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

----- X

In the Matter of

ARTHUR FOWLER

6 Snider Avenue, Walden
Section 32; Block 5; Lot 18
R-1 Zone

----- X

Date: February 27, 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
PETER OLYMPIA

ALSO PRESENT: ROBERT DICKOVER, ESQ.
SIOBHAN JABLESNIK

----- X

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

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

The first order of business 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 grant. The Board will then ask the applicant any questions it may have, and then any questions or comments from the public may be entertained. Actually, they will be entertained. After all of the public hearings have been completed, the Board may adjourn to confer with Counsel regarding any legal questions it may have. The Board will then consider the applications in the order heard, and will try to render a decision this evening but may take up to 62 days to reach a determination.

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

Roll call, please.

MS. JABLESNIK: Richard Levin.

MR. LEVIN: Present.

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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: Darrell Bell is absent.

We have Robert Dickover as our Attorney this evening, and Michelle Conero, our Stenographer.

CHAIRMAN SCALZO: Very good. If you could all please rise for the Pledge.

Mr. Olympia, if you could lead us, please.

(Pledge of Allegiance.)

CHAIRMAN SCALZO: Our first applicant this evening is Arthur Fowler, 6 Snider Avenue in Walden.

We have correspondence from Mr. Fowler's engineer asking to defer to the March meeting.

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ARTHUR FOWLER

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Siobhan, what's the date on that?

MS. JABLESNIK: March 26th.

CHAIRMAN SCALZO: Very good. If anyone is here for the application for Arthur Fowler at 6 Snider Avenue, we will not be hearing it this evening. You will not be re-noticed for next month. We will be here on the fourth Thursday of the month.

Do we need to vote on that?

MR. DICKOVER: No.

CHAIRMAN SCALZO: Very good. Thank you.

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

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

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

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

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

IN WITNESS WHEREOF, I have hereunto
set my hand this 4th day of March 2020.

Michelle Conero

MICHELLE CONERO

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

----- X

In the Matter of

EMMA GASPARINI

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

----- X

Date: February 27, 2020
Time: 7:03 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

ALSO PRESENT: ROBERT DICKOVER, ESQ.
SIOBHAN JABLESNIK

APPLICANT'S REPRESENTATIVE: ASHLEY TORRE

----- X

MICHELLE L. CONERO
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EMMA GASPARINI

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CHAIRMAN SCALZO: Our second applicant this evening is 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 a two-family dwelling unit in an RR Zone. In this case that would be the Reservoir Zone. Any use not permitted shall be deemed prohibited.

Do we have mailings on it, Siobhan?

MS. JABLESNIK: This applicant sent out 19 mailings.

CHAIRMAN SCALZO: 19 mailings. Okay. Very good.

If you could introduce yourself.

MS. TORRE: Good evening. My name is Ashley Torre from the law firm Burke, Miele, Golden & Naughton. We represent the applicant, Ms. Gasparini.

So I was here briefly last month just to request an adjournment because we had been brought on new to this. I did, since that time, make a supplemental submission of February 13th. I wanted to make sure everyone did in fact

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EMMA GASPARINI

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receive that.

I don't want to rehash everything that's been detailed in there, but just to give you an overview of why we're here tonight --

CHAIRMAN SCALZO: Actually, if I can just hang you up. We have all visited the site and we have all read the packages. Perhaps there is someone here that may want to hear what you have to say.

MS. TORRE: Of course.

CHAIRMAN SCALZO: I'm not looking for the Reader's Digest version. If you could just give a brief synopsis --

MS. TORRE: Certainly.

CHAIRMAN SCALZO: -- of what you've got.

MS. TORRE: Certainly. So this application is twofold. First, we're asking for an interpretation that the property is a legal preexisting two-family home. And second, in the alternative, we're asking for a use variance to allow the two-family home.

As you had noted before, the property is currently in the RR District where two-family

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homes are not permitted. That wasn't always the case, though. Up until 1991 it was in the AR District where, in fact, two-families were permitted.

That dwelling itself was built in the 1900s, before it was -- before the Town had zoning, so there was no requirement for it to have a CO. As I said, in 1991 the zone changed from AR to RR, and that's why two-families are no longer permitted. So before that zone change, in 1984 the Town assessment records show that the property class changed from one-family to two-family. I think that's a very telling piece of evidence that that happened before the zone change.

So my client bought the property in 2017. It was marketed as a two-family home. It was, for all purposes, a two-family home. There's no internal -- it's an upstairs and a downstairs. There's no internal stairway connecting the two units. You have an outdoor entrance to the bottom unit, and an outdoor entrance to the top unit as well.

As most do when you're buying a home,

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my client got a title search that included a municipal violation search. That came back. They asked the Building Department are there any violations noted on the property. The Building Department had no knowledge of any violations.

So after she purchased it she did renovate the house. In August of 2018 she had a permit to install electric -- a separate electric meter for the second floor unit. It was in April of 2019, when she applied for a landlord panel, that the Building Department asked her for more information about the two-family use. So Ms. Gasparini's prior attorney did submit some information about that use. The Town then responded and it said that there wasn't enough -- that we didn't give them enough to show that it was in fact a two-family.

They really relied on two things to make that determination. One was a 1975 building permit and the other was an assessment record from 1981. Again, we have that 1984 assessment record that shows the property class had changed to a two-family.

So really the first basis of this

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application is an appeal of that determination.
We're asking for this Board to find that the home is a legal nonconforming two-family home.

In addition to the assessment records, I also submitted some statements from neighbors, one of them I believe from the '70s who is familiar with the property and that it has been historically used as a two-family home for some time. I also submitted an engineer's report that explains how there's no apparent addition to the building and that there's the two separate entrances, there's no internal staircase. The building exists, for all purposes, as a two-family home. Both doors to the upper and lower unit appear to be original.

So I do believe that the evidence really does show that it was a legal nonconforming two-family home.

Again, in the alternative we're asking for a use variance.

I know this Board knows it's a very stringent test and it's not easy to meet. I do think that the circumstances here are the type of unique circumstances where this type of relief is

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available.

Just to touch on that briefly. As far as the hardship being unique to the property; as I mentioned, the way this house is built, you have the upstairs unit, the downstairs unit. There's only an exterior way to get into each unit. You can't go in between floors otherwise. I can't imagine having a single-family home where you have to go outside and walk up stairs on a deck to get to the second floor.

As far as return on the investment, Ms. Gasparini invested a total of \$18,000, with the purchase price, for the renovations that have been done in order to bring it to a single-family home, which is really the only reasonable permitted use in this district. I think Town buildings maybe can be permitted in this district, but that really wouldn't be applicable. It would cost substantial renovations. Upwards of \$39,000 was the estimate given for that. It would also result in over \$1,000 less rent than she would get for the two-family. The use variance won't alter the character of the neighborhood. There's no addition. Nothing being

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added to the residence. It's going to stay exactly how it looks today and how it's been used historically.

Again, some of the neighbors we were able to speak to did submit statements confirming it would not alter the character of the neighborhood. The hardship, we don't believe, is self-created in these circumstances. It was really created by the zone change in 1991.

My client, before purchasing the property, had no reason to think that it was not a legal two-family home because it was preexisting before that zone change, and there were no known municipal violations. It was built as a two-family home, and marketed as a two-family home, and taxed as a two-family home by the Town's records and also the County's for some time.

Are there any questions?

CHAIRMAN SCALZO: Thank you for the presentation. I'm sure anybody that's here to speak about this appreciates that as well.

So what I want to do at this point is I'm going to turn it over to our Board Members.

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I'll start with Mr. Marino. Do you have any comments on this?

MR. MARINO: Is the owner now paying taxes on it as a two-family house?

MS. TORRE: Yes.

MR. MARINO: And has been since 1991?

MS. TORRE: She's only owned it since 2017, but it's been taxed as a two-family since 1984.

MR. MARINO: Okay.

MR. LEVIN: When did she buy it?

MS. TORRE: 2017.

CHAIRMAN SCALZO: Mr. Masten?

MR. MASTEN: Okay. I've lived in the area for 25 years and that house was a one-family house. There was never an exterior stairway outside. I got to know the guy who lived there before he died. He showed me the pond across the street he took care of. He said the only way to get upstairs is the interior stairway going up the stairs inside the house.

Also, the meter set outside. There's two meter panels, a digital and an A-base meter with one service going to both. The services have

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to be individual. I also saw the new panel box there which hasn't been touched yet. But the ones they got there now, there's a digital and an A-base meter with one service. By Central Hudson's standards, you have to have a service for each meter.

MS. TORRE: So is that -- you're saying if there's two families you have to have --

MR. MASTEN: There was a mother, father and a daughter. That was it. Now there's all kinds of people living in there.

MS. TORRE: That's just contrary to what we've been told and what my understanding is.

MR. MASTEN: I've been there since '92.

MS. TORRE: Just as far as the electric meters, I don't know that I followed as far as you need to have two, I think you said, or --

MR. MASTEN: There's two electric meters there, one service. Every time there's a service there's supposed to be a service for each meter, not one service for two meters.

MS. TORRE: Okay. I know that the -- I think the second meter was installed with a

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EMMA GASPARINI

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permit in 2018.

MR. MASTEN: One is a digital, one is an A-base. The original one was an A-base they used to put on houses.

CHAIRMAN SCALZO: Thank you.

Mr. Levin, any comments on this?

MR. LEVIN: No.

CHAIRMAN SCALZO: How about Mr. McKelvey?

MR. McKELVEY: You said there's no interior stairs now?

MS. TORRE: Do you want to wait until -- I'm sorry. Your question?

MR. McKELVEY: There's no interior stairs to get up --

MS. TORRE: That's correct. There's no interior staircase.

CHAIRMAN SCALZO: Is that it, Mr. McKelvey?

MR. McKELVEY: Yes.

CHAIRMAN SCALZO: Mr. Olympia, any questions?

MR. OLYMPIA: Yes. When was the last second family living on the property? You said

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EMMA GASPARINI

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there was somebody -- there were two families
living on the property?

MS. TORRE: Yes.

MR. OLYMPIA: When was the last -- when
was the property last occupied by two families?

MR. GASPARINI: Since I've owned it.

CHAIRMAN SCALZO: Sir, you're going to
need to step forward and state your name for the
record, please.

MR. GASPARINI: I'm Peter Gasparini.

Since I've owned it it's been rented as
of October `17. 2017.

MR. OLYMPIA: Prior to that do you
know, Mr. Gasparini?

MR. GASPARINI: I have no idea, no. I
have no idea about the house or anything. I have
no idea of the people that lived there. I have no
idea of anything other than my title search and
everything that I did on it.

MR. OLYMPIA: We have received an
e-mail from a neighbor that has voiced some
concerns about the septic system, and the
adequacy of the septic system, and whether or not
there could be a problem with the groundwater and

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EMMA GASPARINI

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feeding into a stream that goes into Chadwick,
which is the Town's source of fresh water. Has
the septic system been tested at all for the
adequacy?

MR. GASPARINI: I've had absolutely no
problems with it. I haven't even had to drain it
out. At this point it's been fine. My tenants all
use Rid-X. Like I said, I haven't had any
problems, and I've had as many as twelve people
living in that house at one period of time. It's
down to six now. In the past, whatever company
and everything -- whatever company comes with
these tenants, I have no idea. I have absolutely
no problem with the septic. There's no dampness
or anything on the outside. Like I said, I used
to have a septic at one time in the other houses
I own. The ones that have septic, I have my
tenants use Rid-X.

MR. OLYMPIA: Thank you.

MR. GASPARINI: Can I say something
about the electric?

CHAIRMAN SCALZO: Certainly.

MR. OLYMPIA: Sure.

MR. GASPARINI: All right. The

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EMMA GASPARINI

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gentleman mentioned there's two poles that go
down to that meter. There's two separate --

MR. MASTEN: There's two meters, one
service coming in.

MR. GASPARINI: I'm sorry, sir. You're
going to have to take another look at that.

MR. MASTEN: I've been there three
times.

MR. GASPARINI: Central Hudson would
have never put on one.

MR. MASTEN: I know.

CHAIRMAN SCALZO: Okay. Mr. Olympia,
anything else?

MR. OLYMPIA: No, thank you.

CHAIRMAN SCALZO: You had mentioned
earlier that the assessor's report indicated that
it was a two-family.

MS. TORRE: Yes.

CHAIRMAN SCALZO: By definition, the
tax assessor evaluates the monetary worth of
multiple properties in an entire neighborhood.
The purpose of their assessment is to determine
how much property tax owners should pay to the
city, county or other municipality in which the

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properties are located. So an assessor is not in the building department.

MS. TORRE: I do understand that. In this specific case, the Building Department actually relied on the assessor's records to support their determination that it's a one-family. It's only fair that this Board consider all the assessor's records, including this 1984 subsequent record that does state differently.

CHAIRMAN SCALZO: I understand that. I understand also that you gave us the property classification cards in your package. What was missing were building permits from 1981 I believe.

It says repair of fire damage to a one-family dwelling.

MS. TORRE: I believe that was the 1975 building permit.

CHAIRMAN SCALZO: That could be. So in 1975 they identified it as a one-family dwelling.

Also, the property cards that you did supply, also all of the sketches, they show the exterior dimensions of the dwelling including the enclosed front porch. There is no back deck shown

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on it. If the access to the building for the secondary apartment was from a back deck or stairs -- I didn't see a ladder there -- it's kind of difficult to assume that.

The other thing is an observation that I made when visiting the site, the access to the second-story apartment. The door is underneath the soffit, which means it appears that if you were to have a door that swung into the apartment, there's no problem at all. You could never have an exterior door because it would hit the roof.

I believe, Mr. Masten, did you mention that you had been in the house and that you had seen --

MR. MASTEN: Years ago.

CHAIRMAN SCALZO: -- that there were an interior set of stairs?

MS. TORRE: I thought he had said that he had spoke with the prior owner. I didn't recall him -- you were actually inside the house?

MR. MASTEN: The gentleman showed me the house.

CHAIRMAN SCALZO: The other issue is in

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your package there is an engineering report, as you call, it from Maser Consulting.

MS. TORRE: Yes.

CHAIRMAN SCALZO: I called Maser and spoke with Corey Robinson, the EIT that prepared the report, and he informed me that his report was based on existing conditions. He said it had been completely renovated and there was no way for him to determine if there had ever been a set of stairs because everything is new. He can not confirm or deny that it was ever there, but his observations were existing conditions. He did not do a pre-renovation report, he only did post.

MS. TORRE: That is correct. I believe his report mentions that it was renovated after that. But his report did find that there was no apparent addition added and that there was no -- that the doors -- both the doors did appear to be original, --

CHAIRMAN SCALZO: Okay.

MS. TORRE: -- which I think are important given the accessways.

CHAIRMAN SCALZO: It may be.

You did mention regarding the -- hang

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on. I have another -- this is from 1975, '76,
which you mentioned was from the original fire.

I have, from 1981, an assessor tax law
assessment.

Rob, just to confirm, that says April
10, 1981?

MR. DICKOVER: Yes.

CHAIRMAN SCALZO: Partial completion
and renovation of fire damage to one-family
house. It was permit number 2981. So in 1981 it
was also recognized as a single-family home.

MS. TORRE: I believe until 1984.
That's when it was changed.

CHAIRMAN SCALZO: Okay. I'm certain
that there are going to be some other issues
brought up when I open this up to the public,
which is going to be now.

MS. TORRE: Certainly.

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

Sir, in the back. Please state your
name for the record.

MR. HERMANCENCE: My name is Greg

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EMMA GASPARINI

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Hermance. I live on 142 Mill Street. I've lived there for my entire life, on that road.

I knew Mr. Herbie Trubenbach. I know that residence to be a single-family dwelling. In fact, my son was babysat there by Karen Trubenbach in, I believe, 2000 is when we had brought him there. That house was a single-family at that point also.

CHAIRMAN SCALZO: So in 2000 you're saying it was a single-family?

MR. HERMANCE: From what I recall. I don't remember any two-family. It was only Herbie, Karen and their daughter living in that residence.

CHAIRMAN SCALZO: So have you been in the home?

MR. HERMANCE: I was in the home to pick up my son. Yes.

CHAIRMAN SCALZO: Mr. Masten had claimed that there was an interior set of stairs. Are you aware if there was or was not?

MR. HERMANCE: There was.

This is my wife, Pamela Hermance. She also was in the home to pick up my son and

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observed it as a single-family home with a set of stairs going up to the second story.

MS. HERMANCE: Yes.

CHAIRMAN SCALZO: Thank you very much.

MR. HERMANCE: Okay. Thank you.

CHAIRMAN SCALZO: You represent that your client also purchased -- it was marketed as a two-family, which I understand.

MS. TORRE: Yes.

CHAIRMAN SCALZO: The internet is a beautiful thing. I did find an old Zillow listing for 125 Mill Street. It states, "Calling all contractors, flippers and investors. Already zoned two-family. Much potential in a great location. Not a short sale or a foreclosure. Second story was never finished. Space ready to be roughed out for renovations." This was from a 2017 listing. I'm just telling you what I found on the internet.

MS. TORRE: I understand.

I don't know if there's anything you have to offer.

It's my understanding that it was -- they purchased it and it was already improved as

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EMMA GASPARINI

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a two-family, that they had made some renovations to both floors, but --

CHAIRMAN SCALZO: Thank you.

MS. TORRE: Do you have anything to add?

CHAIRMAN SCALZO: Additionally --

MR. GASPARINI: It was already roughed out. There was already panel up there.

CHAIRMAN SCALZO: Additionally, through either Bing or Google Maps, I have screenshots from October of 2012 and 2015. The October 2012 and '15 don't show any sidewalk or access, even trampled grass, leading to the back of the house. Between October of 2012 and May of 2015 they did remove the concrete block sidewalk leading to the front and they paved it.

And then also I have another aerial that shows no deck in the back. As part of the package, I do believe the owner indicates that he removed an old deck because it was in poor condition and replaced it. I had found no aerial photography. Historicaerials.com, you can look at a bunch of photos all the way back to the '70s. None of those indicated that a deck was

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EMMA GASPARINI

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ever there. That's what I've got.

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. Mr. Marino?

MR. MARINO: When Mr. Gasparini bought the house in 2017 did he have to have it inspected?

MS. TORRE: Inspected as far as a home inspection or code compliance --

MR. MASTEN: Yes.

MR. GASPARINI: I didn't do a home inspection, no.

MR. MARINO: You didn't do it at all.

And when he signed the papers to buy the house, was it listed as a one-family or a two-family house?

MS. TORRE: It was being marketed as a two-family house.

MR. MARINO: That's what he bought it as?

MS. TORRE: Yes.

CHAIRMAN SCALZO: Marketing is

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EMMA GASPARINI

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determined by a realtor; correct?

MS. TORRE: Yes. They would be the ones that wrote the listing. I don't know how they come to that determination. I'm sure it was a bunch of factors.

MR. MARINO: One other question. He said at one point there were twelve people living in that house. Was that a family? Two families? Was somebody renting out rooms?

MS. TORRE: I believe it was a two-family.

MR. GASPARINI: It was a two-family. It was a mother and a son. The mother had the daughters and the grand kids living with her. The son had a child of his own and he took care of -- he housed the two grandchildren downstairs at sleeping times.

MR. MARINO: They were living in both the upstairs and the downstairs?

MR. GASPARINI: Yes.

MR. MARINO: And paying you rent as a two-family?

MR. GASPARINI: Yes. There was another question you asked.

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EMMA GASPARINI

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MR. MARINO: Yes. They're not renting out rooms there, are they?

MR. GASPARINI: No.

MR. MARINO: Twelve people seem like an awful lot to be living there.

MR. GASPARINI: Like I said, it was two families. It was a mother and a son. That's the way it came. There were quite a few people staying there because they were sharing it with the grandchildren and stuff like that.

MR. MARINO: Okay.

CHAIRMAN SCALZO: Your package produced a half dozen letters regarding the application. The first one is from Ryan Ledoux, the second from Stephanie Warren, George Rivera, Padriac Cioffi. Are any of those folks here that can confirm or support what your claim is as opposed to the people that we've heard from that dispute it?

MS. TORRE: I don't believe so, but I did not specifically ask them to be. If the Board would like to hear from them and wants to hold the hearing open, I could ask them to attend.

CHAIRMAN SCALZO: We may get there

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EMMA GASPARINI

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later.

MS. TORRE: Okay.

CHAIRMAN SCALZO: Sir.

MR. GASPARINI: The other question you asked, I just had it on the tip of my tongue and I can't remember it.

MR. MARINO: About code compliance? Having it inspected? Was that it?

MR. GASPARINI: No. Like I said, I didn't have any code compliances come in to inspect the house, and I didn't have a home inspection.

The other thing was you asked about the County. We went to the Town, your office right here, and the woman looked it up on the County records and on your records and told me it was a two-family house. My title company did the same thing. That's how I looked at it and that's how I took it. The listing and -- the realtor was telling me it was a two-family, everything is legal, everything is fine, so I went and bought it.

CHAIRMAN SCALZO: Sir, you mentioned in earlier testimony that you have other homes that

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EMMA GASPARINI

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you rent out. I don't know if they're in the Town of Newburgh. It doesn't matter. I'm assuming you've made renovations to those homes as well to accommodate whatever you're trying to do for your tenants. It's been batted around here more than once that some major renovations have taken place in the dwelling. Did you get permits for that?

MR. GASPARINI: Nothing was needed. All I did was sheetrock. That was all I did. There was paneling up there. I took the paneling down. The rooms were all divided and everything. I put twelve-foot boards of sheetrock up there. That was all I did. And taped it and painted it. I did no kind of work whatsoever. I did no electrical work other than asking for the meter. They put the meter in and that was it. Central Hudson put the meter in. That was all I did. The whole house was wired by the one meter box downstairs. That was it. That was the extent of my work, sheetrocked and taped. I don't believe you need a permit for that. Like I said, if I would have built a room or something like that, I would have said fine, I need a permit. I didn't need a permit for anything that I did. Everything was

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EMMA GASPARINI

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there, it just needed to be updated a little.

CHAIRMAN SCALZO: As you were still seated you had said it was roughed out.

MR. GASPARINI: Yeah. It was all framed out with paneling on it.

MS. TORRE: So I think that was the -- you had mentioned a listing that you had found on Zillow I think, and -- I forget what the exact wording was. I think that was in response to that.

CHAIRMAN SCALZO: Upstairs unfinished.

MR. GASPARINI: I didn't build one room. I didn't even build a closet. There were walk-in closets there and everything else. The bathroom was there. I had the bathroom painted because it was pink tiles and a blue tub. All I did was paint it because -- actually, to be honest with you, I have a 1941 house and my house had plaster walls, cemented tile. You know how they put the inch of cement.

CHAIRMAN SCALZO: I had seafoam green in my bathroom. I know exactly what you're talking about.

MR. GASPARINI: I broke mine all out

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EMMA GASPARINI

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and remodeled mine. It was so fine, and so perfect, and so exquisite. The only thing it needed was the color had to be changed. A pink and a blue tub don't go together. I have a color glaze guy that paints my tubs and showers.

CHAIRMAN SCALZO: Just so I'm clear, sheetrock and painting cost you \$38,000?

MR. GASPARINI: No. No.

CHAIRMAN SCALZO: I thought that was the investment that you said --

MS. TORRE: It was 18.

CHAIRMAN SCALZO: 18.

MR. GASPARINI: Downstairs I really didn't do nothing but put a living room floor in, because, as you see, it had water damage. A line must have broke.

CHAIRMAN SCALZO: I haven't seen inside the house.

MR. GASPARINI: That was the only thing I did downstairs. I added a couple of cabinets and everything else. All the wood -- the same paneling that is down there was upstairs.

CHAIRMAN SCALZO: Okay. In the engineer's report it states that you replaced the

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EMMA GASPARINI

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deck in the back. When you purchased the home there was a deck there?

MR. GASPARINI: The cement footings were there and everything was there. We had to climb to get up into the back door.

CHAIRMAN SCALZO: Okay. It says, "Mr. Gasparini mentioned that the old deck and stair was rotting and in an unsafe condition so he replaced the wooden stairs for this landing."

MR. McKELVEY: He would need a permit for that, wouldn't he?

CHAIRMAN SCALZO: Okay. I have no other questions for you, sir.

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

(No response.)

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

MR. MASTEN: No.

MR. OLYMPIA: No.

MR. McKELVEY: If he replaced the porch he would need a permit?

CHAIRMAN SCALZO: Yeah. In this case I'm going to look to the Board. If the Board

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feels as though they have enough information regarding this application to close the public hearing and perhaps vote later, then I'll look to the Board for a motion to close the public hearing. If not, I'll look to the Board for a motion to leave it open.

MR. MARINO: I would make the motion that we leave it open and have them come back next month, have the writers of those six letters come in to verify that. If there's any other information we need, we could use the help of someone from the building inspector's office to be here next month. That would be very helpful if they were here.

CHAIRMAN SCALZO: Mr. Marino, you're making a motion?

MR. MARINO: I'll make a motion we do that.

MR. McKELVEY: Would we want to see what he said about the County, too?

CHAIRMAN SCALZO: Well we have a pretty comprehensive package here. You have heard everything we've said this evening. Most notably, it sounds as though Mr. Marino would like to hear

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EMMA GASPARINI

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from the people that gave you the affidavits that claim they've been in the house and there was no set of stairs and it was a two-family.

MS. TORRE: I don't know if that's what the affidavits exactly say.

CHAIRMAN SCALZO: Actually, they were exactly the same. It was fill your name in here with the number of years you lived here and sign the bottom is what it was. We heard testimony from Mr. Hermance in the back there who has been in the house, as well as Mr. Masten who can at least convey the information to us verbally and we can ask them questions, which is very beneficial to the Board in making a determination.

MS. TORRE: Of course. I understand. We can certainly ask. I just can't guarantee that they are going to be around and able to come. I'll certainly try to get them here in order to do so.

CHAIRMAN SCALZO: Okay. We also have -- Siobhan, has this been put online or not, the mail we received?

MS. JABLESNIK: The e-mail we received?

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EMMA GASPARINI

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The one from the woman?

CHAIRMAN SCALZO: Yes.

MS. JABLESNIK: No. I just received that this evening.

CHAIRMAN SCALZO: Will that be posted online --

MS. JABLESNIK: If you would like me to I will.

CHAIRMAN SCALZO: -- as part of the package? Sure.

Mr. Hermance, I do recall we have a letter from him in the file as well I think.

So we have a motion to keep the public hearing open from Mr. Marino.

MR. MCKELVEY: I'll second that.

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

MS. JABLESNIK: Mr. Levin?

MR. LEVIN: Yes.

MS. JABLESNIK: Mr. Marino?

MR. MARINO: Yes.

MS. JABLESNIK: Mr. Masten?

MR. MASTEN: Yes.

MS. JABLESNIK: Mr. McKelvey?

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MR. McKELVEY: Yes.

MS. JABLESNIK: Mr. Olympia?

MR. OLYMPIA: Yes.

MS. JABLESNIK: Mr. Scalzo?

CHAIRMAN SCALZO: Yes.

The public hearing is going to remain open. We'll see you in March. No one will be re-noticed for this application.

MS. TORRE: Will I be able to get a copy of those -- you mentioned a letter and e-mail. Can you send those to me?

MS. JABLESNIK: I'll post them online. You'll be able to get them there.

MS. TORRE: Where will they be?

CHAIRMAN SCALZO: On the Town of Newburgh website in the ZBA files. If you go right to the ZBA -- in the calendar, the Town of Newburgh calendar for meetings.

MS. TORRE: So it will be for next meeting?

MS. JABLESNIK: No. I'll add them tomorrow. You'll see them for this month's meeting. You can go back how ever long you need to.

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MS. TORRE: I just want to make sure we have everything.

MR. DICKOVER: Mr. Chair, I have one request. I heard the applicant say that he got a letter from the title company when he purchased the property. Typically there's a request made of the Building Department to confirm whether or not there are any violations of record. Often times that letter will divulge what the status of the property is. I was hoping to see a copy of it. Perhaps you just handed it to me.

CHAIRMAN SCALZO: Yes, sir. I did.

MS. TORRE: I believe it only says there's no known violations.

CHAIRMAN SCALZO: I do believe that's not based on a field visit either. They just check the files.

MS. TORRE: I understand.

MR. DICKOVER: No violations but no inspection had been performed. The structure was built before certificates of occupancy were required and so there is none on record.

Then I would withdraw my request. The Board seems to have it.

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CHAIRMAN SCALZO: I'm sorry, Rob. I should have showed you that before.

So we'll see you next month.

MS. TORRE: Thank you. Have a good evening.

CHAIRMAN SCALZO: Thank you.

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

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

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

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

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

IN WITNESS WHEREOF, I have hereunto set my hand this 4th day of March 2020.

Michelle Conero

MICHELLE CONERO

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

----- X

In the Matter of

N&N UNION, LLC

1221 Route 300, Newburgh
Section 96; Block 1; Lot 6.2
IB Zone

----- X

Date: February 27, 2020
Time: 7:38 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
PETER OLYMPIA

ALSO PRESENT: ROBERT DICKOVER, ESQ.
SIOBHAN JABLESNIK

APPLICANT'S REPRESENTATIVE: NANCY FORREST

----- X

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

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CHAIRMAN SCALZO: Our next applicant this evening is N&N Union, LLC, 1212 Route 300, seeking an area variance to install, first one, a 35.95 square foot, which is a 10 by 6, ground-mounted menu board; B, a 21 square foot wall sign on the side of the building where there is an existing 92.5 square feet.

Siobhan, mailings on this?

MS. JABLESNIK: This applicant sent out 23 mailings. They were also sent to the County and we have not received notification back.

CHAIRMAN SCALZO: Okay. I don't know if you're aware of what that means.

MS. FORREST: I certainly am. After 43 years, I am.

CHAIRMAN SCALZO: You look familiar. Were you here for Orange County Choppers?

MS. FORREST: Yes, I was. I think my first permit here was 41 years ago.

CHAIRMAN SCALZO: Very good. Even though you look familiar, I still need you to state your name and tell us why you're here.

MS. FORREST: Nancy Forrest and I'm with Global Signs, GNS Group, in Poughkeepsie,

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New York. We not only do the work for N&N but we also do all of the Smoothie Kings in the three-county area.

As you can see by my files, this has been a long, long process and a lot of disruptions along the way.

What it came down to is I finally got all the permits approved for all the stores, including Smoothie King. When you redid the ordinance in, 2018 I believe that was, there was no -- there was no breakout for drive-thru restaurants and businesses. Their site plan was approved for the drive-thru restaurant, and the site plan was approved for the drive-thru lanes going around the building and coming through, and the drive-thru window. When I submitted for the permits I was told by the Building Department that they couldn't issue me any permits because they didn't provide anything in the new ordinance for them to go by or to guide by.

It's pretty much the standard two menu board signs. You have a pre-sale board behind where they pull up and see whatever the specials are, and then you come around the corner, just

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like any McDonald's or Dunkin Donuts or whatever. Their drive-thru is actually responsible for a minimum of 65 percent of the business, so it's imperative that they have one.

Since you don't have anything in the ordinance, I needed to seek a variance to get a sign permit. That's pretty much the story.

CHAIRMAN SCALZO: Okay. For those of you who are here to speak about this application, General Municipal Law 239 prevents the Zoning Board of Appeals from determining or taking action on this application until we give them 30 days minimum to review and comment. We have not received that information back from the County yet, therefore we can not render a determination this evening. That's what you didn't hear before.

That being said, I'm going to look to -- Mr. Olympia, do you have any comments on this applicant?

MR. OLYMPIA: I have none.

CHAIRMAN SCALZO: Mr. McKelvey?

MR. MCKELVEY: No.

CHAIRMAN SCALZO: Mr. Levin?

MR. LEVIN: Nothing.

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CHAIRMAN SCALZO: Mr. Masten?

MR. MASTEN: No.

MR. LEVIN: Is the sign already up?

MS. FORREST: Yes, it is.

CHAIRMAN SCALZO: That's where the order to remedy came from.

MS. FORREST: Yes. I believe the owner of Smoothie King has spoken to the Building Department and -- well, I did as well. I sent an e-mail. I didn't get a call back yet. I was working with Siobhan to put this in. We were asked to put it up because one of the problems they had with all the -- I won't go through back from August when it all started -- is that he had already hired 25 employees. To have to have waited three to four weeks to get open, he would have lost his pool of really good employees that he had because they wouldn't have wanted to wait longer. There were a few reasons why they made the determination to put it up and requested us to install.

CHAIRMAN SCALZO: Lucky for him he found 25 people that are good help. Good help is hard to find.

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MS. FORREST: He's a previous owner of many Planet Fitnesses and such. You know, he knows the importance of that so he starts very early on as far as his employees. He takes good care of his employees.

CHAIRMAN SCALZO: Very good. Thank you. Mr. Marino, anything out of you?

MR. MARINO: The only information on the menu boards will be pertaining to Mr. Smoothie?

MS. FORREST: Just Smoothie King. Nothing else. You'd be amazed at how many smoothies they sell.

MR. MARINO: It may not be ice cream. Isn't there a frosty place right on the other side of the building by Cosimos? A couple of doors down?

CHAIRMAN SCALZO: Sweet Frogs.

MS. FORREST: I think it's a yogurt place.

MR. MARINO: This will not be yogurt? This will be ice cream?

MS. FORREST: This is totally different. This is all health crazy smoothies. He

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N&N UNION, LLC

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has one in Wappingers. When we opened up in Kingston he did over 2,000 smoothies his first day open. Who knew. And you pay \$10 for them.

Now can I ask a question?

CHAIRMAN SCALZO: Certainly.

MS. FORREST: I've done this before, and I don't know if your Board does that. I've done it in some of the other towns, that I get a consensus of the Board prior to the County but you can't issue it to me, keeping me from having to come back for another meeting if the County comes back and says it's a matter of local determination?

CHAIRMAN SCALZO: I am not aware that we do that.

MS. FORREST: Some do, some don't.

CHAIRMAN SCALZO: I've been on the Board six years and I've never done it. Mr. McKelvey here, he's got six years plus.

MR. McKELVEY: I've never heard of that.

MS. FORREST: It's kind of like a contingency.

MR. McKELVEY: We have to wait for the

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N&N UNION, LLC

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County.

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

(No response.)

CHAIRMAN SCALZO: If you're nervous about it, you'll be able to talk about it next month.

Thank you very much.

MS. FORREST: March --

MS. JABLESNIK: 26th.

CHAIRMAN SCALZO: March 26th.

MS. FORREST: Thank you.

CHAIRMAN SCALZO: A motion to continue is what it was. All in favor?

MR. LEVIN: Aye.

MR. MARINO: Aye.

MR. MASTEN: Aye.

MR. McKELVEY: Aye.

MR. OLYMPIA: Aye.

CHAIRMAN SCALZO: Aye.

Thank you.

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

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

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

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

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

IN WITNESS WHEREOF, I have hereunto
set my hand this 4th day of March 2020.

Michelle Conero

MICHELLE CONERO

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

----- X
In the Matter of

JOSEPH COLOSI

388 Frozen Ridge Road, Newburgh
Section 6; Block 1; Lot 51.2
AR Zone

----- X

Date: February 27, 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
PETER OLYMPIA

ALSO PRESENT: ROBERT DICKOVER, ESQ.
SIOBHAN JABLESNIK

APPLICANT'S REPRESENTATIVE: JOHN COLOSI

----- X

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JOSEPH COLOSI

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CHAIRMAN SCALZO: The next applicant is John Colosi, 388 Frozen Ridge Road, Newburgh, seeking an area variance of the maximum height and maximum square footage to build a 1,500 square foot accessory building.

Siobhan, mailings?

MS. JABLESNIK: This applicant sent out 35 mailings.

CHAIRMAN SCALZO: 35 mailings. You're the winner so far.

So if you could introduce yourself and tell us what it is you're looking for.

MR. COLOSI: My name is John Colosi. I own the property at 388 Frozen Ridge Road. I retired. I'm moving up from New Jersey with 63 years worth of living.

The 7 foot by 8, the doors of the garage on the house, are too small to accommodate my personal belongings. I wanted -- I was hoping to put up a storage garage just for my personal belongings. My main intent is to keep things neat, organized, under cover and out of sight. That was my main rationale for doing this.

I have a 4.5 acre parcel of land. The

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front yard setback will be over 270 feet from the front yard setback line. The closest to any property line on the property is greater than 80 feet.

The garage will be -- it's actually smaller than the house. The house has more square footage and it's higher. I have chosen colors that reflect with the house, so it should blend in nicely with the house.

I have a neighbor two doors down, where I got the idea from, who has a garage from the same manufacturer. It's of similar dimension to what I want to build. I'm hoping to be able to do it.

CHAIRMAN SCALZO: Okay. As I look at the information from Code Compliance, and having read the application, the maximum building height is 15 feet. You're proposing 23.16, seeking a height variance of 8.16. It says it includes your cupola. How tall is the cupola?

MR. COLOSI: The actual building I believe is 20. The cupola is another 3 feet on top of that. As I said, it's actually going to be lower than the house. The house is almost -- it's

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JOSEPH COLOSI

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a two-story house. The garage is going to be lower in stature than the house. Yet at 23 feet -- I thought the cupola would help make it look more like a farm-like building in a rural setting. I thought -- it's solely for aesthetics.

CHAIRMAN SCALZO: Correct. I understand that.

The other issue, too, is do you have electric out there?

MR. COLOSI: There is electric on the house.

CHAIRMAN SCALZO: Are you going to have electric in the garage?

MR. COLOSI: I might want to put some lights in. There's not going to be any plumbing, no insulation. It's cold storage. As I said, I haven't gotten approval for the garage yet so I haven't even thought about it. It would be kind of nice to be able to go in at night and turn the lights on.

CHAIRMAN SCALZO: That makes sense. We struggle with sizable structures like this, especially with the heights. Some of our concerns may lead to somebody would end up finishing off

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JOSEPH COLOSI

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say a top floor. Without architectural drawings for this, we don't know what type of structure you're looking to build here.

MR. COLOSI: I submitted architectural drawings. I have them with me if you want to take a quick glance at them. There was at least one set of architectural drawings when I submitted the proposal. If you'd like to take a quick look, I have them with me.

CHAIRMAN SCALZO: I didn't get a chance to --

MS. JABLESNIK: The Building Department possibly. It's not in our application.

MR. COLOSI: What I was requested to submit for this meeting is what I gave you. I do have -- it's got three 12-foot by 12-foot doors in the front, a side door on the side, a side window on the side facing my house. The other two walls have no windows.

CHAIRMAN SCALZO: Are there an interior set of stairs in there?

MR. COLOSI: No. I have a picture of my neighbor's garage if you want to take a look.

CHAIRMAN SCALZO: You say you have

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JOSEPH COLOSI

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architectural drawings with you as well, sir?

MR. COLOSI: I can, yeah. If I had known I would have made more copies of these. Can I come up?

CHAIRMAN SCALZO: Please.

MR. COLOSI: These are the architectural drawings. This is my neighbor's garage. It's the same manufacturer.

I don't think you can put a second floor on this.

CHAIRMAN SCALZO: As I'm looking at this, it doesn't appear that way. The floor to cap is 20 feet, 2 inches.

MR. LEVIN: On the neighbor's?

CHAIRMAN SCALZO: No, no. On the proposed.

MR. COLOSI: It's pretty much a traditional pole building. I don't believe you could put a second floor on something like that. I've got 12-foot doors in the front, so there's only a few feet from the top of the building to the peak of the house -- the garage.

CHAIRMAN SCALZO: It's difficult to digest something like this as we're sitting here.

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JOSEPH COLOSI

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I just want -- I could pass these back and forth to you gentlemen but it's difficult to understand.

MR. COLOSI: The difference between his and mine, mine has three doors. His looks like 9 by 9. Mine are 12 by 12. The garage would be very, very similar. It's the same manufacturer.

MR. McKELVEY: Are you going to store vehicles in there?

MR. COLOSI: I have a truck that I'm bringing from New Jersey that I would hope not to leave it rot outside. I retired. My business pretty much closed down effective December of last year. These are things that I have acquired over my lifetime. As I said, my intent is neat, organized, under cover and out of sight. I mean there are other properties near me where things are just all over the place. I'm trying not to do that to my neighbors.

CHAIRMAN SCALZO: I completely understand.

MR. McKELVEY: It really won't be seen from the road.

MR. COLOSI: It's over 270 feet back

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JOSEPH COLOSI

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from the road and more than 80 feet to the
nearest property line.

CHAIRMAN SCALZO: Additionally, your
lot is 4.5 acres in size?

MR. COLOSI: The property is 4.5 acres.

CHAIRMAN SCALZO: I have no other
questions in this case.

I'll look down to the other end.

MR. OLYMPIA: I think it's a nice
addition to the property. It does not have a
visual impact to your neighbors. He's got a lot
here that certainly can accommodate it. I think
he's trying to do something to improve his
property, and I think it will.

CHAIRMAN SCALZO: Very good.

Mr. McKelvey?

MR. MCKELVEY: No.

CHAIRMAN SCALZO: Mr. Levin?

MR. LEVIN: No.

CHAIRMAN SCALZO: Mr. Masten?

MR. MASTEN: I have nothing.

CHAIRMAN SCALZO: Mr. Marino?

MR. MARINO: No.

CHAIRMAN SCALZO: Is there anybody here

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JOSEPH COLOSI

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from the public to speak about this application?

(No response.)

CHAIRMAN SCALZO: It looks like
nothing.

Back to the Board for one last
opportunity?

(No response.)

CHAIRMAN SCALZO: I will look to the
Board for a motion.

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

MR. MASTEN: I'll second it.

CHAIRMAN SCALZO: We have a motion to
close the public hearing from Mr. McKelvey. We
have a second from Mr. Masten. Roll call.

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?

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JOSEPH COLOSI

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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 but may take up to 62 days.

MR. COLOSI: Do you want me to wait?

CHAIRMAN SCALZO: That's entirely up to you. If you decide to stick around, because these meetings are so interesting, you can.

MR. COLOSI: I don't have anything else to do.

CHAIRMAN SCALZO: You may hear it tonight. If not, you can call Siobhan in the morning and she will tell you what happened.

MR. COLOSI: Thank you very much. I appreciate your time.

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

(Time resumed: 8:58 p.m.)

CHAIRMAN SCALZO: We're going to open it back up here. Hearing applications in the order heard, Arthur Fowler was deferred to next month. Emma Gasparini was left open. N&N Union, LLC, Smoothie King, we could not vote on due to

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JOSEPH COLOSI

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the GML-239.

So that brings us to John Colosi, 388 Frozen Ridge Road, seeking an area variance of maximum height and maximum square footage to build a 1,500 square foot accessory building.

This is a Type 2 action under SEQRA. Is that correct?

MR. DICKOVER: Yes.

CHAIRMAN SCALZO: We have reviewed the application which also included the short form EAF.

MR. DICKOVER: It did. Based upon that, the Board has no further compliance requirements for SEQRA.

CHAIRMAN SCALZO: Thank you very much.

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

MR. MARINO: I don't think so.

MR. MASTEN: I don't think so.

CHAIRMAN SCALZO: Unless he didn't do

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JOSEPH COLOSI

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it.

The second, if there's an undesirable change in the neighborhood character or a detriment to nearby properties. Well we had testimony and saw photographs of a very similar structure in his neighborhood. So I would say no.

MR. OLYMPIA: The answer is no.

CHAIRMAN SCALZO: Pardon me, Peter?

MR. OLYMPIA: The answer is no.

CHAIRMAN SCALZO: Thank you.

The third, whether the request is substantial. Well he has a 4.5 acre lot. There's lots of room there. I would say it's substantial as far as the code goes for square footage. However, in relation to the lot size I would say no.

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

MR. MARINO: No.

MR. MASTEN: No.

MR. LEVIN: No.

MR. McKELVEY: No.

MR. OLYMPIA: No.

CHAIRMAN SCALZO: I would say no as

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JOSEPH COLOSI

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well.

The fifth, whether the alleged difficulty is self-created. This is relevant but not determinative. Of course it's self-created. There's nothing there now. He desires to put up a new structure. However, I don't believe it's bad enough to turn this down.

I'd look to the Board for a motion.

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

MR. MARINO: Second.

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

MS. JABLESNIK: Mr. Levin?

MR. LEVIN: Yes.

MS. JABLESNIK: Mr. Marino?

MR. MARINO: Yes.

MS. JABLESNIK: Mr. Masten?

MR. MASTEN: Yes.

MS. JABLESNIK: Mr. McKelvey?

MR. MCKELVEY: Yes.

MS. JABLESNIK: Mr. Olympia?

MR. OLYMPIA: Yes.

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JOSEPH COLOSI

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MS. JABLESNIK: Mr. Scalzo?

CHAIRMAN SCALZO: Yes.

Motion carried. The variance is approved.

Good luck, sir.

MR. COLOSI: Thank you.

(Time noted: 9:01 p.m.)

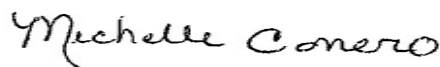
C E R T I F I C A T I O N

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

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

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

IN WITNESS WHEREOF, I have hereunto set my hand this 4th day of March 2020.



MICHELLE CONERO

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

----- X
In the Matter of

JOSE ROJAS

13 Linda Drive, Newburgh
Section 25; Block 7; Lot 6
R-1 Zone

----- X

Date: February 27, 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
PETER OLYMPIA

ALSO PRESENT: ROBERT DICKOVER, ESQ.
SIOBHAN JABLESNIK

APPLICANT'S REPRESENTATIVE: GLENN BYRON

----- X

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

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JOSE ROJAS

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CHAIRMAN SCALZO: Our next applicant this evening is Jose Rojas, 13 Linda Drive in Newburgh, seeking an area variance of the front yard, because he has two front yards, to build a 26 by 12 rear deck.

Siobhan, mailings?

MS. JABLESNIK: This applicant sent out 36 mailings.

CHAIRMAN SCALZO: So that is the winner. Very good.

If you could introduce yourself.

MR. BYRON: Good evening, Members of the Board. And Siobhan, nice to see you again. My name is Glenn Byron from Craftsman Construction. We're the contractor of record that submitted the building permit for the deck. I'm here today to talk about the request for an area variance for the property.

As you mentioned earlier, there are two front yards. The front of the house faces Linda Drive and the rear of the house faces River Road. However, the shape of the property is more like a panhandle. The furthest point to River Road is about 250 feet. However, the closest property

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line to the rear of the house is less than 40 feet. We're asking for a 35 foot area variance from that part of the property line.

The hardship that we're addressing is the egress from the rear of the house. There are two egress points out of the house, one is the ground floor door that leads out onto the patio from a family room. The second door is about 9 feet from grade -- above grade level. It's an egress from the kitchen and dining room area, the main activity center of the house, and it lets out onto a deck that is approximately 30 years old and is in very poor condition. It's falling apart basically.

The homeowner that I'm here representing would like to remove the existing deck and replace it with a brand new deck with new composite materials. Much, much nicer to look as well.

The request for the area variance is to have a setback, instead of being 50 feet, be 35 feet, which accommodates both the projection of the deck out 12 feet as well as the staircase leading down from the new deck to the backyard

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JOSE ROJAS

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area.

I'd also like to mention that the Zoning Board had previously approved the variance on the swimming pool for the same property, so therefore this should be something that should be under consideration.

CHAIRMAN SCALZO: Thank you. I actually called Siobhan the other day because I thought we would have captured the deck. From the application it appears the new deck that you're proposing is actually smaller than the deck that you're tearing down.

MR. BYRON: Yes, it is.

CHAIRMAN SCALZO: I can't believe we didn't catch that in the last one.

I don't have any questions at all because you're now actually decreasing what has been there.

Mr. Marino?

MR. MARINO: It's a beautiful setting. Great location.

CHAIRMAN SCALZO: Absolutely. Mr. Masten?

MR. MASTEN: It's a great setting. When

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JOSE ROJAS

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I was there two Red Tail Hawks flew down past me like to say you don't belong here. As I said, it's a nice piece of property there.

MR. BYRON: Million dollar view.

CHAIRMAN SCALZO: Mr. Levin?

MR. LEVIN: I think it will be a nice improvement to the house.

CHAIRMAN SCALZO: Mr. McKelvey?

MR. MCKELVEY: It's a nice setting.

CHAIRMAN SCALZO: Mr. Olympia?

Did you climb up the hill to look at this one?

MR. OLYMPIA: Pardon me?

CHAIRMAN SCALZO: Did you climb up the hill? It's around the corner from you.

MR. OLYMPIA: It's around the corner.

MR. BYRON: There's a severe drop off at the end there.

CHAIRMAN SCALZO: I have no other comments.

Is there anybody here from the public that wants to speak about this application?

(No response.)

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

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JOSE ROJAS

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

MR. MARINO: Second.

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

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 render a determination this evening.

MR. BYRON: Thank you.

(Time noted: 7:57 p.m.)

(Time resumed: 9:01 p.m.)

CHAIRMAN SCALZO: The next applicant

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JOSE ROJAS

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was Jose Rojas, 14 Linda Drive, Newburgh, seeking an area variance in the front yard, because he has two front yards, to build a 26 by 12 rear deck.

This is also a Type 2 action under SEQRA.

The application did include a short form EAF which we have reviewed as well.

Correct, Counselor?

MR. DICKOVER: Yes. Pursuant to that, the Board's SEQRA compliance has been resolved. No further action needs to be taken.

CHAIRMAN SCALZO: Thank you.

Therefore we'll go through the criteria, the five factors to weigh. The first one being whether or not the benefit can be achieved by other means feasible to the applicant. The deck is in poor condition as it exists. It might even be a safety issue.

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

MR. MARINO: No.

MR. MASTEN: No.

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JOSE ROJAS

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MR. LEVIN: No.

MR. McKELVEY: No.

MR. OLYMPIA: No.

CHAIRMAN SCALZO: The third, whether the request is substantial. I would say no because the deck is going to actually be smaller than the deck that's existing.

The fourth, whether the request will have adverse physical or environmental effects. I would say no.

The fifth, whether the alleged difficulty is self-created, relevant but not determinative. I would say in this case -- well he could do nothing. Do nothing or replace with a smaller, nicer, more sturdy structure. So I'm good.

Having gone through the balancing test of the area variance, what is the pleasure of the Board?

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

MR. MASTEN: I'll second it.

CHAIRMAN SCALZO: Mr. McKelvey and then Mr. Masten. Roll call.

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JOSE ROJAS

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MS. JABLESNIK: Mr. Levin?

MR. LEVIN: Yes.

MS. JABLESNIK: Mr. Marino?

MR. MARINO: Yes.

MS. JABLESNIK: Mr. Masten?

MR. MASTEN: Yes.

MS. JABLESNIK: Mr. McKelvey?

MR. MCKELVEY: Yes.

MS. JABLESNIK: Mr. Olympia?

MR. OLYMPIA: Yes.

MS. JABLESNIK: Mr. Scalzo?

CHAIRMAN SCALZO: Yes.

The motion carried. The variance is
approved.

(Time noted: 9:03 p.m.)

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

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

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

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

IN WITNESS WHEREOF, I have hereunto
set my hand this 4th day of March 2020.

Michelle Conero

MICHELLE CONERO

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TOWN OF NEWBURGH ZONING BOARD OF APPEALS
----- X

In the Matter of

BARBARA THOMAS

36 Lancer Drive, Newburgh
Section 57; Block 5; Lot 19
R-2 Zone

----- X

Date: February 27, 2020
Time: 7:57 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
PETER OLYMPIA

ALSO PRESENT: ROBERT DICKOVER, ESQ.
SIOBHAN JABLESNIK

APPLICANT'S REPRESENTATIVE: CHARLES BROWN

----- X

MICHELLE L. CONERO
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CHAIRMAN SCALZO: Our next application is Barbara Thomas, 36 Lancer Drive in Newburgh, seeking an area variance of maximum square footage allowed to install a 1,008 square foot accessory building.

Siobhan, mailings on this one?

MS. JABLESNIK: 72 mailings.

CHAIRMAN SCALZO: I figured as much. That's in Meadow Hill. It's kind of hard to not be surrounded by everything.

Sir, if you could introduce yourself and tell us why we're here.

MR. BROWN: I'm Charles Brown, the engineer for the applicant.

They're proposing to remove a shed and install a garage with an overhang that totals 1,008 square feet, making the total amount of accessory structures 1,588.

This is a small lot up in Meadow Hill. It's got 15-foot side yard setbacks. The house is also small. Based upon the formula here in the Town Code, we would only be permitted 390 square feet. We're under the height. We're under the lot coverage. The only variance we're requesting

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BARBARA THOMAS

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is for the area of accessories structures.

It is well back on the lot, so it's screened pretty well.

CHAIRMAN SCALZO: Surprisingly so. I agree with you. I was there the other day. I startled the homeowner. It is, for Meadow Hill, surprisingly secluded in there.

I'm looking to hear from the members of the audience on this one. I'm going to pass to my left and to my right.

Charlie, what I did is I got a Google aerial shot of it. It captured quite a bit of the area. Listen, everybody needs a garage. I wish mine was bigger. It appears from the aerial photo that this is going to be the biggest garage in this entire photo. I don't even see anything half that size in this. Regarding the character of the neighborhood, that's a tough one. I don't want to ask you what you're looking -- how far you would reduce or, you know, you roll the dice on this one. It's substantial for that neighborhood.

MR. BROWN: The overhang, if that was changed to an awning, would that still be considered coverage?

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BARBARA THOMAS

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CHAIRMAN SCALZO: I don't know. We don't have Code Compliance here.

MR. BROWN: My client is willing to go down to 24 by 24 and put a removable awning on it. That would put us under the 1,000 square feet, I believe, total.

CHAIRMAN SCALZO: Currently the proposed size is?

MR. BROWN: 1,008, plus there's another 140 foot.

CHAIRMAN SCALZO: Just exterior. I'm sorry.

MR. McKELVEY: You're saying you're going to remove a shed?

MR. BROWN: Two sheds. One is called a fabric structure and the other is a shed.

CHAIRMAN SCALZO: The shed that we all walked past to get a look at where the garage is going, that's proposed to remain?

MR. BROWN: Yes.

CHAIRMAN SCALZO: I got you. Michelle, we were nodding is what we were doing. She can't record that.

MR. THOMAS: I understand.

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BARBARA THOMAS

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CHAIRMAN SCALZO: You've heard what my
comments are.

Mr. Olympia, do you have any comments?

MR. OLYMPIA: I have know none.

CHAIRMAN SCALZO: Mr. McKelvey?

MR. MCKELVEY: I just made mine.

CHAIRMAN SCALZO: Which comment was
that, sir? Could you repeat it?

MR. MCKELVEY: Remove the shed.

CHAIRMAN SCALZO: Thank you. Mr. Levin?

MR. LEVIN: You're cutting it down to
what, Charlie?

CHAIRMAN SCALZO: The offer is to cut
it down to 24 by 24,

MR. BROWN: 24 by 24 with an operable
awning. The total square footage would then be
under 1,000.

CHAIRMAN SCALZO: So the proposed
overhang is now going to be a retractable awning.
Is that what you're saying?

MR. BROWN: Yes.

CHAIRMAN SCALZO: Almost like a patio?

MR. BROWN: Yes.

CHAIRMAN SCALZO: Mr. Masten, any

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BARBARA THOMAS

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questions?

MR. MASTEN: I have nothing.

CHAIRMAN SCALZO: Mr. Marino, any questions?

MR. MARINO: Charlie, the new building you're putting up is going to be where those two, I'll call it prefab buildings are with the tarp? They're going -- the new building is going there?

MR. BROWN: No. It's going in the back right corner. Straight in line with the property.

MR. MARINO: There's a building there now much more attractive looking. I'm sure it's on your property, not the house next door.

MR. BROWN: You're talking about the 10 by 14 shed?

CHAIRMAN SCALZO: Just identify yourself, sir, if you could.

MR. THOMAS: I'm Charles Thomas, husband of my wife who is the applicant.

You called me -- if I'm not mistaken, you called me last week. I spoke to you on the phone.

MR. MARINO: Right.

MR. THOMAS: In the back of the

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BARBARA THOMAS

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property there's an area that was leveled out.
That's where the garage is going to go.

MR. MARINO: Right. I remember now.
Thank you.

MR. THOMAS: Okay.

CHAIRMAN SCALZO: Charlie, if you
could, just help me out so I understand a little
better. On your plan there's a moveable gazebo as
well as a temporary canopy tent. Both of those
are proposed to be removed?

MR. BROWN: Yes. These two over here to
the right -- to the left. Sorry. To the left.

CHAIRMAN SCALZO: Removed, not
relocated; correct?

MR. BROWN: Removed off site.

MR. THOMAS: If and when the garage
gets built. They're full of stuff right now.

MR. BROWN: The stuff from those
buildings is going into the proposed garage.

CHAIRMAN SCALZO: I see on the plan
here it says proposed garage, no electric.

MR. BROWN: Correct.

CHAIRMAN SCALZO: The applicant that
was here just before you was looking forward to

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BARBARA THOMAS

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going out at night and flipping a switch so he could see what was going on. You don't want to do that?

MR. THOMAS: At this time we're not putting any electric in the building. At the time when we decide to go with electric, we will apply for the proper permits to put the electric in.

CHAIRMAN SCALZO: Thank you. At this point I'm going to open it up to any members of the public that would like to speak about this application or ask any questions about this application.

MR. BUCHHEIT: I have some questions.

CHAIRMAN SCALZO: Sir, state your name.

MR. BUCHHEIT: Rich Buchheit, 30 Lancer Drive.

Obviously they changed the game a little bit since I got the notification.

CHAIRMAN SCALZO: That just happened here.

MR. BUCHHEIT: Okay. I didn't know.

CHAIRMAN SCALZO: And please allow me just for a second. We try to visit -- we visit every site and we evaluate the character of the

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BARBARA THOMAS

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neighborhood based on the applications. That was -- you heard my first comment, that that's pretty big for this area.

MR. BUCHHEIT: No doubt.

CHAIRMAN SCALZO: Let me allow you to continue.

MR. BUCHHEIT: So there were a couple things. What was the building going to be used for? I mean a 36 by 24 building is probably almost short of the house size that's there by a few feet.

CHAIRMAN SCALZO: 36, yes.

Actually Charlie, if you don't mind, I only see one overhead door. Will the other be an access --

MR. BROWN: A man door. Yes.

CHAIRMAN SCALZO: So there will only be one garage door on this garage.

MR. BUCHHEIT: Okay. What's it going to be used for? It's going to be a garage?

MS. THOMAS: A car and storage.

MR. THOMAS: Maybe one car and storage.

MR. BUCHHEIT: How high is it going to be?

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BARBARA THOMAS

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MR. THOMAS: Less than 15 feet. 14 feet.

CHAIRMAN SCALZO: They're not looking for a variance for height.

MS. THOMAS: We can't go higher.

MR. BUCHHEIT: What I'd seen of the application is that there's going to be water and sewer with this facility.

MR. THOMAS: No.

MS. THOMAS: No.

CHAIRMAN SCALZO: Charlie?

MR. BROWN: The lot is currently served by water and sewer. That means the house. Water and sewer are not going to be hooked up to this garage.

CHAIRMAN SCALZO: Nor electric.

MR. BUCHHEIT: I seen the no electric. I kind of -- I seen the water and sewer. I thought it was -- "Will it be proposed to connect to an existing water supply?" It says, "Yes."

MR. THOMAS: The house is.

CHAIRMAN SCALZO: Hang on. You're making a good point here. The application may need to be modified.

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BARBARA THOMAS

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MR. BUCHHEIT: Number 11 says the same thing. Is this your application?

MR. BROWN: That's the EAF, environmental assessment form.

MR. BUCHHEIT: You said yes to will the proposed action connect to an existing public or private water supply.

MR. BROWN: Okay.

MR. BUCHHEIT: And then you put wastewater utilities and yes. I'm seeing no electric. I'm saying -- not that I'm here to do your job, but it doesn't make any sense. When I seen this I'm saying something doesn't sound right here.

MR. BROWN: No water and sewer to the garage.

CHAIRMAN SCALZO: So as part of the public record, at this point that's recorded into the minutes that the short form EAF had some inaccuracies as far as check boxes go.

Is that correct, Charlie?

MR. BROWN: Yes.

MR. DICKOVER: We'll amend question number 10.

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CHAIRMAN SCALZO: Thank you. We will deem as amended question 10, "Will the proposed action connect to an existing public or private water supply?" The answer shall be switched over to the "No."

MR. BUCHHEIT: That's it. I mean if it's going to be storage.

We've got a couple things going on in Meadow Hill. We have somebody that's running a junkyard on Lancer Drive right now. I was concerned that a building goes up and then -- whatever their purpose is now I'm okay with, but then the building gets sold and there's a machine shop in there, there's cars lined up and somebody fixing cars and stuff like that. I've been there for 32 years, so I need to protect my assets.

CHAIRMAN SCALZO: I understand you completely. With regard to that, we can only -- we don't see the future here. Should you see activities that are -- typically if somebody is running a business out of there, that's when you call Code Compliance or Code Enforcement. They should take care of that.

MR. BUCHHEIT: We've got somebody up

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BARBARA THOMAS

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the street that's running a junkyard out of his house and nothing's happened with that yet. At any rate, I'm not here for that.

CHAIRMAN SCALZO: Any other comments, sir?

MR. BUCHHEIT: I'm good.

CHAIRMAN SCALZO: Thank you very much. Do you think if they reduced from a 36 to a 24 by 24 now, do you think that's reasonable?

MR. BUCHHEIT: I think it's reasonable. I mean it's not -- there were some issues, obviously, with my neighbor where -- I mean the place is a mess when you do the excavation. Sorry to say. I mean there's mud all over the street. In the back apparently there was a problem with the guy cutting trees. That's not my problem, it's his. You have to be careful when you do the construction. You won't affect me. I hope you don't.

CHAIRMAN SCALZO: They certainly should pay attention to erosion and sediment control for any future activities on the lot. When I was there I didn't see that, but, you know --

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BARBARA THOMAS

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MR. BUCHHEIT: It was all washed away by then. Okay. I'm fine.

CHAIRMAN SCALZO: Thank you.

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

MR. CECERE: Steven Cecere, 44 Lancer Drive. I'm four or five houses south. I'm down from where you are.

My only concern is its impact, if any, on drainage. You mentioned erosion. I don't know if -- it's going to be in the corner of the property. Everything is sloping down. Where I live I'm sloped down from you. It seems in recent years, maybe because we've had an increase in precipitation, there seems to be, not a constant flow but heavy rains bring sediment and streams in the back of our properties. The adjacent properties.

MR. THOMAS: It starts up at the corner by his house.

MR. CECERE: I don't know where it starts from. I've been in touch with the water company a couple of times. They've come out to visit and I've never gotten an explanation.

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BARBARA THOMAS

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CHAIRMAN SCALZO: This is the best form for you to get a good idea of what's going to happen. It's also a good form for you to ask if you plan on having gutters and leaders on this garage, and, if so, which way are they going to point?

MR. THOMAS: They're going to point towards the front. Towards the street.

CHAIRMAN SCALZO: Is the desire for the drainage to run down the driveway to the street?

MR. THOMAS: To spread out into the gravel driveway.

MR. CECERE: As long as I have an understanding that it's going into the street --

MR. THOMAS: Towards the street.
Towards the street.

MS. THOMAS: It'll soak in.

MR. CECERE: You'll have additional drainage pipes put in?

MS. THOMAS: We have one there.

CHAIRMAN SCALZO: You're talking overland flow?

MR. McKELVEY: It's a gravel driveway.

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CHAIRMAN SCALZO: Gravel is pervious. The hope is, you know, call it the first flush actually gets absorbed. Anything after that -- Charlie, you can help me out with this. Certain year storms, then you're going to have --

MR. BROWN: I'm sorry. What was the question?

CHAIRMAN SCALZO: He's just worried about -- typically in a rainstorm, the first bit of rain gets absorbed into the ground. There is no overland flow.

MR. BROWN: Correct.

MR. CECERE: I just want to make sure we're not going to see a pond or a lake start forming in the backyard.

CHAIRMAN SCALZO: We're hoping it's going to be properly drained, the site. Graded to not drain onto any neighbors' properties. Correct?

MR. THOMAS: Yeah. Yes.

MS. THOMAS: Professionals are doing it.

MR. CECERE: All right. Thank you.

CHAIRMAN SCALZO: I'll ask you as I

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BARBARA THOMAS

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asked the other fellow that was standing here before. You're aware the offer is to reduce the size from a 24 by 36 to a 24 by 24. So it's going to be smaller. It's one full bay smaller.

MR. CECERE: Like this gentleman here, I didn't know what they were building. It seemed like an awfully large addition to the area.

CHAIRMAN SCALZO: It's a garage, as you heard.

MR. CECERE: I heard. I don't have a problem with that. My problem is more -- it's back off the road. I'm not going to see it from where I am. Many other people are not going to see it.

I'm just making sure that the flow is not going to have a tremendous impact on the rest of the households.

A 24 by 24 is okay by me.

CHAIRMAN SCALZO: Very good. Thank you, sir.

MR. CECERE: Thank you.

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

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BARBARA THOMAS

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(No response.)

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

(No response.)

CHAIRMAN SCALZO: No. All right then I'll look to the Board for a motion.

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

MR. McKELVEY: I'll second.

CHAIRMAN SCALZO: We have a motion to close the hearing from Mr. Masten. We have a second from Mr. McKelvey. Roll call.

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.

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The public hearing is closed. We'll do our best to render a determination this evening but may take up to 62 days.

You can stick around or you can call Siobhan tomorrow.

(Time noted: 8:15 p.m.)

(Time resumed: 9:03 p.m.)

CHAIRMAN SCALZO: Our next applicant is Barbara Thomas, 36 Lancer Drive, Newburgh, seeking an area variance of the maximum square footage allowed to install an accessory building. The accessory building will no longer be the size it was in the application. The proposed new structure will be 24 by 36, which is 864 square feet. So that would be definitely much less than the 1,008 square feet.

Included in their application package, Board Members, was the short form EAF which we have all reviewed.

It's a Type 2 action under SEQRA. That is correct, Counselor?

MR. DICKOVER: It is. No further environmental review is required.

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CHAIRMAN SCALZO: Thank you. Therefore, weighing the criteria, the first one being whether or not the benefit can be achieved by other means feasible to the applicant. Of course they could not do it. It's nice to have a garage.

The second, if there's an undesirable change to the neighborhood character or a detriment to nearby properties. We heard testimony from two separate individuals that did not feel as though the character of the neighborhood would change.

Third, whether the request is substantial. Well the request is substantial, however the request is also reduced in size from the initial application.

MR. LEVIN: Yes.

CHAIRMAN SCALZO: The fourth, whether the request will have adverse physical or environmental effects. One of the applicants, or one of the -- some of the testimony that we heard was there was a drainage concern. However, the applicant's engineer and the owner agreed that the drainage would not be an issue due to proper grading.

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The fifth, whether the alleged difficulty is self-created. This is relevant but not determinative. Of course it's self-created.

All right. If the Board approves, it shall grant the minimum variance necessary -- which we have indicated the application has changed from initially submitted -- and we can impose reasonable conditions.

Having gone through the balancing test, does the Board have a motion of some sort?

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

MR. McKELVEY: I'll second.

MR. DICKOVER: Mr. Chair, before you move on, would you consider the imposition of a condition that the grading be done in accordance so that the drainage drains away from the neighboring properties?

CHAIRMAN SCALZO: Yes, Counselor. That is a wonderful statement. If we can incorporate that into the decision.

MR. DICKOVER: Will do.

CHAIRMAN SCALZO: Very good.

We have a motion from Mr. Marino. We

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BARBARA THOMAS

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had a second, I thought it was from Mr. McKelvey.
Roll call.

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 is
approved.

(Time noted: 9:07 p.m.)

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

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

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

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

IN WITNESS WHEREOF, I have hereunto
set my hand this 4th day of March 2020.

Michelle Conero

MICHELLE CONERO

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

----- X
In the Matter of

PARKWAY COFFEE, LLC
(READY COFFEE)

59 North Plank Road, Newburgh
Section 76; Block 4; Lot 3
B Zone

----- X

Date: February 27, 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
PETER OLYMPIA

ALSO PRESENT: ROBERT DICKOVER, ESQ.
SIOBHAN JABLESNIK

APPLICANT'S REPRESENTATIVE: MICHAEL BERTA

----- X

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

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CHAIRMAN SCALZO: Our next applicant is Parkway Coffee, LLC, 59 North Plank Road, Newburgh, seeking area variances for minimum front yard, minimum side yard and maximum surface coverage for this project.

Siobhan, mailings?

MS. JABLESNIK: This applicant sent out 71 -- no. 72.

MR. BERTA: I thought it was 78. We were hoping for the record.

MS. JABLESNIK: You were almost the winner.

CHAIRMAN SCALZO: Sir, when you get a chance to introduce yourself, tell us what you want to do. I happened to be at a Planning Board meeting a month ago, so I heard your presentation. These Board Members did not.

MR. BERTA: I was going to say then can I go home.

Good evening. My name is Michael Berta, I'm an associate with the architectural firm of Lothrop Associates. We're representing the applicant.

What we are doing is we're adding a

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little over 500 square foot drive-thru with a walk-up coffee shop to the existing plaza on North Plank Road.

Our building happens to be in compliance with all the setbacks required. What we're here for tonight is really to talk about some of the existing conditions and the existing nonconforming lot.

The only issue that we are creating is we're looking for a reduction in the amount of parking. If you were at the Planning Board, at the February 6th meeting, you would have -- during that meeting the traffic consultant needed -- Parkway Coffee did a traffic study, submitted it to the Planning Board, and the traffic consultant went through it and said that the reduction in parking that we're looking for on the lot he agrees with. He concurs that it will have no significant impact on the plaza. He cited in his report that currently the plaza is 60 to 80 percent underutilized. So with regard to parking, the Planning Board representative, or consultant I believe, submitted his -- the Planning Board was going to submit the transcript

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over.

CHAIRMAN SCALZO: We probably got that.
If not, it's online. We can certainly see it.

MR. BERTA: As for the setbacks that
we're asking for, the original building was built
in 1966 and in 1970 they put the addition on,
what was formerly the Rite Aid. The variances
that we're looking for are for that building.

CHAIRMAN SCALZO: Not for the new
construction?

MR. BERTA: Not for the new
construction.

CHAIRMAN SCALZO: The variances are
looking for pre-existing nonconforming
conditions.

MR. BERTA: Correct.

With regard to the new building; if
you'll notice, we've actually lowered the amount
of impervious surface. Right now the entire --
pretty much the entire property is blacktop. When
we put our building in, as you can see by the map
here -- let me just flip this over for a second.
As you can see by the larger scale there, the
green. Now that we're removing the blacktop and

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providing grass, we actually lowered the amount of impervious by slightly over 4,000 square feet. Even though we're putting a new building in and new access roads around, we're actually reducing the amount of impervious surface by putting our building in.

CHAIRMAN SCALZO: Thank you very much. I like the environmental givebacks. That's great.

Mr. Marino, do you have any comments?

MR. MARINO: What's the reduction in the parking you mentioned? From what number to a lower number?

MR. BERTA: We're going down another 20 -- I believe it's from 302 to 274.

MR. MARINO: Where will the parking be located? Is it on the west side?

MR. BERTA: I mean the entire parking lot is pretty much -- the entire site right now is pretty much parking lot. Where our building is going, the spots we're using are there. It's an outbuilding on the site.

If you'll notice by the map, if I may. Currently all of this area here is considered parking as in the count. So by us putting a

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building there, we're removing roughly 27 parking spaces, 28 parking spaces, by putting our building in, as well as reducing the amount of impervious surface. So parking is in front of -- it's currently in front of the existing shopping center as well as down the side of it. As you can see down in the lower left, you can see the parking goes down what was the side of the Rite Aid.

MR. MARINO: There's no drive-thru on the back side of the building?

MR. BERTA: The drive-thru is on the side of the building, as you can see here.

Basically what will happen is the cars will come in off of North Plank, come in in here. We've adjusted it based on the traffic consultant's request from the Planning Board that we have 5 spots here. So our drive-thru is here. We have a walk-up window on this side of it. They do get walk-ups. Some people want to get out of their car and stretch their legs.

CHAIRMAN SCALZO: Just for the Members of the Board, the referral letter from the Planning Board gave us five items to consider.

1
2 The first two items had to do with front and side
3 yards which are on the existing building that's
4 there, the old Big Lots, the old Rite Aid, a pre-
5 existing nonconforming condition.

6 The third was maximum impervious
7 surface coverage. I'm assuming that was prior to
8 your development, which you're actually
9 decreasing.

10 MR. BERTA: Correct.

11 CHAIRMAN SCALZO: Therefore the other
12 one that you're discussing now is the 274 spaces
13 where 301 is required. However, if you've ever
14 been through that lot, as Ken Wersted from
15 Creighton, Manning indicated, the lot is only 60
16 percent utilized at this point.

17 The signage is something -- that was
18 the fifth element. That is yet to be determined,
19 so you may be back.

20 MR. BERTA: I was going to talk about
21 that. We didn't have it on our application. I
22 wanted to discuss it with you tonight. I
23 understand we need to go through Jerry Canfield.
24 As we were listening earlier with Smoothie King,
25 we wanted to at least have a discussion about our

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menu board, which is much smaller than what they're asking for.

CHAIRMAN SCALZO: You can present it. If you're looking for input or advice from us, that's something we can't dispense.

MR. BERTA: The signs on our building right now are compliant. We're allowed 32 square feet for all sides. Our building is 16 by 32. On the front of the building you're allowed 2 square feet per linear foot, so 32 square feet. All of our signs that will be attached to the building are compliant. We have a 38 by 26 freestanding menu board.

CHAIRMAN SCALZO: 16 by 32, that's the footprint of your building?

MR. BERTA: Yes.

CHAIRMAN SCALZO: That's small. Great. Okay.

MR. BERTA: Like I said, it's compact. They have it to a point that the average wait time is roughly about a minute for you to get your cup of coffee and go. It's not a pot that's sitting there. Every cup is made to order, but yet they still get you out in roughly about a

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minute.

CHAIRMAN SCALZO: Very good.

Mr. Masten?

MR. MASTEN: Nothing.

CHAIRMAN SCALZO: Mr. Levin?

MR. LEVIN: I thought it was interesting, your competition in the printouts that we just got. If you feel you have competition.

MR. BERTA: Everybody has competition. Competition is good.

MR. LEVIN: You're right.

MR. BERTA: We make a superior product and we don't have to worry.

CHAIRMAN SCALZO: Mr. McKelvey?

MR. MCKELVEY: This is just coffee; right?

MR. BERTA: Coffee, espresso. They bring pastries in but nothing is made there.

CHAIRMAN SCALZO: No baking on the premises?

MR. BERTA: No baking on the premises.

CHAIRMAN SCALZO: Mr. Olympia?

MR. OLYMPIA: There's egress back out

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onto Gardnertown Road?

MR. BERTA: Yes. Gardnertown Road is a one-way road going from Gidney to 32. We do have access there. Currently right now, if you've been over there, almost that entire side on Gardnertown Road is wide open. Part of our application is we are creating, as you'll notice, a small turnaround. We're doing that more for deliveries. Also for the walk-ups. We have one handicap spot closer to the building plus two additional spots. Our thought is by having that access, any delivery vans can pull into the parking lot, park there so they are out of the way of the parking lot, as well as we are creating green. We are closing that down.

As you'll also notice, we're creating a sidewalk from our property out to 32.

CHAIRMAN SCALZO: That's what I recall from the Planning Board meeting.

MR. BERTA: The other sidewalk we are adding also will be from the corner of Gardnertown to the current pilon sign on 32.

CHAIRMAN SCALZO: Thank you.

Mr. Olympia, anything else?

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MR. OLYMPIA: No. I'm fine.

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

(No response.)

CHAIRMAN SCALZO: Hearing none, I will say that we did receive correspondence on this one. A woman was concerned about the drainage possibly crossing New York State Route 32 and sitting down at the bottom of -- I can't recall the name of the street across from there.

MR. BERTA: I can tell you that per New York State law that would never be allowed to happen. There are a number of catch basins on site -- on the property. We will be tying in any drainage to them. We will make sure, as we can not allow any drainage to come off of our property, we will collect it.

CHAIRMAN SCALZO: And again, you're decreasing the impervious surfaces.

MR. BERTA: We're putting more O2 back into the air.

CHAIRMAN SCALZO: Very good. All right.

Are there any members of the public

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PARKWAY COFFEE, LLC

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here about this application?

(No response.)

CHAIRMAN SCALZO: I'll look to the Board for one last?

MR. MARINO: Will you be cutting down or devastating any land or are you leaving the trees up that are there?

MR. BERTA: We're not touching anything. All we're doing is devastating blacktop.

MR. MARINO: No trees are going to be cut down?

MR. BERTA: We're going to be adding trees. We're adding plantings. Currently right now, if you looked at the site, if you're familiar with it, it's a sea of -- they just actually coated it, so it's a sea of very dark blacktop. We are going to be removing, like I said, forgetting about the building, 4,000 square feet of that blacktop to put grass. We are going to be putting some plantings in. It will be landscaped. I guess the thing is there are no trees that we'll be touching in that area.

MR. MARINO: That's good.

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

MR. LEVIN: I'll make a motion.

CHAIRMAN SCALZO: To close the public hearing?

MR. LEVIN: To close the public hearing.

MR. OLYMPIA: I'll second it.

CHAIRMAN SCALZO: We have a motion from Mr. Levin and a second from Mr. Olympia.

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.

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MR. BERTA: See you next month.

CHAIRMAN SCALZO: You can stick around and hear what we have to say later or you can call Siobhan in the morning.

MR. BERTA: I'll call Siobhan in the morning.

MR. DICKOVER: Mr. Chairman, before the applicant's representative leaves, can you tell us how the Planning Board is handling SEQRA up until this point?

MR. BERTA: As of right now they haven't made a determination.

MR. DICKOVER: Have they declared?

MR. BERTA: No.

MR. DICKOVER: Thank you.

MR. BERTA: If I may, we did get the conditional approval from that meeting to move forward.

MR. DICKOVER: Just for our records, this will be an Unlisted action. You will need to take a quick look at the EAF that's been presented and make an environmental determination. It would be as an uncoordinated review.

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CHAIRMAN SCALZO: Very good.

MR. BERTA: Just if I may. The EAF that you guys have, it's the same one I submitted to the Planning Board.

CHAIRMAN SCALZO: Thank you.

(Time noted: 8:34 p.m.)

(Time resumed: 9:07 p.m.)

CHAIRMAN SCALZO: Parkway Coffee we can not hear this evening. We did close the public hearing. However, I was erroneous in not mentioning we had not heard back from the County for the GML-239. Therefore, while the public hearing is closed, we need to wait the required 30 days for the County to weigh in. We will hear that next month.

(Time noted: 9:08 p.m.)

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

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

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

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

IN WITNESS WHEREOF, I have hereunto
set my hand this 4th day of March 2020.

Michelle Conero

MICHELLE CONERO

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

----- X

In the Matter of

CORINNE SMITH

14 Francis Street, Newburgh
Section 27; Block 3; Lot 12
R-3 Zone

----- X

Date: February 27, 2020
Time: 8:34 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
PETER OLYMPIA

ALSO PRESENT: ROBERT DICKOVER, ESQ.
SIOBHAN JABLESNIK

APPLICANT'S REPRESENTATIVE: TIMOTHY DEXTER

----- X

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

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CORRINE SMITH

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CHAIRMAN SCALZO: Our next applicant this evening is Corinne Smith, 14 Francis Street in Newburgh, seeking an area variance to increase the degree of nonconformity of the rear yard to construct a pitched roof over the existing flat roof of the master bedroom.

Mailings, Siobhan?

MS. JABLESNIK: 53 mailings.

CHAIRMAN SCALZO: If you could tell us who you are and what you want to do.

MR. DEXTER: Good evening. My name is Tim Dexter, I'm with Hudson View Construction. With me tonight is Arthur Glynn, the owner of Hudson View Construction, and the owner of the property, Ms. Corinne Smith.

Ms. Smith purchased the property and hired us to do some renovations to the building, including taking -- there's a main portion of the house which has a pitched roof and then there's a two-car garage that's connected to this master bedroom area with a low pitched roof. Part of our plan was to increase the pitch of the roof, both for aesthetics and the flat roof was obviously

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CORRINE SMITH

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leaking.

When we modified our application to the Building Department, we were informed that the existing property was a pre-existing nonconforming building and that by raising this roof it would increase the nonconformity. We're not adding any additional square footage. We are not putting any additions on. We're not changing the footprint at all. It's just we're raising the roof. In the end, in our opinion, it's going to make it much more attractive. Functionally it will be much better because now we'll have a pitched roof and be able to tie in the opposing gables from the two-car garage and the house itself.

CHAIRMAN SCALZO: Thank you. Was it formerly a breezeway I'm assuming?

MR. DEXTER: I don't know if it was. At one point it probably was connected. When we purchased it -- when Ms. Smith purchased it it was a completely finished master bedroom, hardwood floors and all that.

CHAIRMAN SCALZO: Got you. I don't have any questions. I saw it myself. I imagine with

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CORRINE SMITH

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the pitched roof it's going to help you with the snow loads. I have no questions.

Mr. Olympia?

MR. OLYMPIA: I have no questions.

CHAIRMAN SCALZO: Mr. McKelvey?

MR. MCKELVEY: No questions.

CHAIRMAN SCALZO: Mr. Levin?

MR. LEVIN: I agree with you, the pitched roof would be better.

CHAIRMAN SCALZO: Mr. Masten?

MR. MASTEN: No.

CHAIRMAN SCALZO: Mr. Marino?

MR. MARINO: No.

CHAIRMAN SCALZO: This is easy. Is there anyone here from the public to speak about this applicant?

MS. SMITH: Can I say one thing as the owner? Just a quick thing.

CHAIRMAN SCALZO: You're doing really well.

MS. SMITH: I'm Corinne Smith, the owner. The only thing I wanted to request is I have lived in the Town of Newburgh and had homes for most of my life. One of my joys is buying,

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CORRINE SMITH

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and renovating, and making things more beautiful when I leave.

In this case, the reason I'm moving where I am is I have a daughter who is just a few minutes away and I have a special needs grandson who has issues, has problems. I tried to time the sale of my house with this renovation project so that it would make life easier. As I'm getting older, running back and forth, back and forth to help my daughter has been a problem. Now there have been so many delays with this. All I'm really asking is that when you make your decision here, that maybe it could be as quick and as efficient as possible, respecting the job that you do, so that I don't have to have -- my closing is off already from the time it took to get to this, so I won't be living out of storage and have to move two times instead of once. So I'm just really asking for the process to move as much as is possible in what you do.

CHAIRMAN SCALZO: I completely understand that. What we can do in this case is once we come to a determination this evening, which looks like -- I haven't heard anything

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CORRINE SMITH

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opposing this action. What you can do is tomorrow you can give Siobhan a call, see how we ended up, unless you want to stick around to the end of the night. At that point she can turn you on to Joe Mattina who may be able to get things started for you.

MS. SMITH: Thank you.

CHAIRMAN SCALZO: Is there anyone here else from the public who wants to speak about this application?

MR. HAIGHT: I'll stick my two cents in. I'm the old timer on the block now. I live at 15 Francis Street.

CHAIRMAN SCALZO: I know you. They don't. You have to state your name.

MR. HAIGHT: For Corinne here, anything that the Board can do would be certainly appreciated. What they've done with the home -- the previous neighbor was a Marine vet. He died of cancer after serving in Vietnam. She was able to acquire the house and is doing some nice things with this. Whatever you can do for her would be appreciated.

CHAIRMAN SCALZO: Michelle, just for

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CORRINE SMITH

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the record, that gentleman's name is Bill Haight.

I've got nothing else. Is there anyone from the public here to speak about this application?

(No response.)

CHAIRMAN SCALZO: Anything else from the Board?

(No response.)

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

MR. MASTEN: I'll make a motion.

CHAIRMAN SCALZO: To close the public hearing from Mr. Masten.

MR. LEVIN: I'll second.

CHAIRMAN SCALZO: A second from Mr. Levin. Roll call.

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.

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CORRINE SMITH

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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.

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

(Time resumed: 9:08 p.m.)

CHAIRMAN SCALZO: Next is Corinne Smith, 14 Francis Street, Newburgh, seeking an area variance to increase the degree of nonconformity of the rear yard to construct a pitched roof over the existing flat roof of the master bedroom.

Members of the Zoning Board of Appeals, included in your package was a short form environmental assessment form which -- Counselor, is everything in order?

MR. DICKOVER: It's a Type 2 action. No further environmental review is required.

CHAIRMAN SCALZO: Thank you.

Moving through the criteria. Whether or not the benefit can be achieved by other means

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CORRINE SMITH

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feasible to the applicant. Currently we were informed that there's a leaky roof, and this would also remedy that situation.

Second, if there's an undesirable change in the neighborhood character or a detriment to nearby properties. I do believe we heard testimony indicating support for the project.

MR. LEVIN: Yes.

CHAIRMAN SCALZO: The third, whether the request is substantial. There is going to be absolutely no change to the footprint of the dwelling. All they're doing is raising the roof. Therefore, I think it's not substantial.

The fourth, whether the request will have adverse physical or environmental effects. I don't believe it will.

MR. LEVIN: No.

MR. MARINO: No.

MR. MASTEN: No.

MR. McKELVEY: No.

MR. OLYMPIA: No.

CHAIRMAN SCALZO: The fifth, whether the alleged difficulty is self-created. This is

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CORRINE SMITH

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relevant but not determinative. The applicant purchased the home in that condition with the flat roof. In my opinion, I don't believe this is a self-created issue. They're trying to remedy it.

Therefore, does the Board have a motion of some sort?

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

MR. OLYMPIA: I'll second.

CHAIRMAN SCALZO: We have a motion for approval from Mr. Masten. We have a second from Mr. Olympia.

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?

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CORRINE SMITH

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CHAIRMAN SCALZO: Yes.

The motion is carried. The variances are approved.

Give Siobhan a call in the morning and she will direct you to Mr. Mattina. You might be able to get started very quickly.

(Time noted: 9:10 p.m.)

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

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

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

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

IN WITNESS WHEREOF, I have hereunto set my hand this 4th day of March 2020.

Michelle Conero

MICHELLE CONERO

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

----- X

In the Matter of

DANIEL GASPERINI & EMILY LUCAS

362 Frozen Ridge Road, Newburgh
Section 17; Block 4; Lot 7
R-2 Zone

----- X

Date: February 27, 2020
Time: 8:43 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
PETER OLYMPIA

ALSO PRESENT: ROBERT DICKOVER, ESQ.
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

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CHAIRMAN SCALZO: Actually, we have a holdover. Did we close the public hearing for Daniel Gasperini and Emily Lucas? Did we hear back from the County?

MS. JABLESNIK: We actually have not heard back from the County.

CHAIRMAN SCALZO: But it's over thirty days.

MS. JABLESNIK: It's over thirty days.

MR. DICKOVER: You are free to act.

CHAIRMAN SCALZO: We are free to act. We did not close the public hearing; correct?

MS. JABLESNIK: I took out my other paperwork. I think we left it open because of the County, yes.

CHAIRMAN SCALZO: Absolutely. So we have Daniel Gasperini and Emily Lucas, 362 Fostertown Road, seeking area variances of maximum building height, maximum solar height and square footage to install ground -- it's not actually ground mounted. Solar installed on the top of a carport. So we're going to have to change that later. Solar on an accessory structure in the front yard.

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At the last meeting I had asked for some information, which was provided.

MR. GOTTSCHALK: Yes, it was.

CHAIRMAN SCALZO: I've got to take a look at that.

MR. GOTTSCHALK: Distance from the road I believe. Right?

CHAIRMAN SCALZO: Yup. Perpendicular distances from the road is what I was looking for.

MR. GOTTSCHALK: I tried to highlight it for you.

CHAIRMAN SCALZO: I see that. In that case, that has answered all of my questions.

Members of the Board? Does anybody else have any other questions? I don't know if you folks recall what I was asking for. It was a single sheet in our package.

So while the other Members of the ZBA are looking at that map, I'll open it up to any members of the public that want to speak about this application?

(No response.)

CHAIRMAN SCALZO: Hearing none, I'm

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going to look back to the Board.

MR. MARINO: No.

MR. MASTEN: No.

CHAIRMAN SCALZO: I've got nothing.

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

MR. OLYMPIA: I'll move.

MR. McKELVEY: I'll second it.

CHAIRMAN SCALZO: Peter Olympia made
the motion. Mr. McKelvey seconded.

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 take care of this tonight.

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MR. GOTTSCHALK: Thank you very much.

CHAIRMAN SCALZO: Thank you.

Before proceeding, the Board is going to take a short adjournment to confer with Counsel regarding legal questions raised by 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 back in very shortly.

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

(Time resumed: 9:10 p.m.)

CHAIRMAN SCALZO: Our final for the evening is Daniel Gasperini and Emily Lucas, 362 Fostertown Road, Newburgh, seeking area variances for maximum building height, maximum solar height and square footage to install roof-mounted solar on an accessory structure in a front yard.

Keep in mind, folks, this is a front yard because it's on a corner. It has two street frontages, therefore it's considered two fronts.

This is an Unlisted?

MR. DICKOVER: It's a Type 2. They're seeking area variances.

CHAIRMAN SCALZO: Gentlemen, in your

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packages there was a short form environmental assessment form which we have all reviewed.

Counselor?

MR. DICKOVER: This would appear to be a Type 2 action in that it seeks an area variance for a single-family, two-family or three-family residence. Therefore, by the definition of this Type 2 action, no further environmental review is required.

CHAIRMAN SCALZO: Thank you, Counselor.

All right. Discussing the factors here, the first one being whether or not the benefit can be achieved by other means feasible to the applicant. Just not do it. The solar, as Mr. Marino pointed out, is going to be a great teaching point for the children across the street.

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

MR. LEVIN: I don't believe there is.

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

MR. LEVIN: I don't think so.

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CHAIRMAN SCALZO: Fourth, whether the request will have adverse physical or environmental effects. Actually we think it's going to be a benefit to the environment.

The fifth, whether the alleged difficulty is self-created. Of course it is. However, it's solar. They're saving energy.

Having gone through the balancing test, does the Board have a motion of some sort?

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

MR. MARINO: Second.

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

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?

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MR. OLYMPIA: Yes.

MS. JABLESNIK: Mr. Scalzo?

CHAIRMAN SCALZO: Yes.

Motion carried. The variance is approved.

MR. GOTTSCHALK: Thank you very much.

MR. DICKOVER: Mr. Chairman, on that application the record should reflect a referral was made to the County Planning Department pursuant to 239-M of the General Municipal Law. The time to receive a reply has timed out and no letter has been received.

CHAIRMAN SCALZO: Thank you, Counselor.

MS. JABLESNIK: Now your application goes back to the Building Department for Mr. Mattina to review. As long as you're not missing anything else -- I don't know if you guys handed in stamped plans for the solar or what else it is that he is requiring. You'll hear from him, if not tomorrow, by early next week.

MR. GOTTSCHALK: Thank you very much.

CHAIRMAN SCALZO: Good luck.

(Time noted: 9:12 p.m.)

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

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

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

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

IN WITNESS WHEREOF, I have hereunto
set my hand this 4th day of March 2020.

Michelle Conero

MICHELLE CONERO

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

----- X

In the Matter of

WILLIAM HOLMES

38 Laurie Lane, Newburgh
Section 40; Block 2; Lot 8
R-3 Zone

----- X

Date: February 27, 2020
Time: 9:12 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
PETER OLYMPIA

ALSO PRESENT: ROBERT DICKOVER, ESQ.
SIOBHAN JABLESNIK

----- X

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

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CHAIRMAN SCALZO: The last thing on the agenda, other Board business, it does not appear on your agenda. We got a letter for 38 Laurie Lane, from William Holmes, writing to request an extension on application 19-0186. Their six months is up and they are just -- they have not started yet. They're looking for an extension. I personally have no issue with that.

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

CHAIRMAN SCALZO: We have a motion to extend from Mr. McKelvey. Do we have a second?

MR. MASTEN: I'll second it.

CHAIRMAN SCALZO: A second from Mr. Masten. Roll call on that one.

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.

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WILLIAM HOLMES

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MS. JABLESNIK: Mr. Olympia?

MR. OLYMPIA: Yes.

MS. JABLESNIK: Mr. Scalzo?

CHAIRMAN SCALZO: Hold one moment.

We're going to amend the motion here. Do we have
-- is there a standard extension? Is it three
months, six months?

Siobhan, you're in the office. What do
you typically see?

MS. JABLESNIK: I was always told it
was six months.

CHAIRMAN SCALZO: Okay. Six months it
is.

MR. DICKOVER: The date would be six
months from the current expiration date.

CHAIRMAN SCALZO: One extension.

MS. JABLESNIK: And they only get one.
Right?

CHAIRMAN SCALZO: So re-polling.

MS. JABLESNIK: Mr. Levin?

MR. LEVIN: Yes.

MS. JABLESNIK: Mr. Marino?

MR. MARINO: Yes.

MS. JABLESNIK: Mr. Masten?

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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 only other thing, folks, is did you get a chance to look at the meeting minutes for the January meeting? If so, may I have a motion to approve the minutes from the January meeting?

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

MR. MASTEN: I'll second it.

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

MR. LEVIN: Aye.

MR. MARINO: Aye.

MR. MASTEN: Aye.

MR. MCKELVEY: Aye.

MR. OLYMPIA: Aye.

CHAIRMAN SCALZO: Aye.

There's no other Board business. Can I

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WILLIAM HOLMES

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have a motion to adjourn?

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

MR. MARINO: Second.

CHAIRMAN SCALZO: Motion from Mr.
Masten. Second from Mr. Marino. All in favor?

MR. LEVIN: Aye.

MR. MARINO: Aye.

MR. MASTEN: Aye.

MR. McKELVEY: Aye.

MR. OLYMPIA: Aye.

CHAIRMAN SCALZO: Aye.

(Time noted: 9:15 p.m.)

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

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

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

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

IN WITNESS WHEREOF, I have hereunto
set my hand this 4th day of March 2020.

Michelle Conero

MICHELLE CONERO