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

----- X
In the Matter of

ARCH RIDGE, LLC
1549 Route 300, Newburgh
Section 34; Block 1; Lot 50
R-3 Zone

----- X

Date: August 22, 2019
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
DARRELL BELL

ALSO PRESENT: DAVID DONOVAN, ESQ.
GERALD CANFIELD
SIOBHAN JABLESNIK

APPLICANT'S REPRESENTATIVE: NESTOR KYRITSIS

----- 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 this evening are the public hearings scheduled for tonight. The procedure of the Board is that the applicant will be called upon to step forward, state their request and explain why it should be granted. The Board will then ask the applicant any questions it may have, and then any questions or comments from the public will be entertained. After all 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 we'll 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 as our stenographer needs to hear you.

Roll call please.

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ARCH RIDGE, LLC

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MS. JABLESNIK: Darryl Bell.

MR. BELL: Present.

MS. JABLESNIK: Richard Levin.

MR. LEVIN: Present.

MS. JABLESNIK: Anthony Marino is
absent.

John Masten.

MR. MASTEN: Here.

MS. JABLESNIK: John McKelvey.

MR. MCKELVEY: Here.

MS. JABLESNIK: Peter Olympia is
absent.

Darrin Scalzo.

CHAIRMAN SCALZO: Present.

MS. JABLESNIK: Also present is Gerald
Canfield from Code Compliance and our
Stenographer, Michelle Conero.

CHAIRMAN SCALZO: Thank you. If you
would all stand for the Pledge, please.

Mr. Canfield, if you would lead us in
the Pledge, please.

(Pledge of Allegiance.)

MS. JABLESNIK: And Dave Donovan, our
Attorney.

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CHAIRMAN SCALZO: Before we begin I will let everyone here know that all the Members of the Board are personally familiar with the properties. We are obligated by position to go and visit them, therefore we're all familiar with what's going on.

Our first applicant this evening is Arch Ridge, LLC, 1549 Route 300, seeking an area variance to raise a kitchen roof and to, B, extend the rear deck with an existing 34.2 in the front yard where 60 is required and increasing the degree of nonconformity.

Do we have anyone here?

MR. KYRITSIS: That's me. I'm Nestor Kyritsis, I'm the applicant for Arch Ridge, LLC.

We are asking to -- they describe it as raising the roof. In reality it's sort of going to make a straight line pitch from the existing ridge down to the soffit. Right now that roof on the back side of the building, if you see it it almost appears as if it's partially collapsed, or it's at least at two different angles which are not a straight line. In doing so I think we will improve the look of the building. It certainly

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ARCH RIDGE, LLC

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will improve the roofing material, a new roof on that.

The other part of the request is for us to double the size of the deck. Right now that deck is not visible from the street at all because it's behind the house. I don't feel that increasing the deck size will be anything detrimental to the surrounding neighborhood, and it will just make a better access into the kitchen because we'll have French doors off of the back of the deck.

CHAIRMAN SCALZO: Thank you very much.

Before we continue; Siobhan, mailings?

MS. JABLESNIK: He sent out twenty mailings and we received the letter back from the County.

CHAIRMAN SCALZO: Very good. We do have everything. That's good.

As I said, I visited the site. That house is big, much bigger than --

MR. KYRITSIS: It's bigger than it appears from the street. It's sort of L shaped and it's got the garage. You have a sort of U-shaped compound in there. Yes.

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ARCH RIDGE, LLC

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CHAIRMAN SCALZO: The one question that I had, the front yard setback is 34 feet is what I'm reading here.

MR. KYRITSIS: It's around 34. 32.8 or something.

CHAIRMAN SCALZO: You answered my question, around 34. I have a plot plan here but it's not an actual survey.

MR. KYRITSIS: Yes. We don't have an actual survey. That information was taken from the County website where they have the maps which are in scale. I just projected with the house. I went and physically measured myself. I went to the edge of the road. Of course I don't know where the exact end of the road is. I just measured from the median of the road to the house which is the same number, approximately 32, 34 feet. So I kind of verified it that way.

CHAIRMAN SCALZO: You're pre-existing nonconforming.

MR. KYRITSIS: Yes, it's pre-existing.

CHAIRMAN SCALZO: As I say, when we give exact numbers it's kind of difficult for us without the benefit of a real survey. Again,

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ARCH RIDGE, LLC

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you're pre-existing nonconforming so that's not a great concern of mine.

Dave, when we do the front yard setback do we need to call out that it will be changing?

MR. DONOVAN: This was sent to us as an increase in the degree of nonconformity. The rule that this Board has to adhere to is that you need a variance unless you are decreasing the nonconformity. If you're increasing or it's remaining the same, it's an increase in the degree of nonconformity because the mass of the building is being increased, therefore it would need a variance to allow an increase in the degree of nonconformity.

CHAIRMAN SCALZO: Thank you.

I have no other questions myself. I'll look to the Board. Mr. Bell?

MR. BELL: I'm good.

CHAIRMAN SCALZO: Mr. McKelvey?

MR. MCKELVEY: No.

CHAIRMAN SCALZO: Mr. Levin?

MR. LEVIN: Nothing.

CHAIRMAN SCALZO: Mr. Masten?

MR. MASTEN: Nothing.

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ARCH RIDGE, LLC

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

(No response.)

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

(No response.)

CHAIRMAN SCALZO: Nothing from Code Compliance?

MR. CANFIELD: Just one point of interest. According to the plans we have, it appears the property line does not go all the way out to Route 300. Based on that, there is an encroachment. It appears like the front steps do go over the property line. I believe in the past the proper thing to do is to advise the applicant that there is an encroachment. I don't believe it's an enforcement issue or an issue that the Board has to take action on but you need to be aware of that.

MR. KYRITSIS: Sure. We're not going to be touching the steps. We'll leave them as they are.

MR. DONOVAN: Just a point of

1 information. Assuming the Board approves the
2 application, there will be a notation in the
3 decision this doesn't approve, authorize or allow
4 the encroachment. It's not going to make you
5 move anything but there shouldn't be any
6 inference that we're allowing it or approving it.
7 If you have some issue in the future you'll have
8 some issue in the future. This Board is just
9 looking at what's in front of it and it has no
10 impact on the encroachment.
11

12 MR. KYRITSIS: Yes.

13 CHAIRMAN SCALZO: If we had an actual
14 survey by a licensed land surveyor we may find
15 that the property line is actually 5 feet closer
16 to the road.

17 MR. KYRITSIS: Absolutely. Yes.

18 CHAIRMAN SCALZO: Very good. I'll look
19 to the Board for a motion to close the public
20 hearing.

21 MR. MASTEN: I'll move for that motion.

22 MR. McKELVEY: I'll second it.

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

25 MS. JABLESNIK: Mr. Bell?

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ARCH RIDGE, LLC

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MR. BELL: Yes.

MS. JABLESNIK: Mr. Levin?

MR. LEVIN: Yes.

MS. JABLESNIK: Mr. Masten?

MR. MASTEN: Yes.

MS. JABLESNIK: Mr. McKelvey?

MR. MCKELVEY: Yes.

MS. JABLESNIK: Mr. Scalzo?

CHAIRMAN SCALZO: Yes.

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

MR. KYRITSIS: Thank you.

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

(Time resumed: 7:41 p.m.)

CHAIRMAN SCALZO: All of our applications this evening are Type 2 actions under SEQRA, so we will progress in the order heard.

We're going to go through the area variance criteria for applicant Arch Ridge, LLC, 1549 Route 300, seeking an area variance to raise the kitchen roof, extend the rear deck with an existing 34.2 in the front yard where 60 is

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required and increasing the degree of nonconformity.

Moving forward, the five factors we're weighing, the first one being whether or not the benefit can be achieved by other means feasible to the applicant. I don't believe so. He's going to bring the inside roof into conformity. I was over in the Code Compliance office when Mr. Mattina was talking about raising the roof. He was going like this the whole time.

The second, if there's an undesirable change in the neighborhood character or a detriment to nearby properties. I don't believe so. You're not going to see anything that he's doing from the road.

MR. LEVIN: I think it will improve it.

CHAIRMAN SCALZO: I agree.

The third is whether the request is substantial. By definition it may be but it doesn't appear so when you actually physically walk the property.

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

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MR. BELL: No.

MR. LEVIN: No.

MR. MASTEN: I don't believe so either.

CHAIRMAN SCALZO: The fifth, whether the alleged difficult is self-created, relative but not determinative. The inside roof in the kitchen is low to begin with. The guy is trying to bring it into conformance. It was pre-existing. I don't believe that it's a detriment.

The Board shall grant the minimum variance necessary. We may impose reasonable conditions, although in this case I don't see the need for that.

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

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

MR. BELL: I'll second it.

CHAIRMAN SCALZO: We have a motion to approve from Mr. McKelvey with a second from Mr. Bell. Roll call.

MS. JABLESNIK: Mr. Bell?

MR. BELL: Yes.

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MS. JABLESNIK: Mr. Levin?

MR. LEVIN: Yes.

MS. JABLESNIK: Mr. Masten?

MR. MASTEN: Yes.

MS. JABLESNIK: Mr. McKelvey?

MR. MCKELVEY: Yes.

MS. JABLESNIK: Mr. Scalzo?

CHAIRMAN SCALZO: Yes.

Motion carried. The variances are approved.

(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 6th day of September 2019.

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

NINE16 ENTERPRISES, LLC
24 Route 17K, Newburgh
Section 99; Block 5; Lot 6
B Zone

----- X

Date: August 22, 2019
Time: 7:08 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
DARRELL BELL

ALSO PRESENT: DAVID DONOVAN, ESQ.
GERALD CANFIELD
SIOBHAN JABLESNIK

APPLICANT'S REPRESENTATIVE: PHILLIP WILLIAMS

----- X

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CHAIRMAN SCALZO: Our next applicant is Nine16 Enterprises, LLC, 24 Route 17K, seeking an area variance to increase the degree of nonconformity to enclose the remaining by 6 foot 10 inches by 18 foot front porch with an existing 33 foot where 60 is required.

Siobhan, mailings?

MS. JABLESNIK: This applicant sent out twenty-three mailings. Unfortunately we did not receive a letter back from the County.

CHAIRMAN SCALZO: Okay. I was hoping we would have them all.

MS. JABLESNIK: I was, too.

CHAIRMAN SCALZO: Before I have you tell us what this is all about I need to at least advise you that without the County coming back with comments, General Municipal Law 239 prevents us from voting on this application this evening. We will be here in the month of September.

Please, we would like you to present what you have this evening. We can't close the public hearing but if there are any questions, you have an opportunity to come up with answers.

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If you don't know them today, you may know them next month. Please carry on.

MR. WILLIAMS: I'm Phil Williams. I'm standing in for the applicant, Wyatt Savage.

Currently on the front of this building there is an enclosed porch that only goes halfway across the front of the building. We're just looking to -- we're actually in the process of just renewing the roof. We would like to actually have that overhang extend the entire distance of the porch in the front of the building, which would only enhance the look of the property.

CHAIRMAN SCALZO: Correct. As I say, we've all seen it. I agree with what you're saying. It's a commercial area. It would look more uniform with what's going on all around it. I have no questions myself.

I'll look to the Board. Mr. Bell?

MR. BELL: No.

MR. MCKELVEY: No.

MR. LEVIN: No.

MR. MASTEN: No.

CHAIRMAN SCALZO: Are there any members

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NINE16 ENTERPRISES, LLC

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of the audience here to talk about this application?

(No response.)

CHAIRMAN SCALZO: Hearing none, I'll look to the Board for a motion to hold the hearing open until the September meeting.

MR. McKELVEY: I'll make that motion.

MR. BELL: Second.

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

MS. JABLESNIK: Mr. Bell?

MR. BELL: Yes.

MS. JABLESNIK: Mr. Levin?

MR. LEVIN: Yes.

MS. JABLESNIK: Mr. Masten?

MR. MASTEN: Yes.

MS. JABLESNIK: Mr. McKelvey?

MR. McKELVEY: Yes.

MS. JABLESNIK: Mr. Scalzo?

CHAIRMAN SCALZO: Yes.

The public hearing remains open. No one will be re-noticed for this.

My apologies, the County just didn't

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NINE16 ENTERPRISES, LLC

get back to us in time.

MR. WILLIAMS: I'll see you in
September.

(Time noted: 7:12 p.m.)

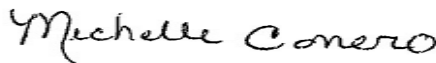
C E R T I F I C A T I O N

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 6th day of September 2019.



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

CHERYLANN HAHN
686 River Road, Newburgh
Section 20; Block 2; Lot 7.1
R-1 Zone

----- X

Date: August 22, 2019
Time: 7:12 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
DARRELL BELL

ALSO PRESENT: DAVID DONOVAN, ESQ.
GERALD CANFIELD
SIOBHAN JABLESNIK

APPLICANT'S REPRESENTATIVE: CHERYLANN HAHN

----- X

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CHERYLANN HAHN

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CHAIRMAN SCALZO: Our next applicant is Cherylann Hahn, 686 River Road, seeking an area variance to increase the degree of nonconformity to build a second story over the garage with an existing 23.2 where 50 is required.

Siobhan, mailings.

MS. JABLESNIK: This applicant sent out twenty letters.

CHAIRMAN SCALZO: Okay.

MS. HAHN: Good evening. I'm Cheryl Hahn, I own 686 River Road. My house is very, very old. It's from 1950. It's in need of an update, so I'm looking to put on a great room above the garage only, I'm looking to redo the roof and I'm looking to redo the siding. I'm also going to paint the brick. That's why I'm here tonight. I'm sure you all saw the house.

CHAIRMAN SCALZO: We did.

MS. HAHN: I'm sure just even being in that neighborhood and looking at that house, it's obvious that the house does not currently fit the neighborhood that it's in. It's pretty dilapidated on the outside.

CHAIRMAN SCALZO: Across the street

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CHERYLANN HAHN

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from you is quite an elevated hill.

MS. HAHN: Yes.

CHAIRMAN SCALZO: My assumptions are you're not going to block anyone's view that's trying to look over.

MS. HAHN: Well across the street from me, that property is currently for sale. I did actually happen to run into the owner a couple months back before there was a for sale sign there and he told me he was going to end up developing the property. Also across the street to me to my left is a neighbor that I have, Peter Olympia, whose house is very high up on the hill.

CHAIRMAN SCALZO: We know that guy.

MS. HAHN: Right. I'm assuming that if the property across from me was going to be developed, whoever is going to develop that property is going to develop it beyond the ground level. They would have no river view. I imagine they'll go up and be looking over top of me. My assumption. I don't know that with certainty.

CHAIRMAN SCALZO: That's a fair assumption.

MS. HAHN: I'm not really worried about

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CHERYLANN HAHN

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them at this point. It's still for sale and has been for the seven years I've owned the house. I'm not too concerned about it.

CHAIRMAN SCALZO: I personally have no comments.

Mr. Masten?

MR. MASTEN: No.

CHAIRMAN SCALZO: Mr. Levin?

MR. LEVIN: I agree that the Olympias wouldn't say a word because I've been at their home and you don't look down.

MS. HAHN: You look right over me. I recently took down a huge tree that was in my driveway -- I'm friendly with him -- and it made it better for him in one area. I'm not concerned about him. I was more concerned about the people who own the piece that's for sale right across from me.

MR. LEVIN: For sale?

MS. HAHN: Right out my front door, directly across the woods to the right of Peter's house, that property is for sale.

MR. LEVIN: Isn't that Peter's property?

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CHERYLANN HAHN

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MS. HAHN: No.

MR. LEVIN: I thought he was selling it off.

MS. HAHN: No. I don't really know whose it is. I met the owner a couple months back. He said he was the owner and he was going to develop it, then all of a sudden a for sale sign came on it. I'm not really sure.

MR. McKELVEY: Would it be up higher?

MS. HAHN: I would assume so. They wouldn't be building on the ground level. There would be no purpose to it.

MR. McKELVEY: I don't think you would block the view.

CHAIRMAN SCALZO: It is a topographically challenging lot.

MS. HAHN: I bet.

CHAIRMAN SCALZO: Mr. McKelvey, any other questions?

MR. McKELVEY: No.

CHAIRMAN SCALZO: Mr. Bell?

MR. BELL: No.

CHAIRMAN SCALZO: Is there anyone here, members of the audience, to speak about this

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CHERYLANN HAHN

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application?

(No response.)

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

(No response.)

CHAIRMAN SCALZO: Then I will look to the Board to entertain a motion to close the public hearing.

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

MR. LEVIN: I'll second it.

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

MS. JABLESNIK: Mr. Bell?

MR. BELL: Yes.

MS. JABLESNIK: Mr. Levin?

MR. LEVIN: Yes.

MS. JABLESNIK: Mr. Masten?

MR. MASTEN: Yes.

MS. JABLESNIK: Mr. McKelvey?

MR. MCKELVEY: Yes.

MS. JABLESNIK: Mr. Scalzo?

CHAIRMAN SCALZO: Yes.

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

MS. HAHN: Thank you very much.

(Time noted: 7:17 p.m.)

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

CHAIRMAN SCALZO: Moving on. The third applicant, Cherylann Hahn, 686 River Road, an area variance to increase the degree of nonconformity to build a second story over the garage with an existing 23.2 where 50 is required. Also raising the roof.

Whether or not the benefit can be achieved by other means feasible to the applicant. Only if she didn't do it.

Second, if there's an undesirable change in the neighborhood character or a detriment to nearby properties. I think the addition that she's proposing will bring the house more into character with the neighborhood.

The third, whether the request is substantial. By definition it is but it doesn't appear so as you traverse the property.

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

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CHERYLANN HAHN

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MR. McKELVEY: No.

CHAIRMAN SCALZO: I don't believe so.

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

MR. BELL: It is but it's not.

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

MR. BELL: Second.

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

MS. JABLESNIK: Mr. Bell?

MR. BELL: Yes.

MS. JABLESNIK: Mr. Levin?

MR. LEVIN: Yes.

MS. JABLESNIK: Mr. Masten?

MR. MASTEN: Yes.

MS. JABLESNIK: Mr. McKelvey?

MR. McKELVEY: Yes.

MS. JABLESNIK: Mr. Scalzo?

CHAIRMAN SCALZO: Yes.

The motion carried, the variances are approved. Good luck.

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(Time noted: 7:45 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 6th day of September 2019.



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 RANSOM
67 Patton Road, Newburgh
Section 102; Block 1; Lot 28
R-1 Zone

----- X

Date: August 22, 2019
Time: 7:17 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
DARRELL BELL

ALSO PRESENT: DAVID DONOVAN, ESQ.
GERALD CANFIELD
SIOBHAN JABLESNIK

APPLICANT'S REPRESENTATIVE: WILLIAM RANSOM

----- X

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

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WILLIAM RANSOM

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CHAIRMAN SCALZO: Our next applicant this evening is William Ransom, 67 Patton Road, seeking an area variance to built a 16 by 40 covered rear deck and increasing the degree of nonconformity of the side yard with an existing 21 where 30 is required and 55 for the combined side yards where 80 is required.

Siobhan, mailings?

MS. JABLESNIK: This applicant sent out seventy-one mailings.

CHAIRMAN SCALZO: That's the winner tonight.

Mr. Ransom, if you could tell us why you're here. Well we know why you're here but we want to hear you say it.

MR. RANSOM: I have a Meadow Hill house which you're all familiar with. They're all nonconforming up there, pre-existing structures. I want to put a deck on the back of the house the length of the house extending out 16 feet. I have plenty of yard throughout the back of the house. It goes pretty deep. It will be pretty close to the same distance off the sides of the house to the neighbors that are there now.

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WILLIAM RANSOM

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Multiple houses in the neighborhood have very similar decks.

Right now I just have a landing with stairs going down. The multiple decks in the neighborhood, some are covered like I want to do, some are not, they're various sizes. I can't think of a single one that stands out and makes it look weird in the neighborhood. It's going to definitely blend in and not cause any problems for anybody.

CHAIRMAN SCALZO: Very good.

MR. McKELVEY: You have a big backyard.

CHAIRMAN SCALZO: Yours is one of the deeper ones. Even if you were doing something simple, with the building setback lines you'd be in here for anything. It's pre-existing nonconforming if you will.

I have no comments on this.

Mr. Masten?

MR. MASTEN: I'm fine.

CHAIRMAN SCALZO: Mr. Levin?

MR. LEVIN: No.

CHAIRMAN SCALZO: Mr. McKelvey?

MR. McKELVEY: No.

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CHAIRMAN SCALZO: Mr. Bell?

MR. BELL: It's a good looking piece of property.

CHAIRMAN SCALZO: Very good.

Do any members of the audience want to speak about this application?

(No response.)

CHAIRMAN SCALZO: Hearing none, I'll look to the Board to entertain a motion to close the public hearing.

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

MR. McKELVEY: I'll second it.

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

MS. JABLESNIK: Mr. Bell?

MR. BELL: Yes.

MS. JABLESNIK: Mr. Levin?

MR. LEVIN: Yes.

MS. JABLESNIK: Mr. Masten?

MR. MASTEN: Yes.

MS. JABLESNIK: Mr. McKelvey?

MR. McKELVEY: Yes.

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WILLIAM RANSOM

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MS. JABLESNIK: Mr. Scalzo?

CHAIRMAN SCALZO: Yes.

The public hearing is closed. We will do our best to render a decision this evening. We don't want to make you suffer. I saw in your application your e-mail is Mets69.

MR. RANSOM: I suffer enough. Thank you very much.

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

(Time resumed: 7:45 p.m.)

CHAIRMAN SCALZO: The next applicant is Mr. Ransom, 67 Patton Road, seeking an area variance to build a 16 by 40 covered rear deck and increasing the degree of nonconformity of the side yard with an existing 21 where 30 is required, 55 for the combined side yard where 80 is required.

Can the benefit be achieved by other means feasible to the applicant?

MR. BELL: I don't think so.

MR. McKELVEY: I don't think so.

CHAIRMAN SCALZO: Only if he didn't do it.

The second, if there's an undesirable

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change in the neighborhood character or a detriment to nearby properties. Again, just as the previous applicant, I would say it's going to bring it up to what the other folks are doing.

The third, whether the request is substantial. I don't believe so when you look at the property.

Whether the request will have adverse physical or environmental effects.

MR. BELL: No.

MR. McKELVEY: No.

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

MR. BELL: Not really.

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

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

MR. LEVIN: I'll second it.

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

MS. JABLESNIK: Mr. Bell?

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WILLIAM RANSOM

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MR. BELL: Yes.

MS. JABLESNIK: Mr. Levin?

MR. LEVIN: Yes.

MS. JABLESNIK: Mr. Masten?

MR. MASTEN: Yes.

MS. JABLESNIK: Mr. McKelvey?

MR. MCKELVEY: Yes.

MS. JABLESNIK: Mr. Scalzo?

CHAIRMAN SCALZO: Yes.

Motion carried. The variance is
approved.

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

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

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

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

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

IN WITNESS WHEREOF, I have hereunto
set my hand this 6th day of September 2019.



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

STEPHEN WILLIAMSON
292 North Plank Road, Newburgh
Section 35; Block 5; Lot 2
B Zone

----- X

Date: August 22, 2019
Time: 7:20 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: DARRIN SCALZO, Chairman
JOHN McKELVEY
RICHARD LEVIN
JOHN MASTEN
DARRELL BELL

ALSO PRESENT: DAVID DONOVAN, ESQ.
GERALD CANFIELD
SIOBHAN JABLESNIK

APPLICANT'S REPRESENTATIVE: CHARLES BROWN

----- X

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

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CHAIRMAN SCALZO: Stephen Williamson, 292 North Plank Road, seeking an area variance to build a 34 by 40 by 24.2 high accessory building. The maximum building height for accessory buildings is 15 feet and the total proposed square foot of accessory building is 1,936 where 365.10 square feet is the maximum allowed, and storage of no more than four vehicles in a carport or garage.

Siobhan, mailings?

MS. JABLESNIK: This applicant sent out twenty-two letters and we received the County notification back.

CHAIRMAN SCALZO: We did get the GML 239 so we can go on this evening.

Mr. Brown, introduce yourself and tell us why we're here.

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

This proposal is for a garage for four vehicles. The applicant has three vehicles including an antique Mercedes that was his wife's. His wife passed away a couple years ago.

CHAIRMAN SCALZO: Can you turn off the

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STEPHEN WILLIAMSON

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air? Charlie, speak up.

MR. BROWN: The applicant has three vehicles, a couple antique tractors. One of the vehicles is his deceased wife's Mercedes which he keeps out of posterity.

We're in a Business zone. In the vicinity there's a firehouse which is 10,000 square feet. We have a commercial building across the street. It won't be out of character with the neighborhood. I don't see it having an impact on the neighbors or the environment.

CHAIRMAN SCALZO: Thank you. As I say, we've all visited the property. Mr. Williamson keeps it up very nicely. Everything is very neat.

I also agree with your assessment that it's not out of character with the neighborhood because 200 feet to the left is a building taller than what he's looking to do. However, our accessory building height is 15 feet. He's looking for 24 which is substantial when we look at -- is he married to that 24 foot height?

MR. BROWN: No. We could drop the roof pitch to a 4/12 and bring it down to 22.

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CHAIRMAN SCALZO: 22 feet?

MR. McKELVEY: That's still high.

MR. LEVIN: That's still high.

MR. McKELVEY: The house up behind it, is it going to block the view? Are they going to be satisfied?

CHAIRMAN SCALZO: We're going to have an opportunity to hear any comments, Mr. McKelvey, if anyone is opposed to this.

MR. BROWN: I guess we could take it down to a 4/12, but I think it would change the character of the building. Right now the roof pitch is an 8/12.

CHAIRMAN SCALZO: We appreciate the immediate concession here. We're looking at 24 dropping to 22?

MR. BROWN: 22 is based upon 6/12. If we go down to 4/12 we'll be taking another couple feet off. Another 3 feet. We'll be down to 19.

MR. McKELVEY: That's better.

CHAIRMAN SCALZO: That's fantastic. However, considering the size of the building and snow loads, I'm not sure -- well --

MR. BROWN: The truss manufacturers

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STEPHEN WILLIAMSON

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will take care of that. It's going to be a truss roof.

CHAIRMAN SCALZO: All right. When you drop -- well if it's 19 feet, with the size of the building it may look a little odd with such a low pitched roof.

Any idea what the roof pitch on the firehouse is?

MR. BROWN: I do not.

Do you know, Mike?

MR. MAHER: Mike Maher, 50 Cocoa Lane. It's about a 1.5/12 on the firehouse. It's an 18, 19 foot high center. A 16 foot sidewall but a 19, 20 foot center.

As far as Williamson, I talked to him earlier and we discussed a 6/12 pitch on the roof down to a 22.6 height overall, down from the 24 that it was. I talked to him today about the size. 22.6 was the idea coming back.

CHAIRMAN SCALZO: Mr. Maher, will you be the contractor on the project?

MR. MAHER: It's a good possibility.

CHAIRMAN SCALZO: I understand. While I poll the Board here I want you to at least see

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STEPHEN WILLIAMSON

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where we're at. Again, we appreciate the offer of dropping immediately but we need to really firm up where we're going to be.

Mr. Bell, any comments on this?

MR. BELL: Not right now. Not yet.

CHAIRMAN SCALZO: Mr. McKelvey?

MR. MCKELVEY: No.

MR. LEVIN: You said 19 feet?

MR. BROWN: That's if we go 4/12. If I understand --

MR. MAHER: It was agreed upon as a 6/12. It's going to be around 22, 22.6. If we say 22 even, that lowers it to over 2 foot from the original request.

CHAIRMAN SCALZO: Mr. Maher, actually if you could come up here. It is being recorded.

MR. MAHER: Mike Maher, 50 Cocoa Lane. In actuality, if you go with the 22 foot overall height, it's a 2 foot -- 1 to 2 foot reduction from the request we had submitted originally.

CHAIRMAN SCALZO: Okay. Would 19 -- what's the disadvantage --

MR. MAHER: The disadvantage is with the size of the building the pitch would be so

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STEPHEN WILLIAMSON

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shallow it would look kind of strange, especially if you have a reverse gable in the front to give additional character to it. If you lower that pitch the reverse gables becomes very small in the front and out of place. The 8/12 works well, it's a good visual. The 6/12 would be acceptable. Below that would be kind of difficult to get. Again, with the size of the buildings across the street, down the street and next to it, I don't think it's that out of the realm.

CHAIRMAN SCALZO: Mr. Canfield, have you seen the plans for this yet?

MR. CANFIELD: Not really.

CHAIRMAN SCALZO: In my package I don't recall seeing it. Did anybody get a detail? You mentioned a reverse gable and that's the first I heard of it.

MR. MAHER: If I might approach, sir?

CHAIRMAN SCALZO: Yes, please.

MR. MAHER: The reverse on the --

CHAIRMAN SCALZO: I got you now. Actually, if you could take one second and talk to each one of the Members of the Board so they

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STEPHEN WILLIAMSON

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understand.

MR. MAHER: Basically a reverse gable. If you shrink that too much smaller it would look foolish in the front of it. Dropping it down roughly 2 feet already, I think it's consistent with keeping that portion.

MR. LEVIN: Okay.

MR. MASTEN: All right.

CHAIRMAN SCALZO: Mr. Bell?

MR. BELL: What's the height of the house? I'm just curious.

MR. MAHER: It's a single story. 8, 9 -- about probably 14 to 16 feet or so.

MR. BELL: Okay.

MR. MAHER: It does sit further back from the house. You would be able to put the gable to the end so you'd see the roof area.

MR. BELL: It's going to replace the existing structure?

MR. MAHER: The existing garage comes down and so does the shed.

CHAIRMAN SCALZO: Mr. Williamson mentioned that to me when I was out there. He said the existing garage and the shed behind it

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STEPHEN WILLIAMSON

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are coming down.

MR. MAHER: In addition, we measured that again today. We're going to shrink it to a 36 wide versus 44 foot wide. There would be a little more area on the side to move around it. A little concession there. That's a 10 percent reduction.

MR. LEVIN: Is it 36 wide?

MR. MAHER: 36 wide.

MR. BROWN: The 34 foot depth stays the same. The width goes from 40 to 36.

CHAIRMAN SCALZO: So will that additional 4 feet be added to the side which it appears you're just squeaking away?

MR. MAHER: That remains. That's the existing garage side yard there. That remains. It's just on the right-hand side it gives it more of an area to move around in with the reduction.

MR. BELL: There are big rocks on the side.

MR. MAHER: It will give you more area in the back.

CHAIRMAN SCALZO: All right. The shed is in the far back and appears to be in decent

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STEPHEN WILLIAMSON

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condition. Are we looking to give those up?

MR. BROWN: Those are staying.

CHAIRMAN SCALZO: Let's talk about the overhead utility lines. Is there a provision here? Are they going to be relocated?

MR. MAHER: In actuality that's the reason for -- he wanted a deeper garage. We kept it to the front originally because of the lines there. The back corner goes towards that line but you're not going to be within the distance as far as the peak of the roof. The peak of the roof is offset far enough.

CHAIRMAN SCALZO: I'll look over to Code Compliance. Is this something that they clear through you first or do they have the utility company -- these are private utility poles?

MR. MAHER: Correct.

CHAIRMAN SCALZO: Do they have the utility come out and cuff the lines? You're going to be probably within the area of influence on that, the 10 feet I'm sure.

MR. MAHER: I don't think so.

CHAIRMAN SCALZO: It appears right now

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STEPHEN WILLIAMSON

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it's going to go right over.

MR. MAHER: When I was out and measured it I measured the back corner to make sure we were clear. That's why we brought the building into less depth to accommodate that. We do have the room to come forward a few feet if we had to.

CHAIRMAN SCALZO: That would eliminate what you just mentioned about the area --

MR. MAHER: I don't mean as far as vehicles. As far as getting around with a small tractor or mower.

CHAIRMAN SCALZO: Okay. I've heard from the Board. Is there anybody in the audience here to speak about this application?

(No response.)

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

MR. BELL: I was kind of hoping the gentleman that lived behind was here. He was watching me when I was out there today and I was watching him. I kind of wondered. He's not here?

CHAIRMAN SCALZO: Siobhan, the mailings included the gentleman that lives behind him?

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STEPHEN WILLIAMSON

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MR. PISARI: That's me.

MR. BELL: That was you.

CHAIRMAN SCALZO: Sir, do you have any comment?

MR. BELL: Do you have any questions?

MR. PISARI: The only comment I have is what's the distance. -

MR. BELL: Step forward.

CHAIRMAN SCALZO: State your name for the record.

MR. PISARI: Joe Pisari. The distance between the property line with the garage, what's the --

CHAIRMAN SCALZO: They're claiming right now the distance between the garage and the property line is 5 feet. The new garage is going to be exactly the same.

MR. PISARI: Okay.

CHAIRMAN SCALZO: Sir, do you have an issue with the heights that they're talking about?

MR. PISARI: No. My house sits pretty far back, about 300 feet. I don't think it will be a problem because it would be in front of his

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STEPHEN WILLIAMSON

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house. I can't look past his house anyway because the roof line is 14 feet.

CHAIRMAN SCALZO: This structure is going to be taller than the existing house.

MR. PISARI: I don't think it will be a problem.

CHAIRMAN SCALZO: There actually might be an unintended benefit of this. It may block some of the road noise to your house.

MR. PISARI: I'm back 300 feet.

MR. McKELVEY: That was my question.

MR. MASTEN: He is set back quite a ways.

CHAIRMAN SCALZO: I appreciate you stepping forward. Thank you very much, sir.

MR. PISARI: Thank you.

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

(No response.)

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

(No response.)

CHAIRMAN SCALZO: I'll look to the

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STEPHEN WILLIAMSON

50

Board for a motion to close the public hearing.

MR. LEVIN: I'll make a motion.

MR. MASTEN: I'll second it.

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

MS. JABLESNIK: Mr. Bell?

MR. BELL: Yes.

MS. JABLESNIK: Mr. Levin?

MR. LEVIN: Yes.

MS. JABLESNIK: Mr. Masten?

MR. MASTEN: Yes.

MS. JABLESNIK: Mr. McKelvey?

MR. MCKELVEY: Yes.

MS. JABLESNIK: Mr. Scalzo?

CHAIRMAN SCALZO: Yes.

The public hearing is closed. We will do our best to vote on this application this evening.

MR. BROWN: Thank you.

CHAIRMAN SCALZO: Here it is 7:30 and we've been through all the new applications. Before proceeding the Board is going to take a short adjournment to confer with counsel regarding any legal questions raised by tonight's

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STEPHEN WILLIAMSON

51

applications.

If I could ask in the interest of time, if you folks would just wait in the hallway and we'll call you back in very shortly.

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

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

CHAIRMAN SCALZO: The next applicant is Stephen Williamson, 292 North Plank Road, seeking an area variance to build a 34 by 40 by 24.2 accessory building. The maximum building height for accessory buildings is 15. The total proposed square feet of accessory buildings is 1,936 where 365.10 is the maximum allowed. There's storage of no more than four vehicles in a carport or garage.

Now, we have a reduction in square foot; correct?

MR. DONOVAN: Correct.

MR. BELL: What was that number again?

CHAIRMAN SCALZO: Could I look out to Mr. Maher. Mr. Maher, what is the square feet that we're looking at?

MR. MAHER: The building itself you're going to reduce by 136.

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STEPHEN WILLIAMSON

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MR. BROWN: 1,224 square feet.

CHAIRMAN SCALZO: We're looking at 1,224 square feet for the new proposed building where -- that doesn't make sense.

MR. MAHER: The original was 1,360.

CHAIRMAN SCALZO: Very good. And also on the table is an offer for a reduction in height from 24.2 to 22?

MR. MAHER: Correct.

CHAIRMAN SCALZO: Before we move forward, is there any further discussion from the Board on this?

MR. BELL: No. As long as we stay with what we talked about, we're good.

MR. McKELVEY: It is in the Business district.

MR. DONOVAN: Just to make sure; Jerry, the original application indicates they're going to remove a garage and a shed. Any idea, was that calculated in the original calculation done by your office in terms of the total proposed square footage?

MR. CANFIELD: Yes. I did speak with Mr. Mattina today to review his calculations. He

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STEPHEN WILLIAMSON

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did take into consideration the removal of the two sheds and the garage and then recalculated with what was proposed on the survey.

MR. DONOVAN: Again just going back to the chart that's prepared by Code Compliance; Mr. Maher, the original total square footage of this new structure was 1,336?

MR. MAHER: 13 -- the original was 1,360, the new is 1,224.

MR. DONOVAN: I only bring that up because in terms of the chart, we're dealing with all of the accessory structures. That's going to obviously decrease it, so it's not going to be the same percentage. Do you understand what I'm saying? We're taking into account all the square footage of all the accessory structures.

MR. MAHER: Yes, sir. The new square footage should be 1,800 in total once you remove the 136 I believe.

MR. DONOVAN: I couldn't do that math in my head. Remove 136 I could do.

MR. MAHER: That would be the new total square footage.

MR. DONOVAN: Thank you.

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CHAIRMAN SCALZO: Therefore the five factors, the first one being whether or not the benefit can be achieved by other means feasible to the applicant. They could. It's been exhibited to us that by asking for the roof to be lowered more the aesthetic benefit will be lost. In agreement?

MR. LEVIN: Yes.

MR. BELL: Yes.

CHAIRMAN SCALZO: Second, if there's an undesirable change in the neighborhood character or a detriment to nearby properties. As we all noticed when we were out there, it is a business area.

MR. McKELVEY: There are big buildings alongside of it.

CHAIRMAN SCALZO: Third, whether the request is substantial. By code it is, however walking the property it won't appear so.

Fourth, whether the request will have adverse physical or environmental effects. Not so much.

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

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STEPHEN WILLIAMSON

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Of course it is.

As a note, we do have testimony from a contiguous adjoiner that appears to be in support of the variances as they have been now discussed, the lowering to 22 feet and the reduction in size.

MR. BELL: That should prevent the overhead wire --

CHAIRMAN SCALZO: I'm going to leave the overhead wire issue up to Code Compliance and any OSHA regulations they need to follow during the construction process. Correct?

MR. CANFIELD: Generally it's a 10 foot separation. I know Mike is aware of that. Any issues that he encounters, he'll have to address it in the field.

CHAIRMAN SCALZO: That's not an issue that we need to concern ourselves with here. That's more of a Code Compliance/New York State Building Code issue.

MR. CANFIELD: Correct.

CHAIRMAN SCALZO: Thank you.

Therefore, does the Board have a motion?

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STEPHEN WILLIAMSON

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

CHAIRMAN SCALZO: A motion for approval from Mr. Bell. Do we have a second?

MR. MASTEN: I'll second that.

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

MS. JABLESNIK: Mr. Bell?

MR. BELL: Yes.

MS. JABLESNIK: Mr. Levin?

MR. LEVIN: Yes.

MS. JABLESNIK: Mr. Masten?

MR. MASTEN: Yes.

MS. JABLESNIK: Mr. McKelvey?

MR. MCKELVEY: Yes.

MS. JABLESNIK: Mr. Scalzo?

CHAIRMAN SCALZO: Yes.

Motion carried --

MR. CANFIELD: One question.

CHAIRMAN SCALZO: -- with the adjustments.

MR. CANFIELD: The adjustments, is the Board going to need to see the plans or will it suffice for them to come to our office?

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STEPHEN WILLIAMSON

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CHAIRMAN SCALZO: I would say the Code Compliance Department has full authority over that.

MR. CANFIELD: On the adjusted height; correct?

CHAIRMAN SCALZO: Yes.

MR. CANFIELD: Which is 22 feet?

CHAIRMAN SCALZO: 22 feet.

MR. CANFIELD: Understood.

MR. BROWN: The width went from 40 to 36.

MR. CANFIELD: Okay.

CHAIRMAN SCALZO: The reduction in size to 1,224, Jerry.

(Time noted: 7:50 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 6th day of September 2019.

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

349 SOUTH PLANK ROAD, LLC
349 South Plank Road, Newburgh
Section 47; Block 1; Lot 80.1
B Zone

----- X

Date: August 22, 2019
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
DARRELL BELL

ALSO PRESENT: DAVID DONOVAN, ESQ.
GERALD CANFIELD
SIOBHAN JABLESNIK

APPLICANT'S REPRESENTATIVE: JONATHAN CELLA

----- X

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

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349 SOUTH PLANK ROAD, LLC

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CHAIRMAN SCALZO: In my haste I sent you out the door without actually closing two of the public hearings. We had two held over from the July 25th meeting which we did not close, however we heard the presentations from both applicants for those.

We have 349 South Plank Road, LLC which is seeking an area variance to utilize the premises for a transportation services business.

I believe they answered all of our questions in the last meeting. Does anyone have any other questions on that application?

(No response.)

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

MR. McKELVEY: I'll make that motion.

MR. MASTEN: Second.

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

MS. JABLESNIK: Mr. Bell?

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MR. BELL: Yes.

MS. JABLESNIK: Mr. Levin?

MR. LEVIN: Yes.

MS. JABLESNIK: Mr. Masten?

MR. MASTEN: Yes.

MS. JABLESNIK: Mr. McKelvey?

MR. MCKELVEY: Yes.

MS. JABLESNIK: Mr. Scalzo?

CHAIRMAN SCALZO: Yes.

The public hearing is closed.

(Time noted: 7:40 p.m.)

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

CHAIRMAN SCALZO: The next applicant was held over from July 25. We have 349 South Plank Road, LLC, seeking an area variance to utilize the premises for transportation purposes. We just closed that public hearing five minutes ago.

Discussing the five factors, whether or not the benefit can be achieved by other means feasible to the applicant. It's pre-existing nonconforming.

Second, whether it's an undesirable change in the neighborhood character or a

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detriment. Nothing you're going to see is going to change physically. That's not true. You will see it if you're standing behind the building. You won't see it from the front.

The third, whether the request is substantial. It does not appear so.

Fourth, whether the request will have adverse physical or environmental effects. Also it doesn't appear so.

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

MR. McKELVEY: It's pre-existing.

CHAIRMAN SCALZO: The roof we're putting over the back just to keep -- so they don't have to go and sweep the cars off before they take people on a ride.

Therefore, having gone through the balancing test, does the Board have a motion?

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

MR. MASTEN: I'll second it.

CHAIRMAN SCALZO: We have a motion from Mr. McKelvey and we have a second from Mr.

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Masten. Roll call.

MS. JABLESNIK: Mr. Bell?

MR. BELL: Yes.

MS. JABLESNIK: Mr. Levin?

MR. LEVIN: Yes.

MS. JABLESNIK: Mr. Masten?

MR. MASTEN: Yes.

MS. JABLESNIK: Mr. McKelvey?

MR. MCKELVEY: Yes.

MS. JABLESNIK: Mr. Scalzo?

CHAIRMAN SCALZO: Yes.

Motion carried.

MR. CELLA: Can I ask a question? I'm
sorry I'm late.

CHAIRMAN SCALZO: Mr. Cella, yes.

MR. CELLA: Last month we were asked to
change the map for the area variance for the
front yard setback which we did.

CHAIRMAN SCALZO: Which was 60 feet.

MR. CELLA: Yes. I see on the agenda
you didn't write -- I just wanted to make sure
that's being considered as well.

MR. DONOVAN: You were doing so well.
You got it all approved without having to speak.

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We deemed the application modified last month just to reflect that fact.

MR. CELLA: Thank you. Sorry about that.

MR. CANFIELD: Darrin, I just have one question.

Jonathan, my office received a call from the DOT with regard to some drainage issues and holding up the paving issue on 52. I'll forward that to you. If you could get with your client.

MR. CELLA: We're going to resolve that during the planning process.

MR. CANFIELD: The applicant now goes back to the Planning Board.

MR. CELLA: We're still seeking Planning Board approval for the site plan. That will include the curb cut access and any improvements we have to do along the frontage for drainage. That wouldn't affect the requested variances.

MR. CANFIELD: Right.

CHAIRMAN SCALZO: Mr. Cella, this still needs to go back to the Planning Board?

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349 SOUTH PLANK ROAD, LLC

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MR. CELLA: The Planning Board and DOT.

CHAIRMAN SCALZO: Very good. Thank
you.

(Time noted: 7:53 p.m.)

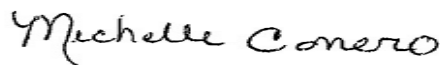
C E R T I F I C A T I O N

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

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

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

IN WITNESS WHEREOF, I have hereunto
set my hand this 6th day of September 2019.



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

GLORIA SMITH-TRAPANI
9 Libra Lane, Wallkill
Section 1; Block 2; Lot 7.2-11
AR Zone

----- X

Date: August 22, 2019
Time: 7:40 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
DARRELL BELL

ALSO PRESENT: DAVID DONOVAN, ESQ.
GERALD CANFIELD
SIOBHAN JABLESNIK

----- X

MICHELLE L. CONERO
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GLORIA SMITH-TRAPANI

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CHAIRMAN SCALZO: The other applicant which was held open was Gloria Smith-Trapani, 9 Libra Lane, Wallkill, seeking an area variance to build a 40 by 30 by 18 accessory building where there's an existing 440 square foot of accessory structure and a building height of 18 where 15 is the maximum.

We had heard all the presentations from that application as well. I was satisfied with all the answers that I heard. We were just looking to close the public hearing. May I look to the Board for a motion?

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

MR. MASTEN: I'll second.

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

MS. JABLESNIK: Mr. Bell?

MR. BELL: Yes.

MS. JABLESNIK: Mr. Levin?

MR. LEVIN: Yes.

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MS. JABLESNIK: Mr. Masten?

MR. MASTEN: Yes.

MS. JABLESNIK: Mr. McKelvey?

MR. MCKELVEY: Yes.

MS. JABLESNIK: Mr. Scalzo?

CHAIRMAN SCALZO: Yes.

That public hearing is now closed.

(Time noted: 7:41 p.m.)

(Time resumed: 7:53 p.m.)

CHAIRMAN SCALZO: Our final item on the agenda is Gloria Smith-Trapani, 9 Libra Lane in Wallkill, seeking an area variance to build a 40 by 30 by 18 accessory building where there's an existing 440 square foot of accessory structure and a building height of 18 where 15 is the maximum allowed. Maximum allowed vehicle storage is four. No building shall project closer than the fronting street.

What was holding us up last time was the GML 239 which we have received. The County recommends a Local determination.

We've heard everything. We're going to run through the criteria.

Whether the benefit can be achieved by

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other means feasible to the applicant. It's such a large piece of property, and the way the other street rolls in, it's unusual. I would say the proposed structure is going in the appropriate spot.

The second, if there's an undesirable change in the neighborhood character or a detriment to nearby properties. We heard testimony from one of their contiguous adjoiners that they are thrilled this is going to happen.

MR. McKELVEY: Yes.

MR. BELL: Yes.

CHAIRMAN SCALZO: The third, whether the request is substantial. Relative to the size of the property I don't believe so.

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

The fifth, whether the alleged difficulty is self-created, relative but not determinative. Of course it's self-created but the parcel is very large. All right.

MR. DONOVAN: Mr. Chairman, just a clarification of two items. I believe you read

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off that there were four variances required.

CHAIRMAN SCALZO: Did I? An area variance, existing building height of 18 where 15 is the maximum, no building shall project --

MR. DONOVAN: Jerry, I think we decided when Joe was here last month that the height variance wasn't required because it's an agricultural building and under the code there's a specific exemption from height, so that's not necessary.

MR. CANFIELD: That's correct.

MR. DONOVAN: Was there also a determination that a variance is not required because the accessory structure is not in the front yard?

MR. CANFIELD: That's correct. The building has been moved back, so those two variances are no longer needed.

MR. DONOVAN: It's only the vehicle storage and the total square footage.

CHAIRMAN SCALZO: Very good.

Does the Board have a motion?

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

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MR. BELL: I'll second it.

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

MS. JABLESNIK: Mr. Bell?

MR. BELL: Yes.

MS. JABLESNIK: Mr. Levin?

MR. LEVIN: Yes.

MS. JABLESNIK: Mr. Masten?

MR. MASTEN: Yes.

MS. JABLESNIK: Mr. McKelvey?

MR. MCKELVEY: Yes.

MS. JABLESNIK: Mr. Scalzo?

CHAIRMAN SCALZO: Yes.

Motion carried. Your variances are approved.

Sorry for the delay. It was the County.

Other than that, Board Business. Have you folks had a chance to read last month's meeting minutes? If so, do I hear a motion to approve?

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

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CHAIRMAN SCALZO: We have a motion from Mr. Masten. Do we have a second?

MR. McKELVEY: I'll second it.

CHAIRMAN SCALZO: A second from Mr. McKelvey. All in favor on that?

MR. BELL: Aye.

MR. LEVIN: Aye.

MR. MASTEN: Aye.

MR. McKELVEY: Aye.

CHAIRMAN SCALZO: Aye.

I don't think we have any other Board Business. In that case I'll look for a motion to adjourn.

MR. McKELVEY: I'll make the motion.

MR. BELL: Second.

CHAIRMAN SCALZO: Motion to adjourn from Mr. McKelvey and a second from Mr. Bell. All in favor?

MR. BELL: Aye.

MR. LEVIN: Aye.

MR. MASTEN: Aye.

MR. McKELVEY: Aye.

CHAIRMAN SCALZO: Aye.

(Time noted: 7:57 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
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IN WITNESS WHEREOF, I have hereunto
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Michelle Conero

MICHELLE CONERO