

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

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

----- X

In the Matter of

REAPPOINTMENT OF THE FOLLOWING BOARD MEMBERS
BY TOWN CLERK JOSEPH PEDI:

- DARRELL BELL
- JOHN McKELVEY
- ANTHONY MARINO

----- X

Date: January 23, 2020
Time: 7:00 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

----- X

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

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

BOARD BUSINESS

2

CHAIRMAN SCALZO: Good evening. I'd like to call the meeting of the ZBA to order.

The first order of business tonight is Town Clerk Joe PEDI is to swear in Board Members, and then the Board needs to vote on a vice chairman.

Clerk PEDI, if you could reappoint or swear in Member Darrell Bell, Member John McKelvey and Member Anthony Marino, please.

MR. PEDI: Good evening, everyone. I'm Joseph PEDI, I'm the Town Clerk of the Town of Newburgh.

Mr. Bell, please stand. Sir, please raise your right hand and repeat after me. I, Darrell Bell, --

MR. BELL: I, Darrell Bell.

MR. PEDI: -- do solemnly swear --

MR. BELL: Do solemnly swear.

MR. PEDI: -- that I will support --

MR. BELL: That I will support.

MR. PEDI: -- the Constitution of the United States --

MR. BELL: The Constitution of the United States.

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

BOARD BUSINESS

3

MR. PEDI: -- and the Constitution of
the State of New York.

MR. BELL: And the Constitution of the
State of New York.

MR. PEDI: And that I will faithfully
discharge --

MR. BELL: And that I will faithfully
discharge.

MR. PEDI: -- the duties of --

MR. BELL: The duties of.

MR. PEDI: -- Member of the Zoning
Board of Appeals --

MR. BELL: Member of the Zoning Board
of Appeals.

MR. PEDI: -- according to the best of
my ability.

MR. BELL: According to the best of my
ability.

MR. PEDI: Congratulations.

Mr. McKelvey.

MR. MCKELVEY: Yes.

MR. PEDI: I, John McKelvey, --

MR. MCKELVEY: I, John McKelvey.

MR. PEDI: -- do solemnly swear --

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

BOARD BUSINESS

4

MR. McKELVEY: Do solemnly swear.

MR. PEDI: -- that I will support --

MR. McKELVEY: That I will support.

MR. PEDI: -- the Constitution of the
United States --

MR. McKELVEY: The Constitution of the
United States.

MR. PEDI: -- and the Constitution of
the State of New York.

MR. McKELVEY: And the Constitution of
the State of New York.

MR. PEDI: And that I will faithfully
discharge --

MR. McKELVEY: And that I will
faithfully discharge.

MR. PEDI: -- the duties of --

MR. McKELVEY: The duties of.

MR. PEDI: -- Vice Chairman of the
Zoning Board of Appeals --

MR. McKELVEY: Vice Chairman of the
Zoning Board of Appeals.

MR. PEDI: -- according to the best of
my ability.

MR. McKELVEY: According to the best of

1

2

my ability.

3

MR. PEDI: Mr. Marino, raise your right hand, sir. I, Anthony Marino, --

5

MR. MARINO: I, Anthony Marino.

6

MR. PEDI: -- do solemnly swear --

7

MR. MARINO: Do solemnly swear.

8

MR. PEDI: -- that I will support --

9

MR. MARINO: That I will support.

10

MR. PEDI: -- the Constitution of the

11

United States --

12

MR. MARINO: The Constitution of the

13

United States.

14

MR. PEDI: -- and the Constitution of

15

the State of New York.

16

MR. MARINO: And the Constitution of

17

the State of New York.

18

MR. PEDI: And that I will faithfully

19

discharge --

20

MR. MARINO: And that I will faithfully

21

discharge.

22

MR. PEDI: -- the duties of --

23

MR. MARINO: The duties of.

24

MR. PEDI: -- Member of the Zoning

25

Board of Appeals --

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

MR. MARINO: Member of the Zoning Board
of Appeals.

MR. PEDI: -- according to the best of
my ability.

MR. MARINO: According to the best of
my ability.

MR. PEDI: Congratulations, sir.

Thank you, Mr. Scalzo.

CHAIRMAN SCALZO: Thank you, Clerk
Pedi. Thank you very much.

(Time noted: 7:06 p.m.)

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

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 8th day of February 2020.

Michelle Conero

MICHELLE CONERO

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

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

----- X

In the Matter of

NORTH CONGREGATION OF JEHOVAH'S WITNESSES

468 Route 32, Wallkill
Section 2; Block 2; Lot 26.2
RR Zone

----- X

Date: January 23, 2020
Time: 7:07 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: ROBERT LEONARD

----- X

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

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

CHAIRMAN SCALZO: The second order of business this evening are the public hearings scheduled for this evening.

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

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

Roll call, please.

MS. JABLESNIK: Darrell Bell?

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

MR. BELL: Here.

MS. JABLESNIK: Richard Levin?

MR. LEVIN: Here.

MS. JABLESNIK: Anthony Marino?

MR. MARINO: Here.

MS. JABLESNIK: John Masten?

MR. MASTEN: Here.

MS. JABLESNIK: John McKelvey?

MR. MCKELVEY: Here.

MS. JABLESNIK: Peter Olympia?

MR. OLYMPIA: Here.

MS. JABLESNIK: Darrin Scalzo?

CHAIRMAN SCALZO: Here.

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

CHAIRMAN SCALZO: Thank you very much.

If you could all please rise for the
Pledge.

(Pledge of Allegiance.)

CHAIRMAN SCALZO: The first applicant
this evening is North Congregation of Jehovah's
Witnesses at 468 Route 32, Wallkill, seeking a --

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

well, the application states here a use variance to install an L-shaped freestanding sign that is not permitted or addressed in the sign code in the RR Zone.

We have not received any comments from the County. However, we did mail it over thirty days ago, therefore the GML 239, we're going to assume control over that.

Siobhan, mailings?

MS. JABLESNIK: Nineteen mailings the applicant sent out.

CHAIRMAN SCALZO: Very good. Thank you.

If you could please introduce yourself and let us know what's going on.

MR. LEONARD: I'm Robert Leonard. I'm with my wife Liz. She's my moral support. I'm really nervous coming before a Board. Liz and I were kind of appointed as a liaison for the congregation because we've had past dealings with the Town. We built the Baxter house up here off of Fostertown. We restored that stone house that was built in the 1700s. We've also been involved in community projects for the Town of Newburgh,

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

so we have a vested interest. We're also members of the Kingdom Hall up here on 32.

We're excited about getting the sign. I think you all have a copy of it.

CHAIRMAN SCALZO: We do.

MR. LEONARD: Liz and I have been in the construction business for thirty years as a family. We have a son that's thirty-two, so it's a three-person crew. We were the ones that did all the work on the Baxter house, the renovation.

When the congregation asked us to be involved in the sign -- it actually has been something that's evolved over the years, because the Town really didn't have a sign ordinance per se to address our particular needs.

As you take a look at this, we're both kind of excited because it's not just a plain Jane sign but it's got a lot of curb appeal to it.

The reason why we need to come before the Zoning Board is because the new sign ordinance does not go far enough in addressing this type of sign.

CHAIRMAN SCALZO: We have recently

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

learned that.

MR. LEONARD: Okay.

CHAIRMAN SCALZO: We're trying to make changes to the code to address exactly your issue.

MR. LEONARD: So I'm not in any way berating the Town law. I'd be happy to answer whatever questions that you might have that I may answer. We also have Scott Miller. He's a lot sharper than I am.

CHAIRMAN SCALZO: That's quite all right. Actually, for any legal assistance we can just ask the fellow to my right.

What we have determined -- we conferred with Code Compliance and Mr. Donovan as well. First, the application states that you're looking for just an interpretation.

Dave, if you could enlighten us on the way we view the code from last month's meeting as well.

We didn't look at it as a use variance. We looked at it as an area variance. Your sign does fit a part of the code, but then there's other sections left off that don't quite address

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

what you're trying to do.

MR. LEONARD: Right.

MR. DONOVAN: Just if I could. We had this last month with the canopy signs at the gas station. So with the new -- relatively new sign ordinance in the Town of Newburgh, it's very comprehensive. When these things happen and they are adopted, almost inevitably deficiencies arise that weren't anticipated.

One of the things is a freestanding sign in support of an institution such as your religious use, it really wasn't identified in the new sign ordinance. Code Compliance flagged it as a use variance. A use that's not specifically permitted is prohibited. We dealt with this issue last month in terms of canopy signs for a couple of gas stations.

The bottom line is that signs are permitted in the RR Zone. If they are permitted, the proper characterization would then be an area variance. Let me say this to you: It makes your life a lot easier. You may not know that but it really makes your life a lot easier if the characterization is an area variance and not a

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

use variance.

 You checked "Interpretation" in your application. I'm not sure if you want to elaborate to the Board what provision of the code you're asking them to interpret. As we spoke last month about the canopy, this would be an area variance. I don't know -- to put Joe Mattina from Code Compliance on the spot -- if we know from -- is there a square footage allowance this would be exceeding or we really can't identify that?

 MR. MATTINA: You can't identify it because it's not addressed.

 MR. DONOVAN: Sir, if I could ask you if you know, there's an existing sign there; correct?

 MR. LEONARD: Yes.

 MR. DONOVAN: The square footage of that sign compared to the square footage of the sign you propose now?

 CHAIRMAN SCALZO: You're going to have to state your name, sir.

 MR. MILLER: Thank you. My name is Scott Miller. I worked with Bob.

1
2 To address the section of the code,
3 it's 185-14 P(3) that we thought an
4 interpretation was needed on. I can read it.
5 The size of the sign is relatively similar,
6 although this sign will be two faced instead of
7 one.

8 CHAIRMAN SCALZO: In essence, it's
9 doubling the size.

10 MR. MILLER: The code does mention two-
11 sided signs. The square footage is only
12 considered on one side.

13 Here's the reason we suggested an
14 interpretation. This section talks about
15 standards applicable to all electronic signs and
16 illuminated signs. We'd like an illuminated sign
17 is the preference. Point A, permitted zoning
18 districts, RR is fine. Properties that front the
19 New York State highway, signs should be oriented
20 towards the highway. It doesn't say an
21 illuminated sign, it says electronic. Our
22 thought is perhaps an interpretation. Electronic
23 and illuminated we might say are in the same
24 family. An illuminated sign only has light at
25 night whereas an electronic sign, according to

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

the definitions in Section 2, are generated with light all the time. So we thought an illuminated sign might fit the characteristics of the neighborhood, be a little less visible to our residential neighbors, if that is the interpretation.

MR. LEONARD: If I could kind of put it -- the way that he explained it to me is like the fire station has a sign that is lit all the time, you see it day and night, and those messages can change. It's kind of like --

CHAIRMAN SCALZO: It's a dynamic sign.

MR. LEONARD: Thank you. Yes. We prefer just a standard sign. It would be a little less objectionable, we feel, for the community and for the neighbors.

MR. DONOVAN: Sorry, Joe. Did you review this as an illuminated sign?

MR. MATTINA: As an illuminated sign, yes. An electronic sign, no. The electronic sign has a totally different definition than just an illuminated sign. It wouldn't even fit that category, so I wouldn't even go there.

CHAIRMAN SCALZO: It sounds as though

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

Joe reviewed it as appropriate, as an illuminated sign.

MR. MATTINA: Just an illuminated sign.

Correct.

CHAIRMAN SCALZO: We've all been to the site, or we passed by it, I'm sure, plenty of times in the last month. Personally I don't have any comments regarding the sign. It is closer to the road than the existing sign.

Something that I noted on your drawings. I would be frightened by where the sanitary laterals are shown under the building. I'm certain that's probably not exactly where they are. Other than that, I don't have any other comments.

I'm going to look to the Members of the Board. Mr. Marino?

MR. MARINO: I'm good.

CHAIRMAN SCALZO: Mr. Masten?

MR. MASTEN: I have nothing.

CHAIRMAN SCALZO: Mr. Levin?

MR. LEVIN: No.

CHAIRMAN SCALZO: Mr. McKelvey?

MR. MCKELVEY: No.

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

CHAIRMAN SCALZO: Mr. Olympia?

MR. OLYMPIA: No questions.

CHAIRMAN SCALZO: Mr. Bell?

MR. BELL: No.

CHAIRMAN SCALZO: At this point I'm going to open it up to any members of the public that want to speak about this application. If so, please step forward.

MS. D'AURIA: Hello. My name is Kimberly D'Auria and I live right next door to them at 466 Route 32.

I just wanted to know what the sign looks like. Since it's going to glow into my front lawn, I would like to know where the angle is going to be and where these lights are coming from.

CHAIRMAN SCALZO: I understand. They gave us a full architectural rendering of the sign. From my review of that, it appears as though the illumination is from the top straight down and the bottom straight up. So it's not -- nothing is behind the sign that's going to glow at you.

Did I adequately describe what it was?

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

MS. D'AURIA: I see the sign. There are also other issues. There are lights in the back of our property that are constantly in our backyard all the time since the congregation has grown. So we have a light issue anyhow. We're pretty sensitive to that right now. I just want to know. I don't want any more lighted areas. It's nothing against them, it's just we're facing other obstacles since their congregation has grown.

CHAIRMAN SCALZO: We're here just to address that sign this evening. You're in the right forum to at least get your opinions heard. Perhaps they can work with you on that outside of here.

MS. D'AURIA: Okay.

CHAIRMAN SCALZO: I appreciate your comments. Thank you very much.

MS. D'AURIA: Okay.

MR. LEONARD: Do I address you on that?

CHAIRMAN SCALZO: If you feel as though you need to.

MR. LEONARD: I think because this is lit from the inside there will be actually less

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

light. Right now there's a spotlight that kind of comes up from the ground. That would be more noticeable than the new sign. The new sign would be much less obtrusive in that way.

CHAIRMAN SCALZO: Okay. Thank you.

Is there anyone else from the public here to speak about this application?

(No response.)

CHAIRMAN SCALZO: No. Hearing none, I'll look to the Board for one more opportunity.

(No response.)

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

MR. MASTEN: I'll make the motion.

MR. McKELVEY: I'll second it.

CHAIRMAN SCALZO: We have a motion from Mr. Masten. We have a second from Mr. McKelvey. Roll call.

MS. JABLESNIK: Mr. Bell?

MR. BELL: Yes.

MS. JABLESNIK: Mr. Levin?

MR. LEVIN: Yes.

MS. JABLESNIK: Mr. Marino?

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

MR. MARINO: Yes.

MS. JABLESNIK: Mr. Masten?

MR. MASTEN: Yes.

MS. JABLESNIK: Mr. McKelvey?

MR. MCKELVEY: Yes.

MS. JABLESNIK: Mr. Olympia?

MR. OLYMPIA: Yes.

MS. JABLESNIK: Mr. Scalzo?

CHAIRMAN SCALZO: Yes.

The public hearing is closed. We will do our best to render a determination this evening, although the ambiguity in the code may prevent that. We'll take a break to confer with Legal Counsel midway through the meeting. You don't necessarily have to stick around. If you'd like to, there's not many seats available, but you're more than welcome.

MR. LEONARD: I think we'd like to stay. You say possibly we might get a decision this evening?

CHAIRMAN SCALZO: You may, yes.

MR. LEONARD: Can we just hang out in the back?

CHAIRMAN SCALZO: Yes. The Board has

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

up to sixty-two days to act on this, in case we don't get to it tonight.

MR. LEONARD: Very good. Thank you very much.

(Time noted: 7:20 p.m.)

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

CHAIRMAN SCALZO: We're calling the meeting back to order. We're going to hear the applications in order. The first application would be the North Congregation of Jehovah's Witnesses, 468 Route 32, Wallkill, seeking -- in this case we have determined it is an area variance to install an L-shaped freestanding sign that is not permitted or addressed in the sign code.

This happens to be an Unlisted action under SEQRA. If the Board is going to make a motion to approve this application, we'll also need a motion for a negative declaration.

Is that correct, Dave?

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

CHAIRMAN SCALZO: Thank you. I'm reading it so it should be.

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

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

CHAIRMAN SCALZO: We have a motion for a negative declaration from Mr. McKelvey.

MR. MASTEN: Second.

CHAIRMAN SCALZO: We have a second from Mr. Masten down there. Roll call.

MS. JABLESNIK: Mr. Bell?

MR. BELL: Yes.

MS. JABLESNIK: Mr. Levin?

MR. LEVIN: Yes.

MS. JABLESNIK: Mr. Marino?

MR. MARINO: Yes.

MS. JABLESNIK: Mr. Masten?

MR. MASTEN: Yes.

MS. JABLESNIK: Mr. McKelvey?

MR. McKELVEY: Yes.

MS. JABLESNIK: Mr. Olympia?

MR. OLYMPIA: Yes.

MS. JABLESNIK: Mr. Scalzo?

CHAIRMAN SCALZO: Yes.

Motion carried. This is an Unlisted negative dec.

Now we're going to go through the area

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

variance criteria and discuss the five factors, the first one being whether or not the benefit can be achieved by other means feasible to the applicant. Only if they didn't do it.

Any other discussion on that?

MR. McKELVEY: No.

MR. MARINO: No.

CHAIRMAN SCALZO: Second, if there's an undesirable change in the neighborhood character or a detriment to nearby properties. We did hear testimony about some light pollution, but the applicant did indicate that the lighting is within the sign and not facing the sign. Their opinion is the light will decrease in that area.

Any discussion on that?

MR. BELL: No.

MR. OLYMPIA: No.

MR. McKELVEY: No.

MR. MASTEN: No.

MR. MARINO: No.

CHAIRMAN SCALZO: Is the request substantial?

MR. BELL: No.

MR. OLYMPIA: No.

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

MR. McKELVEY: No.

MR. MASTEN: No.

MR. MARINO: No.

CHAIRMAN SCALZO: I don't believe so.

The fourth, whether the request will have adverse physical or environmental effects. It does not appear so.

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

Joe Mattina, Code Compliance, I appreciate your help on this.

We're going to base our following vote on last month, how we treated the other applicants with similar conditions.

I'll look to the Board for a motion.

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

MR. BELL: I'll second.

CHAIRMAN SCALZO: We have a motion from Mr. Levin, a second from Mr. Bell. Roll call.

MS. JABLESNIK: Mr. Bell?

MR. BELL: Yes.

MS. JABLESNIK: Mr. Levin?

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

MR. LEVIN: Yes.

MS. JABLESNIK: Mr. Marino?

MR. MARINO: Yes.

MS. JABLESNIK: Mr. Masten?

MR. MASTEN: Yes.

MS. JABLESNIK: Mr. McKelvey?

MR. MCKELVEY: Yes.

MS. JABLESNIK: Mr. Olympia?

MR. OLYMPIA: Yes.

MS. JABLESNIK: Mr. Scalzo?

CHAIRMAN SCALZO: Yes.

Motion carried. Good luck.

MR. LEONARD: Thank you so much.

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

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

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 8th day of February 2020.

Michelle Conero

MICHELLE CONERO

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

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

----- X
In the Matter of

ADAM SHAPIRO
1530 Route 300, Newburgh
Section 40; Block 1; Lot 12
R-3 Zone

----- X

Date: January 23, 2020
Time: 7:20 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: ADAM SHAPIRO

----- X

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

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

ADAM SHAPIRO

30

CHAIRMAN SCALZO: Our second applicant this evening is Adam Shapiro, 1530 Route 300, Newburgh, seeking an area variance to build an 18 by 26 garage behind the existing garage where the maximum allowed square footage is 700.94.

We did not hear back from the County on this one either. However, we did mail out in appropriate time, therefore the determination is going to be before the Board this evening.

Siobhan, mailings?

MS. JABLESNIK: Fifty-four letters.

CHAIRMAN SCALZO: Fifty-four. That's the winner so far.

Sir, if you could state your name and go over your application with us.

MR. SHAPIRO: My name is Adam Shapiro. I have a one-family residence at 1530 Route 300 in Newburgh.

As you mentioned, I'm looking for an area variance for an 18 by 26 garage behind an existing garage.

CHAIRMAN SCALZO: Okay. Obviously that exceeds our code, which is why you are here. What did you have in mind for this additional

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

ADAM SHAPIRO

31

storage?

MR. SHAPIRO: It's just storage for extra stuff that I use.

CHAIRMAN SCALZO: To confirm what the application says, the garage that I saw today that has Tyvek on it, it's going to be behind it?

MR. SHAPIRO: Correct. And that Tyvek garage will match the garage that's there as well.

CHAIRMAN SCALZO: Okay. This is pretty straightforward to me. I'm going to look to the Members of the Board in this case.

Mr. Bell?

MR. BELL: No.

CHAIRMAN SCALZO: Mr. Olympia?

MR. OLYMPIA: No.

CHAIRMAN SCALZO: Mr. McKelvey?

MR. McKELVEY: No.

CHAIRMAN SCALZO: Mr. Levin?

MR. LEVIN: My own thought is you're going to have more garage than house.

MR. SHAPIRO: Correct. I was using the house as storage. I just recently rented it out to a young couple, so I'm putting my stuff in

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

ADAM SHAPIRO

32

storage. Now I'm just looking for an expanded footprint for a garage.

CHAIRMAN SCALZO: Mr. Masten?

MR. MASTEN: No.

CHAIRMAN SCALZO: Mr. Marino?

MR. MARINO: Will the second garage be attached to the first garage?

MR. SHAPIRO: No. It's going to sit about -- it's about three feet behind, or two feet behind the existing garage. It's actually pretty close to the identical width so it won't jut out.

MR. MARINO: It's pretty much the same size as the first one?

MR. SHAPIRO: It's probably about six feet longer, but the width is pretty much the same.

MR. LEVIN: Will it have electric and water?

MR. SHAPIRO: It will not.

MR. LEVIN: No electric and no water?

MR. SHAPIRO: No.

CHAIRMAN SCALZO: You'll be putting things in there by daylight.

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

ADAM SHAPIRO

33

MR. SHAPIRO: That's it. I'm going on the cheap.

CHAIRMAN SCALZO: Are there any members of the public here to speak about this application?

(No response.)

CHAIRMAN SCALZO: Nobody is moving. I'll look back to the Board. Any final comments?

(No response.)

CHAIRMAN SCALZO: Then I'll look to the Board for a motion to close the public hearing.

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

MR. BELL: I'll second it.

CHAIRMAN SCALZO: We have a motion from Mr. Marino, a second from Mr. Bell. Roll call.

MS. JABLESNIK: Mr. Bell?

MR. BELL: Yes.

MS. JABLESNIK: Mr. Levin?

MR. LEVIN: Yes.

MS. JABLESNIK: Mr. Marino?

MR. MARINO: Yes.

MS. JABLESNIK: Mr. Masten?

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

MR. MASTEN: Yes.

MS. JABLESNIK: Mr. McKelvey?

MR. MCKELVEY: Yes.

MS. JABLESNIK: Mr. Olympia?

MR. OLYMPIA: Yes.

MS. JABLESNIK: Mr. Scalzo?

CHAIRMAN SCALZO: Yes.

Motion carried. The public hearing is closed. We're going to do our best to give you a determination later.

MR. SHAPIRO: Thank you.

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

(Time resumed: 8:38 p.m.)

CHAIRMAN SCALZO: Second this evening is Adam Shapiro, 1530 Route 300, Newburgh, seeking an area variance to build an 18 by 26 garage behind the existing garage where the maximum allowed square footage is 700.94.

This is a Type 2 action under SEQRA.

The five factors, here we go. The first one being whether or not the benefit can be achieved by other means feasible to the applicant.

MR. BELL: No.

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

MR. OLYMPIA: No.

MR. McKELVEY: No.

MR. MASTEN: No.

MR. MARINO: No.

CHAIRMAN SCALZO: Second, if there's an undesirable change in the neighborhood character or a detriment to nearby properties. I don't think you're going to see it other than from sideways. You can't really see it from the road. It's tucked behind the existing garage.

The third, whether the request is substantial.

MR. BELL: No.

MR. OLYMPIA: No.

MR. McKELVEY: No.

MR. MASTEN: No.

MR. MARINO: No.

CHAIRMAN SCALZO: Well, no. There's quite a bit of property there.

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

MR. BELL: No.

MR. OLYMPIA: No.

MR. McKELVEY: No.

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

ADAM SHAPIRO

36

MR. MASTEN: No.

MR. MARINO: No.

CHAIRMAN SCALZO: No. It doesn't appear so.

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

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

MR. DONOVAN: Just note this is a Type 2 action under SEQRA.

CHAIRMAN SCALZO: I thought I said that.

MR. DONOVAN: I wasn't paying attention. I wanted to make sure it was in there.

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

MR. MASTEN: I'll second it.

CHAIRMAN SCALZO: We have a motion from Mr. McKelvey and a second from Mr. Masten. Roll call.

MS. JABLESNIK: Mr. Bell?

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

MR. BELL: Yes.

MS. JABLESNIK: Mr. Levin?

MR. LEVIN: Yes.

MS. JABLESNIK: Mr. Marino?

MR. MARINO: Yes.

MS. JABLESNIK: Mr. Masten?

MR. MASTEN: Yes.

MS. JABLESNIK: Mr. McKelvey?

MR. MCKELVEY: Yes.

MS. JABLESNIK: Mr. Olympia?

MR. OLYMPIA: Yes.

MS. JABLESNIK: Mr. Scalzo?

CHAIRMAN SCALZO: Yes.

Motion carried. The variance for Mr.

Shapiro is approved.

MR. SHAPIRO: Thank you.

(Time noted: 8:40 p.m.)

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

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 8th day of February 2020.

Michelle Conero

MICHELLE CONERO

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

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

----- X
In the Matter of

DEBORAH KANE
91 Old Mill Road, Wallkill
Section 2; Block 1; Lot 22.31
RR Zone

----- X

Date: January 23, 2020
Time: 7:25 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: DEBORAH KANE

----- X

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

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

CHAIRMAN SCALZO: Our third applicant this evening is Deborah Kane, 91 Old Mill Road, Wallkill, seeking an area variance to keep a 24 foot above-ground pool and a 15 by 18 pool deck with a side yard setback of 0.2 feet where 50 feet is required, combined side yards of 65.2 where 100 feet is required, an 11.4 by 15 enclosed porch with a side yard setback of 6.7 where 50 feet is required, and combined side yards of 71.7 where 100 feet is required.

Siobhan, mailings?

MS. JABLESNIK: This applicant sent out twenty-one letters.

CHAIRMAN SCALZO: Very good.

If you could please state your name and fill us in.

MS. KANE: My name is Deborah Kane. I'm here trying to obtain permits for my pool, enclosed porch and deck.

My situation is my dad passed away in 2016. I inherited the home. I bought my brother out at that point. At that point there was a municipal title search ran. I had no idea none of these things had permits on them until I

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

DEBORAH KANE

41

recently put my home up on the market and my realtor told me to check with the assessor's office and see what's on file. Then I found out all these things did not have permits.

I do have my neighbor that it affects directly, being too close to his property line, here with me. He is okay with it being that close.

The new buyers of the home are also here to state that they're okay with it.

CHAIRMAN SCALZO: Okay. Well thank you very much.

MS. KANE: Thank you.

CHAIRMAN SCALZO: It's an unusual shaped property. From the survey map we can see almost exactly what happened. It kind of spread out here, spread out there.

Looking long term at the maintenance of that pool, if somebody was to scoot around with a skimmer, they'd have to enter into the Ludlow property, which you get along with Mr. Ludlow now, and that's a great thing. Hopefully the new neighbors are as accommodating as you are.

MS. KANE: They just met. They all

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

DEBORAH KANE

42

seem to be okay with it.

CHAIRMAN SCALZO: Okay. If your neighbor is going to give testimony agreeing to what you just said, that would certainly be helpful to your cause.

In this case, though -- and I'll ask Dave -- if the motion carries to approve these variances, can we put a termination date on this for the next -- either if they do improvements to the property, if they change the pool out or for the next conveyance of property, that should this variance be granted, it does not go with the property?

MR. DONOVAN: No.

CHAIRMAN SCALZO: So we give the variance --

MR. DONOVAN: That's the shortest answer I've ever given you. The answer is no. The variance runs with the land. Durational variances are typically frowned upon. In this circumstance it wouldn't be appropriate.

CHAIRMAN SCALZO: Okay. That was my comment.

At this point I'll look to the Board.

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

DEBORAH KANE

43

Mr. Bell?

MR. BELL: None.

CHAIRMAN SCALZO: That was a great question.

MR. DONOVAN: It was.

CHAIRMAN SCALZO: Mr. Olympia?

MR. OLYMPIA: What purpose does the building all the way up in the rear serve? Is that just storage up there?

MS. KANE: Yes. The shed up top. Yes, it's just for storage.

MR. OLYMPIA: Thank you.

CHAIRMAN SCALZO: Mr. McKelvey?

MR. MCKELVEY: No.

MR. LEVIN: Is there electric in that building we were just talking about way up on top?

MS. KANE: Is there electric run to it? Yes, there is.

MR. LEVIN: Is there heat?

MS. KANE: No.

CHAIRMAN SCALZO: Mr. Masten?

MR. MASTEN: I have no questions.

CHAIRMAN SCALZO: Mr. Marino?

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

DEBORAH KANE

44

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

CHAIRMAN SCALZO: At this point I'll open it up to any members of the public that wish to speak about this application. Please step forward and state your name.

MR LUDLOW: My name is Pat Ludlow, I live at 87 Old Mill Road. I'm Debbie's neighbor. I've been living there for 26 years. I've never had a problem with it. It doesn't interfere with me in the least. I see no reason why it should be a problem now.

CHAIRMAN SCALZO: Thank you, sir.

MR. LUDLOW: That's all I've got.

CHAIRMAN SCALZO: Thank you.

MR. JACOBSEN: Good evening. My name is Ori Jacobsen and my wife Robin. We purchased the home. We purchased the home with the pool and the deck. I'm a disabled Vietnam veteran. I need the pool. The pool helps me very much with my legs. I just wanted to say that. Other than that, we love the setup the way it is.

CHAIRMAN SCALZO: Okay. As you just heard Counselor to my right say, should this variance be granted, that runs with the land.

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

DEBORAH KANE

45

If you ever do replace that pool, you may want to think about scooting it over a little bit.

MR. JACOBSEN: Okay.

CHAIRMAN SCALZO: Thank you very much.

Is there anyone else from the public here to speak about this application?

(No response.)

CHAIRMAN SCALZO: Hearing none, I'll look back to the Board.

(No response.)

CHAIRMAN SCALZO: Then if I could hear a motion from the Board to close the public hearing.

MR. McKELVEY: I'll make that motion.

MR. BELL: I'll second it.

CHAIRMAN SCALZO: We have a motion from Mr. McKelvey. It sounded like the second came from Mr. Bell. Roll call.

MS. JABLESNIK: Mr. Bell?

MR. BELL: Yes.

MS. JABLESNIK: Mr. Levin?

MR. LEVIN: Yes.

MS. JABLESNIK: Mr. Marino?

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

MR. MARINO: Yes.

MS. JABLESNIK: Mr. Masten?

MR. MASTEN: Yes.

MS. JABLESNIK: Mr. McKelvey?

MR. MCKELVEY: Yes.

MS. JABLESNIK: Mr. Olympia?

MR. OLYMPIA: Yes.

MS. JABLESNIK: Mr. Scalzo?

CHAIRMAN SCALZO: Yes.

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

MS. KANE: Thank you.

(Time noted: 7:32 p.m.)

(Time resumed: 8:40 p.m.)

CHAIRMAN SCALZO: Next is Deborah Kane, seeking area variances to keep a 24 foot above-ground pool and a 15 by 18 pool deck with a side yard setback of .2 where 50 feet is required, and combined side yards of 65.2 where 100 is required, an 11.4 by 15 enclosed porch with a side yard setback of 6.7 where 50 feet is required, and combined side yards of 71.7 where 100 feet is

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

DEBORAH KANE

47

required.

 This also is a Type 2 action under
SEQRA.

 Can the benefit be achieved by other
means feasible to the applicant. In this
case, now it's pre-existing to the applicant.
I would say no.

 The second, whether there's an
undesirable change in the neighborhood --

MR. BELL: No.

MR. OLYMPIA: No.

MR. McKELVEY: No.

MR. MASTEN: No.

MR. MARINO: No.

CHAIRMAN SCALZO: -- character or a
detriment to nearby properties. We actually
heard testimony from the contiguous neighbor that
he is not opposed to the variances.

 The third, whether the request is
substantial.

MR. BELL: No.

MR. OLYMPIA: No.

MR. McKELVEY: No.

MR. MASTEN: No.

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

MR. MARINO: No.

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

MR. BELL: No.

MR. OLYMPIA: No.

MR. MCKELVEY: No.

MR. MASTEN: No.

MR. MARINO: No.

CHAIRMAN SCALZO: It's already there.

And the fifth, whether the alleged difficulty is self-created which is relevant but not determinative. Of course it's self-created, but not by the applicant.

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

MR. MARINO: I'll second it.

CHAIRMAN SCALZO: We have a motion from Mr. Olympia and a second from Mr. Marino. Roll call.

MS. JABLESNIK: Mr. Bell?

MR. BELL: Yes.

MS. JABLESNIK: Mr. Levin?

MR. LEVIN: Yes.

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

DEBORAH KANE

49

MS. JABLESNIK: Mr. Marino?

MR. MARINO: Yes.

MS. JABLESNIK: Mr. Masten?

MR. MASTEN: Yes.

MS. JABLESNIK: Mr. McKelvey?

MR. MCKELVEY: Yes.

MS. JABLESNIK: Mr. Olympia?

MR. OLYMPIA: Yes.

MS. JABLESNIK: Mr. Scalzo?

CHAIRMAN SCALZO: Yes.

Motion carried. That variance is
approved.

(Time noted: 8:42 p.m.)

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

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 8th day of February 2020.

Michelle Conero

MICHELLE CONERO

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

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

----- X
In the Matter of

DANIEL GASPERINI & EMILY LUCAS
362 Fostertown Road, Newburgh
Section 17; Block 4; Lot 7
R-2 Zone

----- X

Date: January 23, 2020
Time: 7:32 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: SEAN GOTTSCHALK

----- X

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

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

CHAIRMAN SCALZO: Our next applicant for the evening is Daniel Gasperini and Emily Lucas, 362 Fostertown Road in an R-2 Zone, seeking area variances of maximum building height, maximum solar height and square footage to install ground-mounted solar on an accessory structure in the front yard.

In this case we did not receive any notification back from the County, which is General Municipal Law 239. This did go out less than thirty days ago. In this case we do need to hear from them or give them an opportunity to respond within thirty days. I would like you to present your application this evening but be advised that we can not vote on your application.

MR. GOTTSCHALK: Thank you for having us. Thank you, Mr. Marino, for coming out and meeting me at the project. I don't know if anybody else --

MR. MASTEN: I was there the other day.

MR. GOTTSCHALK: Excellent.

This is a home built in 1840. The initial solar array was going to go up on the roof. I determined that it would be a bad idea

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

for wind conditions and tilt. It's a high roof. I just didn't want to get involved in any danger with panels falling off the house.

CHAIRMAN SCALZO: Your application says it could be dangerous.

MR. GOTTSCHALK: Absolutely. You've got to tilt panels for southern exposure. The winds are pretty high. We don't need fatalities, you know what I mean.

What I designed to do, instead of putting it on the ground in the yard, was turn it into a purpose, which is a carport. It's just going to be -- there's nothing enclosed but it's open enough to pull a car in and get it out of the snow and the rain, the hard weather, whatever it is.

One of the variances -- Brandywine is a side road which is causing this ground mount. It is in the backyard but technically considered in the front yard because of the side road. So the only view is from being in the school parking lot and seeing this, but I think it's going to be a nice view because it's designed beautifully. It's going to be a nice roof with shingles. The

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

panels are going to be placed on this roof exactly as it would with a home solar install.

I've been in solar for ten years and aesthetics is huge for me, and that's why my company is called Solar Image.

I just wanted to see if you guys have any other questions.

CHAIRMAN SCALZO: We certainly do. As you're aware, ground-mounted solar is not an allowed use in this area. However, if you were to design a carport and then just put solar panels on top of it, it probably would meet the code, provided that you meet all the setbacks.

Joe, am I correct in that assumption?

MR. MATTINA: Yes.

CHAIRMAN SCALZO: Okay. The other issue that I had is in your application package, your deed of record -- the deed of record was included in that. The dimensions on the sketch on the front don't match the dimensions on the survey at all.

Also, the offsets to the property lines from the proposed structure are either parallel with the structure or parallel with a property

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

line. In this case we would need to see all perpendiculars because perpendicular would be the shortest distance. Should you need variances for side yards or anything like that, that's what we would need to see. I don't want to say we're lucky that the County hasn't weighed in on it yet. This is going to give you an opportunity to go back and make a few revisions to your plan, perhaps, and then come back to us in a month.

MR. GOTTSCHALK: Sure. So the shortest distance from the corner of the house to Brandywine was 76 feet I believe. I mean I guess I have to get a better clarification of exactly what you're looking for.

CHAIRMAN SCALZO: Actually, if you call Code Compliance, Joe could probably answer your questions easily. If you just want to step forward for just a second.

MR. GOTTSCHALK: Thanks.

CHAIRMAN SCALZO: I'm looking at right angles here and here, here. Follow me?

MR. GOTTSCHALK: Yup.

CHAIRMAN SCALZO: That's what I'm looking for.

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

As I mentioned, ground-mounted solar is not a use that's currently allowed --

MR. GOTTSCHALK: Sure.

CHAIRMAN SCALZO: -- in a front yard. You may want to reconsider how you package that.

MR. GOTTSCHALK: Okay. So I mean we're building the carport and just including solar onto the carport. How would you --

CHAIRMAN SCALZO: I can't give you advice on that. Perhaps if you were to refresh yourself with the code and maybe reach out to our Code Compliance, they may be able to help you.

MR. GOTTSCHALK: Okay. Are there any other questions or concerns about this project from the Board?

CHAIRMAN SCALZO: Actually there is. As I sat in the parking lot of the school at 4 p.m., the sun was over my right shoulder and it was awfully low in the sky. Your application states that you're not going to take many trees down at all. I don't know how the sun is going to hit that without taking all of those trees down on Brandywine.

MR. GOTTSCHALK: The beautiful part

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

about this is that I'm able to position it. Solar needs four hours of light to get the maximum amount of power. We have well more than four hours on that carport. We have a bunch of tools to show what kind of sun exposure we're getting and all that good stuff. Four hours is all you need. Most houses have east/west exposure. All of these houses that just have panels on the east and west, they're only getting sun half of the day, like my house, Tamarack Hill in Poughkeepsie. I only have panels on the east side of my house. By 2:00 I don't get any more sun but I have 115 percent offset on my house with the solar. As long as we're southerly facing and we have four hours, it's a solid system.

CHAIRMAN SCALZO: Very good. Thank you for answering that.

At this point I'll open it up. Do any Members of the Board have any questions? Mr. Marino.

MR. MARINO: Not a question, it's just a comment. I think the teachers at Fostertown School could use that panel as a good teaching

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

lesson for the kids about solar energy,
alternative energy.

MR. GOTTSCHALK: Absolutely.

MR. MARINO: I think it's good.

MR. GOTTSCHALK: I appreciate you
coming out. It was nice having you out there
seeing the property.

CHAIRMAN SCALZO: Mr. Masten?

MR. MASTEN: I have nothing right now.

CHAIRMAN SCALZO: Mr. Levin?

MR. LEVIN: I have one question.
You're the expert, I am not. It seems to me like
the trees on the other side of the street, on the
other side of Fostertown, are huge. Did you take
those into consideration?

MR. GOTTSCHALK: Yeah. I've been
working on this project going back into the
summer. We're talking four or five months. So
we were able to see sun on this driveway and
exposure in every different month that's come
across. We have the sun exposure even if we have
the panels on the ground. They're going to be
seven feet off the ground with a tilt going up 30
degrees and they are all clear as day, which is

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

another reason why I'd like to keep it where it is, for the purpose of the energy that we need.

CHAIRMAN SCALZO: Thank you. Mr.

Olympia?

MR. OLYMPIA: I just have some questions about solar because I'm interested in solar. How many panels will you have there?

MR. GOTTSCHALK: There's going to be three rows of ten, so there's a total of thirty panels on the system. I always design a system where it's symmetrically clean because I don't like the lego sets that you see from other companies. It's got to be like picture perfect in my eyes. But it's a thirty-panel system. Each panel is 325 watts. So it's 325 times thirty. You're looking at about 13,000 kilowatt hours.

MR. OLYMPIA: That will pretty much provide you with all your household needs plus?

MR. GOTTSCHALK: Sure. This house, once again, was built in the 1840s. Anything we can do to lower the electric costs in that house is huge.

MR. McKELVEY: It's a big house.

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

MR. GOTTSCHALK: It's a very big house.

CHAIRMAN SCALZO: That metering --

MR. GOTTSCHALK: That metering is in effect with the utility company. I work with Central Hudson directly, go through their whole portal process, change the meter to a smart meter. Anything that is produced that they don't use rolls over to the next month as credit, and the next month and the next month. The issue with Central Hudson is the delivery cost.

CHAIRMAN SCALZO: The import fee. They still get you no matter what.

MR. GOTTSCHALK: If your electric is \$50, they're charging you \$150 just to bring it to the house on top of that. What solar does is it zeros out the delivery and the supply. Basic service charge is \$21 a month. It's a zero out-of-pocket cost for anybody that wants to do it.

What I do is I go in and customize a solar system for every single homeowner's needs for what they're using, customize how many panels we need and then come up with a monthly payment based on how many panels we need. That's half the cost of what the utility is charging. So the

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

savings is day one.

MR. OLYMPIA: Are State and Federal credits still available?

MR. GOTTSCHALK: Yes. So this project was started -- so there's a 26 percent Federal credit right now and there's a \$5,000 New York State tax credit. So New York is pushing solar hard. They want to be renewable pretty soon. If we can be 100 percent renewable, that would be amazing. We're one of the last countries to be working on this. Germany and Europe are.

MR. OLYMPIA: Thank you.

CHAIRMAN SCALZO: Mr. Bell?

MR. BELL: I'm good. I just got a solar lesson.

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

MR. BROWN: Charlie Brown. I also have an 1840 farmhouse. I put 32 panels on it and I have days -- the roof faces south. I have days that generate four times what I use. I'm all about solar. Our electric bill is \$44 every

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

other month. That's it.

MR. LEVIN: \$44 every --

MR. BROWN: Other month.

CHAIRMAN SCALZO: Thank you.

Are there any other members of the public here to speak about this application?

(No response.)

CHAIRMAN SCALZO: Hearing none, I'll look back to the Board. Any other comments?

(No response.)

CHAIRMAN SCALZO: Because we haven't heard from the County, unfortunately we can not close the public hearing. I'll look to the Members of the Board to make a motion to keep the public hearing open.

MR. McKELVEY: I'll make that motion.

MR. MASTEN: I'll second it.

CHAIRMAN SCALZO: We have a motion from Mr. McKelvey, a second from Mr. Masten. Roll call.

MS. JABLESNIK: Mr. Bell?

MR. BELL: Yes.

MS. JABLESNIK: Mr. Levin?

MR. LEVIN: Yes.

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

MS. JABLESNIK: Mr. Marino?

MR. MARINO: Yes.

MS. JABLESNIK: Mr. Masten?

MR. MASTEN: Yes.

MS. JABLESNIK: Mr. McKelvey?

MR. MCKELVEY: Yes.

MS. JABLESNIK: Mr. Olympia?

MR. OLYMPIA: Yes.

MS. JABLESNIK: Mr. Scalzo?

CHAIRMAN SCALZO: Yes.

The public hearing is going to remain open. If you could just take care of those items, make the modifications to your plan.

MR. GOTTSCHALK: It's not a problem.

Thank you.

(Time noted: 7:42 p.m.)

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

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 8th day of February 2020.

Michelle Conero

MICHELLE CONERO

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

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

----- X

In the Matter of

ANN SCHEBESTA
2 Congressional Drive, Newburgh
Section 103; Block 4; Lot 6
R-2 Zone

----- X

Date: January 23, 2020
Time: 7:43 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: ANN SCHEBESTA

----- X

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

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

ANN SCHEBESTA

66

CHAIRMAN SCALZO: Our next applicant is Ann Schebesta, 2 Congressional Drive, seeking an area variance to increase the degree of nonconformity of the rear yard to build a 10 by 15 rear deck.

Siobhan, mailings?

MS. JABLESNIK: This applicant sent out sixty-six.

CHAIRMAN SCALZO: Are they the winner of the evening?

MS. JABLESNIK: She is the winner. She is the winner.

CHAIRMAN SCALZO: I drove past the property and I understand it's a very minimal increase. Actually, let me let you go ahead and present yourself and then we'll comment.

MS. SCHEBESTA: We have an existing wood deck and want to take that down and replace it with a 10 by 15 deck. I understand we don't have enough room in the back, but that's up to you.

CHAIRMAN SCALZO: Well stated. As I say, I drove past it not too long ago. You do have a small backyard. The increase in the deck,

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

ANN SCHEBESTA

67

what are you looking at, maybe 2 more feet --

MS. SCHEBESTA: That's about it.

CHAIRMAN SCALZO: -- towards the property line? I know our process sometimes seems a little over the top, but that's just how we operate.

MS. SCHEBESTA: I know.

CHAIRMAN SCALZO: So I appreciate you coming in and talking to us about it. It's a well-kept neighborhood. Your house looks great. It's very neat, even with snow on the ground.

MS. SCHEBESTA: I know.

CHAIRMAN SCALZO: It doesn't appear to be out of character with the neighborhood or what you're trying to do.

MS. SCHEBESTA: Trying to improve.

CHAIRMAN SCALZO: I have no comments.

I'll look to Mr. Marino.

MR. MARINO: No comment.

CHAIRMAN SCALZO: Mr. Masten?

MR. MASTEN: I saw it. The day I was there there were three deer walking right through like they owned the place.

CHAIRMAN SCALZO: Very good. Mr.

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

ANN SCHEBESTA

68

Levin?

MR. LEVIN: No comments.

CHAIRMAN SCALZO: Mr. McKelvey?

MR. MCKELVEY: I think it would be an improvement.

CHAIRMAN SCALZO: Mr. Olympia?

MR. OLYMPIA: None.

CHAIRMAN SCALZO: Mr. Bell?

MR. BELL: I'm good.

CHAIRMAN SCALZO: At this point I'll open it up to any members of the public that want to speak about this application.

MS. COTTLE: I'm a neighbor I believe, and I merely have a question. I have no objection to what the lady is going to do. I haven't any idea if she's exactly behind our property.

CHAIRMAN SCALZO: Ma'am, could you state your name, please?

MS. COTTLE: My name is Cottle, Maryellen Coddle. We own the property on 53 Monarch Drive. The property behind us -- all along behind us is highly elevated and of no problem to us. None whatsoever.

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

I'm just curious because I understand on our deed that we have a right-of-way between those two properties. I never have been able to find out what the right-of-way is. In other words, a dead space between the property above us and the property below us.

So in any case, regardless, I have no complaint about what she does with her property, and I'm not sure even if she's my exact neighbor.

CHAIRMAN SCALZO: From Monarch down Patton, it's got to be two or three houses away.

MS. SCHEBESTA: More.

MS. COTTLE: Are you far from us?

MS. SCHEBESTA: Yeah.

CHAIRMAN SCALZO: They're required to notice 500 feet away from them. You may be 490 feet away.

MS. COTTLE: We're not that far because it's quite a drop. It's quite an elevation from the upper road to our road. We're at the lower end of Monarch. So I'm not sure. That's why I was curious, because for quite some time it's bothered me. We put a fence up and I had to restrict myself because after we put our deed --

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

ANN SCHEBESTA

70

our survey, our markers were moved and the fence couldn't be put where we wanted it because they couldn't find the markers. We're in no man's land. We put a gate on our fence so we wouldn't have adverse ownership of our property. That's the only thing I could do at the time. Anyway, that's the reason for my question.

CHAIRMAN SCALZO: Ma'am, just to clarify --

MS. COTTLE: I wish you the best of luck.

CHAIRMAN SCALZO: I'm hearing no objection. Very good. Thank you very much.

Is there anyone else here to speak about this application?

(No response.)

CHAIRMAN SCALZO: Hearing none, I'll look to the Board for one last opportunity.

(No response.)

CHAIRMAN SCALZO: Okay. Then I'll look to the Board for a motion to close the public hearing.

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

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

ANN SCHEBESTA

71

MR. MARINO: I'll second it.

CHAIRMAN SCALZO: We have a motion from Mr. Levin and a second from Mr. Marino. Roll call.

MS. JABLESNIK: Mr. Bell?

MR. BELL: Yes.

MS. JABLESNIK: Mr. Levin?

MR. LEVIN: Yes.

MS. JABLESNIK: Mr. Marino?

MR. MARINO: Yes.

MS. JABLESNIK: Mr. Masten?

MR. MASTEN: Yes.

MS. JABLESNIK: Mr. McKelvey?

MR. MCKELVEY: Yes.

MS. JABLESNIK: Mr. Olympia?

MR. OLYMPIA: Yes.

MS. JABLESNIK: Mr. Scalzo?

CHAIRMAN SCALZO: Yes.

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

MS. SCHEBESTA: Thank you.

(Time noted: 7:49 p.m.)

(Time resumed: 8:42 p.m.)

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

ANN SCHEBESTA

72

CHAIRMAN SCALZO: The next applicant was Ann Schebesta, 2 Congressional Drive, Newburgh, seeking an area variance to increase the degree of nonconformity of the rear yard to build a 10 by 15 rear deck.

This is also a Type 2 action under SEQRA.

We're going to weigh the factors. Whether the benefit can be achieved by other means feasible to the applicant. Well, unless they didn't do it. It's such a minor addition there.

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

MR. BELL: No.

MR. OLYMPIA: No.

MR. McKELVEY: No.

MR. MASTEN: No.

MR. MARINO: No.

CHAIRMAN SCALZO: The third, whether the request is substantial.

MR. BELL: No.

MR. OLYMPIA: No.

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

ANN SCHEBESTA

73

MR. McKELVEY: No.

MR. MASTEN: No.

MR. MARINO: No.

CHAIRMAN SCALZO: It's the layout of the house. Because they're on the corner there, it makes it look a little unusual.

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

MR. BELL: No.

MR. OLYMPIA: No.

MR. McKELVEY: No.

MR. MASTEN: No.

MR. MARINO: No.

CHAIRMAN SCALZO: The fifth, whether the alleged difficulty is self-created which is relevant but not determinative.

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

MR. BELL: I'll second it.

CHAIRMAN SCALZO: We have a motion from Mr. Olympia and a second from Mr. Bell. Roll call.

MS. JABLESNIK: Mr. Bell?

MR. BELL: Yes.

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

ANN SCHEBESTA

74

MS. JABLESNIK: Mr. Levin?

MR. LEVIN: Yes.

MS. JABLESNIK: Mr. Marino?

MR. MARINO: Yes.

MS. JABLESNIK: Mr. Masten?

MR. MASTEN: Yes.

MS. JABLESNIK: Mr. McKelvey?

MR. MCKELVEY: Yes.

MS. JABLESNIK: Mr. Olympia?

MR. OLYMPIA: Yes.

MS. JABLESNIK: Mr. Scalzo?

CHAIRMAN SCALZO: Yes.

That motion is carried. The variances
are approved.

MS. SCHEBESTA: What's the next step?

MR. OLYMPIA: Build your deck.

MS. SCHEBESTA: Are you going to send
me something in the mail that it's true?

CHAIRMAN SCALZO: If you speak with
Code Compliance. It's really not the best month
to start a project. Mr. Mattina can help you out
over in our Code Compliance Department/Building
Department.

Siobhan, can you --

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

MS. JABLESNIK: Now what happens is your application goes back to the Building Department and then Mr. Mattina re-reviews it. If he's looking for any other additional information, then he'll contact you through letter like you got the first time. If not, he'll issue you a permit. They'll give you a call and let you know it's ready. You'll probably hear from us some time next week.

CHAIRMAN SCALZO: Thank you very much.

(Time noted: 8:45 p.m.)

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

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 8th day of February 2020.

Michelle Conero

MICHELLE CONERO

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

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

----- X
In the Matter of

JOSEPH HARRISON
52 Odell Circle, Newburgh
Section 51; Block 1; Lot 26
R-1 Zone

----- X

Date: January 23, 2020
Time: 7:49 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: CHARLES BROWN

----- X

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

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

CHAIRMAN SCALZO: Our next applicant is Joseph Harrison, 52 Odell Circle, seeking area variances to keep, (A), a covered side porch with a side yard setback of 1.22 feet where 30 feet is required and a combined side yard of 14.37 feet where 80 feet is required; (B), the maximum building coverage and surface coverage for an accessory building.

Siobhan, mailings on this?

MS. JABLESNIK: This applicant sent out fifty letters.

CHAIRMAN SCALZO: Fifty?

MS. JABLESNIK: Fifty. Not the winner.

CHAIRMAN SCALZO: We determined the winner already this evening.

Please introduce yourself sir, Mr. Solar.

MR. BROWN: I'm Charles Brown, the engineer for the applicant. We're here because my client, who is sitting back there, put electric into the cabana, which is pre-existing, and he put a roof over the deck over here.

This property is on Orange Lake. It's very similar to the other properties on Orange

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

JOSEPH HARRISON

79

Lake as far as not meeting zoning with the existing buildings. This area was R-3 back in the day. They changed it to R-1.

It's not out of character with the neighborhood because it's existing. It's not a detrimental affect to the environment.

We're here to request, respectfully, variances to permit these existing structures to remain.

CHAIRMAN SCALZO: Thank you. The offsets to a hundredth of a foot are fantastic. You don't see those very often.

Mr. Brown, you said your client put the roof on, put the electric in. Is your client a contractor?

MR. BROWN: He had it done. Actually, the electric has been inspected and it passed inspection. He is a contractor, though.

Correct?

MR. HARRISON: Yes.

CHAIRMAN SCALZO: I hope he's worked in other towns that require permits before you do this sort of thing.

Moving forward. With that, is the rear

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

JOSEPH HARRISON

80

-- was there any requirement to investigate any footings or anything like that with that back --

MR. BROWN: I inspected the cabana. I gave a certified letter to the Building Department certifying the structure.

CHAIRMAN SCALZO: All right. It's a beautiful piece of property. He made the most of it, that's for sure.

MR. BROWN: They're tight down there.

CHAIRMAN SCALZO: We're well aware of that.

I have no comments at the moment. I'm going to look down to Mr. Bell?

MR. BELL: I have none.

CHAIRMAN SCALZO: Mr. Olympia?

MR. OLYMPIA: I'm fine. Thank you.

CHAIRMAN SCALZO: Mr. McKelvey?

MR. MCKELVEY: I'm fine.

CHAIRMAN SCALZO: Mr. Levin?

MR. LEVIN: I think this fits into the property lovely. It's typical of everything on the lake, on Orange Lake.

CHAIRMAN SCALZO: It sure is. Mr. Marino?

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

JOSEPH HARRISON

81

MR. MARINO: I was going to say the same thing about the other size lots.

CHAIRMAN SCALZO: This isn't even the smallest lot.

MR. BROWN: No, it's not.

CHAIRMAN SCALZO: At this point I'll open it to any members of the public that want to speak about this application.

(No response.)

CHAIRMAN SCALZO: Hearing none, I'll look back to the Board. Any more?

MR. BELL: No.

MR. OLYMPIA: Nothing.

MR. MARINO: No.

CHAIRMAN SCALZO: I'll look to the Board for a motion to close the public hearing.

MR. MASTEN: I'll make a motion.

MR. LEVIN: I'll second it.

CHAIRMAN SCALZO: Motion from Mr. Masten. Second from Mr. Levin. Roll call.

MS. JABLESNIK: Mr. Bell?

MR. BELL: Yes.

MS. JABLESNIK: Mr. Levin?

MR. LEVIN: Yes.

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

MS. JABLESNIK: Mr. Marino?

MR. MARINO: Yes.

MS. JABLESNIK: Mr. Masten?

MR. MASTEN: Yes.

MS. JABLESNIK: Mr. McKelvey?

MR. MCKELVEY: Yes.

MS. JABLESNIK: Mr. Olympia?

MR. OLYMPIA: Yes.

MS. JABLESNIK: Mr. Scalzo?

CHAIRMAN SCALZO: Yes.

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

(Time noted: 7:50 p.m.)

(Time resumed: 8:45 p.m.)

CHAIRMAN SCALZO: The next applicant is Joseph Harrison, 52 Odell Circle, seeking an area variance to keep a covered side porch with a side yard setback of 1.22 where 30 feet is required and combined side yards of 14.37 where 80 is required; and (B), the maximum building coverage and surface coverage for an accessory building.

This is also a Type 2 action under SEQRA.

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

Weighing the factors, the first one being whether or not the benefit can be achieved by other means feasible to the applicant. It's already there.

Second, if there's an undesirable change in the neighborhood character or a detriment to nearby properties. All of the properties on Orange Lake are faced with similar constraints. This one just happens to look really nice.

The third, whether the request is substantial. Of course it is. Again, the lot size makes it a little difficult.

The fourth, whether the request will have adverse physical or environmental effects. It doesn't appear so. If snow wasn't on the ground I would say there's no runoff that's pouring into the pond.

And the fifth, whether the alleged difficulty is self-created. This is relevant but not determinative. Sure it is, but I'm not sure how to approach that.

MR. DONOVAN: It's relevant but not relative.

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

JOSEPH HARRISON

84

CHAIRMAN SCALZO: In this case I'll look to the Board for a motion.

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

MR. MARINO: Second.

CHAIRMAN SCALZO: Motion from Mr. Levin. Second from Mr. Marino. Roll call.

MS. JABLESNIK: Mr. Bell?

MR. BELL: Yes.

MS. JABLESNIK: Mr. Levin?

MR. LEVIN: Yes.

MS. JABLESNIK: Mr. Marino?

MR. MARINO: Yes.

MS. JABLESNIK: Mr. Masten?

MR. MASTEN: Yes.

MS. JABLESNIK: Mr. McKelvey?

MR. MCKELVEY: Yes.

MS. JABLESNIK: Mr. Olympia?

MR. OLYMPIA: Yes.

MS. JABLESNIK: Mr. Scalzo?

CHAIRMAN SCALZO: Yes.

Motion carried. The variances are approved.

(Time noted: 8:47 p.m.)

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

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 8th day of February 2020.

Michelle Conero

MICHELLE CONERO

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

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

----- X
In the Matter of

CONFIDENT PROPERTIES
82 Route 17K, Newburgh
Section 95; Block 1; Lot 21
IB Zone

----- X

Date: January 23, 2020
Time: 7:51 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: LIJO JOHN

----- X

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

1

2

CHAIRMAN SCALZO: Now we are moving

3

on to the applicants that were held over from

4

the December 26th meeting. Our first

5

holdover is Confident Properties, 82 Route

6

17K in Newburgh, seeking an area variance to

7

reface an existing nonconforming sign located

8

on Route 300 for the property on 17K at

9

Orange Hill Global Bistro.

10

We had to hold it open for the GML

11

239. We have received a County Local

12

determination.

13

I'm hoping all of our Board

14

Members have seen the right sign this time.

15

Not naming anybody.

16

MR. OLYMPIA: I have. Twice.

17

CHAIRMAN SCALZO: Was I looking that

18

way too hard? Very good.

19

How about you, Mr. Levin?

20

MR. LEVIN: I saw the right sign.

21

CHAIRMAN SCALZO: That being said, we

22

did hear the presentation last time. If anybody

23

feels the need to hear it again, that's fine.

24

However, since the public hearing was

25

still open, are there any members of the public

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

here to comment on this application?

(No response.)

CHAIRMAN SCALZO: Any comments from the Board?

MR. LEVIN: Is the owner here tonight? I want to tell you something. I work very close to your place. When it was a diner I used to go there constantly, at least two, three times a week, for about thirty years. I've been to your restaurant too, which is a great restaurant.

MR. JOHN: Thank you.

MR. LEVIN: If you look at the sign, and I'm saying this, we have no jurisdiction over it. The sign on the bottom, I see you're redoing something. I can't tell you what to do but I find it very difficult to get out of your spot looking to the left. Then you have to cross traffic because there's people coming in to make the turn onto 300.

MR. JOHN: Yes.

MR. LEVIN: I many times have made a right turn to get out of there. That's the only thing I question. We can't do anything about it. I'm asking you to consider it.

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

MR. JOHN: We got the permit from the DOT. We are working on that actually. We have a sign for that. They're working on that.

MR. LEVIN: I'm talking about moving it back ten feet.

MR. JOHN: Yes. I don't know. We have the approval so they have the sketch.

CHAIRMAN SCALZO: It has no bearing on what we're here for tonight. I do appreciate the safety concerns Mr. Levin has.

MR. LEVIN: I've had trouble.

MR. JOHN: We'll do our best with how they have it.

CHAIRMAN SCALZO: Thank you.

Any other comments from the Board?

MR. BELL: No.

MR. OLYMPIA: No.

MR. McKELVEY: No.

MR. MASTEN: No.

MR. MARINO: No.

CHAIRMAN SCALZO: In this case I'll look to the Board to make a motion to close the public hearing.

MR. OLYMPIA: I'll make the motion.

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

MR. BELL: Second.

CHAIRMAN SCALZO: We have a motion from Mr. Olympia and a second from Mr. Bell. Roll call on it.

MS. JABLESNIK: Mr. Bell?

MR. BELL: Yes.

MS. JABLESNIK: Mr. Levin?

MR. LEVIN: Yes.

MS. JABLESNIK: Mr. Marino?

MR. MARINO: Yes.

MS. JABLESNIK: Mr. Masten?

MR. MASTEN: Yes.

MS. JABLESNIK: Mr. McKelvey?

MR. MCKELVEY: Yes.

MS. JABLESNIK: Mr. Olympia?

MR. OLYMPIA: Yes.

MS. JABLESNIK: Mr. Scalzo?

CHAIRMAN SCALZO: Yes.

The public hearing is closed. We'll do our best to give you our determination later this evening.

MR. JOHN: Thank you.

(Time noted: 7:54 p.m.)

(Time resumed: 8:47 p.m.)

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

CHAIRMAN SCALZO: Moving on. Confident Properties, 82 Route 17K, Newburgh, seeking an area variance to reface an existing nonconforming sign located on Route 300 for the property on 17K.

I believe, Dave, that this is an Unlisted action under SEQRA.

MR. DONOVAN: You would think, but since it's an existing -- it's a replacement in kind. It's an existing structure. The prior sign, they're going to remove that sign and put up a sign new. This is actually a Type 2.

CHAIRMAN SCALZO: Thank you very much.

MR. DONOVAN: Aren't you glad I came tonight?

CHAIRMAN SCALZO: Therefore, this is a Type 2 action under SEQRA, as I was just informed.

Discussing the five factors, the first one being whether or not the benefit can be achieved by other means feasible to the applicant. He could not do it and then the appropriate business would not be displayed.

Second, whether there's an undesirable

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

change in the neighborhood character or a detriment to nearby properties. I believe it's going to be virtually unnoticed.

MR. McKELVEY: No.

CHAIRMAN SCALZO: It's going to be very noticed. Everyone will now take notice of the new sign that says Orange Hill, not the old sign that said Neptune.

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

MR. BELL: No.

MR. OLYMPIA: No.

MR. McKELVEY: No.

MR. MASTEN: No.

MR. MARINO: No.

CHAIRMAN SCALZO: No.

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

MR. BELL: No.

MR. OLYMPIA: No.

MR. McKELVEY: No.

MR. MASTEN: No.

MR. MARINO: No.

CHAIRMAN SCALZO: The fifth, whether

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

the alleged difficulty is self-created. This is relevant but not determinative. Changing the name of the business, I don't believe it's relevant in this case.

Therefore I'll look to the Board for a motion.

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

MR. BELL: I'll second.

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

MS. JABLESNIK: Mr. Bell?

MR. BELL: Yes.

MS. JABLESNIK: Mr. Levin?

MR. LEVIN: Yes.

MS. JABLESNIK: Mr. Marino?

MR. MARINO: Yes.

MS. JABLESNIK: Mr. Masten?

MR. MASTEN: Yes.

MS. JABLESNIK: Mr. McKelvey?

MR. McKELVEY: Yes.

MS. JABLESNIK: Mr. Olympia?

MR. OLYMPIA: Yes.

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

MS. JABLESNIK: Mr. Scalzo?

CHAIRMAN SCALZO: Yes.

Motion carried. The variances are approved.

(Time noted: 8:49 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 8th day of February 2020.

Michelle Conero

MICHELLE CONERO

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

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

----- X
In the Matter of

JENNIFER FALLONE (MACK)
7 Smith Avenue, Walden
Section 32; Block 7; Lot 4
R-1 Zone

----- X

Date: January 23, 2020
Time: 7:54 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: JENNIFER FALLONE

----- X

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

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

CHAIRMAN SCALZO: Our second holdover is Jennifer Fallone Mack, 7 Smith Avenue in Walden, seeking an area variance to increase the degree of nonconformity and keep an enclosed porch built without a permit with a side yard setback of 0 where 30 is required and a front yard setback of 23 feet where 50 is required.

The only reason why we kept this public hearing open was because we had not heard back from County. In this case we had heard from the County and they recommended a Local determination.

The public hearing is still open. Are there any members of the public here to speak about this application?

(No response.)

CHAIRMAN SCALZO: Hearing none, I'll look to the Board for one more opportunity?

MR. BELL: No.

MR. OLYMPIA: No.

MR. McKELVEY: No.

MR. MASTEN: No.

MR. MARINO: No.

CHAIRMAN SCALZO: If the Board Members

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

recall, this is right next door to an application that we had received last year.

Very good. Therefore I'll look to the Board for a motion to close the public hearing.

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

MR. MARINO: Second.

CHAIRMAN SCALZO: We have a motion from Mr. Bell and a second from Mr. Marino. Roll call.

MS. JABLESNIK: Mr. Bell?

MR. BELL: Yes.

MS. JABLESNIK: Mr. Levin?

MR. LEVIN: Yes.

MS. JABLESNIK: Mr. Marino?

MR. MARINO: Yes.

MS. JABLESNIK: Mr. Masten?

MR. MASTEN: Yes.

MS. JABLESNIK: Mr. McKelvey?

MR. MCKELVEY: Yes.

MS. JABLESNIK: Mr. Olympia?

MR. OLYMPIA: Yes.

MS. JABLESNIK: Mr. Scalzo?

CHAIRMAN SCALZO: Yes.

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

JENNIFER FALLONE (MACK)

98

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

(Time noted: 7:56 p.m.)

(Time resumed: 8:49 p.m.)

CHAIRMAN SCALZO: The next applicant was Jennifer Fallone (Mack), 7 Smith Avenue in Walden, seeking an area to increase the degree of nonconformity and keep an enclosed porch built without a permit with a side yard setback of 0 feet where 30 is required and a front yard setback of 23 feet where 50 feet is required.

This is also a Type 2 action under SEQRA.

Discussing the five factors, the first one being whether or not the benefit can be achieved by other means feasible to the applicant. It appears that it's been that way for quite a while. She just may have done some improvements to it. I would say no.

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

MR. BELL: No.

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

MR. OLYMPIA: No.

MR. McKELVEY: No.

MR. MASTEN: No.

MR. MARINO: No.

CHAIRMAN SCALZO: The third, whether
the request is substantial.

MR. BELL: No.

MR. OLYMPIA: No.

MR. McKELVEY: No.

MR. MASTEN: No.

MR. MARINO: No.

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

MR. BELL: No.

MR. OLYMPIA: No.

MR. McKELVEY: No.

MR. MASTEN: No.

MR. MARINO: No.

CHAIRMAN SCALZO: No.

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

MR. OLYMPIA: Not determinative.

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

JENNIFER FALLONE (MACK)

100

CHAIRMAN SCALZO: If the Board approves, any reasonable conditions -- that's not required in this case.

Does the Board have a motion of some sort?

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

MR. MASTEN: Second.

CHAIRMAN SCALZO: We have a motion from Mr. Marino, a second from Mr. Masten. Roll call.

MS. JABLESNIK: Mr. Bell?

MR. BELL: Yes.

MS. JABLESNIK: Mr. Levin?

MR. LEVIN: Yes.

MS. JABLESNIK: Mr. Marino?

MR. MARINO: Yes.

MS. JABLESNIK: Mr. Masten?

MR. MASTEN: Yes.

MS. JABLESNIK: Mr. McKelvey?

MR. MCKELVEY: Yes.

MS. JABLESNIK: Mr. Olympia?

MR. OLYMPIA: Yes.

MS. JABLESNIK: Mr. Scalzo?

CHAIRMAN SCALZO: Yes.

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

JENNIFER FALLONE (MACK)

101

Motion carried.

Ms. Mack was not here this evening to hear it.

MS. FALLONE: I'm right here. I wasn't missing this one.

CHAIRMAN SCALZO: So you're good.

MS. FALLONE: So far with this part. Now we have to figure out if there's a building permit and a CO because that was part of -- the initial application was for the building permit and CO for a room that was existing before we bought it, and then it came to this. So now I guess we have to go back to this area. Is that correct?

CHAIRMAN SCALZO: I don't know.

MS. JABLESNIK: Yes. Just like them, your application will go back. You'll hear from us probably next week letting you know if anything else is needed.

MS. FALLONE: I can't imagine, but --

MS. JABLESNIK: I know. I know.

MS. FALLONE: There's paperwork that says it wasn't necessary for anything more, but that's not your concern at this point. I will

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

JENNIFER FALLONE (MACK)

102

present that if I have to.

CHAIRMAN SCALZO: What I can say is the variances are approved.

MS. FALLONE: That's one positive in this whole mess. This has been almost seven months of mess. Thank you. I appreciate it.

(Time noted: 8:51 p.m.)

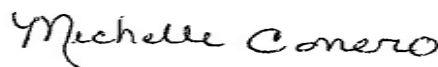
C E R T I F I C A T I O N

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 8th day of February 2020.



MICHELLE CONERO

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

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

----- X

In the Matter of

NORTHERN ENTERPRISE NY
153 South Plank Road, Newburgh
Section 67; Block 1; Lot 1
R-3 Zone

----- X

Date: January 23, 2020
Time: 7:56 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: MARISSA WEISS

----- X

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

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

CHAIRMAN SCALZO: Our next holdover is Northern Enterprise NY, 153 South Plank Road in Newburgh, seeking an area variance to keep a second floor addition, enclosed porch and two decks, increasing the degree of nonconformity of the side yard with an existing 9 feet where 15 feet is required, and the proposed combined side yards of 26.4 where 30 is required.

We were waiting on receipt of information from the County. In this case we have not received it yet. However, they have extended past the thirty days, and in this case we can make our own determination.

Are there any members of the public here to speak about this application?

(No response.)

CHAIRMAN SCALZO: Members of the Board, if you recall we did hear a presentation last month that was pretty comprehensive. I had no additional questions on that. If anyone else has --

MR. BELL: No.

MR. OLYMPIA: No.

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

MR. McKELVEY: No.

MR. MASTEN: No.

MR. MARINO: No.

CHAIRMAN SCALZO: In that case I will look to the Board for a motion to close the public hearing.

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

MR. OLYMPIA: I'll second it.

CHAIRMAN SCALZO: We have a motion from Mr. Bell and a second from Mr. Olympia. Roll call.

MS. JABLESNIK: Mr. Bell?

MR. BELL: Yes.

MS. JABLESNIK: Mr. Levin?

MR. LEVIN: Yes.

MS. JABLESNIK: Mr. Marino?

MR. MARINO: Yes.

MS. JABLESNIK: Mr. Masten?

MR. MASTEN: Yes.

MS. JABLESNIK: Mr. McKelvey?

MR. McKELVEY: Yes.

MS. JABLESNIK: Mr. Olympia?

MR. OLYMPIA: Yes.

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

MS. JABLESNIK: Mr. Scalzo?

CHAIRMAN SCALZO: Yes.

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

MS. WEISS: Thank you.

(Time noted: 7:58 p.m.)

(Time resumed: 8:51 p.m.)

CHAIRMAN SCALZO: The next applicant was Northern Enterprise New York, 153 South Plank Road, seeking an area variance to keep a second floor addition, an enclosed porch and two decks, and increasing the degree of nonconformity of the side yard with an existing 9 feet where 15 is required and combined side yards of 31.2 where 30 is required.

That's why you're still here.

MS. WEISS: Yes.

CHAIRMAN SCALZO: This is a Type 2 action under SEQRA.

Discussing the five factors we're weighing, the first one being whether or not the benefit can be achieved by other means feasible to the applicant. It does not appear so. I believe it's going to be -- they purchased it

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

that way.

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

MR. BELL: No.

MR. OLYMPIA: No.

MR. McKELVEY: No.

MR. MASTEN: No.

MR. MARINO: No.

CHAIRMAN SCALZO: I believe it's going to be an improvement to nearby properties.

The third, whether the request is substantial.

MR. BELL: No.

MR. OLYMPIA: No.

MR. McKELVEY: No.

MR. MASTEN: No.

MR. MARINO: No.

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

MR. BELL: No.

MR. OLYMPIA: No.

MR. McKELVEY: No.

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

MR. MASTEN: No.

MR. MARINO: No.

CHAIRMAN SCALZO: The fifth, whether the alleged difficulty is self-created, which they purchased the property that way. They're just trying to do the right thing.

Okay. Does the Board have a motion of some sort?

MR. MASTEN: I'll make a motion.

MR. BELL: Second.

CHAIRMAN SCALZO: Mr. Masten made a motion, I'm assuming for approval.

MR. MASTEN: For approval.

CHAIRMAN SCALZO: Mr. Bell seconded.

Roll call.

MS. JABLESNIK: Mr. Bell?

MR. BELL: Yes.

MS. JABLESNIK: Mr. Levin?

MR. LEVIN: Yes.

MS. JABLESNIK: Mr. Marino?

MR. MARINO: Yes.

MS. JABLESNIK: Mr. Masten?

MR. MASTEN: Yes.

MS. JABLESNIK: Mr. McKelvey?

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

MR. McKELVEY: Yes.

MS. JABLESNIK: Mr. Olympia?

MR. OLYMPIA: Yes.

MS. JABLESNIK: Mr. Scalzo?

CHAIRMAN SCALZO: Yes.

The motion is carried. The variances
are granted.

(Time noted: 8:53 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 8th day of February 2020.



MICHELLE CONERO

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

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

----- X

In the Matter of

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

----- X

Date: January 23, 2020
Time: 7:58 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: MICHAEL HENNESSY

----- X

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

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

MARIA CHACHA

111

CHAIRMAN SCALZO: Moving on. Our fourth holdover is Maria Chacha, 1879 Route 300 in Newburgh, seeking an area variance to enlarge a nonconforming two-family dwelling with a proposed front yard setback where 57 feet where 60 is required, floor area of 1,200 square feet where 1,500 square foot is the minimum, and an existing lot area of 41,922 square feet where 100,000 foot is the minimum.

We did receive notification back from the County. They had noted a Local determination.

This applicant, at last month's meeting I had asked for additional information. We are in receipt of a letter or documentation from their surveyor who has reached out to the DEC. That is not DEC wetlands. It is wetlands that are controlled by the National Wetlands Inventory, which is otherwise known as Federal wetlands, which carry no buffer. You can build right up to National Inventory Wetlands. In addition, you're also allowed to disturb up to 4,356 square feet of Federal wetlands without a permit. Therefore, that portion of this

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

MARIA CHACHA

112

application is fine.

 However, I did ask for the architect's revised plans, and that we are not in receipt of.

 MR. HENNESSY: In the original application there was --

 MR. DONOVAN: If you could tell us who you are for the stenographer.

 MR. HENNESSY: I'm Mike from Hennessy Architects.

 CHAIRMAN SCALZO: Then your testimony may do just fine. What we were looking for -- I don't know if you had a chance to read the meeting minutes from last month.

 MR. HENNESSY: No, I have not.

 CHAIRMAN SCALZO: What I was looking for -- there is no determination or indication on the plan, and I'm just looking at the first floor plan. The existing living/dining room on, if you're facing the dwelling, the left side, there is no indication that -- I'm assuming that's a studio apartment right now.

 MR. HENNESSY: Yes.

 CHAIRMAN SCALZO: That's considered a one bedroom as it is without the improvements.

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

MARIA CHACHA

113

You're throwing a second floor on that?

MR. HENNESSY: Yes.

CHAIRMAN SCALZO: I'm just talking about the left side of this.

MR. HENNESSY: Yes.

CHAIRMAN SCALZO: So you're throwing a master bedroom upstairs with a bathroom. Is downstairs going to remain a bedroom?

MR. HENNESSY: No.

CHAIRMAN SCALZO: Okay. So that's a wash as far as increase in bedrooms for that half.

The other half, existing how many bedrooms?

MR. HENNESSY: Just for the tenant to the left?

CHAIRMAN SCALZO: The tenant to the right now.

MR. HENNESSY: To the right, that would be three. Yeah, three.

CHAIRMAN SCALZO: Okay. That's what it says here. You're doing well.

You also propose a second-story addition there with a master bedroom, walk-in

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

MARIA CHACHA

114

closet and others. Are you eliminating any bedrooms downstairs or is that remaining the same?

MR. HENNESSY: Everything is remaining the same. There's a bedroom upstairs now. We're just changing the gable. There was a knee wall. We're just expanding the floor area.

CHAIRMAN SCALZO: Okay. So that statement indicates that there is zero increase in bedrooms --

MR. HENNESSY: Correct.

CHAIRMAN SCALZO: -- for the entire structure.

MR. HENNESSY: Correct.

CHAIRMAN SCALZO: All right. So I'm looking at five total bedrooms.

Any idea of the size of the septic?

MR. HENNESSY: No. We do not know.

CHAIRMAN SCALZO: That's not part of the application. I'm just asking.

All right. As I say, the wetlands issue has now gone away.

I have no questions at this point. I'm going to look to the Members of the Board. Mr.

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

MARIA CHACHA

115

Bell?

MR. BELL: No.

CHAIRMAN SCALZO: Mr. Marino?

MR. MARINO: How many families will live in that house once you complete the renovations?

MR. HENNESSY: It's a two-family.

MR. MARINO: Are there two there now?

MR. HENNESSY: Yes.

MR. MARINO: The same two will stay?

MR. HENNESSY: Yes.

CHAIRMAN SCALZO: Mr. Masten?

MR. MASTEN: Nothing.

MR. LEVIN: Since the wetlands is out of it, I have no questions.

CHAIRMAN SCALZO: Mr. McKelvey?

MR. MCKELVEY: Will the septic system have to be looked into?

CHAIRMAN SCALZO: That's something I'm going to look to Joe from Code Compliance. There is no increase in bedrooms. I don't know what it was before. I'm not sure how to -- I'm not sure that that's something that we need to consider at this meeting. I really think that's up to Code

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

MARIA CHACHA

116

Compliance at this point.

I'm not putting you on the spot, Joe,
but I'm going to ask you to look into that.

MR. MATTINA: When I do my plan reviews
there's an evaluation from a design professional
that the septic can handle the additional new
load because bathrooms also count. That will be
taken care of in plan review.

CHAIRMAN SCALZO: Typically the design
is just based on bedrooms.

MR. MATTINA: Bathrooms now, too.
Water consumption. Yes.

CHAIRMAN SCALZO: Mr. Olympia?

MR. OLYMPIA: I'm fine.

CHAIRMAN SCALZO: Mr. Bell?

MR. BELL: I'm good.

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

MS. POST: I'm Heather Post, I live at
1912 Route 300. I think that there might be a
little bit of misinformation here to someone
somewhere. Currently it does show on the plans
that were submitted that there are five bedrooms.

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

MARIA CHACHA

117

If you look at the property card for this property, it notes that there are four bedrooms total, one apartment, then three bedrooms in the other. I don't know where we're coming up with this fifth bedroom. I think that --

CHAIRMAN SCALZO: Let me hang on one second. Mr. Mattina and I have discussed this at length. The assessor is not part of code. The assessor -- Joe, if you could help me out with the way the assessor looks at things compared to the way the code is.

MR. MATTINA: The assessor's sole purpose is to establish a market value of a parcel. It has nothing to do with legal bedrooms, illegal bedrooms. It establishes the market value of a piece of property.

MS. POST: Which I understand. That isn't so much the issue. There should be something that should state how many bedrooms. If someone were to purchase the home, do you just go by whatever somebody was using the house as, because that's not always the case?

MR. MATTINA: You would do a title search through the Building Department. We go

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

MARIA CHACHA

118

through our archives and records and we will tell you exactly how many legal bedrooms there are.

MS. POST: Okay. So has anyone done that for this property?

CHAIRMAN SCALZO: There is typically not a need for that unless someone were to FOIL that information.

MS. POST: I did FOIL for all the information on this property and that's what I was given. I was told --

MR. MATTINA: I did the plan review three months ago. I don't remember.

MS. POST: I would suggest that's something you look into.

MR. MATTINA: Yes. I always do.

MS. POST: The other concern, just something to consider, is that -- I don't care about the front yard setback. That's pretty simple. I get it. Converting a two-family when you're within the zone, that's fine. They're literally asking for more than double what they own. They're asking for a two-family home when they don't even have one acre and they are required to have more than two acres. I think

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

MARIA CHACHA

119

that's pretty excessive when you come down to zoning. It's just something I think everybody should consider. We have zoning for a reason. I guess there's always going to be exceptions. I get that. This is something that they're stating that they purchased this home with the understanding it was a two-family and it was never permitted that way. It might be in that zone but it was never permitted that way. For you to just hand that over to them and just go oh yeah, well you're in the zone, you should get it, I would have a really big problem with that because that kind of defeats the purpose of having zoning.

Thank you very much.

CHAIRMAN SCALZO: Thank you.

MR. IBBS: I'm Brian Ibbs, I live at 1912 Route 300, the property down one house and across the street.

My statement essentially is just on principle, also noting the size of the variance. I was looking into this a little bit. It states in the meeting agenda for tonight that 100,000 foot would be required. That comes out to about

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

MARIA CHACHA

120

2.2 acres or so. If I'm looking at it in context to other things, like a speed limit for example, they're asking for a pretty large variance. You know, I've been to several of the meetings and most of the time the variances are due to some hardship, which it asks in the application what is the hardship. Someone says okay, the property was purchased in 2017, did they know the size of the property, did they know the permitted use. I don't necessarily see the case that's made to approve a variance this large. It's not like I have an ailing mother that I need to provide this extra residence space for or something like that. Many people make compelling cases as to why. I don't necessarily see the justification. Obviously the Board doesn't need to provide that to me. It's just for consideration for the decision from a neighbor's perspective.

MR. DONOVAN: Mr. Chairman, not to put Mr. Mattina on the spot again. The information from Code Compliance indicates this is a pre-existing nonconforming two-family.

My question is is it being occupied and used as a two-family dwelling currently?

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

MARIA CHACHA

121

MR. MATTINA: The issue is back in, I'm just guessing, the 1980s a permit was issued for a three-bedroom accessory apartment with the one-family. So a three-bedroom accessory apartment or a two-family, they're basically the same thing. The way they kept paperwork in the '80s, it really didn't define single-family, two-family. It gave them three extra bedrooms and a separate apartment.

CHAIRMAN SCALZO: Even our accessory apartment code would allow up to 700 square feet.

MR. MATTINA: Only two bedrooms, though.

CHAIRMAN SCALZO: This second apartment is only going to be one.

MR. MATTINA: Correct.

MR. DONOVAN: I was just looking for clarification. If I understand what was said previously, the inference was this Board is being asked to grant a variance to create a two-family. My understanding is we're not, that it is a two-family and they are asking to expand it. I think the number of bedrooms is going to remain the same. That's the way the application is.

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

MARIA CHACHA

122

MR. MATTINA: Technically it's not a two-family, it's a single-family with a three-bedroom accessory apartment. In order to clean up things that were done in the '80s, it needs to be a two-family by today's standards.

CHAIRMAN SCALZO: Thank you, Joe.

MR. MATTINA: What was issued in the '80s probably should not have been issued without obtaining variances. We're just trying to clean up what was done thirty years ago.

MR. IBBS: If I can just --

CHAIRMAN SCALZO: Go ahead.

MR. IBBS: Essentially the acreage is less than one, which is actually about what I own on my property. Essentially they have half -- less than half the requirement to make the modification or additions that they wish to do for the variance. That's all.

CHAIRMAN SCALZO: Thank you.

Is there anyone else from the public here to speak about this application?

(No response.)

CHAIRMAN SCALZO: Any other comments from the Board?

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

MARIA CHACHA

123

MR. BELL: No.

MR. OLYMPIA: No.

MR. McKELVEY: No.

MR. MASTEN: No.

MR. MARINO: No.

CHAIRMAN SCALZO: Then what is the Board's pleasure? Do I hear a motion of some sort?

MR. HENNESSY: There are two or three properties. On the card there is a five-unit apartment.

MS. POST: Different zone.

CHAIRMAN SCALZO: Michelle, that was from Ms. Post.

Any other comments from the Board?

MR. MARINO: How many people live in, I guess the two apartments now?

MR. HENNESSY: It's just one family in the main residence and then --

MR. MARINO: How many in that one family?

MR. HENNESSY: Five. Just one family.

MR. MARINO: How many more will be added to that number?

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

MARIA CHACHA

124

MR. HENNESSY: No one. It's the same residents.

MR. MARINO: It will stay five, unless you're having another kid.

MR. DONOVAN: I think Mr. Marino's question is how many people live -- is that five total?

MR. HENNESSY: Five in the one residence and just the brother on the left.

MR. DONOVAN: So five plus one?

MR. MARINO: That's what you have now?

MR. HENNESSY: Yes.

MR. MARINO: That's not going to change?

MR. HENNESSY: No.

CHAIRMAN SCALZO: So from the bulk requirements as I'm looking at it here, tenant 1 is the apartment on the right.

MR. HENNESSY: Yes. That's the main.

CHAIRMAN SCALZO: Which will be 1,600 square feet with the proposed improvements. The apartment on the left, which will be tenant 2, you're looking at 1,200 square feet?

MR. HENNESSY: Yes.

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

MARIA CHACHA

125

CHAIRMAN SCALZO: Mr. Mattina, the code for accessory apartments is 700 maximum. That's for accessory apartments on a lot. However, because this is -- the applicant is being presented as a two-family, the 1,200 square feet, if it were two-family, is acceptable?

MR. MATTINA: No. One of the variances is it has to be 1,500. It's 300 feet short.

CHAIRMAN SCALZO: Short. So it's smaller?

MR. MATTINA: Correct.

MR. HENNESSY: We could do 15. They didn't want to spend the money. They're just building within their means. With the garage we are over the 1,500, but it's not livable space.

MR. BELL: It's not living space.

MR. HENNESSY: Right.

CHAIRMAN SCALZO: I have no more questions. Does anybody from the Board have anything else?

(No response.)

CHAIRMAN SCALZO: No. One last opportunity for the public?

MR. IBBS: The one thing I'll just note

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

MARIA CHACHA

126

is on the property that is next door to that,
it's zoned differently. It is a four- or
five-family. It's a commercial zoned property.
There's a livery service run out of there as
well.

CHAIRMAN SCALZO: This is contiguous,
right next door?

MS. POST: Yes. It adjoins their
property but it's zoned business or commercial.
I can't recall right this moment but it is a
business. They run a business out of there, and
they also have a five-apartment building there.

CHAIRMAN SCALZO: For the record,
that's Ms. Post again.

MS. POST: Ms. Post has one other thing
to say. In regards to this, additionally the
other thing is not only are they going up, which
is fine, but they're adding a garage on either
side of this. They've got lots of parking, too.
So you're not only increasing the use of the
property but the impervious surface as well.
While the wetlands may not play into this
directly, it does affect it. That area has a
very high water table. There's flooding on all

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

MARIA CHACHA

127

those properties every time it rains. Every single time it rains. If you'd like to see that, you're more than welcome to come over. I'll make dinner for you. I'm not falsifying that.

CHAIRMAN SCALZO: Perhaps Mr. Mattina, when he seeks the information from the design professional that the sanitary disposal system is adequate to handle the house, that may become an issue then.

MS. POST: It may.

CHAIRMAN SCALZO: Other than that, any other questions from the public?

(No response.)

CHAIRMAN SCALZO: Anything else from the Board?

(No response.)

CHAIRMAN SCALZO: Every time I say that it seems like something else comes up, which is fine. That's why we're here.

In this case I'll look to the Board for a motion to close the public hearing.

MR. OLYMPIA: I'll move we close the public hearing.

MR. MASTEN: Second.

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

MARIA CHACHA

128

CHAIRMAN SCALZO: We have a motion from
Mr. Olympia. We have a second from Mr. Masten.
Roll call.

MS. JABLESNIK: Mr. Bell?

MR. BELL: Yes.

MS. JABLESNIK: Mr. Levin?

MR. LEVIN: Yes.

MS. JABLESNIK: Mr. Marino?

MR. MARINO: Yes.

MS. JABLESNIK: Mr. Masten?

MR. MASTEN: Yes.

MS. JABLESNIK: Mr. McKelvey?

MR. MCKELVEY: Yes.

MS. JABLESNIK: Mr. Olympia?

MR. OLYMPIA: Yes.

MS. JABLESNIK: Mr. Scalzo?

CHAIRMAN SCALZO: Yes.

The public hearing is closed. We will
do our best to render a determination this
evening, although we do have up to sixty-two days
to give that.

(Time noted: 8:14 p.m.)

(Time resumed: 8:53 p.m.)

CHAIRMAN SCALZO: Next, actually the

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

MARIA CHACHA

129

final one for the evening, is Maria Chacha, 1879 Route 300, Newburgh, seeking an area variance to enlarge a nonconforming two-family dwelling with a proposed front yard setback of 57 feet where 60 is required, floor area of 1,200 square feet where 1,500 square foot is the minimum, and an existing lot area of 41,922 where 100,000 square foot is the minimum.

Any discussion on this before we continue?

(No response.)

CHAIRMAN SCALZO: A few things that were brought up during the public hearing portion. Mr. Mattina had mentioned this was a clean-up from the '80s. However, the application and information that we've had provided to us here indicates that it was a pre-existing nonconforming two-family then.

MR. DONOVAN: That's the information that came from Code Compliance to this Board.

CHAIRMAN SCALZO: Correct. And while we may be able to clean it up at a later date, we can only vote appropriately on the information we were provided.

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

MARIA CHACHA

130

MR. MATTINA: Yes.

CHAIRMAN SCALZO: We heard testimony from residents close to this property that contiguous, almost next door, there's a five-apartment building which is in a different zone, however that is still the neighborhood. Relative to the character of the neighborhood, I'm not sure how that's going to factor in what we determine. So those two factors are the two things that really stuck out in my head on this.

Any other discussion from the Board?

MR. BELL: I'm good.

CHAIRMAN SCALZO: This is a Type 2 action under SEQRA, so therefore we're going to go through the area variance criteria and discuss the five factors we're weighing, the first one being whether or not the benefit can be achieved by other means feasible to the applicant. The means feasible to the applicant is if they did not do it, which is right in line with every other applicant that we have heard this evening.

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

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

change in the neighborhood, I'm not so sure. Detriment to nearby properties is a subjective term I suppose. It depends on who you ask. I'm not seeing it's out of character with what's around it.

The third, whether the request is substantial. That's an interesting piece of information because they are required to have 100,000 square foot area where they have less than half. However, I'm going to go back to Mr. Mattina's 1980s comments to say it was pre-existing nonconforming.

Just for the Board's sake here, if we were to deny this and they didn't get their variances, they walk away and it's still a two-family house.

MR. BELL: It's still a two-family house.

CHAIRMAN SCALZO: That's pretty interesting.

The fourth, whether the request will have adverse physical or environmental effects. That's a possibility. It remains to be seen when the applicant comes back in with their

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

MARIA CHACHA

132

engineering evaluation. As far as what the Board has to look at; no, I don't believe so.

The fifth, whether the alleged difficulty is self-created. This is relevant but not determinative. Of course it's self-created, as all of the ones that we have looked at tonight were. However, if it's determined that it is -- if the Board approves, we shall grant the minimum variance necessary and may impose reasonable conditions. That goes for every applicant.

Dave, I did mention earlier this is a Type 2 action.

MR. DONOVAN: Yes, Mr. Chairman.

CHAIRMAN SCALZO: Having gone through the balancing test of the area variance, what is the pleasure of the Board? Do we have a motion of some sort?

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

CHAIRMAN SCALZO: We have a motion from Mr. Marino for approval.

If we need to further discuss it. We have an open motion at this point. Does anybody feel as though we need additional information to

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

MARIA CHACHA

133

make this determination?

(No response.)

CHAIRMAN SCALZO: Hearing nothing, do I hear a motion for a denial?

MR. BELL: I'll make a motion for disapproval, for denial.

MR. LEVIN: I'll second.

CHAIRMAN SCALZO: We have a motion for disapproval. We have a second. A motion from Mr. Bell. We have a second from Mr. Levin on the denial of the application. Roll call.

MS. JABLESNIK: Mr. Bell?

MR. BELL: Yes.

MS. JABLESNIK: Mr. Levin?

MR. LEVIN: Yes.

MS. JABLESNIK: Mr. Marino?

MR. MARINO: No.

MS. JABLESNIK: Mr. Masten?

MR. MASTEN: Yes.

MS. JABLESNIK: Mr. McKelvey?

MR. MCKELVEY: Yes.

MS. JABLESNIK: Mr. Olympia?

MR. OLYMPIA: No.

MS. JABLESNIK: Mr. Scalzo?

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

MARIA CHACHA

134

CHAIRMAN SCALZO: No.

We are four to three.

MR. DONOVAN: The application is denied, four to three. The variances are not approved.

CHAIRMAN SCALZO: Okay. That is all I have for Board business this evening, except for the meeting minutes for the December meeting. Did everybody have a chance to look at those? If so, I need a motion for approval of the meeting minutes.

MR. MASTEN: I'll make a motion we approve the minutes for December.

MR. BELL: Second.

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

MR. BELL: Aye.

MR. LEVIN: Aye.

MR. MARINO: Aye.

MR. MASTEN: Aye.

MR. McKELVEY: Aye.

MR. OLYMPIA: Aye.

CHAIRMAN SCALZO: Aye.

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

MARIA CHACHA

135

Any other Board business?

(No response.)

CHAIRMAN SCALZO: I'll take a motion
for adjournment.

MR. McKELVEY: I'll make that motion.

MR. BELL: Second.

CHAIRMAN SCALZO: Motion from Mr.
McKelvey. Second from Mr. Bell. All in favor?

MR. BELL: Aye.

MR. LEVIN: Aye.

MR. MARINO: Aye.

MR. MASTEN: Aye.

MR. McKELVEY: Aye.

MR. OLYMPIA: Aye.

CHAIRMAN SCALZO: Aye.

(Time noted: 9:04 p.m.)

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

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 8th day of February 2020.

Michelle Conero

MICHELLE CONERO

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

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

----- X

In the Matter of

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

----- X

Date: January 23, 2020
Time: 8:15 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: ASHLEY TORRE

----- X

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

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

CHAIRMAN SCALZO: last but not least we have Emma Gasparini, 125 Mill Street in Wallkill, seeking a use variance to install a 100 amp landlord meter and panel on a two-family. Bulk table schedule 1 does not permit two-family dwelling units in a Reservoir District. Any use not permitted shall be deemed prohibited.

This is held over -- this will be the third time it's held over. I understand we have new representation.

MS. TORRE: Yes. Good evening. Ashley Torre from Burke, Miele, Golden & Naughton representing the applicant here. Her prior counsel has been conflicted out of this matter. The law firm was recently appointed to act as the Town Planning Board's counsel, so now we've been brought in on this.

Unfortunately I do know there has been two adjournments already but I'm going to have to respectfully request another adjournment for tonight. We've been working on the case. I've been getting additional

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

EMMA GASPARINI

139

information and evidence that we really need to submit to you in order to have the full picture before you, and that really deals with -- the application is twofold. The first part is really an interpretation issue. We're asking for an interpretation that it's a legal nonconforming two-family. It was marketed as a two-family before my client bought it. It was taxed as a two-family home. The neighbors all recall it being a two-family home for as long as they can. That's really the first part of the application.

In the alternative we're seeking a use variance.

Again, unfortunately I'm going to have to request an adjournment just until February, that way I can put together that new submission for you.

CHAIRMAN SCALZO: Okay.

MS. TORRE: If you have any questions as of now --

CHAIRMAN SCALZO: Perhaps. As I say, I've been on the Board for six years. I've never

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

had a deferment three times in a row and actually be heard the fourth. I almost think it's unfair to any members of the public that may be here a third time and now I'm telling them they need to be back here a fourth time. Perhaps somebody was here at the first or second meeting and just forgot.

Is there a way for us to require a re-notice, Dave, or perhaps we decline the offer for deferment and ask them to reapply?

With new counsel here, also there may be an opportunity for you to confer with your client. Perhaps your approach may be different after gathering all the information from your client. I'm not necessarily going there yet. I'm just stating that so the Board can hear what I have to say.

MR. DONOVAN: Certainly under the circumstances you have the authority to say we want to re-notice. It's been an odd circumstance in that the first meeting out of the box they requested an adjournment, then requested a second adjournment. Now we have new counsel. It's not inappropriate for you to require that there be

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

EMMA GASPARINI

141

new notice published, sent to the neighbors entitled to notice.

In terms of requiring a new application, you do get into a situation where there is a timeframe from denial from Code Compliance that the application is supposed to be submitted. I don't want to do anything to upset that timeframe. I don't know what a new application, except for, unless I'm missing something, a \$250 fee does.

CHAIRMAN SCALZO: I don't know that I have the authority to waive that in this case.

MR. DONOVAN: You don't.

CHAIRMAN SCALZO: Okay. At the very least I know the proxy had to change in this application.

MS. TORRE: Yes. I did submit a new proxy form tonight earlier. I would also say that we wouldn't object if you want to see if there's anyone here from the public tonight that wants to comment. I know it's without the benefit of the full presentation.

CHAIRMAN SCALZO: If you're asking for the deferment, I am going to recommend to the

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

EMMA GASPARINI

142

Board that I would -- if we choose to leave it open until next month, that we have it re-noticed.

Any discussion on that?

MR. MARINO: That seems like a compromise. She's going to get what she wants and the public will get an opportunity to address it again if they have any new questions. I think that's reasonable.

MR. McKELVEY: There's never been a fourth.

CHAIRMAN SCALZO: There's a first time for everything.

MR. DONOVAN: Charlie is not here. Charlie had one that went on for a year if you recall.

MR. McKELVEY: That's true.

MR. DONOVAN: That's a special Charlie Brown one.

MS. TORRE: Again I do apologize. It's just the circumstances --

CHAIRMAN SCALZO: I understand. You made it clear exactly what happened. I understand that.

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

EMMA GASPARINI

143

I'm going to look to the Board for a motion or discussion.

Dave, do I do this via motion to request the applicant to re-notice?

MR. DONOVAN: You can. If we say to the applicant you've got to republish and re-notice, I think they get the picture with or without a motion.

CHAIRMAN SCALZO: Very good.

MS. TORRE: Certainly. Can I talk to your secretary about getting notices?

CHAIRMAN SCALZO: Yes.

Therefore I'll look to the Board, deferment to the February meeting with re-notice.

MR. BELL: I'll make a motion for deferment to the February meeting.

CHAIRMAN SCALZO: Mr. Bell. Do we have a second?

MR. MARINO: I'll second that.

CHAIRMAN SCALZO: We have a second from Mr. Marino. Roll call on that.

MS. JABLESNIK: Mr. Bell?

MR. BELL: Yes.

MS. JABLESNIK: Mr. Levin?

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

MR. LEVIN: Yes.

MS. JABLESNIK: Mr. Marino?

MR. MARINO: Yes.

MS. JABLESNIK: Mr. Masten?

MR. MASTEN: Yes.

MS. JABLESNIK: Mr. McKelvey?

MR. MCKELVEY: Yes.

MS. JABLESNIK: Mr. Olympia?

MR. OLYMPIA: Yes.

MS. JABLESNIK: Mr. Scalzo?

CHAIRMAN SCALZO: Yes.

We will see you in February. Please work with Siobhan to get the notices in order.

MS. TORRE: Certainly. Thank you very much.

CHAIRMAN SCALZO: Before proceeding the Board will take a short adjournment to confer with Counsel regarding the legal questions raised by to tonight's applications. If I could ask, in the interest of time, if you folks could wait out in the hallway and we'll call you in very shortly.

(Time noted: 8:20 p.m.)

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

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 8th day of February 2020.

Michelle Conero

MICHELLE CONERO