4163

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CHAIRMAN SCALZO: I'd like to call the meeting of the Zoning Board of Appeals to order. The order of business this evening are the public hearings which have been scheduled.

The procedure of the Board is that the applicant will be called upon to step forward, state their request and explain why it should be granted. The Board will then ask the applicant any questions it may have, and then any questions or comments from the public will be entertained. The Board will then consider the applications and will try to render a decision this evening but may take up to 62 days to reach a determination.

I would ask if you have a cellphone, to please turn it off or put it on silent. When speaking, speak directly into the microphone as we have a stenographer that might need to hear you a little better. The amplification will help.

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Roll call. Our secretary, Ms. Jablesnik, is out today, which I will never approve again. This is difficult for me today.

Mr. Bell.

MR. BELL: Here.

CHAIRMAN SCALZO: Mr. Eberhart.

MR. EBERHART: Here.

CHAIRMAN SCALZO: Mr. Hermance.

MR. HERMANCE: Here.

CHAIRMAN SCALZO: Mr. Masten.

MR. MASTEN: Yes.

CHAIRMAN SCALZO: Ms. Rein.

MS. REIN: Here.

CHAIRMAN SCALZO: Also present is our Attorney, Dave Donovan. We also have from Code Compliance, Mr. Mattina. Also present is our Stenographer, Ms. Conero.

If you could all please rise for the Pledge. We're going to have a Moment of Silence after the Pledge. A former ZBA member, Mr. Hughes, passed recently.

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(Pledge of Allegiance and
Moment of Silence.)

CHAIRMAN SCALZO: Thank you. I
actually assumed the seat Mr. Hughes
vacated ten years ago. He was a
staple here. He was fondly known as
Animal. A real intelligent fellow.

MR. HERMANCE: You forgot Mr.
Gramstad.

CHAIRMAN SCALZO: I'm sorry,
Mr. Gramstad. For roll call, are you
here, sir?

MR. GRAMSTAD: I'm here.

CHAIRMAN SCALZO: Very good. I
was reading through her notes and
your name must be small.

Our first applicant this
evening is Ann Haight, 13 Princess
Lane in Newburgh, seeking an area
variance of a front yard setback to
keep a 12 by 14 foot front deck.

We have that you sent out 75
letters. All the mailings,
publications and postings are in

2 order.

3 Who do we have with us here
4 this evening?

5 MS. LUCCHESE: My name is
6 Debbie Lucchese. I'm Ann Haight's
7 daughter and I'm representing her.

8 CHAIRMAN SCALZO: Very good. I
9 did see your name on the application,
10 actually. If I have captured all
11 that it is that you'd like to explain
12 in that one sentence that I said,
13 that's fine, and we can just open the
14 meeting up to the Board Members and
15 the public to ask questions. If
16 you'd like to add anything to that,
17 please feel free.

18 MS. LUCCHESE: Basically the
19 only reason we're enlarging it is my
20 mother broke her back. She is
21 mobile, but it's limited. Should it
22 come to the point where she can't
23 walk and I have to put in a ramp,
24 this would make it easier and line up
25 with the existing sidewalk that's

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already there.

CHAIRMAN SCALZO: Okay.

MS. LUCCHESE: It also would give her the opportunity to sit out there in the front.

CHAIRMAN SCALZO: Actually, I did read through the application. You actually state in there looking for wheelchair accessible. I would have expected to actually see a ramp when I was there, but I didn't.

MS. LUCCHESE: No.

CHAIRMAN SCALZO: I guess that's a future thought.

MS. LUCCHESE: Correct.

CHAIRMAN SCALZO: All right. I have comments, but I'm actually going to look to the Members of the Board to comment first.

The honorable Mr. Gramstad, who, I apologize again, I forgot to recognize you.

MR. GRAMSTAD: No problem. I have no questions at all.

2 CHAIRMAN SCALZO: No. Mr. Eberhart?

3 MR. EBERHART: No questions.

4 CHAIRMAN SCALZO: No. How about
5 you, Mr. Hermance?

6 MR. HERMANCE: So the variance,
7 if it was granted, would include the
8 space to build a future ramp?

9 MS. LUCCHESE: Well, yeah. It
10 would go onto the sidewalk. The way
11 the -- what was there -- what was
12 existing was just a little --

13 CHAIRMAN SCALZO: Actually, we
14 have photos. I think you can see
15 under the deck.

16 MS. LUCCHESE: Right.

17 CHAIRMAN SCALZO: We have all
18 visited the site.

19 MS. LUCCHESE: Okay.

20 CHAIRMAN SCALZO: I was there
21 myself yesterday.

22 MR. HERMANCE: I guess my
23 question would be, if you go to build
24 this deck, would you be back in front
25 of the Board seeking another variance

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to build a ramp?

MS. LUCCHESE: If I have to get one, sure. Yes.

CHAIRMAN SCALZO: Okay.

MS. LUCCHESE: I mean, I'm hoping that she won't need it, but I want to be prepared in case she does.

CHAIRMAN SCALZO: Mr. Hermance?

MR. HERMANCE: That's all I have.

CHAIRMAN SCALZO: Mr. Bell?

MR. BELL: Yes, I have some concerns.

MS. LUCCHESE: Okay.

MR. BELL: Those concerns are, first, the deck looks very nice, but it's unsafe.

MS. LUCCHESE: Correct.

MR. BELL: It does not meet building code.

MS. LUCCHESE: Correct.

MR. BELL: I mean, it's missing the footings.

MS. LUCCHESE: Right. Well, that's --

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MR. BELL: It's missing Simpson straps. It's missing a lot of the things that are required for safety. A couple of the posts are even on the old staircase that's coming down.

What are you looking to do to make improvements?

MS. LUCCHESI: I mentioned that to the guy who is building the deck, --

MR. BELL: Okay.

MS. LUCCHESI: -- because I'm not blind. I see that he has -- I know on the paperwork it says that the deck is complete, but it wasn't complete.

MR. BELL: Right.

MS. LUCCHESI: They have that on there. I do realize there are a lot of issues, and I have brought that to his attention. We can't proceed unless it's approved.

MR. BELL: Okay.

MS. LUCCHESI: I have brought it to his attention. Initially he

2 had 8-inch tubing when it's supposed
3 to be 14. I mean, I know there's
4 issues there. I think he was trying
5 to get away with everything he could.

6 MR. BELL: Perhaps to save you
7 money.

8 MS. LUCCHESE: Well, no.

9 MR. BELL: Okay. So are you
10 going to have him come to complete
11 this?

12 MS. LUCCHESE: Yes.

13 CHAIRMAN SCALZO: Hang on, Mr.
14 Bell. Let me kind of slow you down
15 here for a second. Should we get to
16 that point, it becomes a code
17 compliance issue. Anything they do
18 there needs to meet current building
19 standards. If we get that far --

20 MR. BELL: I just want to make
21 sure I'm covering all the bases.

22 MR. EBERHART: That was going
23 to be my question.

24 MR. BELL: I'm good right now.
25 We can move on down.

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CHAIRMAN SCALZO: Very good.
Mr. Masten?

MR. MASTEN: I have nothing. I was talking to the lady when I was up there and I was looking at everything. Everything is where it belongs.

CHAIRMAN SCALZO: Okay. Ms. Rein?

MS. REIN: Well, when I was looking over the application, I made notes about it being wheelchair accessible. If you decide to put a ramp in -- if she decides to put a ramp in, is that going to require her to come back to us again?

CHAIRMAN SCALZO: We're not sure, because if you look at the survey -- Mr. Mattina, stop me when I go wrong here. If she puts in a ramp but it is no closer to the road --

MR. MATTINA: The ramp itself would be exempt. There is an exemption in the code for handicap ramps. The issue would be the construction of it. You'd have to go

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like a 12 to 1 pitch, so you might have to have ramps, platforms. The ramp itself would be exempt, but construction wise, you don't know what's going to be needed to get to the 12 to 1 ratio.

CHAIRMAN SCALZO: If anybody doesn't understand what Mr. Mattina is saying, if the deck, as it exists right now, is 4 feet off the ground, you would need 48 feet of ramp to get there.

MR. EBERHART: That's not part of what we're using --

CHAIRMAN SCALZO: It's a future consideration that Mr. Bell is addressing. As the application is presented to us is what we need to act on this evening.

Ms. Rein, is that --

MS. REIN: That answers the question. I was just wondering if maybe the applicant wanted to amend what she wrote to include the ramp.

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I guess that's not happening.

CHAIRMAN SCALZO: I'm not quite sure that that's part of the plan right now.

MS. LUCCHESI: I'm hoping she doesn't need it, because --

MS. REIN: Okay.

CHAIRMAN SCALZO: Ms. Rein, --

MS. REIN: I'm good.

CHAIRMAN SCALZO: -- you're good for now?

I had a few observations. I was out there looking myself. The Board Members pretty much captured my concerns with the actual construction. Again, that's going to be a code compliance issue.

What I did notice is, I'll call it the character of the neighborhood. As I was driving up Princess Lane, there's only one other house that has a deck out front, and it happens to be right next door to you. It sticks out from the front of the house. I

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actually called in to Code Compliance today and I said, hey, the house next door has a deck on the front. I didn't see any other substantial decks. There might be one five or six houses down on the opposite side of the street. I'm not quite sure. That house sits up on the hill. It's kind of tough to determine, when you're looking at a slope, what the horizontal distance would be.

Mr. Mattina found out today that your neighbor next door has a deck that is 48 feet and change from the front property line, which is actually in violation of the front yard setback. However, it was a permitted deck at the time, and this was back to 2003. They should have been referred to the ZBA, but they were not. Let's just say that's put away. If you're in the contracting community, they've already got that, so we can't really touch that.

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Like I say, it's an observation for the character of the neighborhood. That's the only other one I saw. So again, that's something I noticed.

At this point I'm going to open it up to any members of the public that wish to speak about this application. Is anyone here to speak about the application on Princess Lane?

(No response.)

CHAIRMAN SCALZO: No.

Okay. So I'm going to go back to the Board. Any other questions, now that everyone had a chance to speak?

MS. REIN: No.

MR. MASTEN: I have nothing else.

MR. BELL: I'm good.

CHAIRMAN SCALZO: Okay. In that case, I'll look to the Board for a motion to close the public hearing.

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

MR. BELL: I'll second.

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CHAIRMAN SCALZO: We have a motion from Mr. Masten. We have a second from Mr. Bell. All in favor?

MR. GRAMSTAD: Aye.

MR. EBERHART: Aye.

MR. HERMANCE: Aye.

MR. BELL: Aye.

MR. MASTEN: Aye.

MS. REIN: Aye.

CHAIRMAN SCALZO: Aye.

Those opposed?

(No response.)

CHAIRMAN SCALZO: Very good.

Discussion on this. Again, I almost need to -- you're good where you are, in case we have questions for you, so just sit tight.

I'm actually going to solicit some commentary from Code Compliance. Mr. Mattina, was there an application for this deck before the deck was constructed?

MR. MATTINA: Yes.

CHAIRMAN SCALZO: Do we have a

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plan for that deck that's either signed or stamped by a design professional?

MR. MATTINA: No.

CHAIRMAN SCALZO: Okay. Is that a requirement?

MR. MATTINA: If you stay within the scope of the 2020 residential code and you build the deck prescriptively, it is not. Once you exceed the prescriptive requirements of the code, then it is.

CHAIRMAN SCALZO: I'm not a structural guy, but it appears as though I saw some deficiencies there.

MR. MATTINA: Correct.

CHAIRMAN SCALZO: Code Compliance, you've been out there inspecting this as you go along?

MR. MATTINA: We've never been there to do any inspections.

CHAIRMAN SCALZO: Okay.

MR. MATTINA: Everything we're talking about is based off the photos

2 that were submitted.

3 MR. EBERHART: Even in the
4 photos, you see that little --

5 CHAIRMAN SCALZO: It looks like
6 a 2 by 6.

7 MR. MATTINA: Right.

8 MR. EBERHART: It's a structural
9 problem.

10 MR. BELL: There are safety
11 violations.

12 CHAIRMAN SCALZO: It's unusual.

13 MR. BELL: I think that Ms. Haight
14 had mentioned that the contractor --
15 she's aware that the contractor has
16 to come back and take care of things
17 to make it safe, to fall within the
18 code, the building code. She's aware
19 that there are violations.

20 CHAIRMAN SCALZO: Mr. Mattina,
21 I don't want to put you on the spot,
22 but I'm gonna. Minimum diameter of
23 foundations?

24 MR. MATTINA: The Sonotubes
25 start at 14 inches. If you have a

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double girder coming in, two girders coming into one, you're talking 16, 18-inch Sonotubes.

MR. BELL: 4 feet deep. Right?

MR. MATTINA: Minimum 48 inches.

CHAIRMAN SCALZO: I don't know how many of those I saw. I don't know that I saw any. Why I'm going this way is, it almost appears as though more excavation would have to occur, some disassembly. Again, that's a code compliance issue that they would take care of based on whatever it is that we do.

Going back to the chart, the variance that they are looking for here --

MR. BELL: Front yard setback.

CHAIRMAN SCALZO: Yes. It says here the minimum front yard is 40 feet, proposed is 31.7. You're looking at a variance of 8.3.

Mr. Mattina, the next door application from 2003, not that you

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remember what it was, but they were shy by 2 feet, or was the front yard setback different at the time?

MR. MATTINA: The front yard setback was 40. Their deck in the application was 4 by 6. On their plot plan they submitted, they had a front yard setback of 48 feet remaining, which obviously wasn't correct.

CHAIRMAN SCALZO: With 48, they wouldn't need a variance at all.

MR. MATTINA: Correct. We know it's not 48. What they submitted twenty years ago was incorrect.

CHAIRMAN SCALZO: We didn't have the benefit of a survey at that time. Correct?

MR. MATTINA: Right. We didn't have Google Earth, we didn't have surveys.

CHAIRMAN SCALZO: Right. Standing at your property, or your mom's property, and looking left and

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right, looking at the front lines of the homes and the front line of the deck next door to your left -- her left -- this one is unusual for me. Typically decks come in and they're pretty easy, you're either asking for forgiveness or permission. We hope it's permission.

I've talked a lot. Does anybody else have anything, any questions, since we're kind of exchanging ideas here or asking questions?

Do you feel as though we have enough to vote on this tonight? Is there anything else you'd like to know or is there anything --

MR. HERMANCE: Would this be a Type 2 action?

CHAIRMAN SCALZO: A Type 2 action under SEQRA.

MR. HERMANCE: That's going to answer some of the --

CHAIRMAN SCALZO: We're going to go through the balancing tests no

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matter what.

MS. REIN: Should there be something from the contractor specifically saying what they're going to be doing?

MR. DONOVAN: If I can make a suggestion on that issue. Oftentimes, when you have what we call a prior built or preexisting structure where they're asking for forgiveness instead of permission, you're not really approving that structure, but there's the inference that you are. You're approving the prior built structure. In this instance, if you're inclined to move in that direction, which you can, just make sure to emphasize the fact that the approval is for the setback only and that the structure needs to meet all applicable building code requirements, depth of footing, width of footing, number of footings. If the Board is so inclined.

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MR. BELL: That's where I was going. Thank you for speaking it so eloquently.

CHAIRMAN SCALZO: That's where we're going with the conditions. As I said, I stood in front, and it appears as though that deck would be the one that sticks out the furthest in the neighborhood.

MR. DONOVAN: Just to kind of round out that conversation. As you all know, you go through a five-part balancing test. One of the important factors is whether or not granting of the variance would cause any adverse impact on the character of the neighborhood. That is one factor. As you know, it's kind of a balancing of all of the five factors. If you think that it's out of character with the neighborhood, that doesn't mean that you must deny the variance. It's an important factor, but you could find it's out of character and still

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grant the variance, so long as you balance the other four factors and say, hey, it's not really substantial, there's no adverse environment impact that's going to result. Clearly it's self-created. That's all part of the balancing tests that you do.

MS. REIN: I think the main important thing is to have those conditions in there.

MR. BELL: My concern is safety.

CHAIRMAN SCALZO: My concern is looking out two, three, four years and we have seven other applications in for decks that are going to be sticking out into the front yard. We're setting a precedence here, folks. What we say today is going to have an impact in ten years. We try to maintain consistency on what we do. I don't know how to overcome that.

MS. REIN: Hasn't the deck

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that's already there already created
that issue? Not her deck.

CHAIRMAN SCALZO: The one next
door. We don't have accurate
information on just how far that
sticks out. It does stick out a
little further from the house.

Joe, you wouldn't happen to
remember how far past the front line
of the house that deck comes out, do
you?

MR. MATTINA: I just went by
the drawings that were in the file.
It showed flush with the house, it
came out 4 feet and was 6 foot wide.
It wasn't really that accurate on the
drawing.

CHAIRMAN SCALZO: Counsel, kick
me in the shins if I go wrong here.
Would it be -- I know it's going to
be unusual. If we find that an
inspection of the deck by Code
Compliance is going to require them
to disassemble that deck, and we

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grant a variance that's less than what they're looking for right now, as opposed to if someone goes out there -- a professional goes out and certifies that it's adequate and it remains exactly where it is, could we frame this to say if the deck needs to be dismantled, for the proposed 31.7, we were to insist on 35? I don't want to pull an arbitrary number here.

MR. DONOVAN: So could you do that? You probably could if it's that important to you. I would suggest you may want to hold this over until someone can take a look at it, because that is a little bit of guesswork on your part.

CHAIRMAN SCALZO: Right.

MR. DONOVAN: If some design professional says, hey, wait a second, in order for this to be structurally sound, it needs to be another 5 feet in the front yard,

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given the size that you want; well then, the applicant is back here again.

CHAIRMAN SCALZO: The benefit that she's looking to achieve here is to be able to get a wheelchair out there and have her be able to turn around.

MS. LUCCHESI: If she needs it.

CHAIRMAN SCALZO: My folks are old and they love nothing more than to sit out on their front porch and watch traffic go by, so I get it.

Having heard what Counsel said and my unusual observation, do we want to table this and look for Code Compliance to get out there, see if a design professional would certify that as far as the deck sticks out as it is right now, it would be adequate or -- I don't know how -- that's kind of going to have to go back -- almost the application process is going to be, not started over, but --

2 MR. MATTINA: It really hasn't
3 even started. Once something goes to
4 Zoning, it doesn't get reviewed until
5 it gets approval. Review wise, we
6 really haven't done anything to it.
7 Why are we going to waste two hours
8 reviewing a permit that might be
9 denied?

10 CHAIRMAN SCALZO: I understand.
11 Why expend the resources if you're
12 not sure it's going to happen anyway.

13 MR. MATTINA: Right.

14 CHAIRMAN SCALZO: Thank you.
15 I'll look to the Board.

16 MR. EBERHART: I think you're
17 on the right path, that we should
18 table it and we should go out and
19 take a look at it.

20 CHAIRMAN SCALZO: Take another
21 look.

22 MR. EBERHART: Just from a
23 public safety standpoint.

24 CHAIRMAN SCALZO: That's not
25 what we're here for.

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MR. DONOVAN: I think the issue is, would someone who knows what they're doing say this deck is not going to fit here, it's got to extend out further to get the benefit that you want.

MS. LUCCHESI: The existing?

MR. DONOVAN: To make it building code compliant. If you want this much room, then you're going to have to do X, Y and Z.

I think what the Board is saying, and I don't mean to speak for the Board, if they're inclined to grant you a variance, Code Compliance goes out and says this whole thing needs to come down, your footings aren't deep enough, they're not wide enough, the material is -- then you get somebody, and I don't want to cast any dispersions on whoever is building it, somebody who really knows what they're doing, who says, hey, wait a second, to do this right

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and get the benefit that you want, I have to go another 3 feet into your front yard, which means, if the Board granted you this variance, it would not help you, you'd have to come back here.

MS. LUCCHESE: Right.

MR. DONOVAN: I think the suggestion is maybe you need to go to some design professional or some contractor who knows what he's doing and have them figure out can this work or do we have to take it all down and start all over again.

MS. LUCCHESE: Well, the guy that I hired told me he knew what he was doing, and he was referred to me from a friend, okay. Obviously when I saw what he did, I don't feel he knew what he was doing, but he was already paid. If he's got to take it down to meet code, then he's got to take it down. That's on him, because he's already been paid.

2 CHAIRMAN SCALZO: Okay.

3 MR. EBERHART: For safety, it
4 has to be done.

5 MS. LUCCHESI: If it has to be
6 taken down, it has to be taken down.

7 CHAIRMAN SCALZO: We don't know
8 that yet. You're going to have to
9 have someone validate what's going
10 on.

11 MR. BELL: There are things
12 that have to be built to code.
13 That's the bottom line. These
14 pictures and what I saw yesterday,
15 it's going to have to be.

16 MS. REIN: Then we need some
17 kind of a plan from somebody who
18 actually knows what they're doing,
19 pretty much.

20 MR. BELL: It would benefit her.

21 MS. REIN: From your contractor
22 or from whatever professional you
23 decide to use, a plan of what's going
24 to happen.

25 CHAIRMAN SCALZO: I think he

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used 2 by 6 joists at 16 on center
and an unusual support system
underneath it. That's being polite.

Mr. Mattina, you will not --
your group will not get involved
until we have a resolution here. Is
that my understanding?

MR. MATTINA: Correct. We
don't get into the design phase. We
say it meets code or it doesn't meet
code. As it stands, it doesn't meet
code.

CHAIRMAN SCALZO: Any sketches
that are supplied to you, they need
to meet code?

MR. MATTINA: Correct.

CHAIRMAN SCALZO: I'm going to
look to the Board here for perhaps a
motion to keep the public hearing
open for an additional month.

I apologize. I understand
everybody is under a time constraint
when they're here. In this case, I
just don't feel as though myself, and

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I have to look to the other Members of the Board, they all appear to be nodding but we're going to ask them again. I'm not comfortable right now moving any further forward with what I know. I would like to know more.

We're going to recommend that you have a competent person verify what's going on. If they verify that it needs to be removed and reset, perhaps you might want to consider shrinking it up a little bit.

MS. LUCCHESI: The problem is, we're trying to line it up with the sidewalk.

CHAIRMAN SCALZO: I saw that.

MS. LUCCHESI: That's what we're trying to do so that it would be easier. So if we were to go any smaller, --

CHAIRMAN SCALZO: If you were to --

MS. LUCCHESI: -- cosmetically --

CHAIRMAN SCALZO: I'm not

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saying what to do. I saw as I was standing there, if the sidewalk was to extend the full length of the front of the deck, the deck could be that much shorter.

MS. LUCCHESE: Say that again.

CHAIRMAN SCALZO: Actually, I think the stairs won't let that happen. The stairs are not counted for your offset.

MS. LUCCHESE: Right.

CHAIRMAN SCALZO: If the stairs ended up being on the front portion -- where the front 4 feet of the deck is right now, if you ended up having that be your stairs with a landing, they don't count against your setbacks.

I think I'm getting ahead of myself here. We need someone out there, a design professional, a competent contractor that understands the building code, to say what's happening and what they'll do to make

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it right and if you need all of what you currently have.

MS. LUCCHESE: Okay. I understand what you're saying, but from the way I'm looking at it, and correct me if I'm wrong, basically you're here to say whether or not the variance is approved. As far as it being up to code, then that's where the code department would come in?

CHAIRMAN SCALZO: Yes.

MS. LUCCHESE: That's why I don't understand. Like I said, if they say that --

MR. BELL: I see where you're going.

MS. LUCCHESE: -- he doesn't know what he's doing, blah, blah, blah, blah, I'll have him take it down and I'll have somebody else do it. My understanding is you guys are just whether or not --

CHAIRMAN SCALZO: All we're here for is the front yard variance.

2 That's it.

3 MS. LUCCHESE: As far as it
4 being up to code --

5 CHAIRMAN SCALZO: As far as --
6 you're absolutely right. However,
7 what led us there was me saying if it
8 had to be completely disassembled, my
9 opinion is it doesn't fall within the
10 character of the neighborhood because
11 yours is the furthest sticking out
12 deck going. If you were to reduce
13 the size from the front yard, that
14 would help.

15 MS. LUCCHESE: I don't know how
16 you would do it.

17 CHAIRMAN SCALZO: That's my
18 observation.

19 MS. LUCCHESE: No, no, no. I
20 understand. I understand. I'm just
21 saying, for the way I want to line it
22 up with the sidewalk --

23 CHAIRMAN SCALZO: Sure. We're
24 putting you on the spot here with all
25 of these ideas, which is why keeping

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this public hearing open is actually a benefit to you as well, so you can think about -- perhaps there's another way to tackle this that none of us have considered. You're the one that's living there. You can stand out and look at it with a cup of coffee in the morning and say, I know what I can do.

MS. LUCCHESI: I can just tear it apart and --

CHAIRMAN SCALZO: Anyway, where are we, folks?

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

MR. EBERHART: I'll second it.

CHAIRMAN SCALZO: We have a motion from Mr. Hermance. We have a second from Mr. Eberhart. All in favor?

MR. GRAMSTAD: Aye.

MR. EBERHART: Aye.

MR. HERMANCE: Aye.

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MR. BELL: Aye.

MR. MASTEN: Aye.

MS. REIN: Aye.

CHAIRMAN SCALZO: Aye.

What we're going to do is,
we're going to see you in a month.
In that time you're going to do a
little homework, have some people
come in and find out what's going on.
You're going to look at it. I am one
of seven here. You don't have to
convince -- I can say no, they can
say yes, or vice versa. It doesn't
matter. You need a majority in this
case. You've heard my comments. I
don't know if the other Board Members
feel the same way or not about the
front yard setback. I'm going to let
you think about what you're going to
do until next month. Like I say, you
only need a majority here to
accomplish what you're trying to
accomplish.

MS. LUCCHESI: Okay. So in the

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meantime, what do you want me to do?
I know nothing about this.

CHAIRMAN SCALZO: Okay. I'm tripping on my tongue here.

MR. DONOVAN: You need to find somebody who knows what they're doing to figure out if you can do what you want to do. I'm not a construction guy. I've paid enough money to construction people over the years. It sounds to me like the deck doesn't meet code. That's going to be a problem. You need somebody who knows what they're doing to say this is what you need to do to make this right.

MS. LUCCHESI: Okay.

MR. DONOVAN: We need that in writing, or the Board needs that in writing at the next meeting.

MS. LUCCHESI: I have to get somebody to say it's up to code?

MR. DONOVAN: No. That it can be -- in some fashion it can be made

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to meet code. That fashion may be removing it and starting all over again. The question then is, is it in the same footprint.

MS. REIN: In other words, whoever you get in there is just going to write a little report saying this is what you want, this is what you need to do to get what you want, and you're going to say, okay, and you're going to give it to us to look at.

MS. LUCCHESI: Okay. Well, I guess the guy that I have now apparently doesn't know what he's doing, so --

CHAIRMAN SCALZO: Perhaps you can refer him to the New York State Building Code.

MR. EBERHART: He should have taken a look at it before he built it.

MS. LUCCHESI: Well, okay.

CHAIRMAN SCALZO: I'll tell you

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what also. Once the meeting minutes are available -- which will be in a couple weeks, Michelle -- you can go ahead and just hand them to your contractor and say this is what was discussed and we need to make it work.

MS. LUCCHESE: Okay. So basically find another contractor?

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

MS. LUCCHESE: Well, basically this contractor doesn't know what he's doing apparently.

CHAIRMAN SCALZO: We don't -- you always give someone a graceful way to back pedal and make things right.

MR. BELL: I'm going to say he needs help. I'll put it like that. My concern is it does not meet --

MS. LUCCHESE: I totally agree.

MR. BELL: Yes.

CHAIRMAN SCALZO: Okay. We'll

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see you next month.

MS. LUCCHESE: Okay. Now, do I get a notice telling me what day?

CHAIRMAN SCALZO: It's the fourth Thursday of the month.

MR. MASTEN: The 28th of September.

CHAIRMAN SCALZO: I'm going to trust these guys. It's the 28th of September.

MS. LUCCHESE: 7 o'clock?

CHAIRMAN SCALZO: Yes.

MS. LUCCHESE: Thank you.

(Time noted: 7:34 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 5th day of September 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

JAMES TURNER

355 Lakeside Road, Newburgh
Section 33; Block 1; Lot 22
R-1 Zone

----- X

Date: August 24, 2023
Time: 7:34 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, New York

BOARD MEMBERS: DARRIN SCALZO, Chairman
DARRELL BELL
JAMES EBERHART, JR.
ROBERT GRAMSTAD
GREGORY M. HERMANCANCE
JOHN MASTEN
DONNA REIN

ALSO PRESENT: DAVID DONOVAN, ESQ.
JOSEPH MATTINA

APPLICANT'S REPRESENTATIVE: JAMES TURNER

----- X

MICHELLE L. CONERO
Post Office Box 816
Dover Plains, New York 12522
(845) 541-4163

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CHAIRMAN SCALZO: Our next applicant is James Turner, 355 Lakeside Road, Newburgh. An area variance to increase the degree of nonconformity of the rear, side and combined side yards to remove an existing nonconforming dwelling and replace it with a two-story dwelling, a two-story rear covered deck and an enclosed front walkway.

For this one we had 28 letters. All mailings, publications and postings are in order.

Who do we have?

MR. TURNER: Good evening, everybody. My name is James E. Turner.

My condolences to the Board and to the Town for Mr. Hughes passing. He was a friend of mine also.

I live currently at 340 Lakeside Road in the Town of Newburgh, the Orange Lake area.

CHAIRMAN SCALZO: The house on

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the corner?

MR. TURNER: The house on the corner. For about forty years -- well, about fifty years I've lived in the Orange Lake area in various houses, Leeland Road, Rayland Road, O'Dell Circle, et cetera, et cetera. About twenty-five or thirty years ago I bought my current house, fixed it up, renovated it. I've been trying to buy -- I used to live on O'Dell Circle, too. We had a house at number 18 O'Dell. Since we moved there when our kids were little, it was a small two-bedroom house that we outgrew. For the last forty years I've been trying to get back onto the lake. We're lake people. My daughter, who is a local attorney that you guys might know, she's owned three houses on the lake. We want to get back on the lake.

I've been trying to buy a piece of property about forty years

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directly across the street from my house called 355 Lakeside Road. 355 Lakeside Road was sold by Mr. Resnick to somebody else forty years ago. I got outbid there. I'm in a better position now and the property came up for sale.

The problem with the property is, in order to buy 357, I had to buy 355. It was an all or nothing proposition. So 357 is about an acre lot that I could build my dream house on, retire and ride off into the sunset, but I'm stuck with 355, which has a ramshackled shack on it that's been there for forty years.

I came to the Town, I got a -- not a building permit but a demolition permit to see what we had for the structure. I demo'd it. The problem with the structure is, for lack of a better term, I'm going to say, it has bad bones. It is in bad shape.

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I'm coming to the Town and the Zoning Board now. There's a lot of different problems with the house of renovating it. It's on a nonconforming lot. Yes, it's been there are for fifty or sixty or seventy years. The bones are bad. In order to renovate it, we thought it might be better to knock it down, start from scratch. Right now it's only about eight feet from the lake. Our idea was, listen, we have to go through all this, we might as well knock it down and move it back off the lake, give everybody better views than where it is right now.

It is currently a two-story house. It's a half a two-story, but it is a two-story house. Our idea was, if we renovated it, we were going to raise the roof, put a full second story on it. It has a very deep drop from the property line down to the lake. Our idea was to do a

2 reverse style living, you come in on
3 the second floor into the kitchen/
4 living room area and then have
5 bedrooms downstairs.

6 I'm coming to the Board and
7 seeing what we can do.

8 CHAIRMAN SCALZO: Okay. We
9 were all poking around. We agree
10 it's in bad shape.

11 MR. BELL: Yup.

12 MR. TURNER: It's been that way
13 for fifty years. I'm just trying to
14 improve it, make it a nice house.

15 As far as plans for it, because
16 I know everybody is concerned about
17 the plans, my current house right now
18 is four bedrooms, five baths. I live
19 there by myself six months out of the
20 year because my wife hates the
21 winters in New York. We have a place
22 in Florida that she goes to six
23 months out of the year, to Florida.
24 So I'm living in this big house all
25 by myself. Our idea would be to

2 build this new, smaller house, move
3 into that temporarily until we could
4 build a bigger, nicer dream house
5 next door on the bigger lot.

6 CHAIRMAN SCALZO: Okay. Thank
7 you.

8 I'm going to start with Ms. Rein.

9 MS. REIN: Like I told you
10 before, I couldn't find it. Three
11 times, I could not find it. I was
12 afraid I was going right in the water.

13 MR. TURNER: I was going to
14 say, the lot size is only 37 feet
15 wide. It's kind of like a double
16 driveway next to each other. There's
17 no driveway. It's basically a path.

18 MS. REIN: I almost went to the
19 restaurant to get a drink, I have to
20 tell you.

21 I don't have any questions from
22 what I've read and from what I've
23 heard.

24 CHAIRMAN SCALZO: Mr. Masten?

25 MR. MASTEN: When I was out

2 there, I walked from the edge of
3 Lakeside Road right down to the lake.

4 We've had other applicants from
5 different houses around there. The
6 width of the properties are not very
7 big. I can see your point. It's a
8 nice view.

9 MR. TURNER: It's a beautiful
10 view.

11 MR. MASTEN: My wife wanted to
12 know when I'm taking her to Lakeview
13 House again. I'm not here for that,
14 I'm here to look at the property.

15 I'll go along with what you
16 plan.

17 MR. TURNER: I was going to
18 say, if you have to do it, you have
19 to do it right. It doesn't make
20 sense to not do it right.

21 CHAIRMAN SCALZO: Mr. Hermance
22 -- Mr. Bell?

23 MR. BELL: I'm fine.

24 CHAIRMAN SCALZO: Siobhan is
25 not here. She holds us all together.

2 MR. BELL: I live right down
3 the street from you. I drive by
4 every day. I see what you're trying
5 to do, and I have no comments.

6 CHAIRMAN SCALZO: Very good.

7 Now Mr. Hermance?

8 MR. HERMANCE: What he's trying
9 to do would be a huge improvement
10 over what's there.

11 CHAIRMAN SCALZO: Sure.

12 MR. HERMANCE: I'm in agreement.

13 CHAIRMAN SCALZO: Mr. Eberhart?

14 MR. EBERHART: Agreed it's an
15 improvement. I have no questions or
16 comments.

17 CHAIRMAN SCALZO: Mr. Gramstad?

18 MR. GRAMSTAD: No questions at
19 all.

20 CHAIRMAN SCALZO: That leaves
21 me. I know where the house is in
22 relation to the lake. We've had
23 other applications here, over my ten
24 years sitting on the Board here, and
25 one of my -- I'm sure somebody is

2 going to ask the same question as far
3 as maintaining the same line of homes
4 with the distance away from the lake.
5 So you're actually going to be
6 further away from the lake than you
7 currently are. Is that what I'm
8 understanding?

9 MR. TURNER: I believe -- I'm
10 not sure if it's 35 -- I don't know
11 if it's 35 feet or 40 feet, but it's
12 back in line with the --

13 CHAIRMAN SCALZO: I see the
14 house.

15 MR. TURNER: It's not in line
16 with the house currently next door on
17 the south side, but it would be in
18 line with the next three or four
19 houses going on the north side. The
20 house to the south side is very close
21 to the lake. I believe all of those
22 other cottages between there and
23 Lakeview House are very close to the
24 lake. By moving that house back,
25 it's going to help everybody's views.

2 If anybody has a concern about views,
3 moving it back would be the best
4 thing. Then the same thing, when I
5 eventually want to build on the
6 bigger lot my dream home, it would
7 also be in line with, going from that
8 house north. They would all be off
9 the lake.

10 CHAIRMAN SCALZO: Okay.

11 MR. BELL: I know you did
12 mention initially that you were going
13 to set it back not to be able to
14 obstruct others' views. Yes.

15 MR. TURNER: Again, if I build
16 my dream home, I don't want that one
17 blocking my south view.

18 MR. BELL: Yes.

19 MR. TURNER: It's in my best
20 interest to put it back, and that's
21 why we went that route.

22 CHAIRMAN SCALZO: Got you. I
23 appreciate that.

24 All right. Is there anyone
25 here that wishes to speak about this

2 application on Lakeside Road? Please
3 step forward, state your name.

4 Mr. Turner, you can actually
5 sit down. Nobody likes to sit in the
6 front row.

7 MS. PARK: I'm Lavinia Park. I
8 am the next door neighbor to the
9 south side.

10 I did have a few questions and
11 concerns, one of which you answered
12 for me. You're going to be moving it
13 back a little bit?

14 MR. TURNER: Knocking it down
15 and moving it back.

16 MS. PARK: Because it was
17 unclear from the drawing how much --

18 CHAIRMAN SCALZO: There's no
19 existing overlay. All I'm looking at
20 is proposed here. There's no what
21 the existing structure is, at least
22 on the map I'm looking at.

23 MR. TURNER: I thought the
24 engineer moved it back 35 or 40 feet.

25 CHAIRMAN SCALZO: He's showing

2 40 feet from the property line.

3 MR. TURNER: I think he tried
4 to center it because the lot is kind
5 of crooked. The way the house sits
6 now, it's kind of crooked. I think
7 his plan was to center it further
8 back on the lot as not to obstruct,
9 and particularly, your view.

10 MS. PARK: And your future home.

11 MR. TURNER: Our two houses.
12 It is important to move it back.

13 CHAIRMAN SCALZO: Very good. As
14 I look at the new two-story covered --

15 MR. TURNER: To be even with --

16 CHAIRMAN SCALZO: Hang on.
17 This is all being recorded by our
18 stenographer. You have to make sure
19 everyone can hear. You can ask
20 anything you want. We just have to
21 make sure everyone can hear you.

22 Has Mr. Turner answered your
23 question?

24 MS. PARK: I believe so. He
25 believes it's about 40 feet --

2 CHAIRMAN SCALZO: The map shows
3 40 feet.

4 MR. TURNER: Does the map show
5 40?

6 CHAIRMAN SCALZO: Yes.

7 MS. PARK: It's so tiny, I
8 couldn't read it.

9 And then my next question was,
10 what was the height of the roof? It
11 looks like it's greater than 35 feet.

12 CHAIRMAN SCALZO: This is
13 saying the existing is less than 35.
14 He's allowed to go up to 35.

15 MS. PARK: Up to 35. It just
16 looked like it was greater than 35.
17 That's an error in the direction --

18 CHAIRMAN SCALZO: Perhaps.
19 They measure height of buildings from
20 the road. The topography flows
21 towards our -- decreases as you get
22 towards the lake. At the lake it may
23 appear higher, but from the road it's
24 not.

25 MR. TURNER: We actually have

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to excavate into the hill because of the drop. That's why we were going to do what they call reverse style living, so that you come in straight, you're going to come into your living area, and then down below, which is really above ground but it seems like it's the basement, would be the bedrooms. The bedrooms and bathrooms.

CHAIRMAN SCALZO: Obviously you can't go any lower than the elevation of the water.

MR. TURNER: We don't want to go down that low.

MS. PARK: So the area is similar to the current?

CHAIRMAN SCALZO: It appears he's increasing by 200 or 300 feet. 300 square feet?

MR. TURNER: I would say it's probably going to be more, because right now it only has a half of a second floor on it. It would be a complete second floor.

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MS. PARK: So the second floor is going to be bigger?

MR. TURNER: But still less than 35 feet.

CHAIRMAN SCALZO: The variances that he's seeking here today are linear for side yard, front yard, lot area. When it comes to the height, he's not seeking -- it is increasing the degree of nonconformity because of how close it is to the property line. I don't believe -- Mr. Mattina, stop me when I go wrong. I don't believe that's really an issue here with this application.

MR. MATTINA: The height is not, but --

CHAIRMAN SCALZO: You can't say that, Joe. You've got to finish your statement.

MR. MATTINA: The map we're looking at here is not the same map I did my plan review on. There are different variances that are going to

2 be required on this map than what I
3 sent them for. I was just trying to
4 get it all squared away before I
5 mentioned something.

6 CHAIRMAN SCALZO: Okay. And
7 I'm assuming tonight is the first
8 time you're seeing this map?

9 MR. MATTINA: Correct. The map
10 I reviewed, I reviewed on June 2nd.
11 This map was created on July 13th.
12 There's different setbacks on this
13 map.

14 CHAIRMAN SCALZO: Okay. I
15 think it would actually be unfair to
16 ask Mr. Mattina to stick his neck out
17 right here and now without the
18 benefit of being able to review the
19 current plan.

20 MR. MATTINA: I can. That's
21 what I've been doing.

22 CHAIRMAN SCALZO: I was giving
23 you an out, Joe.

24 MR. MATTINA: There's no reason
25 to. There would be an additional lot

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surface coverage of 3 percent, which was an issue the first time around. He's showing his rear yard setback as 40 feet. He doesn't take the deck into consideration. The side yards, he actually gained a foot and a third.

CHAIRMAN SCALZO: He said they were trying to center the house.

MR. MATTINA: He's offset 3 feet now instead of 1.7.

CHAIRMAN SCALZO: That was pre-existing nonconforming anyway.

MR. MATTINA: Right. He helped himself on the north side, but it still increases of degree of non-conformity.

MR. DONOVAN: Relative to that issue, Joe, it's the same variance?

MR. MATTINA: The same variance but different numbers.

CHAIRMAN SCALZO: The rear yard setback is not 40. You probably have a 10-foot deck that sticks out from the house toward the lake?

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MR. TURNER: Whatever the plans say.

CHAIRMAN SCALZO: Are there dimensions on the second page?

MR. TURNER: I was under the impression by the engineer that where the deck ended, we're coming back 40 feet. House wise, if it is a 10-foot deck, the house would start actually at 50 feet. That's the --

CHAIRMAN SCALZO: We're going to hold you to that.

MR. TURNER: That's fine. If that's what the Board wants, I'm okay with it.

CHAIRMAN SCALZO: Okay.

MR. TURNER: Whatever we have to do to make everybody happy, including Joe over there, I'm good with it.

CHAIRMAN SCALZO: Thank you.

MR. MATTINA: The numbers on this map are better than the numbers I sent him for.

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MR. DONOVAN: Joe, just so I'm clear, what is before us is increasing the degree of nonconformity of the rear yard, side yard, combined side yards?

MR. MATTINA: Correct.

MR. DONOVAN: Those variances are still required, just at different magnitudes?

MR. MATTINA: Different numbers. Correct.

MR. DONOVAN: What I'm getting at is, there's a legal notice that goes out that calls out the specific variances. The fact that those have now changed but are within the same variance of increasing the degree of nonconformity does not bother me from a notice point of view. My concern, Joe, you're talking a lot surface variance.

MR. MATTINA: Correct.

MR. DONOVAN: That's new.

MR. MATTINA: Right. Now it's

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showing 23 percent.

CHAIRMAN SCALZO: As opposed to 20 is the maximum?

MR. MATTINA: Correct. There would be three increase in nonconformities and one new.

MR. DONOVAN: So that type of notice requirement is sometimes as much a part of science. By that, I mean it's important for the public and the neighbors to know that there's an application in front of the Board pursuant to certain variances that are required. So, you know, the new variance that's being introduced, I don't know that it's of such a magnitude that you have to deem the application amended. You have the ability, if you want, to have it re-noticed.

CHAIRMAN SCALZO: Hang on. The survey here shows a shed on the property.

MR. TURNER: That's going. I

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just haven't knocked it down yet.

CHAIRMAN SCALZO: Okay. Hang on. I don't know if your design professional took that into consideration. If he did, that might take care of your 3 percent. Do we know?

MR. MATTINA: I can't --

MR. DONOVAN: You just told us you could, Joe. The Chairman was going to give you more time and you said you could take care of it.

MR. MATTINA: The plans say do not scale.

CHAIRMAN SCALZO: These architects use funny scales. I have the engineer's scale. I can't figure that stuff out. It's as much art as it is science.

We have a contiguous homeowner standing with us. The applicant actually owns the contiguous lot on the north side. We have other people from the public here.

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It wouldn't make sense to me, Counsel, that someone would not show up for all the other three and then the fourth one of 3 percent --

MR. DONOVAN: Bear in mind, I have nothing to do with making sense. Right. That's not my job. If the lot surface we discovered tonight was 50 percent over as opposed to 3 percent, I might have a different opinion, because if that was known, more people might show up. I think I'm okay, especially if the Board is okay. There's a notice that there's a public hearing tonight for variances for this lot. I think we've accomplished the objective. The new variance identified is relatively insubstantial, and it may not even exist once the shed comes off.

CHAIRMAN SCALZO: 28 people were notified.

MR. DONOVAN: Okay.

2 MR. TURNER: I'll knock it down
3 tomorrow. It's got to go. It's
4 junk. I just haven't gotten around
5 to it.

6 CHAIRMAN SCALZO: Typically
7 they would include that, though, in
8 the lot coverage. If that was part
9 of the calculations, it would be
10 fine.

11 I didn't mean to cut you off.

12 MS. PARK: That removes,
13 actually, one of my concerns of the
14 height, that you were blocking my
15 view, since you're going to be --

16 MR. TURNER: Yes.

17 MS. PARK: Because of the
18 proximity, I was also concerned about
19 when you're actually doing the demo,
20 the concerns of asbestos or led, that
21 that will be a problem because we're
22 so close. I don't know if that's --

23 CHAIRMAN SCALZO: That's
24 actually a code compliance issue that
25 they need to -- the demo plans, I'm

2 sure, have a qualifying statement in
3 there regarding any type of hazardous
4 materials.

5 Orange Lake is such a unique
6 community and how close the houses
7 are, what a benefit to you to have
8 that lot to the north, when you
9 demolish it, to pull everything that
10 way rather than have to --

11 MR. TURNER: Absolutely.

12 CHAIRMAN SCALZO: What a benefit.

13 MR. TURNER: Consider it done.

14 MR. BELL: He makes it easy.

15 CHAIRMAN SCALZO: If they could
16 all be like you. Again, I don't want
17 to stop you if you have more questions.

18 MS. PARK: That's it. Thank you.

19 CHAIRMAN SCALZO: Very good.

20 Thank you very much.

21 Is there anyone else here to
22 comment about this application?

23 Please step forward, sir.

24 MR. LANGER: Greg Langer, 281
25 Lakeside Road. I'm here representing

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the Board of Directors of the Orange Lake Homeowners Association.

We always try and take a look at these things. The lake association and the members of it would be very happy to see this eyesore gone and a nice new building there. It would improve the lake. Every time anybody takes somebody on a boat and they go by that place, after looking at the nice Lakeview House and then looking at that, they go, what's going on here. It would be an improvement.

As we've mentioned in the past, two of the things we're always interested in is preserving people's views from the neighboring property and not coming any closer to the water, staying back. It's hard to tell from this survey that that's happening, so we're leaving it up to your discretion to make sure of that.

CHAIRMAN SCALZO: Thank you.

2 Mr. Turner has already -- with the
3 larger plans it's easier to see. The
4 front of his proposed deck would be
5 sticking out almost parallel or even
6 with the one next door, but he's now
7 acknowledged that he will back that
8 up. It will actually be 10 feet
9 further away from the lake than the
10 next adjoiner. When I say 10 feet
11 further, that's to the front of his
12 deck. The house will be 50, the deck
13 will be 40.

14 MR. TURNER: Correct.

15 CHAIRMAN SCALZO: We're thinking
16 of you.

17 MR. LANGER: I appreciate that.
18 Good luck. We're looking
19 forward to a new house on there.

20 CHAIRMAN SCALZO: It is an
21 eyesore. Absolutely.

22 Is there anyone else here to
23 speak about this application on
24 Lakeside Road?

25 (No response.)

2 CHAIRMAN SCALZO: Great. We've
3 heard some testimony from the public.
4 Did that stir anything up? Do any
5 Board Members have any comments?

6 MS. REIN: No.

7 MR. BELL: No.

8 MR. EBERHART: No.

9 MR. GRAMSTAD: No.

10 MR. HERMANCE: No.

11 MR. MASTEN: No.

12 CHAIRMAN SCALZO: No. I'll
13 look to the Board for a motion to
14 close the public hearing.

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

17 MR. MASTEN: I'll second it.

18 CHAIRMAN SCALZO: We have a
19 motion from Mr. Bell. We have a
20 second from Mr. Masten. All in
21 favor?

22 MR. GRAMSTAD: Aye.

23 MR. EBERHART: Aye.

24 MR. HERMANCE: Aye.

25 MR. BELL: Aye.

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MR. MASTEN: Aye.

MS. REIN: Aye.

CHAIRMAN SCALZO: Aye.

Those opposed?

(No response.)

CHAIRMAN SCALZO: Very good.

This is a Type 2 action under
SEQRA?

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

CHAIRMAN SCALZO: You knew
where I was going, Counsel.

So we will go through our area
variance criteria and discuss the
five factors which we will weigh, the
first one being whether or not the
benefit can be achieved by other
means feasible to the applicant.

Well, we heard testimony from the
applicant that the house is kind of
in a condition that is not beneficial
or economical to rebuild, so I would
say no.

MR. DONOVAN: Plus the lot in

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question is not going to allow that.

CHAIRMAN SCALZO: Thank you,
Counsel.

The second, if there's an
undesirable change in the
neighborhood character or a detriment
to nearby properties. I think quite
the opposite. It's going to be quite
the improvement to the neighborhood.

The third, whether the request
is substantial. By the numbers it
is, but in the neighborhood that
you're in, you have no choice.

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

MR. BELL: No.

MR. EBERHART: No.

MR. GRAMSTAD: No.

MR. HERMANCE: No.

MR. MASTEN: No.

MS. REIN: No.

CHAIRMAN SCALZO: No. You're
going to probably put some raccoons

2 out of a home.

3 MR. TURNER: Squirrels anyway.

4 CHAIRMAN SCALZO: The fifth,
5 whether the alleged difficulty is
6 self-created, which is relevant but
7 not determinative. It's a very small
8 lot. We've experienced this before
9 with Orange County lots.

10 Now, having gone through the
11 balancing tests of the area variance,
12 does the Board have a motion of some
13 sort? I'm sure they do. I do want
14 to throw in the qualifier that the
15 setback from the lake will be 40 feet
16 to the front of the deck, not to the
17 house.

18 MR. TURNER: Yes.

19 MR. DONOVAN: And the shed is
20 being removed.

21 CHAIRMAN SCALZO: And the shed
22 is being removed. Having those two
23 conditions upon this application --

24 MR. BELL: I'll make a motion
25 for approval with those conditions.

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MR. HERMANCE: Second.

CHAIRMAN SCALZO: We have a motion for approval from Mr. Bell with conditions and a second from --

MR. MASTEN: I'll second it.

CHAIRMAN SCALZO: -- Mr. Hermance. He beat you to it, Mr. Masten.

MR. MASTEN: Okay.

CHAIRMAN SCALZO: If I could roll on that.

Mr. Gramstad?

MR. GRAMSTAD: Yes.

CHAIRMAN SCALZO: Mr. Eberhart?

MR. EBERHART: Yes.

CHAIRMAN SCALZO: Mr. Hermance?

MR. HERMANCE: Yes.

CHAIRMAN SCALZO: Mr. Bell?

MR. BELL: Yes.

CHAIRMAN SCALZO: Mr. Masten?

MR. MASTEN: Yes.

CHAIRMAN SCALZO: Ms. Rein?

MS. REIN: Yes.

CHAIRMAN SCALZO: I also vote

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JAMES TURNER

Yes.

You're all set.

MR. TURNER: Thank you.

CHAIRMAN SCALZO: Good luck.

(Time noted: 8:00 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 5th day of September 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

CASTLE USA CORP/JULY 4EVER

382 Rock Cut Road, Walden
Section 11; Block 1; Lot 60.2
R-2 Zone

- - - - - X

Date: August 24, 2023
Time: 8:00 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, New York

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

ALSO PRESENT: DAVID DONOVAN, ESQ.
JOSEPH MATTINA

- - - - - X

MICHELLE L. CONERO
Post Office Box 816
Dover Plains, New York 12522
(845) 541-4163

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CHAIRMAN SCALZO: Before I jump to our next application, I was remiss and did not mention at the very start of the meeting that Castle USA Corp/ July 4Ever, they have asked for a deferment of one month. We will not be hearing that application this evening. If anyone is here for Castle USA/July 4Ever on 382 Rock Cut Road, we have pushed that out to next month. There will be no new notices. That's the fireworks folks.

(Time noted: 8:01 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 5th day of September 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

TOM & MONICA MULHOLLAND

108 Heather Circle, Newburgh
Section 115; Block 1; Lot 12
R-1 Zone

- - - - - X

Date: August 24, 2023
Time: 8:01 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, New York

BOARD MEMBERS: DARRIN SCALZO, Chairman
DARRELL BELL
JAMES EBERHART, JR.
ROBERT GRAMSTAD
GREGORY M. HERMANCANCE
JOHN MASTEN
DONNA REIN

ALSO PRESENT: DAVID DONOVAN, ESQ.
JOSEPH MATTINA

APPLICANT'S REPRESENTATIVE: TOM MULHOLLAND
& MONICA MULHOLLAND

- - - - - X

MICHELLE L. CONERO
Post Office Box 816
Dover Plains, New York 12522
(845) 541-4163

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CHAIRMAN SCALZO: Our next applicants are Tom and Monica Mulholland, 108 Heather Circle in Newburgh, seeking an area variance of increasing the degree of non-conformity of one side and combined side yards to build a 12 by 16 rear deck.

The applicant sent out 59 letters. You are the winner for this evening. All mailings, publications and postings are in order.

If I have captured exactly what it is that you're trying to do, we can go ahead and move forward. If you would like to add your own flavor to that, let's go ahead and --

MR. MULHOLLAND: I'm just happy if we get the variance for it. I'm Tom Mulholland. This is my wife, Monica Mulholland.

MR. DONOVAN: Best presentation I've ever heard.

CHAIRMAN SCALZO: You're a

2 winner twice tonight.

3 As I mentioned earlier in the
4 meeting, we're obliged by our
5 positions here to go out and take a
6 look at these things, and we all
7 have. It's great little quiet
8 neighborhood. I like the loop.

9 I see where you used to have a
10 pool, or someone had a pool.

11 MS. MULHOLLAND: Yes. We made
12 a little garden.

13 CHAIRMAN SCALZO: It appears
14 that there used to be a deck exactly
15 where you're looking to put a deck.

16 MR. MULHOLLAND: Almost. We
17 had a deck with the pool, but we took
18 the pool down and took that deck
19 down. We're adjusting for that.

20 CHAIRMAN SCALZO: Okay.
21 Everything I saw is in character with
22 the neighborhood. I have no comments
23 myself.

24 I'm going to look down to Mr.
25 Gramstad.

2 MR. GRAMSTAD: I have no
3 comments at all.

4 CHAIRMAN SCALZO: Mr. Eberhart?

5 MR. EBERHART: No questions or
6 comments.

7 CHAIRMAN SCALZO: Mr. Hermance?

8 MR. HERMANCE: No. The new
9 proposed is within the footprint of
10 the house.

11 CHAIRMAN SCALZO: You're not
12 exceeding any lines. It's not like
13 you're putting a wrap-around all the
14 way to the front.

15 Mr. Bell?

16 MR. BELL: No.

17 CHAIRMAN SCALZO: Mr. Masten?

18 MR. MASTEN: No.

19 CHAIRMAN SCALZO: Ms. Rein?

20 MS. REIN: I'm good.

21 CHAIRMAN SCALZO: Is there
22 anybody from the public that wishes
23 to speak about this application?

24 (No response.)

25 CHAIRMAN SCALZO: Very good.

2 Okay. Like I say, this is very
3 different from our first deck
4 application this evening. I have no
5 other questions.

6 MR. DONOVAN: Correct, Mr.
7 Chairman. Oh, I thought you were
8 going to say Type 2 action.

9 CHAIRMAN SCALZO: No. I'm not
10 there yet. I have to close the
11 public hearing.

12 I'll look for a motion to close
13 the public hearing.

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

16 MS. REIN: I'll second it.

17 CHAIRMAN SCALZO: We have a
18 motion from Mr. Masten. We have a
19 second from Ms. Rein. All in favor?

20 MR. GRAMSTAD: Aye.

21 MR. EBERHART: Aye.

22 MR. HERMANCE: Aye.

23 MR. BELL: Aye.

24 MR. MASTEN: Aye.

25 MS. REIN: Aye.

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CHAIRMAN SCALZO: Aye.

Those opposed?

(No response.)

CHAIRMAN SCALZO: Very good.

Now we're going to move through our -- Counsel, this is a Type 2 action?

MR. DONOVAN: Correct, Mr. Chairman.

CHAIRMAN SCALZO: We're going to go through our five factors here, the first one being whether or not the benefit can be achieved by other means feasible to the applicant. For the benefit they're seeking, no.

The second, if there's an undesirable change in the neighborhood character or a detriment to nearby properties.

MR. BELL: No.

MR. EBERHART: No.

MR. GRAMSTAD: No.

MR. HERMANCE: No.

MR. MASTEN: No.

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MS. REIN: No.

CHAIRMAN SCALZO: The third,
whether the request is substantial.
No. I believe the zoning must have
changed --

MR. MULHOLLAND: It did.

CHAIRMAN SCALZO: -- after the
building of the homes, and that's
what is really restricting you.

MR. MULHOLLAND: We're
following our --

MS. MULHOLLAND: House line.

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

MR. BELL: No.

MR. EBERHART: No.

MR. GRAMSTAD: No.

MR. HERMANCE: No.

MR. MASTEN: No.

MS. REIN: No.

CHAIRMAN SCALZO: No.

The fifth, whether the alleged
difficulty is self-created, which is

2 relevant but not determinative. Of
3 course it's self-created. They want
4 to build a deck. However, it's not
5 determinative.

6 Having gone through the
7 balancing tests of the area variance,
8 does the Board have a motion of some
9 sort?

10 MS. REIN: I'll make a motion
11 to approve.

12 MR. BELL: I'll second.

13 CHAIRMAN SCALZO: We have a
14 motion to approve from Ms. Rein. We
15 have a second from Mr. Bell.

16 Rolling on that, Mr. Gramstad?

17 MR. GRAMSTAD: Yes.

18 CHAIRMAN SCALZO: Mr. Eberhart?

19 MR. EBERHART: Yes.

20 CHAIRMAN SCALZO: Mr. Hermance?

21 MR. HERMANCE: Yes.

22 CHAIRMAN SCALZO: Mr. Bell?

23 MR. BELL: Yes.

24 CHAIRMAN SCALZO: Mr. Masten?

25 MR. MASTEN: Yes.

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CHAIRMAN SCALZO: Ms. Rein?

MS. REIN: Yes.

CHAIRMAN SCALZO: I am also a
yes.

Thank you. You're all set,
folks.

MR. MULHOLLAND: Thank you.

MS. MULHOLLAND: Thank you.

(Time noted: 8:07 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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That hereinbefore set forth is a true
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I further certify that I am not
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this matter.

IN WITNESS WHEREOF, I have hereunto
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Michelle Conero

MICHELLE CONERO

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

- - - - - X
In the Matter of

JENNIFER GNECCO

15 O'Dell Circle, Newburgh
Section 51; Block 2; Lot 1.1
R-1 Zone

- - - - - X

Date: August 24, 2023
Time: 8:07 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, New York

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

ALSO PRESENT: DAVID DONOVAN, ESQ.
JOSEPH MATTINA

APPLICANT'S REPRESENTATIVE: JENNIFER GNECCO

- - - - - X

MICHELLE L. CONERO
Post Office Box 816
Dover Plains, New York 12522
(845) 541-4163

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CHAIRMAN SCALZO: Our next applicant is Jennifer Gnecco, 15 O'Dell Circle, seeking an area variance of increasing the degree of nonconformity of the front yard setback to build a 10 by 28 covered front porch and raise the roof on an existing nonconforming structure.

The applicant sent out 45 letters. All mailings, publications and postings are in order.

Who do we have with us?

MS. GNECCO: Hello, everyone. My name is Jen Gnecco. I'm the owner of 15 O'Dell Circle.

I'm extremely excited to be making this post-purchase change, which includes the building of this new covered front porch so I can sit out front and watch the sunset over the lake. That is my goal. It will certainly improve the neighborhood as well.

CHAIRMAN SCALZO: Okay. We all

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drove past your recently milled road.

MS. GNECCO: Yeah. It's rough.

CHAIRMAN SCALZO: It keeps traffic down, but it's awful dusty.

MS. GNECCO: Yeah.

CHAIRMAN SCALZO: I'm going to ask you a funny question. Maybe I missed it. Where did you put the posting in your front yard?

MS. REIN: It's right there. You drove right by it.

CHAIRMAN SCALZO: I was probably avoiding the manhole.

MS. GNECCO: I have three because I have three properties. The front yard one is dead center right next to the driveway on my property, and then there's another one at the far end of the property across the street on the pole, and then on the pole on the opposite side.

CHAIRMAN SCALZO: Okay.

MS. GNECCO: There are pictures of them, too.

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CHAIRMAN SCALZO: Okay. Again, this is Orange Lake, but it's the other side of Orange Lake.

Mr. Mattina, you don't have the minimum or anything else proposed here. Are we not exceeding what's --

MR. MATTINA: That's the only thing. Almost the entire house is in the front yard setback because the road wraps all the way around the house. It's just increasing the degree of nonconformity that got her.

CHAIRMAN SCALZO: Got you. Okay then.

MR. MATTINA: She violates nothing else, just raising the nonconforming.

CHAIRMAN SCALZO: I love it when I hear you're not violating anything else.

MS. GNECCO: I'm happy I'm asking permission and not apologizing.

CHAIRMAN SCALZO: You just want to sit out on your front deck and

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watch cars go by.

MS. GNECCO: I do. I want to get rid of the brick. The brick is out.

CHAIRMAN SCALZO: Really?

MS. GNECCO: Yeah. I don't like the brick. It's new siding, new roof.

CHAIRMAN SCALZO: My house is brick.

MS. GNECCO: Sorry. I don't like my brick. I like limewashed brick.

CHAIRMAN SCALZO: Mine is brick and stone. What's nice about brick is my wife can't ask me to change the color of the siding.

I drove past. Like I say, it's a unique community. Really I'm going to rely on the public input, although I don't know you're going to get much.

I will start with my group first. Ms. Rein, do you have any comments on this?

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MS. REIN: No. I'm good. I spoke with the young lady earlier this afternoon. I have no questions.

CHAIRMAN SCALZO: How about you, Mr. Masten?

MR. MASTEN: I have no questions.

CHAIRMAN SCALZO: Mr. Bell?

MR. BELL: We spoke yesterday and she laid out her plans to me. She showed me the plans and drawings. It's very well. I'm good.

CHAIRMAN SCALZO: I mean, around there, the one right across the street was completely redone five years ago or something. It looks great.

MR. MASTEN: A couple of them.

MS. GNECCO: It's time for me to catch up.

CHAIRMAN SCALZO: Mr. Hermance?

MR. HERMANCE: I don't have any comments.

CHAIRMAN SCALZO: Mr. Eberhart?

MR. EBERHART: No questions or

2 comments.

3 CHAIRMAN SCALZO: Mr. Gramstad?

4 MR. GRAMSTAD: None at all.

5 CHAIRMAN SCALZO: Very good.

6 I'll look to any members of the
7 public that wish to speak about this
8 application.

9 (No response.)

10 MS. GNECCO: I did hear from
11 the Orange Lake Board that they were
12 very happy with it, although Greg
13 stepped out. I wonder if he realizes
14 -- that's okay. They told me they
15 were in full support of it.

16 CHAIRMAN SCALZO: We do listen
17 to their comments, although --

18 MS. GNECCO: They're not the
19 governing body by any means.

20 CHAIRMAN SCALZO: You recognize
21 that. That's great.

22 MS. GNECCO: I do.

23 CHAIRMAN SCALZO: Okay. We
24 have no public here. Everybody is
25 good here.

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I'm looking for a motion to close the public hearing.

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

MS. REIN: I'll second.

CHAIRMAN SCALZO: We have a motion from Mr. Bell. We have a second from Ms. Rein. All in favor?

MR. GRAMSTAD: Aye.

MR. EBERHART: Aye.

MR. HERMANCE: Aye.

MR. BELL: Aye.

MR. MASTEN: Aye.

MS. REIN: Aye.

CHAIRMAN SCALZO: Aye.

Those opposed?

(No response.)

CHAIRMAN SCALZO: Very good.

So here we are again, Counsel.

It is a Type 2 action?

MR. DONOVAN: Correct, Mr. Chairman.

CHAIRMAN SCALZO: Very good.

The first factor being whether

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or not the benefit can be achieved by other means feasible to the applicant.

MR. BELL: No.

MR. EBERHART: No.

MR. GRAMSTAD: No.

MR. HERMANCENCE: No.

MR. MASTEN: No.

MS. REIN: No.

CHAIRMAN SCALZO: I would say no.

The second, if there's an undesirable change in the neighborhood character or a detriment to nearby properties. Actually, it's going to be more appealing in the neighborhood because you're getting rid of that ugly brick.

The third, whether the request is substantial. Not really.

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

MR. BELL: None.

MR. HERMANCENCE: No.

CHAIRMAN SCALZO: The fifth,

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whether the alleged difficulty is self-created, which is relevant but not determinative.

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

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

MR. EBERHART: I'll second.

CHAIRMAN SCALZO: That side of the table finally got there. We have a motion from Mr. Gramstad. We have a second from Mr. Eberhart. I'm going to roll on that.

Mr. Gramstad?

MR. GRAMSTAD: Yes.

CHAIRMAN SCALZO: Mr. Eberhart?

MR. EBERHART: Yes.

CHAIRMAN SCALZO: Mr. Hermance?

MR. HERMANCE: Yes.

CHAIRMAN SCALZO: Mr. Bell?

MR. BELL: Yes.

CHAIRMAN SCALZO: Mr. Masten?

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MR. MASTEN: Yes.

CHAIRMAN SCALZO: Ms. Rein?

MS. REIN: Yes.

CHAIRMAN SCALZO: I also am in
the affirmative.

Very good. You're all set.

MS. GNECCO: Thank you, everyone.

(Time noted: 8:13 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 5th day of September 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

TH DEVELOPMENTS

669 Gardnertown Road, Newburgh
Section 53; Block 4; Lot 12
R-1 Zone

----- X

Date: August 24, 2023
Time: 8:13 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, New York

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

ALSO PRESENT: DAVID DONOVAN, ESQ.
JOSEPH MATTINA

APPLICANT'S REPRESENTATIVE: PEDRO MEDINA

----- X

MICHELLE L. CONERO
Post Office Box 816
Dover Plains, New York 12522
(845) 541-4163

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CHAIRMAN SCALZO: Our last applicant for new business this evening is TH Developments, 669 Gardnertown Road, seeking area variances for one side yard and combined side yards to keep a 12 by 16 foot prior built rear deck.

The applicant sent out 17 letters. All the mailings, publications and postings are in order.

If I have captured what it is that you're looking to achieve in that one sentence, that's fine. If you would like go ahead and --

MR. MEDINA: Yes, Judge -- Chairman. My name is Pedro Medina.

MR. DONOVAN: Just hold on. The Chairman's head just got really big.

MR. MEDINA: On behalf of your fellow Board Members, I apologize.

I'm with the law firm of Mackey, Butts & Whalen. We're

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counsel to Mr. Vuong on this application.

We have made a submission to the Board for their consideration.

CHAIRMAN SCALZO: I really didn't see anything that was jaw dropping to me in this instance. I actually don't have any comments myself.

I'll start with Ms. Rein.

MS. REIN: I'm good.

MR. MASTEN: I'm good.

MR. BELL: I looked at the deck and everything was good.

CHAIRMAN SCALZO: Mr. Hermance?

MR. HERMANCE: I have no questions.

CHAIRMAN SCALZO: Mr. Eberhart?

MR. EBERHART: No questions.

CHAIRMAN SCALZO: Mr. Gramstad?

MR. GRAMSTAD: None at all.

CHAIRMAN SCALZO: Is there anyone here from the public that wishes to speak about this application?

2 (No response.)

3 CHAIRMAN SCALZO: I have to say
4 it, because when Michelle records all
5 this stuff, there's no indication of
6 how many people are left in the room,
7 which happens to be zero.

8 MR. DONOVAN: I was once at a
9 public hearing where no one was
10 present and a board member said I
11 think we should continue the public
12 hearing to give the public another
13 opportunity not to come.

14 CHAIRMAN SCALZO: I'll look to
15 the Members of the Board for a motion
16 to close the public hearing.

17 MR. MASTEN: I'll make a motion
18 to close the public hearing.

19 MS. REIN: I'll second.

20 CHAIRMAN SCALZO: Those guys
21 are on top of it. That's a motion
22 from Mr. Masten and a second from Ms.
23 Rein. All in favor?

24 MR. GRAMSTAD: Aye.

25 MR. EBERHART: Aye.

2 MR. HERMANCE: Aye.

3 MR. BELL: Aye.

4 MR. MASTEN: Aye.

5 MS. REIN: Aye.

6 CHAIRMAN SCALZO: Aye.

7 Those opposed?

8 (No response.)

9 CHAIRMAN SCALZO: Very good.

10 Here we go again, Counsel.

11 MR. DONOVAN: Correct, Mr.

12 Chairman.

13 CHAIRMAN SCALZO: Whether or
14 not the benefit can be achieved by
15 other means feasible to the applicant.

16 MR. BELL: No.

17 MR. HERMANCE: No.

18 CHAIRMAN SCALZO: Second, is
19 there an undesirable change in the
20 neighborhood character.

21 MR. BELL: No.

22 MR. EBERHART: No.

23 MR. GRAMSTAD: No.

24 MR. HERMANCE: No.

25 MR. MASTEN: No.

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MS. REIN: No.

CHAIRMAN SCALZO: Third,
whether the request is substantial.

MR. BELL: No.

MR. EBERHART: No.

MR. GRAMSTAD: No.

MR. HERMANCE: No.

MR. MASTEN: No.

MS. REIN: No.

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

Fifth, whether the alleged
difficulty is self-created, which is
relevant but not determinative. I
don't think that this difficulty is
self-created.

MR. BELL: No.

MR. EBERHART: No.

MR. GRAMSTAD: No.

MR. HERMANCE: No.

MR. MASTEN: No.

MS. REIN: No.

CHAIRMAN SCALZO: Therefore,

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

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

MR. GRAMSTAD: I'll second.

CHAIRMAN SCALZO: We have a motion from Mr. Bell. We have Mr. Gramstad with a second. I'm going to roll on that.

Ms. Rein?

MS. REIN: Yes.

CHAIRMAN SCALZO: Mr. Masten?

MR. MASTEN: Yes.

CHAIRMAN SCALZO: Mr. Bell?

MR. BELL: Yes.

CHAIRMAN SCALZO: Mr. Hermance?

MR. HERMANCE: Yes.

CHAIRMAN SCALZO: Mr. Eberhart?

MR. EBERHART: Yes.

CHAIRMAN SCALZO: Mr. Gramstad?

MR. GRAMSTAD: Yes.

CHAIRMAN SCALZO: I am also affirmative.

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You're all set.

MR. MEDINA: Thank you.

(Time noted: 8:17 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 5th day of September 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

JIN GRABEK
349 Meadow Avenue, Newburgh
Section 66; Block 2; Lot 3
IB Zone

----- X

Date: August 24, 2023
Time: 8:17 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, New York

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

ALSO PRESENT: DAVID DONOVAN, ESQ.
JOSEPH MATTINA

----- X

MICHELLE L. CONERO
Post Office Box 816
Dover Plains, New York 12522
(845) 541-4163

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CHAIRMAN SCALZO: Held open from the July 2023 meeting, we have Jin Grabek, 349 Meadow Avenue in Newburgh, seeking a use variance to keep chickens in an IB Zone.

MR. BELL: There's nobody here.

CHAIRMAN SCALZO: Do we have anyone here that wishes to speak about that application?

MR. MASTEN: No show.

CHAIRMAN SCALZO: In this instance, I believe we need to vote to keep the public hearing open. Correct, Counselor?

MR. DONOVAN: You can vote to keep the public hearing open or you can act on the application.

CHAIRMAN SCALZO: I almost want to give her the opportunity one more month --

MR. BELL: No.

CHAIRMAN SCALZO: Mr. Bell, you have an opportunity here to make a motion of some sort.

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MR. BELL: I'll make a motion
to deny the application.

MS. REIN: To close the public
hearing.

MR. BELL: Close the public
hearing first.

MS. REIN: I'll second.

CHAIRMAN SCALZO: We have a
motion to close from Mr. Bell. We
have a second from Ms. Rein. All in
favor?

MR. GRAMSTAD: Aye.

MR. EBERHART: Aye.

MR. HERMANCE: Aye.

MR. BELL: Aye.

MR. MASTEN: Aye.

MS. REIN: Aye.

CHAIRMAN SCALZO: Aye.

Those opposed?

(No response.)

CHAIRMAN SCALZO: Was there any
other discussion or any other motions
to be heard?

MR. BELL: I'll make a motion

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to disapprove the application.

MS. REIN: I'll second it.

CHAIRMAN SCALZO: We have a motion to deny from Mr. Bell. We have a second from Ms. Rein.

MR. DONOVAN: Before you roll, Mr. Chairman, this is a use variance. There are four separate criteria that need to be established. Each one has to be established before you can grant a use variance.

I just think that the record submitted, the application, did not have any competent financial evidence, did not have any demonstration that the hardship is unique, did not have any demonstration that it will not alter the character of the neighborhood, and it did not demonstrate at all that the hardship is not self-created. In fact, it would appear to be self-created.

CHAIRMAN SCALZO: Therefore, we

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had a motion and a second. Now I
will roll on it.

Ms. Rein, on motion to deny?

MS. REIN: Yes.

CHAIRMAN SCALZO: Mr. Masten?

MR. MASTEN: Yes.

CHAIRMAN SCALZO: Mr. Bell?

MR. BELL: Yes.

CHAIRMAN SCALZO: Mr. Hermance?

MR. HERMANCE: Yes.

CHAIRMAN SCALZO: Mr. Eberhart?

MR. EBERHART: Yes.

CHAIRMAN SCALZO: Mr. Gramstad?

MR. GRAMSTAD: Yes.

CHAIRMAN SCALZO: I am also
affirmative.

The motion is carried. The
application has been disapproved, or
not approved.

MR. DONOVAN: Denied.

(Time noted: 8:22 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 5th day of September 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

BOARD BUSINESS

- 1. Deferment of Castle USA Corp/July
4Ever to the September 2023 meeting
- 2. Approval of July minutes
- 3 . Adjournment

- - - - - X

Date: August 24, 2023
Time: 8:22 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, New York

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

ALSO PRESENT: DAVID DONOVAN, ESQ.
JOSEPH MATTINA

- - - - - X

MICHELLE L. CONERO
Post Office Box 816
Dover Plains, New York 12522
(845) 541-4163

2 CHAIRMAN SCALZO: As I mentioned
3 earlier, Castle USA Corp/July 4Ever
4 asked for a deferment to the
5 September meeting.

6 The only thing that is left,
7 folks, is to accept the meeting
8 minutes for the July meeting.

9 Do I have a motion to approve
10 the meeting minutes for the July
11 meeting?

12 MS. REIN: I'll make a motion
13 to approve.

14 MR. MASTEN: I'll second it.

15 CHAIRMAN SCALZO: We have a
16 motion to approve from Ms. Rein. We
17 have a second from Mr. Masten. All
18 in favor?

19 MR. GRAMSTAD: Aye.

20 MR. EBERHART: Aye.

21 MR. HERMANCE: Aye.

22 MR. BELL: Yes.

23 MR. MASTEN: Aye.

24 MS. REIN: Aye.

25 CHAIRMAN SCALZO: Aye.

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Those opposed?

(No response.)

CHAIRMAN SCALZO: Now a motion
to adjourn.

MS. REIN: I'll make a motion
to adjourn.

MR. BELL: Second.

CHAIRMAN SCALZO: We have a
motion to adjourn from Ms. Rein. We
have a second from Mr. Bell. All in
favor?

MR. GRAMSTAD: Aye.

MR. EBERHART: Aye.

MR. HERMANCE: Aye.

MR. BELL: Yes.

MR. MASTEN: Aye.

MS. REIN: Aye.

CHAIRMAN SCALZO: Aye.

(Time noted: 8:24 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 5th day of September 2023.

Michelle Conero

MICHELLE CONERO