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

THOMAS & CATHERINE McELLIGOTT
492 Lakeside Road, Newburgh
Section 14; Block 3; Lot 12
R-1 Zone

----- X

Date: May 22, 2025
Time: 7:00 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, New York

BOARD MEMBERS: DARRELL BELL, Acting Chairman
LATWAN BANKS
JAMES EBERHART, JR.
GREGORY M. HERMANCE
JOHN MASTEN
DONNA REIN

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

APPLICANT'S REPRESENTATIVE: THOMAS McELLIGOTT

----- X

MICHELLE L. CONERO
Court Reporter
Michelleconero@hotmail.com
(845) 541-4163

2 MR. BELL: I would like to call the
3 meeting of the ZBA to order. The
4 procedure of this Board is that the
5 applicants will be called upon to step
6 forward, state your request and explain
7 why your variance request should be
8 granted. The Board will then ask the
9 applicant any questions that it may have.
10 Any questions or comments from the public
11 will also be entertained. The Board will
12 then consider the applications in the
13 order they are heard. We'll try to make
14 a decision this evening, but we have up
15 to 62 days to reach a determination.

16 I would like to ask that if anybody
17 has a cellphone, if they would turn it
18 off or put it on silent. When speaking,
19 if you would speak into the mic because
20 it's being recorded.

21 Roll call, please.

22 MS. JABLESNIK: Latwan Banks.

23 MS. BANKS: Present.

24 MS. JABLESNIK: Darrell Bell.

25 MR. BELL: Present.

2 MS. JABLESNIK: James Eberhart.

3 MR. EBERHART: Present.

4 MS. JABLESNIK: Greg Hermance.

5 MR. HERMANCE: Present.

6 MS. JABLESNIK: John Masten.

7 MR. MASTEN: Here.

8 MS. JABLESNIK: Donna Rein.

9 MS. REIN: Here.

10 MS. JABLESNIK: Our Chairman this
11 evening is absent, Darrin Scalzo. Also
12 present is our Attorney, Dave Donovan;
13 from Code Compliance, Joseph Mattina; and
14 our Stenographer tonight is Michelle
15 Conero.

16 MR. BELL: If we could all stand
17 for the Pledge of Allegiance.

18 (Pledge of Allegiance.)

19 MR. BELL: The first applicant is
20 Thomas and Catherine McElligott for an
21 area variance of the minimum front yard
22 setback and increasing the degree of
23 nonconformity of the combined side yards
24 to build a new porch and side deck.

25 Siobhan, how many letters were sent

2 out?

3 MS. JABLESNIK: This applicant
4 mailed out 18 letters.

5 MR. BELL: Sir, ma'am, if you could
6 step forward. Who is going to speak on
7 behalf of this application?

8 MR. McELLIGOTT: Sure.

9 MR. BELL: If you could speak into
10 the mic and give us your name.

11 MR. McELLIGOTT: Good evening. My
12 name is Thomas McElligott. The
13 application in front of you, as you
14 mentioned, is for -- we have an existing
15 deck in the front of the house that we
16 need to replace, and we have a back
17 stairwell which needs to be replaced. We
18 want to put a deck there as well. Really
19 it's two decks, one on the side and one
20 on the front, but going slightly a bit
21 longer past where we are today and
22 actually having an overhang.

23 MR. BELL: Okay. Is there anything
24 else that you'd like to add?

25 MR. McELLIGOTT: It's not going

2 further out than it is today. The
3 existing deck, as it is today, is exactly
4 the same distance from the road.

5 MS. REIN: That's on the back.
6 Correct?

7 MR. McELLIGOTT: On the front. The
8 one on the front.

9 MR. BELL: The porch. His front
10 porch.

11 I'm going to start down to my
12 right. Ms. Banks, do you have any
13 questions?

14 MS. BANKS: I don't.

15 MR. BELL: Mr. Eberhart.

16 MR. EBERHART: No questions.

17 MR. BELL: Greg.

18 MR. HERMANC: No. It's pretty
19 straightforward.

20 MR. MASTEN: I'm good.

21 MR. BELL: Donna.

22 MS. REIN: I'm good.

23 MR. BELL: At this time is there
24 anybody from the public that wishes to
25 speak on this application? If you do,

come forward.

(No response.)

MR. BELL: None.

Okay. Can we have a motion to close the public hearing.

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

MR. MASTEN: I'll second it.

MR. BELL: We've got a motion by Mr. Eberhart and a second by John. All in favor.

MS. BANKS: Aye.

MR. EBERHART: Aye.

MR. HERMANCE: Aye.

MR. BELL: Aye.

MR. MASTEN: Aye.

MS. REIN: Aye.

MR. DONOVAN: This is a Type 2 action under SEQRA, Mr. Chairman.

MR. BELL: We're going to go through the five factors, the first one being whether or not the benefit can be achieved by any other means feasible to the applicant.

2 MS. REIN: No.

3 MR. BELL: Okay. The second, is
4 there an undesirable change in the
5 neighborhood character or a detriment to
6 nearby properties.

7 MS. BANKS: No.

8 MR. EBERHART: No.

9 MR. HERMANCE: No.

10 MR. BELL: No.

11 MR. MASTEN: No.

12 MS. REIN: No.

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

15 MR. HERMANCE: No.

16 MR. BELL: It's not.

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

20 MS. BANKS: No.

21 MR. EBERHART: No.

22 MR. HERMANCE: No.

23 MR. MASTEN: No.

24 MS. REIN: No.

25 MR. BELL: Okay. And the fifth is

2 whether the alleged difficulty is self-
3 created, which it is. It's relative but
4 not determinative.

5 With that said, do we have a motion
6 from the Board?

7 MS. REIN: I'll make a motion to
8 approve.

9 MR. MASTEN: I'll second it.

10 MR. BELL: We have a motion from
11 Ms. Rein and we have a second from
12 Mr. Masten.

13 Can you roll call, Siobhan.

14 MS. JABLESNIK: Ms. Banks.

15 MS. BANKS: Yes.

16 MS. JABLESNIK: Mr. Eberhart.

17 MR. EBERHART: Yes.

18 MS. JABLESNIK: Mr. Hermance.

19 MR. HERMANCE: Yes.

20 MS. JABLESNIK: Mr. Masten.

21 MR. MASTEN: Yes.

22 MS. JABLESNIK: Ms. Rein.

23 MS. REIN: Yes.

24 MS. JABLESNIK: Mr. Bell.

25 MR. BELL: Yes.

2 MR. BELL: It passed. Good luck.

3 MR. McELLIGOTT: Thank you very
4 much.

5

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

7

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

9

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

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

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

20 IN WITNESS WHEREOF, I have hereunto
21 set my hand this 5th day of June 2025.

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Michelle Conero

MICHELLE CONERO

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

LAUREN HAIMELIN CARTER
7 Cathy Drive, Newburgh
Section 73; Block 12; Lot 5
R-3 Zone

----- X

Date: May 22, 2025
Time: 7:07 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, New York

BOARD MEMBERS: DARRELL BELL, Acting Chairman
LATWAN BANKS
JAMES EBERHART, JR.
GREGORY M. HERMANCE
JOHN MASTEN
DONNA REIN

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

APPLICANT'S REPRESENTATIVE: LAUREN HAIMELIN CARTER

----- X

MICHELLE L. CONERO
Court Reporter
Michelleconero@hotmail.com
(845) 541-4163

2 MR. BELL: The second one is Lauren
3 Haimelin Carter at 7 Cathy Drive in
4 Newburgh, an area variance of the front
5 yard to install a new 12 x 22 prefabbed
6 shed and to keep a 10 x 10 prefabbed shed
7 that was placed by the previous owner.

8 If you would state your name,
9 please.

10 MS. HAIMELIN CARTER: Good evening.
11 Lauren Haimelin Carter.

12 I'd like to put in a tool shed on
13 the side yard, which is technically the
14 front yard because we have a curve.

15 MR. BELL: Okay. You do have an
16 existing shed that's in the back. You
17 want to keep that shed that's already
18 there. Where are you looking to put the
19 other shed? Is it going to be on the
20 tree side?

21 MS. HAIMELIN CARTER: Yup. Just to
22 the right of it, because there's no space
23 in the back. It's a hill and then it's
24 too close to the house everywhere else.
25 It will just go to the right of the

2 existing shed.

3 MR. BELL: Everyone on this Board
4 is obligated -- I failed to mention this
5 in the beginning. Everybody on the Board
6 is obligated to go out and do a site
7 visit for themselves.

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

10 MS. REIN: I'm good.

11 MR. BELL: Mr. Masten.

12 MR. MASTEN: I'm good.

13 MR. BELL: Mr. Hermance.

14 MR. HERMANCE: I saw other sheds in
15 the neighborhood, so it wouldn't be out
16 of character.

17 MR. BELL: Mr. Eberhart.

18 MR. EBERHART: I'm good.

19 MR. BELL: Ms. Banks.

20 MS. BANKS: No.

21 MR. DONOVAN: Mr. Chairman, just
22 one question.

23 I know this is a handwritten
24 submission you made. Do they touch or do
25 they not? It's a heavy magic marker. I

2 wanted to clarify.

3 MS. HAIMELIN CARTER: No, they
4 would not touch.

5 MR. DONOVAN: If I could ask Code
6 Compliance, is there any minimum
7 separation, Joe, for the two accessory
8 structures?

9 MR. MATTINA: Not for accessory
10 buildings. Just from the dwelling.

11 MR. BELL: When I walked by today,
12 it seemed to be 5 feet from your property
13 line, or a little bit more from your
14 property line.

15 MS. HAIMELIN CARTER: It's 5 feet.
16 If you're looking at the house, it's 5
17 feet off the side and it's like 7 or 8
18 feet off the back, or 10 or 12 feet off
19 the back. I did a full workup measuring
20 when I planned it out.

21 MR. BELL: Is there anyone from the
22 public that wishes to speak on this
23 application?

24 (No response.)

25 MR. BELL: None.

2 MR. MATTINA: I want to make sure.
3 There are two applications here. Both
4 sheds are applying for variances.

5 MR. DONOVAN: Correct. So the
6 application is to allow what we call the
7 prior built shed, because it didn't have
8 a permit, to stay and for the new. I
9 think that's understood by the Board.
10 Excellent point to bring out.

11 MS. JABLESNIK: Usually I do A, B.

12 MR. MATTINA: I just wanted to make
13 sure.

14 MS. JABLESNIK: That's my fault.

15 MR. DONOVAN: This is a Type 2
16 action under SEQRA, Mr. Chairman.

17 MR. BELL: At this time we'll make
18 a motion to close the public hearing.

19 MR. EBERHART: I'll make a motion
20 to close the public hearing.

21 MR. HERMANCE: I'll second.

22 MR. BELL: We've got a first by
23 Mr. Eberhart and a second by Mr. Hermance.
24 All in favor.

25 MS. BANKS: Aye.

2 MR. EBERHART: Aye.

3 MR. HERMANCE: Aye.

4 MR. BELL: Aye.

5 MR. MASTEN: Aye.

6 MS. REIN: Aye.

7 MR. BELL: Let's go back down this
8 again. This is a Type 2 action under
9 SEQRA.

10 The first being whether or not the
11 benefit can be achieved by any other
12 means feasible to the applicant. I don't
13 think so. I mean, she does have a large
14 backyard, but it would be best to keep it
15 where the existing shed is, right next to
16 it.

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

20 MS. BANKS: No.

21 MR. EBERHART: No.

22 MR. HERMANCE: No.

23 MR. MASTEN: No.

24 MS. REIN: No.

25 MR. BELL: I don't think so either.

2 Third, whether the request is
3 substantial.

4 MS. REIN: No.

5 MR. HERMANCE: No.

6 MR. BELL: Fourth, whether the
7 request will have adverse physical or
8 environmental effects, which it will not.

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

12 With that said, what is the motion
13 from the Board?

14 MS. REIN: I'll make a motion to
15 approve. I'm asking that for both
16 applications.

17 MR. BELL: We've got a first by
18 Ms. Rein.

19 MR. EBERHART: I'll second.

20 MR. BELL: A second by Mr. Eberhart.
21 Roll call.

22 MS. JABLESNIK: Ms. Banks.

23 MS. BANKS: I'll approve the
24 existing but not the additional because
25 she wants --

2 MR. DONOVAN: We're voting on them
3 together.

4 MS. BANKS: Oh, we're voting on
5 them together?

6 MR. DONOVAN: Yes.

7 MS. BANKS: So no.

8 MS. JABLESNIK: Mr. Eberhart.

9 MR. EBERHART: Yes.

10 MS. JABLESNIK: Mr. Hermance.

11 MR. HERMANCE: Yes.

12 MS. JABLESNIK: Mr. Masten.

13 MR. MASTEN: Yes.

14 MS. JABLESNIK: Ms. Rein.

15 MS. REIN: Yes.

16 MS. JABLESNIK: Mr. Bell.

17 MR. BELL: Yes.

18 The motion is granted. It's been
19 passed. Have a good evening.

20 MS. HAIMELIN CARTER: Thank you.

21

22 (Time noted: 7:13 p.m.)

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

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

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

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

IN WITNESS WHEREOF, I have hereunto
set my hand this 5th day of May 2025.



MICHELLE CONERO

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

MBH DEVELOPMENT GROUP
14 Crossroads Court, Newburgh
Section 95; Block 1; Lot 74.2
IB Zone

----- X

Date: May 22, 2025
Time: 7:13 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, New York

BOARD MEMBERS: DARRELL BELL, Acting Chairman
LATWAN BANKS
JAMES EBERHART, JR.
GREGORY M. HERMANC
JOHN MASTEN
DONNA REIN

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

APPLICANT'S REPRESENTATIVE: JOHN CAPPELLO
JAMES MARTINEZ

----- X

MICHELLE L. CONERO
Court Reporter
Michelleconero@hotmail.com
(845) 541-4163

2 MR. BELL: The next application
3 is MBH Development Group. This is a
4 Planning Board referral for area
5 variances to install signage higher
6 than the first floor and the location
7 of the freestanding sign being less
8 than 15 feet from the property line.

9 MR. CAPPELLO: Good evening. I'm
10 John Cappello.

11 MS. JABLESNIK: One second. I'm so
12 sorry. The last applicant sent out 79
13 letters. This applicant mailed out 12.

14 They were also mailed to the County
15 and we have not received a letter.

16 MR. BELL: We have not heard from
17 Orange County on this. What that means
18 is that you can --

19 MR. DONOVAN: Mr. Cappello knows
20 what it means. It means he needs to come
21 back next month.

22 MR. BELL: You can present if you
23 want to, or, if you want to wait until
24 Chairman Darrin is back next month to
25 hear the presentation. If you want to do

2 mezzanine in the building that it
3 requires a variance. So it's not
4 that there's a height limitation,
5 that it's higher or more visible than
6 any sign in the area, or the size is
7 different. It's just a little quirk
8 in your code that because there's a
9 mezzanine in the building, it's
10 located at the mezzanine level above
11 the first floor which is the
12 requirement of the variance.

13 We've provided photos. We said
14 it is in the same location that the
15 signs were there for Orange County
16 Choppers. Now it will just say Safe
17 Haven Self-Storage.

18 The size of the area for the
19 signs is permitted under the Zoning
20 Code.

21 MR. DONOVAN: Is it the same or
22 different, John? Is it an in-kind
23 replacement or are these signs larger
24 than the existing signs?

25 MR. MARTINEZ: They're not larger.

2 MR. DONOVAN: Your name?

3 MR. CAPPELLO: This is James
4 Martinez.

5 MR. MARTINEZ: James Martinez from
6 Engineering & Surveying Properties.

7 The sign area is not increasing.
8 It's either the same size or less than
9 what was there.

10 MR. BELL: You're saying the same
11 size as the Choppers sign that was
12 existing or --

13 MR. MARTINEZ: The area is not
14 increasing.

15 MS. REIN: I have a question, Dave.
16 This is a Type 2. Right?

17 MR. DONOVAN: Because it's an in-
18 kind replacement, it's a Type 2 action.
19 Correct.

20 MS. REIN: On the assessment form
21 it says that this is a remediation site.
22 Does that affect this?

23 MR. DONOVAN: That's news to them.
24 I mean, the site -- does it affect what
25 we're doing in terms of the sign? No. I

2 don't know why it would have shown up as
3 a remediation site. That specific area
4 has been well developed for a number of
5 years.

6 MR. CAPPELLO: Right.

7 MS. REIN: It's question 20.

8 MR. MARTINEZ: That part is auto
9 filled from the website, too, I assume.

10 MS. REIN: It's on the assessment
11 sheet. On the actual form nobody put in
12 anything, and then on the assessment
13 sheet it says, "Remediation site" and it
14 says, "Yes." I could show it to you here
15 if you want to see it.

16 MR. MARTINEZ: I have a copy. I
17 can look into that. We'll have an answer
18 for you.

19 MR. DONOVAN: That would be great.

20 From our point of view for the sign
21 variance, it doesn't have an impact.

22 MS. REIN: Okay.

23 MR. CAPPELLO: I imagine at one
24 point, in a prior use, it may have been --

25 MR. DONOVAN: A long time now. How

2 long has that been there?

3 MR. CAPPELLO: I understood the
4 Orange County Choppers building was a --
5 not net zero, but it incorporated a lot
6 of the environmental features.

7 MS. REIN: Strange nobody picked up
8 on that.

9 MR. MARTINEZ: It's next to the
10 transfer station I believe, too, on Orr
11 Avenue. I don't know if that could have
12 triggered it.

13 MS. REIN: We'll know next month.
14 Thank you.

15 MR. CAPPELLO: Then the other
16 variance is for the location of the
17 existing freestanding sign which is
18 located -- that's the same pole.

19 MR. MARTINEZ: It's just replacing
20 the signage on the face. This is the
21 extent of the property. The sign is
22 located right here. You have the
23 Crossroads Court cul-de-sac, the building
24 here and the signage right here where my
25 pen is.

2 MR. DONOVAN: You're not putting a
3 new pole up?

4 MR. MARTINEZ: It's the existing
5 pole. We just want to replace the sign
6 that's on it.

7 MR. BELL: You want to replace the
8 sign on the pole?

9 MR. MARTINEZ: Yup. It's less than
10 15 feet from the property line.

11 MS. REIN: Is there going to be any
12 illumination?

13 MR. MARTINEZ: I don't believe so.
14 It's just the standard --

15 MS. REIN: Can you find out for
16 next month?

17 MR. MARTINEZ: Yes.

18 MS. REIN: Thank you.

19 MR. CAPPELLO: With that, that's
20 the presentation. If the Board has any
21 initial questions, I'd be happy to answer
22 them, otherwise --

23 MR. BELL: We'll start down with
24 Ms. Banks.

25 MS. BANKS: No questions.

2 MR. BELL: Mr. Eberhart.

3 MR. EBERHART: No.

4 MR. BELL: Mr. Hermance.

5 MR. HERMANCE: No.

6 MR. BELL: Ms. Rein.

7 MS. REIN: I'm good.

8 MR. MASTEN: Is there going to be a
9 sign on Orr Avenue?

10 MR. MARTINEZ: I do not believe so.
11 It's just the existing signage on the
12 building that's being replaced and then
13 one sign off Crossroads Court.

14 MR. MASTEN: If people come in off
15 of Orr Avenue, if they're not from the
16 area, they're not going to know what that
17 building is.

18 MR. CAPPELLO: There are two signs
19 on the building.

20 MR. MASTEN: There's an entrance
21 off of Orr Avenue.

22 MR. CAPPELLO: It's just a big
23 block.

24 MR. MARTINEZ: Orr Avenue is back
25 here. I don't believe there's any

2 signage facing that.

3 MR. MASTEN: The other day when I
4 was there, there was security there from
5 the County. They asked me what I was
6 doing there. I said I was there to check
7 the site for the new sign. He says
8 there's a lot of people asking, he says,
9 about a sign coming north off Orr Avenue.

10 MR. MARTINEZ: We can look into
11 that. We'll get an answer for the next
12 meeting.

13 MR. BELL: Are you talking about
14 adding an additional sign?

15 MR. MASTEN: Yeah. Not a real big
16 sign, but big enough so people can see
17 it.

18 MR. MARTINEZ: We could always
19 propose one.

20 MR. DONOVAN: That may require an
21 additional variance.

22 MR. BELL: That would make them
23 have to come back again.

24 MR. MATTINA: It would probably be
25 a billboard because it's offsite.

2 MR. BELL: They don't need it.
3 They only requested the two signs right
4 now.

5 Anyone else on the Board?

6 (No response.)

7 MR. BELL: Okay. Is anybody here
8 from the public that wishes to speak
9 about this application?

10 (No response.)

11 MR. BELL: No one from the public.
12 Okay.

13 MR. DONOVAN: You need a motion to
14 continue the public hearing to the June
15 meeting because we haven't heard from
16 Orange County Department of Planning.
17 Just to continue the public hearing until
18 June.

19 MR. BELL: We'll make a motion to
20 continue the public hearing until June.
21 All in favor.

22 MR. DONOVAN: Someone has to make
23 that motion.

24 MR. EBERHART: I will make the
25 motion to continue the public hearing.

2 MS. REIN: I'll second it.

3 MR. BELL: All in favor.

4 MS. BANKS: Aye.

5 MR. EBERHART: Aye.

6 MR. HERMANC: Aye.

7 MR. BELL: Aye.

8 MR. MASTEN: Aye.

9 MS. REIN: Aye.

10 MR. CAPPELLO: Thank you very much.

11 Have a nice evening.

12

13 (Time noted: 7:18 p.m.)

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

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

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

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

IN WITNESS WHEREOF, I have hereunto
set my hand this 5th day of May 2025.

Michelle Conero

MICHELLE CONERO

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

NICK DiLEMME
12 Deer Run Road, Newburgh
Section 14; Block 3; Lot 22.11
R-1 Zone

----- X

Date: May 22, 2025
Time: 7:18 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, New York

BOARD MEMBERS: DARRELL BELL, Acting Chairman
LATWAN BANKS
JAMES EBERHART, JR.
GREGORY M. HERMANC
JOHN MASTEN
DONNA REIN

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

APPLICANT'S REPRESENTATIVE: NICK DiLEMME
JOSEPH FLYNN

----- X

MICHELLE L. CONERO
Court Reporter
Michelleconero@hotmail.com
(845) 541-4163

2 MR. BELL: The next application is
3 Nick DiLemme, 12 Deer Run Road, seeking
4 an area variance for the maximum square
5 footage, maximum height and storage of
6 vehicles to build a 42 x 48 x 27.25
7 accessory building on the premises.

8 You were here last month.

9 MR. DiLEMME: Yes, sir.

10 MR. BELL: If I'm not mistaken, we
11 were looking at changing the height.
12 Correct?

13 MR. DiLEMME: Correct.

14 MR. BELL: It looks like you went
15 from 30 feet to 27.25.

16 MR. DiLEMME: Yes. We went down
17 about 3 feet 2 inches.

18 MR. BELL: Yes. Okay.

19 MR. DiLEMME: I hope that's
20 acceptable.

21 MR. BELL: I'm going to start down
22 to my right. Ms. Banks, do you have any
23 questions for this applicant? This is a
24 continuation from the previous month.

25 MS. BANKS: I don't have any

2 questions, no.

3 MR. BELL: Mr. Eberhart.

4 MR. EBERHART: We were at 30
5 before?

6 MR. DONOVAN: I think it was 30.75.

7 MR. DiLEMME: 30.6.

8 MR. DONOVAN: I'm looking at the
9 sheet. That's why I'm so smart. I
10 didn't get it off the top of my head.

11 MR. DiLEMME: Smarter than me. I
12 don't have that documentation in front of
13 me.

14 MR. EBERHART: I'm good.

15 MR. BELL: Mr. Hermance.

16 MR. HERMANCE: The overall building
17 is still the same size, width and depth,
18 it's just the height -- lowering the
19 height?

20 MR. DiLEMME: Yes.

21 MR. HERMANCE: That's all I have.

22 MR. BELL: Mr. Masten.

23 MR. MASTEN: I'm fine.

24 MR. BELL: Ms. Rein.

25 MS. REIN: I have a question.

2 Dave, this is a Type 2 action?

3 MR. DONOVAN: Type 2 again.

4 Correct.

5 MS. REIN: I have something on here
6 that I think I should have brought up
7 last time. I'm going to ask it anyway,
8 even though this is a Type 2. 17-A and B
9 haven't been addressed. It asks, "Will
10 the proposed action create stormwater
11 discharge either from point or non-point
12 sources," and it says, "Yes." "Will
13 stormwater discharges flow to adjacent
14 properties?" "Yes." "Will stormwater
15 discharges be directed to established
16 conveyance systems, runoff and storm
17 drains?" It says, "No." What's going on
18 with that?

19 MR. DiLEMME: I don't really know.
20 I had help from an engineer friend who is
21 not here present that filled that out.

22 MR. DONOVAN: When it rains you're
23 going to have water come off the roof.
24 Do you propose to have gutters on it?

25 MR. DiLEMME: No. I have gutters on

2 my home. I'm not opposed to having them
3 here.

4 MR. DONOVAN: It was just a
5 question.

6 MR. DiLEMME: I'm sorry.

7 MR. DONOVAN: The water is just --
8 it's not being channeled anyplace? You
9 don't have -- okay.

10 MR. DiLEMME: No. I mean, right
11 now it's where a piece of lawn is. I
12 mean, I'm going to be covering the same
13 area. The rainfall that would hit that
14 roof would go onto the ground. I mean, I
15 never thought of the situation like that
16 in residential. It's more of a
17 commercial thing.

18 MS. REIN: It says, "Stormwater
19 discharges flow to adjacent properties."
20 I'm concerned about the adjacent
21 properties.

22 MR. DiLEMME: I'm tripped up with
23 that. I'm not sure how to answer this.

24 MR. FLYNN: The back part of his
25 property is marshland and it naturally

2 drains that way. Anything that will come
3 off the building will work its way
4 towards the existing marshy area, the way
5 it goes now.

6 MR. EBERHART: You're saying when
7 rainwater hits that building, you don't
8 have gutters or anything to channelize
9 that water, to bring that water to that
10 marsh area. You want to protect your
11 building. You don't want the ground to
12 get saturated.

13 MR. DiLEMME: I plan on putting
14 gutters on.

15 MR. BELL: That was the question.

16 MR. DiLEMME: Okay. I misunderstood.

17 MR. BELL: Without gutters it goes
18 down. I know it's your property, but you
19 still want to channel that water --

20 MR. DiLEMME: Correct.

21 MR. BELL: -- to the marshland.

22 MS. REIN: So you are going to put
23 gutters on it?

24 MR. BELL: You will have a drainage
25 system where it drains back. It might

2 cost you a couple extra dollars.

3 MR. DiLEMME: I think it's okay.

4 MR. BELL: We can make that a part
5 of the application if it's approved.
6 Correct?

7 MR. DiLEMME: Absolutely.

8 MS. REIN: It would be a condition
9 of approval.

10 MR. BELL: Exactly.

11 Anyone else?

12 (No response.)

13 MR. BELL: We already did a public
14 hearing the last time.

15 MR. DONOVAN: This is a new
16 application.

17 MR. BELL: Is anyone here from the
18 public that wishes to speak on this
19 application?

20 (No response.)

21 MR. BELL: We don't have anybody
22 tonight. There's always at least one.

23 MR. DONOVAN: The record should
24 also reflect that we did have a letter on
25 this application from a neighbor --

2 MS. REIN: Yes.

3 MR. DONOVAN: -- who indicated they
4 were in favor of the application.

5 MR. BELL: They were in favor.

6 Yup. That was one.

7 With that said, we will make a
8 motion to close the public hearing.

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

11 MS. REIN: I'll second.

12 MR. BELL: All in favor.

13 MS. BANKS: Aye.

14 MR. EBERHART: Aye.

15 MR. HERMANCE: Aye.

16 MR. BELL: Aye.

17 MR. MASTEN: Aye.

18 MS. REIN: Aye.

19 MR. BELL: All right. This is a
20 Type 2 action?

21 MR. DONOVAN: That's correct,
22 Mr. Chairman.

23 MR. BELL: We'll go through the
24 five factors here, keeping in mind with
25 the condition of the gutters.

2 The first being whether or not the
3 benefit can be achieved by any other
4 means feasible to the applicant. I know
5 this is a big building to store the
6 vehicles that you have.

7 MS. REIN: No.

8 MR. BELL: No.

9 Okay. Second, is there an
10 undesirable change in the neighborhood
11 character or detriment to nearby
12 properties.

13 MS. REIN: No.

14 MR. MASTEN: No.

15 MR. BELL: Third, whether the
16 request is substantial. It is.

17 MS. REIN: It is.

18 MR. BELL: It is very big. From
19 the last meeting we requested that he
20 drop the -- lower the height, which he
21 did, which is about 6 feet --

22 MR. DiLEMME: 3.

23 MR. BELL: 3 feet. I wrote my
24 number down. 3 feet.

25 Okay. Fifth, whether the alleged

2 difficulty is self-created, which it is.
3 This is relevant but not determinative.

4 So with that said, do we have a
5 motion?

6 MR. DONOVAN: If I can, Mr. Chairman.
7 I believe in addition to the height, you're
8 looking for storage of eleven vehicles?

9 MR. DiLEMME: No.

10 MR. FLYNN: Seven additional.

11 MR. DiLEMME: It's seven additional
12 spaces. The house already has three and
13 you're allowed four.

14 MR. DONOVAN: So eleven. Right?

15 MR. DiLEMME: That's counting --

16 MR. DONOVAN: I know I went to
17 Catholic school, but seven plus four is
18 eleven.

19 MR. DiLEMME: Yes. That would be
20 counting the house garage as well.

21 MR. DONOVAN: You're allowed to
22 have -- Mr. Mattina will correct me if
23 I'm wrong. You're allowed to have four
24 cars on the property. This is going from
25 four to eleven. I understand they're not

2 specifically going to be in the
3 structure, but part of the variance
4 is to allow eleven vehicles on the
5 property. That's your request.
6 Right?

7 MR. DiLEMME: Yes, sir.

8 MR. DONOVAN: Just so the Board
9 is aware of that.

10 MR. FLYNN: These are collector
11 vehicles. They don't really even get
12 driven.

13 MS. REIN: That will be it? There
14 won't be any more vehicles other than
15 those? Other than eleven?

16 MR. DONOVAN: The application is
17 for eleven.

18 MR. DiLEMME: Yeah. We're looking
19 for just eleven parking spaces.

20 MR. BELL: No additional?

21 MR. FLYNN: No. No additional. No
22 mechanic shop or anything.

23 MR. BELL: We already covered that
24 part.

25 MR. DONOVAN: We talked about it

2 the last time. Not occupied, not a
3 residence, no business activity going on
4 there.

5 MR. BELL: So basically if you have
6 the eleven now, every other vehicle is
7 just a dream.

8 Okay. Are you good, Dave?

9 MR. DONOVAN: I'm good, Mr. Chairman.

10 MR. BELL: What is the motion from
11 the Board?

12 MS. REIN: I'll make a motion to
13 approve with the condition of gutters
14 being put on the building.

15 MR. DONOVAN: To direct the
16 drainage towards the wetland area.

17 MS. REIN: Yes.

18 MR. DONOVAN: Not to put words in
19 your mouth. I think that's what I heard
20 you say.

21 MR. HERMANCE: I'll second it.

22 MR. BELL: Okay. We have a first
23 by Ms. Rein and a second by Mr. Hermance.

24 Roll call, Siobhan.

25 MS. JABLESNIK: Ms. Banks.

2 MS. BANKS: No.

3 MS. JABLESNIK: Mr. Eberhart?

4 MR. EBERHART: Yes.

5 MS. JABLESNIK: Mr. Hermance?

6 MR. HERMANCE: Yes.

7 MS. JABLESNIK: Mr. Masten?

8 MR. MASTEN: Yes.

9 MS. JABLESNIK: Ms. Rein?

10 MS. REIN: Yes.

11 MS. JABLESNIK: Mr. Bell?

12 MR. BELL: Yes.

13 MR. DiLEMME: Thank you very much.

14

15 (Time noted: 7:30 p.m.)

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

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

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

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

IN WITNESS WHEREOF, I have hereunto
set my hand this 5th day of May 2025.

Michelle Conero

MICHELLE CONERO

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

DELILAH ASHCRAFT & TAMMY OSTERHOUT
80 Old Little Britain Road, Newburgh
Section 101; Block 3; Lot 11
R-2 Zone

----- X

Date: May 22, 2025
Time: 7:30 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, New York

BOARD MEMBERS: DARRELL BELL, Acting Chairman
LATWAN BANKS
JAMES EBERHART, JR.
GREGORY M. HERMANC
JOHN MASTEN
DONNA REIN

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

APPLICANT'S REPRESENTATIVE: TAMMY OSTERHOUT
DAVID METZLER

----- X

MICHELLE L. CONERO
Court Reporter
Michelleconero@hotmail.com
(845) 541-4163

2 MR. BELL: The next applicant is
3 Delilah Ashcraft and Tammy Osterhout,
4 80 Little Britain Road.

5 Did I say that right?

6 MS. OSTERHOUT: That's actually my
7 mother. It's Tammy Osterhout now. It
8 was in my mother's name and we
9 transferred it to mine.

10 MR. BELL: The variance is for --
11 it's an area variance for increasing the
12 degree of nonconformity of the front yard
13 on Old Little Britain Road and the
14 minimum front yard setback on Williams
15 Avenue to build a 12 x 15 covered porch.

16 MS. OSTERHOUT: Correct. It's not
17 going to be covered.

18 MR. BELL: It's not going to be
19 covered?

20 MS. OSTERHOUT: There was a cover
21 on it. My aunt and uncle -- I inherited
22 this house from my aunt and uncle. My
23 mother actually inherited it and gifted
24 it to me. The house was built in 1955,
25 so they didn't do things the way they

2 should have been done. They put a porch
3 on top of the old cement steps, a wooden
4 porch, and they had an overhang, but they
5 never got permission for any of this.
6 I'm trying to get everything done
7 correctly.

8 The porch that's there now, it's a
9 wooden porch that's falling apart. The
10 railings are coming off. It's not even
11 safe. The cement steps are still under
12 there. If I have to remove all that,
13 which is fine, I just want to extend the
14 porch to the end of the house.

15 MR. BELL: So you're not looking --

16 MS. JABLESNIK: Not covered.

17 MR. BELL: We're changing that from
18 a covered porch to not covered.

19 MS. OSTERHOUT: It's going to be
20 Trex. I just want to build this correct
21 and then just extend it to the end of the
22 house.

23 MR. BELL: Okay.

24 MS. REIN: So you're going to take
25 out those bushes there?

2 MR. METZLER: They're gone already.

3 MS. OSTERHOUT: They're gone.

4 MR. METZLER: It's a shame. They
5 were beautiful bushes.

6 MR. DONOVAN: It looked good in the
7 picture.

8 MR. BELL: It looked good in
9 person.

10 MR. METZLER: The steps that were
11 there were all removed because they built
12 them way back without a permit.

13 MS. OSTERHOUT: This is my fiancé.

14 MR. BELL: Your name, please.

15 MR. METZLER: David Metzler. We're
16 moving into the house, but we're trying
17 to do everything the right way. We've
18 got permits for everything. Her uncle
19 did things without permits. We took all
20 that stuff down. There was a covered
21 patio in the back that they didn't have a
22 permit for, so we tore it all down. The
23 front stairs, we tore it all down, they
24 didn't have permits for that. Everything
25 they didn't have permits for, we took it

2 all down. We're trying to do this whole
3 thing right.

4 MR. BELL: We appreciate you trying
5 to do it right.

6 MR. METZLER: God forbid one of us
7 passes away and the other one has to sell
8 the house. Well, Tammy, Dave died, he
9 did all this and he didn't have permits
10 so now you're in trouble, or the other
11 way. I don't want any problems. I want
12 everything to be smooth. I've owned a
13 few houses in my life and I've had where
14 people did things without permits. You
15 go to sell it and they go, you don't have
16 a permit for it. What do you mean, it's
17 been there.

18 MR. BELL: It makes your job
19 easier, Joe.

20 MS. REIN: You said they didn't do
21 such great work. They built me in 1955
22 and I came out just fine.

23 MS. OSTERHOUT: People are fine.

24 MS. JABLESNIK: You were permitted,
25 don't worry.

MR. BELL: Okay. With all that, did we get through the whole Board? No, we didn't. John.

MR. MASTEN: I'm good.

MR. HERMANCENCE: I'm good.

MR. EBERHART: Good.

MS. BANKS: Good.

MR. BELL: Is there anyone here from the public that wishes to speak?

(No response.)

MR. MATTINA: I have a question. The deck that's there that has the existing roof over it --

MR. METZLER: It's gone.

MS. OSTERHOUT: We took it down. There is, like, an overhang.

MR. METZLER: That was nonpermanent.

MR. MATTINA: The narrative says you wanted to keep half. I want to make sure we're all on the same page. No roofs at all.

MR. BELL: With that said, would someone make a motion to close the public hearing.

2 MR. EBERHART: I'll make a motion
3 to close the public hearing.

4 MR. HERMANCE: Second.

5 MR. BELL: A first by Mr. Eberhart
6 and a second by Mr. Hermance. All in
7 favor.

8 MS. BANKS: Aye.

9 MR. EBERHART: Aye.

10 MR. HERMANCE: Aye.

11 MR. BELL: Aye.

12 MR. MASTEN: Aye.

13 MS. REIN: Aye.

14 MR. BELL: We'll go through the
15 five factors, the first one being whether
16 or not the benefit can be achieved by
17 other means feasible to the applicant. I
18 don't think so.

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

22 MR. MASTEN: No.

23 MS. REIN: No.

24 MR. BELL: Third, whether the
25 request is substantial. It's a lot of

work.

Whether the request will have
adverse physical or environmental
effects.

MS. BANKS: No.

MR. EBERHART: No.

MR. HERMANCENCE: No.

MR. MASTEN: No.

MS. REIN: No.

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

With that said --

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

MR. BELL: With that said, what is
the motion from the Board?

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

MR. MASTEN: I'll second it.

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

Roll call, Siobhan.

MS. JABLESNIK: Ms. Banks.

2 MS. BANKS: Yes.

3 MS. JABLESNIK: Mr. Eberhart.

4 MR. EBERHART: Yes.

5 MS. JABLESNIK: Mr. Hermance.

6 MR. HERMANCE: Yes.

7 MS. JABLESNIK: Mr. Masten.

8 MR. MASTEN: Yes.

9 MS. JABLESNIK: Ms. Rein.

10 MS. REIN: Yes.

11 MS. JABLESNIK: Mr. Bell.

12 MR. BELL: Yes.

13 With that said, you've been
14 approved.

15 How many letters, Siobhan?

16 MS. JABLESNIK: 31 letters.

17 MR. BELL: Thank you.

18 MS. JABLESNIK: Not quite the
19 winner, but pretty close.

20 MS. OSTERHOUT: Thank you very
21 much.

22

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

24

25

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

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

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

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

IN WITNESS WHEREOF, I have hereunto
set my hand this 5th day of May 2025.

Michelle Conero

MICHELLE CONERO

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

WILLIAM LYNN & LORI FRANK
48 Odell Circle, Newburgh
Section 51; Block 1; Lot 24
R-1 Zone

----- X

Date: May 22, 2025
Time: 7:38 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, New York

BOARD MEMBERS: DARRELL BELL, Acting Chairman
LATWAN BANKS
JAMES EBERHART, JR.
GREGORY M. HERMANC
JOHN MASTEN
DONNA REIN

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

APPLICANT'S REPRESENTATIVE: CHARLES BAZYDLO
WILLIAM LYNN

----- X

MICHELLE L. CONERO
Court Reporter
Michelleconero@hotmail.com
(845) 541-4163

2 MR. BELL: Holdovers. The first
3 one is William Lynn and Lori Frank, 48
4 Odell Circle.

5 MR. DONOVAN: If I can, while
6 Mr. Bazydlo and his client approach,
7 last month the public hearing was
8 closed. The Board actually went
9 through the analysis of the five
10 factors, which, if you want to, you
11 can go through again. You don't have
12 to. You went through the five
13 factors.

14 I think the Board wanted to see
15 other decisions that were similar in
16 the area that Mr. Bazydlo had
17 referred to. I believe the Board --
18 I received copies of the area
19 variance from October 1999 for 44
20 Odell Circle and from 2002 for 52
21 Odell Circle.

22 I don't know if the Board wants
23 to hear from Mr. Bazydlo or has any
24 questions, but I'll leave that up to
25 the Chairman.

2 MR. BELL: Does the Board have any
3 questions -- any further questions?

4 MS. BANKS: No.

5 MR. EBERHART: No.

6 MR. HERMANCE: No.

7 MR. MASTEN: No.

8 MS. REIN: No.

9 MR. DONOVAN: What I would say is
10 the Board is always concerned about
11 precedent. We talked about setting a
12 precedent if you granted the variance.
13 Mr. Bazydlo said, well, you've already
14 -- you, not the people here but this
15 Board, had granted two similar variances
16 in the past.

17 What I would say to you is if you
18 want to follow that precedent, you
19 certainly could, right. If you want to
20 deviate from that precedent, you need to
21 have a reason why.

22 MS. REIN: Dave, I've got a
23 question. I was reading that. Since
24 the precedent has already been set,
25 why is this even an issue?

2 MR. DONOVAN: It still doesn't
3 comply. A precedent is for the ZBA.
4 It's not binding on the Code Compliance
5 Department. They're going to see that it
6 doesn't comply, they going to send it to
7 us. We decide, as the administrative
8 body, whether this is consistent with our
9 prior precedent or if it's not, or if
10 there's a reason to deviate. What reason
11 could there possibly be. Well, I'm not
12 saying this is the case, but say the
13 Department of Public Works said we have a
14 real problem plowing snow as a result of
15 these two accessory structures and it's a
16 detriment. We don't have that, obviously.
17 There needs to be some objective metric
18 by which you determine to deviate from
19 your prior precedent.

20 MS. REIN: Thank you.

21 MR. BELL: You mentioned two
22 similar. The dates, when were those?

23 MR. DONOVAN: The George W. Bush
24 administration, 1999 to 2002.

25 MR. BELL: That's when it was

2 approved for those others?

3 MR. DONOVAN: Correct. I say that
4 as a joke. The mere passage of time
5 doesn't mean it's not a valid precedent.
6 You need to have some objective metric
7 for you to deviate from these prior
8 decisions.

9 MR. HERMANCE: However, those prior
10 approvals were not as close to the line
11 as this proposal?

12 MR. BAZYDLO: Actually, they're
13 closer. One of them was less than a half
14 a foot. The other one was right on,
15 probably a little bit over, the property.
16 We're 1.2 feet away from the property
17 line. We're actually further back.

18 MR. HERMANCE: That's good to know.

19 MR. BELL: It did seem a little
20 further when I did my next drive by.

21 Okay. With that said, how does the
22 Board feel? Is anybody ready to make a
23 motion on this application?

24 MS. REIN: I'll make a motion to
25 approve.

2 MR. BELL: We have a first from
3 Ms. Rein for approval.

4 MR. EBERHART: Second.

5 MR. BELL: We have a second by
6 Mr. Eberhart.

7 Roll call.

8 MS. JABLESNIK: Ms. Banks.

9 MS. BANKS: I approve.

10 MS. JABLESNIK: Mr. Eberhart.

11 MR. EBERHART: Yes.

12 MS. JABLESNIK: Mr. Hermance.

13 MR. HERMANCE: Yes.

14 MS. JABLESNIK: Mr. Masten.

15 MR. MASTEN: Yes.

16 MS. JABLESNIK: Ms. Rein.

17 MS. REIN: Yes.

18 MS. JABLESNIK: Mr. Bell.

19 MR. BELL: Yes.

20 MR. BAZYDLO: Thank you very much.

21 MR. LYNN: Thank you.

22

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

24

25

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

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

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

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

IN WITNESS WHEREOF, I have hereunto
set my hand this 5th day of May 2025.

Michelle Conero

MICHELLE CONERO

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

HAPPY TREE DISPENSARY
99 Route 17K, Newburgh
Section 95; Block 1; Lot 33
IB Zone

----- X

Date: May 22, 2025
Time: 7:43 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, New York

BOARD MEMBERS: DARRELL BELL, Acting Chairman
LATWAN BANKS
JAMES EBERHART, JR.
GREGORY M. HERMANC
JOHN MASTEN
DONNA REIN

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

APPLICANT'S REPRESENTATIVE: TIFFANY McPHAIL

----- X

MICHELLE L. CONERO
Court Reporter
Michelleconero@hotmail.com
(845) 541-4163

2 MR. BELL: The next application is
3 Happy Tree Dispensary.

4 I'm going to let our attorney
5 handle this one. This was a Planning
6 Board referral. They had already come
7 before us last month. I'm going to let
8 Dave --

9 MR. DONOVAN: So the Board will
10 remember, last time I was kind of a fly
11 in the ointment. I asked that the Board
12 not make a determination because one of
13 the elements of the referral from the
14 Planning Board was that there was a
15 violation of the 1,000 foot radius that
16 would separate cannabis dispensary
17 facilities. The applicant indicated they
18 didn't think that was the case, but I
19 wanted clarification. They presented
20 information from New York State.

21 I was in touch with the Planning
22 Board Attorney, Mr. Cordisco, after the
23 last meeting, who was then in touch with
24 the Town Attorney, Mr. Taylor. Mr. Taylor
25 made an important point, because pursuant

2 to some zoning amendments in the Town
3 in 2024, there are different
4 classifications of cannabis retail.
5 There's micro business, a cannabis
6 micro business retail premises and a
7 cannabis retail dispensary. The
8 nearby, what's called Kush Factory
9 Retail Cannabis Dispensary, is a
10 separate category. I forget which
11 one is micro business and which one
12 is not, but there's a distinction
13 between the two. As a result of
14 that, they're neither the same
15 category. As a result of that, the
16 1,000 foot separation does not apply.

17 I would think it would be an
18 area variance, the Planning Board
19 said use variance, but you don't need
20 anything. You are free to just deal
21 with the preexisting nonconformities
22 as a result of the change of use.

23 MR. BELL: Okay.

24 MR. DONOVAN: The best legal minds
25 worked on this, just so you know.

2 I don't think you went through the
3 five-part balancing test.

4 MR. HERMANCE: No.

5 MR. DONOVAN: I don't think so. I
6 don't think the public hearing was closed
7 either.

8 Was it, Siobhan?

9 MS. JABLESNIK: If you want to wait
10 for me to pull it all up.

11 MR. DONOVAN: I think it would be
12 easier to just do it.

13 MR. BELL: First, would someone
14 make a motion to close the public
15 hearing?

16 MR. EBERHART: I'll make a motion
17 to close the public hearing.

18 MR. BELL: Mr. Eberhart.

19 MR. HERMANCE: I'll second it.

20 MR. BELL: Seconded by Mr. Hermance.
21 All in favor.

22 MS. BANKS: Aye.

23 MR. EBERHART: Aye.

24 MR. HERMANCE: Aye.

25 MR. BELL: Aye.

2 MR. MASTEN: Aye.

3 MS. REIN: Aye.

4 MR. BELL: We'll move to --

5 MR. DONOVAN: This is a Type 2. We
6 have preexisting nonconformities, none of
7 which are being changed. The building is
8 where it is. Correct?

9 MS. McPHAIL: Yes.

10 MR. BELL: You're not changing
11 anything on the exterior?

12 MS. McPHAIL: Nothing at all.

13 MR. DONOVAN: In terms of the front
14 yard, the side yard, combined side yards,
15 lot surface coverage and no front yard
16 landscaping, that exists. The building
17 is already there. These are existing
18 conditions.

19 You can go through the five-part
20 balancing tests.

21 MR. BELL: The first being whether
22 or not the benefit can be achieved by any
23 other means feasible to the applicant.

24 MS. REIN: No.

25 MR. BELL: Is there an undesirable

2 change in the neighborhood character or a
3 detriment to nearby properties.

4 MS. BANKS: No.

5 MR. EBERHART: No.

6 MR. HERMANCE: No.

7 MR. MASTEN: No.

8 MS. REIN: No.

9 MR. BELL: Third, whether the
10 request is substantial. It is not.

11 MS. REIN: No.

12 MR. BELL: Fourth, whether the
13 request will have adverse physical or
14 environmental effects. It will not.

15 Fifth, whether the alleged
16 difficulty is self-created. That is
17 relevant but not determinative.

18 With that said, what is the motion
19 of the Board?

20 MR. EBERHART: I'll make a motion
21 for approval.

22 MS. REIN: Second.

23 MR. BELL: We've got a first by
24 Mr. Eberhart and a second by Ms. Rein.

25 Roll call.

2 MS. JABLESNIK: Ms. Banks.

3 MS. BANKS: I approve.

4 MS. JABLESNIK: Mr. Eberhart.

5 MR. EBERHART: Yes.

6 MS. JABLESNIK: Mr. Hermance.

7 MR. HERMANCE: Yes.

8 MS. JABLESNIK: Mr. Masten.

9 MR. MASTEN: Yes.

10 MS. JABLESNIK: Ms. Rein.

11 MS. REIN: Yes.

12 MS. JABLESNIK: Mr. Bell.

13 MR. BELL: Yes.

14 MS. McPHAIL: Thank you.

15 MR. DONOVAN: That's the best
16 presentation I've ever seen.

17 MR. BELL: It's good that you came
18 back.

19 MS. McPHAIL: Thank you.

20 MR. DONOVAN: Thank you for your
21 patience. I wanted to get it right.

22 MS. McPHAIL: I came back and I
23 printed all that information. Thank you
24 so much.

25 Can I ask a question? Like, so do

2 we go back to Planning? I still need a
3 certificate of occupancy to open.

4 MS. JABLESNIK: Now you go back to
5 the Planning Board. Just contact him
6 tomorrow and ask him what your next steps
7 are to get back on the agenda there.

8 MS. McPHAIL: Thank you.

9

10 (Time noted: 7:48 p.m.)

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

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

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

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

IN WITNESS WHEREOF, I have hereunto
set my hand this 5th day of May 2025.

Michelle Conero

MICHELLE CONERO

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

JAMES TURNER

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

----- X

Date: May 22, 2025
Time: 7:48 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, New York

BOARD MEMBERS: DARRELL BELL, Acting Chairman
LATWAN BANKS
JAMES EBERHART, JR.
GREGORY M. HERMANCE
JOHN MASTEN
DONNA REIN

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

----- X

MICHELLE L. CONERO
Court Reporter
Michelleconero@hotmail.com
(845) 541-4163

2 MR. BELL: With that said, there
3 was a new agenda put out. Other Board
4 business is on the back page.

5 Mr. James Turner, 355 Lakeside
6 Road, requesting a six-month extension
7 for a variance that was granted at the
8 August 24, 2023 meeting.

9 Dave, is that --

10 MR. DONOVAN: I'm sorry. I have to
11 admit I wasn't listening.

12 MR. BELL: They're requesting an
13 extension. That was in 2023 August.

14 MR. DONOVAN: Is that right?

15 MS. JABLESNIK: Yes. When I told
16 him to request, you know, and then I'll
17 let you know which agenda you'll be on, I
18 knew that the application to the Building
19 Department was from 2023, but I didn't
20 realize that our application was also
21 just as long.

22 MR. DONOVAN: The answer is we
23 can't.

24 MS. JABLESNIK: He has to reapply.

25 MR. DONOVAN: He has to reapply.

2 MR. BELL: He has to reapply.

3 Just for my knowledge, they get six
4 months?

5 MR. DONOVAN: We give them six
6 months here and another six months. When
7 you're in front of the Planning Board,
8 that six months is -- well, I used to
9 think it was extended because there's
10 language. The Town attorney -- Joe, you
11 may be familiar with this. We had that
12 one hotel which took them a number of
13 years to get approval. They came back
14 for a building permit and the
15 determination was that their time had
16 expired. The phrase we attorneys use is
17 the time period tolls when something else
18 happened. The Town attorney offered the
19 opinion, that I think is binding on us,
20 that that's not the case. Certainly it
21 wasn't the case with that hotel. That
22 was a number of years ago.

23 You don't have the authority to
24 extend. I guess six months for any
25 application, it's automatically six

2 months with a six-month extension.

3 That's what the code says. Unfortunately
4 he timed out and has to reapply.

5 MR. BELL: You'll notify him he has
6 to reapply?

7 MS. JABLESNIK: Yes.

8 MR. BELL: All right. The other
9 business, do we make a motion to approve
10 the last month's minutes?

11 MR. MASTEN: I'll make a motion to
12 approve last month's minutes.

13 MR. BELL: A first by Mr. Masten.

14 MS. REIN: Second.

15 MR. BELL: A second by Ms. Rein.
16 All in favor.

17 MS. BANKS: Aye.

18 MR. EBERHART: Aye.

19 MR. HERMANCE: Aye.

20 MR. BELL: Aye.

21 MR. MASTEN: Aye.

22 MS. REIN: Aye.

23 MR. BELL: I'll motion to adjourn.
24 All in favor.

25 MS. BANKS: Aye.

2 MR. EBERHART: Aye.

3 MR. HERMANCE: Aye.

4 MR. BELL: Aye.

5 MR. MASTEN: Aye.

6 MS. REIN: Aye.

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8 (Time noted: 7:52 p.m.)

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

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

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

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

IN WITNESS WHEREOF, I have hereunto
set my hand this 5th day of May 2025.



MICHELLE CONERO