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

----- X

In the Matter of

WILLIAM LYNN & LORI FRANK

48 O'Dell Circle
Section 51; Block 1; Lot 24
R-1 Zone

----- X

Date: August 27, 2020
Time: 7:20 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

ALSO PRESENT: SIOBHAN JABLESNIK

APPLICANT'S REPRESENTATIVE: WILLIAM LYNN

----- X

MICHELLE L. CONERO
3 Francis Street
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. 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 questions or comments from the public will be entertained via Zoom. It's our first hybrid meeting. After all the public hearings have been completed, the Board may adjourn -- actually, we may adjourn and confer. We're not going to confer with counsel because counsel is not here this evening. The Board will then consider the applications in the order heard and will try to render a decision this evening but may take up to 62 days to reach a determination.

I would ask if you have a cellphone, to please turn it off or put it on silent. Myself included. When speaking, speak directly into the microphone. It's being

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recorded. We have a stenographer here. Also for the sake of the folks that are here via Zoom. They need to be able to hear you as well. I don't see a microphone up here.

MS. JABLESNIK: I've got you.

CHAIRMAN SCALZO: You've got me. Thank you, Siobhan. I appreciate that.

Okay, Siobhan. Roll call, please.

MS. JABLESNIK: Darrell Bell.

MR. BELL: Here.

MS. JABLESNIK: Richard Levin.

MR. LEVIN: Here.

MS. JABLESNIK: Anthony Marino.

MR. MARINO: Here.

MS. JABLESNIK: John Masten.

MR. MASTEN: Here.

MS. JABLESNIK: John McKelvey.

MR. MCKELVEY: Here.

MS. JABLESNIK: Darrin Scalzo.

CHAIRMAN SCALZO: Here.

MS. JABLESNIK: Absent is our Attorney, Dave Donovan. And we have Michelle Conero, our Stenographer, present.

CHAIRMAN SCALZO: Excellent. If you

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could all please rise for the Pledge of Allegiance. Mr. Bell, can you lead us?

(Pledge of Allegiance.)

CHAIRMAN SCALZO: Thank you.

Again my apologies. We have a little bit of a late start but we are going to rock it.

So our first applicant this evening is William Lynn and Lori Frank, 48 O'Dell Circle, Section 51; Block 1; Lot 24 in the R-1 Zone. They are seeking area variances for increasing the degree of an existing nonconformity regarding one side yard and combined side yard setbacks to replace an existing 6 by 30 nonconforming deck with a new 14 by 30 nonconforming deck.

Siobhan, mailings on this?

MS. JABLESNIK: This applicant sent out 43 letters.

CHAIRMAN SCALZO: 43. That's quite a bit.

Later in the meeting and what I'll say now regarding SEQRA is this is a Type 2 action. GML-239 referral, this may be within 500 feet of 52, however the County has not responded to us in the mandatory 30 days, so we can act upon it this

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evening without having to wait for them.

This application, in my opinion, is pretty straightforward. We just need to hear from our applicant.

Mr. Lynn, are you available to come up and speak about your project? Please state your name.

MR. LYNN: William Lynn, 48 O'Dell Circle.

We'd like to -- the current deck that's on the house was built in '68. It's falling apart. Basically it's rotten. We need to replace it. We have a pretty good size family -- extended family, and we'd like to make it a little bit bigger. That's why we put our application in.

CHAIRMAN SCALZO: Very good. Mr. Lynn, and for all the members of the public and the other applicants that are here, the Zoning Board of Appeals does their best to visit every site. So we've seen just about everything that we're talking about here.

I happened to see Mr. Lynn's property today. He went over what it was. I looked at the deck. He pointed out some deficiencies in the

1
2 existing conditions. I looked at it myself. I
3 don't think it's out of character with the
4 neighborhood, and it doesn't look like it's
5 really big. It's not going to be a large --
6 larger than anything that's next door to it.

7 At this point I'm going to look to the
8 Members of the Board. I'm going to start with Mr.
9 Masten. Any comments regarding this application?

10 MR. MASTEN: I have no comment. The
11 property is very good.

12 MR. McKELVEY: The properties are all
13 close there.

14 CHAIRMAN SCALZO: Mr. McKelvey, I
15 agree.

16 Mr. Marino, any comments on this?

17 MR. MARINO: No comments.

18 CHAIRMAN SCALZO: Mr. Bell, any
19 comments on this application?

20 MR. BELL: No.

21 CHAIRMAN SCALZO: Mr. Levin, any
22 comments on this application?

23 MR. LEVIN: It's very straightforward.

24 CHAIRMAN SCALZO: Very good. At this
25 point I'll open it up to any members of the

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public on Zoom or any of the applicants sitting
in the room. Any comments from any of our
electronic visitors?

(No response.)

CHAIRMAN SCALZO: That's a no. Thank
you for letting me know, Siobhan.

Michelle, she is shaking her head no.

Very good. At this point I'll look to
the Board. Does the Board have a motion, perhaps
to close the public hearing?

MR. McKELVEY: I'll make a motion.

MR. MASTEN: I'll second it.

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

MS. JABLESNIK: Mr. Bell?

MR. BELL: Yes.

MS. JABLESNIK: Mr. Levin?

MR. LEVIN: Yes.

MS. JABLESNIK: Mr. Marino?

MR. MARINO: Yes.

MS. JABLESNIK: Mr. Masten?

MR. MASTEN: Yes.

MS. JABLESNIK: Mr. McKelvey?

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MR. McKELVEY: Yes.

MS. JABLESNIK: Mr. Scalzo?

CHAIRMAN SCALZO: Yes.

The public hearing is closed.

Mr. Lynn, you can sit down. Actually, we're going to do these a little out of the ordinary from what people are normally used to seeing. You can sit here and we're going to wrap you up right now.

So that being said, as I mentioned earlier, this is a Type 2 action under SEQRA. At this point we're going to go through the balancing test for area variances, the first one being whether or not the benefit can be achieved by other means feasible to the applicant. If he didn't do.

MR. McKELVEY: I don't believe so.

CHAIRMAN SCALZO: The deck is in poor condition. It does need to be replaced.

The second, if there's an undesirable change in the neighborhood character or a detriment to nearby properties. As we all stood there, it didn't appear as though it's going to be out of character at all.

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The third, whether the request is substantial. I don't believe it is. He's going to just completely cover, plus a foot or two of the patio below it.

Does anybody see anything different?

MR. BELL: No.

MR. LEVIN: No.

CHAIRMAN SCALZO: The fourth, whether the request will have adverse physical or environmental effects. I don't believe so.

And the fifth, whether the alleged difficulty is self-created. This is relevant but not determinative. Of course it's self-created. If you didn't do it it wouldn't be self-created. However, that's not determinative for what we're looking to do this evening.

Having gone through the balancing test of the area variance, what is the pleasure of the Board? Does the Board have a motion of some sort?

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

MR. MARINO: Second.

CHAIRMAN SCALZO: I heard it over here

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first. We have a motion for approval from Mr. Bell. We have a second from Mr. Marino. Roll call, please.

MS. JABLESNIK: Mr. Bell?

MR. BELL: Yes.

MS. JABLESNIK: Mr. Levin?

MR. LEVIN: Yes.

MS. JABLESNIK: Mr. Marino?

MR. MARINO: Yes.

MS. JABLESNIK: Mr. Masten?

MR. MASTEN: Yes.

MS. JABLESNIK: Mr. McKelvey?

MR. MCKELVEY: Yes.

MS. JABLESNIK: Mr. Scalzo?

CHAIRMAN SCALZO: Yes.

The variance -- motion carried.

Variances are approved, sir.

MR. LYNN: Thank you.

MS. JABLESNIK: I just need everybody to speak a little bit louder when they're at the microphone. I'm just getting people can't hear.

CHAIRMAN SCALZO: Our microphones are on. Siobhan, are you talking about us, the applicant or everybody?

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MS. JABLESNIK: Everybody.

CHAIRMAN SCALZO: Everybody. Note to Board Members, take a deep breath before you speak. It helps.

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

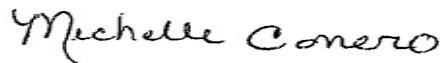
C E R T I F I C A T I O N

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

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

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

IN WITNESS WHEREOF, I have hereunto set my hand this 8th day of September 2020.



MICHELLE CONERO

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

----- X

In the Matter of

DANIEL DARRIGO

84 Lakeside Road
Section 86; Block 1; Lot 96
R-1 Zone

----- X

Date: August 27, 2020
Time: 7:30 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: JOHN McKELVEY, Acting Chairman
RICHARD LEVIN
JOHN MASTEN
ANTHONY MARINO
DARRELL BELL

ALSO PRESENT: SIOBHAN JABLESNIK

APPLICANT'S REPRESENTATIVE: JEFFREY LEASE

----- X

MICHELLE L. CONERO
3 Francis Street
Newburgh, New York 12550
(845)541-4163

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DANIEL DARRIGO

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CHAIRMAN SCALZO: Our second applicant this evening is Daniel Darrigo, seeking an interpretation of the previously granted variance for solar array.

I must step away from this application. I performed some work on that parcel approximately ten years ago. So I am going to recuse myself from any actions regarding this.

Mr. Lease, if you could do me a favor and take that microphone over there and address us in this direction so Siobhan can hear everything, and perhaps any members of the public will be able to see you.

MR. McKELVEY: Does he need the stand?

UNIDENTIFIED SPEAKER ON ZOOM: I can't hear what they're saying. I don't understand. I can't make out anything that they're saying.

UNIDENTIFIED SPEAKER ON ZOOM: Every one of them.

UNIDENTIFIED SPEAKER ON ZOOM: We don't even know what the topic was.

UNIDENTIFIED SPEAKER ON ZOOM: Exactly.

CHAIRMAN SCALZO: I'm sorry. The members of the public can not hear.

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DANIEL DARRIGO

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MS. JABLESNIK: I apologize. We turned the air conditioner off, so hopefully you guys can hear better now.

(Whereupon, Chairman Scalzo left the room.)

UNIDENTIFIED SPEAKER ON ZOOM: We'll see.

MS. JABLESNIK: We'll try it this way. I'm sorry.

MR. McKELVEY: State your name and what you're here for.

MR. LEASE: I'm Jeff lease and I'm representing the Darrigo Trust in the application of the solar farm.

We're here for an interpretation of zoning that was granted a while back. The Darrigo farm has been before the Planning Board and almost all of its engineering and environmental studies are complete. It's very nearly ready for a public hearing.

Dominic Cordisco, the Planning Board Attorney, has asked for a review of the plan changes that have come up and for a review and formal acknowledgement of the existing farm uses

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on the property.

The project has changed from a 4-megawatt to a 5-megawatt project as New York State has changed the rules, increasing the size. The setbacks have not been increased. And in fact, they are in excess of what was approved by the ZBA. The area increase to the panels is internal to the site. The 50-foot side yard setback is the maximum within the solar code. We proposed, in the ZBA approved plan, 100 foot back from the property lines. The Planning Board has since asked for 150 feet along the east and north sides, which we are accommodating. This change alone renders an additional 2.5 acres unusable.

The farm use discussions in the January, May and June minutes are listed on the approved ZBA site plan, which I'll show you.

The ZBA recommendation for farm site cleanup has begun, and in anticipation of construction, which will include, among other things, a 750-foot landscaped buffer along I-84, new entry gateways and condensing the farm and supply yard operations into a smaller, cleaner and better managed yard, which I'll show you.

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DANIEL DARRIGO

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For these reasons we seek your approval for the revised site plan and acknowledgement of the farm and supply yard on the balance of the property.

Let me speak to the two drawings here.

UNIDENTIFIED SPEAKER ON ZOOM: I did not hear a word that man said.

UNIDENTIFIED SPEAKER ON ZOOM: I couldn't understand a word he said.

MR. LEASE: Should I start all over again?

UNIDENTIFIED SPEAKER ON ZOOM: I can't hear. I can not hear what's being said.

MR. LEASE: Can you tell me what -- should I restate --

MR. McKELVEY: Do you want him to restate?

MR. MASTEN: Can you hear me now?

UNIDENTIFIED SPEAKER ON ZOOM: Just barely.

CHAIRMAN SCALZO: From outside I heard "Can you hear me now." Mr. Lease, if you can go and stand right in front of the computer, because all the members of the ZBA have seen your package

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DANIEL DARRIGO

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and know what it's about. It's really the public that needs to hear. Please move forward. Move right next to the computer so they can hear you clearly.

MR. LEASE: Okay. I take the microphone with me?

CHAIRMAN SCALZO: Yup.

MR. McKELVEY: Take it right over there.

MR. LEASE: Okay, good.

UNIDENTIFIED SPEAKER ON ZOOM: If he speaks loudly and closer to the mic we might have a chance.

MR. LEASE: My name is Jeff Lease and I'm here representing the Darrigo Family Trust in an application for a variance on 84 Lakeside Road. This project has been approved for a variance for a solar farm on the site.

The Darrigo solar farm has been before the Planning Board and has almost all of its engineering and environmental studies complete. It is nearly ready for a public hearing.

Dominic Cordisco, the Planning Board Attorney, has asked for a review of the plan

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changes that have come up from that Planning Board process in a formal acknowledgement of the existing farm uses on the property.

The project has changed from a 4-megawatt to a 5-megawatt project as New York State has changed the rules, increasing the size, since the approval.

The setbacks, though, have been increased, and in fact are larger than what was approved by the ZBA. The increased size from 4 to 5 is internal to the site. Additionally, a 50-foot side yard setback is the maximum within the solar code. From the onset we proposed 100 feet on the approved ZBA plan. Since then the Planning Board has asked for 150 feet along the east and north sides of the proposal, which we are accommodating. This increase alone renders 2.5 acres unusable. Farm use discussions in the January, May and June ZBA minutes are listed on the approved ZBA site plan.

The ZBA recommendation for farm site cleanup has begun in anticipation of construction, and will include a 750-foot landscape buffer along Interstate I-84, new entry

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DANIEL DARRIGO

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gateways on Meadow and on Lakeside Road, and the condensing of the farm and supply yard operation into a smaller, cleaner and better managed yard.

For these reasons we seek your approval for the revised site plan and acknowledgement of the farm and supply yard on the balance of the property.

I would like to speak to the plans here to point out some of these specifically. May I?

MR. McKELVEY: Yes.

UNIDENTIFIED SPEAKER ON ZOOM: I think it's a great idea. I'm getting solar power right now from a farm and it's reduced my Central Hudson bill.

MS. JABLESNIK: We have to wait for the public to speak, so just hold on one second. We'll open to the public in a minute.

UNIDENTIFIED SPEAKER ON ZOOM: Okay.

MR. LEASE: The plan here to the left -- to the right, rather, is the ZBA approved plan. This is what it's become in the four meetings that we've had with the Planning Board. Essentially the biggest changes that you can see is that the space between the two solar fields is

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narrower here. And one other thing is that this solar array is closer now to 84. It's come down a little bit further.

What also has happened, though, and this is important, is that the setback from the Amber Fields eastern property line was 100 feet in this drawing and now it's 150 feet with 100 feet of green buffer along the Amber Fields east side as well as the Meadow Avenue side as well. So this buffer here and here has been increased. The woodland buffer is increased by 50 feet, so it's now 100 feet. And then the solar panels have to stay away from the treeline by 50 feet. What it's done is it's kind of moved this entire array this way a bit. This hillside here is going to be planted with shrubbery as approved by the Planning Board. And this setback off of the western property line, which was 50 feet in the approved ZBA plan, is now 100 feet over there. This is showing -- right now the farm supply is generally in this whole area. It's going to condense, because it needs to in order to accommodate the solar array, into this area where the main buildings are. I'll show you the sheds

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that are here. Danny has already cleaned up some of the scrap metal. All of the vehicles and a lot of the farm supply area will be over here.

This is the end of -- the treeline currently ends here and the rest of this is exposed to 84. There was a desire from this Board to make sure that that was free from the road. What we're doing is we're planting a 50-foot buffer for 750 feet all along Interstate 84.

Additionally, as per Karen Arent, the Landscape Architect, we're putting stone entry gateways here and one of the mowing service gateways over here. That will look something like that. So stone pillars with an iron gate. A kind of decorative iron gate.

That's it. I mean the plan has to change because the Planning Board had us set things off. We had to move things around because the fire trucks had to come in. So we lost some panels over here. There's a fire truck entrance here, a fire truck entrance here, and one here.

Additionally, the DEC needs to service the monitoring wells that are on the hazardous waste site which is underneath this area right

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over here. And the increased setbacks. So it's a changed plan. It's slightly larger than the original. But I think in terms of the neighbors being able to see the project, I think it's got more buffer than it had before. I don't think. It does. It has a great deal more buffer along this edge and along this edge. The farm will be buffered from view from 84 along here.

That's it. It's a better plan. It's just that it's slightly different.

If you look on your original plan over here, you'll see that materials and storage of equipment were over here as well as different kinds of farm uses here already placed on the approved ZBA site plan. We don't have that on this one here.

MR. McKELVEY: Did they ever clear up the other buildings, the permits?

MR. LEASE: Yes, they have. Jimmy -- Jerry Canfield has been out to the site a couple of times and he's looked at everything. We're working with him to clean up all the buildings and get everything squared away. In fact, I'm submitting a separate plan for the farm cleanup,

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which I can show you right now.

In other words, right now where the farm is right here, we're going to be shaling a parking area right here behind the buildings for a nice flat area so that all of the landscape materials can sit nicely in a kind of nice landscaped area as opposed to being on the grass the way they are now.

MR. McKELVEY: That area where they had everything stored, is that going to be completely --

MR. LEASE: I'm sorry?

MR. McKELVEY: Where they cut out and started storing stuff down off the road --

MR. LEASE: All of that is going away. There's vehicle storage on the entry road. Most of it is going away. There's going to be just one area that's going to be left, and it's shown right here. It's in this location here. There will be a few vehicles, farm vehicles, parked there that are necessary for the farm -- the plowing operations and some of the farm operations. So Danny is going to continue to use this field right here, which is the main field

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DANIEL DARRIGO

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that you see as you come in. This upper field here which currently has brush and wood in it will also be part of his operation.

MR. McKELVEY: Do the Board Members have any questions?

MR. BELL: I do see that you mentioned about losing panels.

MR. LEASE: Yes.

MR. BELL: But I see that you also gained -- maybe it's just my -- I see where you took out, it looks like you gained --

MR. LEASE: Yes.

MR. BELL: -- you gained panels down here, the ones you took out here; correct?

MR. LEASE: Absolutely. Mr. Bell, there are some gated panels over here and there's a gated panel over here. Right there. This whole thing here moved 50 feet this way and this moved 50 feet over here. But there is -- to be completely straight, there is a slight increase in the total number of panels here. In order to keep the number of panels down to a minimum, we're using a slightly more efficient panel than what was even available here. So we managed --

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DANIEL DARRIGO

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the panel efficiency has gotten better and we're able to use fewer. The thing is it's not getting any closer to the edges here.

MR. BELL: I see it. One of the other things you mentioned, maybe I misunderstood it, you said something about parking.

MR. LEASE: There's some farm vehicles and trucks that are already here on the side of the road. Some of them are going to remain in an area just right through here. Currently they're parked -- we're going to get rid of these two areas over here -- I'm sorry. So currently there's parking here, here, here and here. These two areas are going away and only these are going to remain.

MR. BELL: Okay.

MR. LEASE: This area here, which is kind of spread out in this whole area, is all going to get condensed to this one area over here. It has to because it's got to get off of this area where the solar array is going to be.

MR. McKELVEY: Mr. Marino?

MR. MARINO: I hope this works. I like the fact that you've got an extra 50 feet of

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buffer.

Would you say at this time that you and the Planning Board are in agreement with these changes that are being offered?

MR. LEASE: Yes. Unfortunately we did -- yeah. I didn't know if we were going to be able to do it. But yes, we're absolutely going with 150 feet along the north and the east, which is where they're really mainly concerned because that was Amber Fields and Meadow Avenue. There are sixteen homes there that they really wanted to make sure they didn't see the panels at all.

MR. MARINO: That's very good.

MR. McKELVEY: Mr. Masten?

MR. MASTEN: Not at this time, John.

MR. McKELVEY: Mr. Levin?

MR. LEASE: They want to know if you have an opinion about what I've just said, positive or positive.

MR. LEVIN: No.

MR. McKELVEY: Any other questions?

(No response.)

MR. McKELVEY: Any questions from the public?

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MR. FORTE: I actually have a question.

MS. JABLESNIK: Go ahead.

MR. FORTE: I want to know with the immediate area, because it's hard for us to hear exactly where the solar farm is proposed to be planned, are they concerned about the neighbors as far as an eyesore?

And also the water system underneath. You know, the wells. Any kind of issue regarding underground water systems?

MR. LEASE: Absolutely. Absolutely. So that's a great question.

MS. JABLESNIK: Can you please state your name, sir? Can you please state your name?

MR. FORTE: My name is William Forte.

MS. JABLESNIK: Thank you.

MR. LEASE: Mr. Forte, I'm Jeff Lease here making the presentation. Many of those questions are being answered by the Planning Board, and they're good questions. So far this solar array has gone through an archeological study, wetlands study, endangered species, habitat, glare and glint from the FAA, obstruction from the FAA, ongoing groundwater

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testing from the DEC. In its construction there will be no building on the property that will have a foundation, and so the solar panels will be secured in most of the site by a -- like a fence. Like a spike going into the ground. It won't penetrate the ground any more than about three or four feet. That will hold the panels in place. The panels will not be any higher than 12 feet. In fact, these panels will all be somewhere between 8 feet and 9 feet tall at their highest point. But the code that's written in the Town says that you can go as high as 12 feet. The fence, by code, has got to be 8.5 feet high. It's entirely fenced in.

All the internal wiring is underground. The Central Hudson connection is made along Meadow Avenue.

MR. FORTE: Mr. Lease, are they planning to put any type of trees or anything that can make it look better visually for the neighbors to look at that site?

MR. LEASE: Oh, absolutely. Again, that's a great question. So there's a tremendous amount of new landscaping material that's coming

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in, and it's part of the Planning Board process. We worked through with Karen Arent, the Landscape Consultant for the Planning Board. As I said in the presentation, just along I-84 there's a 750-foot tree buffer that will be all new. In addition, most of the trees along Amber Fields are already 100 feet wide, but there are some sections that will have to be filled in, as well as there's going to be need to be filling in of trees along Patton Road. That entire landscape plan is a completely separate thing with the Planning Board. You can't get approval in the Town of Newburgh without considering landscaping. It's one of the major issues. And that was one of the reasons why they asked us to pull away from two of the most sensitive property lines by an additional 50 feet. Just know that the code in the industrial zone, which is where this plan is approved, is only 40 foot setbacks from the side property line. So we're 150 feet.

MR. FORTE: Thank you, Mr. Lease.

MR. LEASE: Thank you.

MR. McKELVEY: Once again, any more questions from the Board?

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DANIEL DARRIGO

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MR. BELL: I don't have any.

MR. McKELVEY: Do we have a motion?

MR. LEVIN: I would like to make a motion to keep the public hearing open until next month. The reason for it is there are some things on your map that the scale from one map to the other map is different. You didn't have an engineer sign -- handwritten notations on the map certainly did not come from an engineer. None of the plans have an engineer's seal on it. This may be considered acceptable to some of the Board Members, but the letterhead has not been signed by anyone.

MR. LEASE: May I speak to that?

MR. LEVIN: Sure.

MR. LEASE: So generally the plans don't get signed until they're finished. They're interim plans with the Planning Board. I can happily get the plans signed as interim plans and he would put "Preliminary" on them. Plans generally get signed and dated when they're finished. So this is a work --

MR. LEVIN: All we're asking for is to hold the meeting open until next month.

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DANIEL DARRIGO

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MR. McKELVEY: I think we want to have the attorney here.

MR. LEASE: Yeah, okay. I'm just -- the only thing -- I'm just struggling to get this squared away because bat season allows me to start cutting trees down from October to March. If we don't make it this time -- we've missed a year last year.

MR. LEVIN: I don't see any reason why not.

MR. LEASE: Okay. We're almost all together in the Planning Board. So okay.

MR. McKELVEY: Can I have a second to that motion?

MR. MARINO: I'll second it.

MS. JABLESNIK: Roll call?

MR. McKELVEY: Roll call.

MS. JABLESNIK: Mr. Bell?

MR. BELL: Yes.

MS. JABLESNIK: Mr. Levin?

MR. LEVIN: Yes.

MS. JABLESNIK: Mr. Marino?

MR. MARINO: Yes.

MS. JABLESNIK: Mr. Masten?

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DANIEL DARRIGO

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MR. MASTEN: Yes.

MS. JABLESNIK: Mr. McKelvey?

MR. McKELVEY: Yes.

MR. LEASE: Thank you.

MR. McKELVEY: For the public, it won't
be re-noticed.

MR. LEASE: Is there any reason for us
to stay around?

MR. LEVIN: No.

MR. LEASE: I think we're done.

MR. McKELVEY: You're done, yes.

MR. LEASE: Thank you. I didn't want
to be rude.

(Time noted: 7:54 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 8th day of September 2020.



MICHELLE CONERO

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

----- X
In the Matter of

JEANNINE GRAMSTAD

13 Westwood Drive
Section 90; Block 3; Lot 25
R-1 Zone

----- X

Date: August 27, 2020
Time: 7:54 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

ALSO PRESENT: SIOBHAN JABLESNIK

APPLICANT'S REPRESENTATIVE: JEANNINE GRAMSTAD

----- X

MICHELLE L. CONERO
3 Francis Street
Newburgh, New York 12550
(845)541-4163

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CHAIRMAN SCALZO: Before we continue, I just want to say we probably look really cool up here doing what we do, but we are down one member. One of our members has recently resigned. If anyone is interested in putting in a resume to the Town, the cutoff date is September 16th. If anyone is interested in sitting up here with us.

MR. FORTE: If you ever need technical for the future for this type of a meeting, you can contact me. I have a mixer connected to whatever computer you're using right now and you plug in an external mic, which will be an XLR mic, put it on the stand. We'd be able to hear you much better and clearer.

CHAIRMAN SCALZO: Unfortunately I have an XLR microphone at home. I just didn't think to bring it.

MR. FORTE: Thank you, sir.

CHAIRMAN SCALZO: Moving on. Our next applicant this evening is Jeannine Gramstad, 13 Westwood Drive in Newburgh, seeking an area variance of the rear and combined side yards to

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add an 8.6 by 19.6 rear deck onto a 9.6 by 19.6 deck that was built without a permit.

Siobhan, do we have mailings on this?

MS. JABLESNIK: This applicant sent out 49 letters.

CHAIRMAN SCALZO: 49. You're the winner so far.

MS. JABLESNIK: Actually, Mr. Darrigo sent out 104.

CHAIRMAN SCALZO: I was outside for that.

MS. JABLESNIK: I'm pretty sure he's the winner for tonight.

CHAIRMAN SCALZO: As I mentioned, what we've got here, this is also pretty straightforward. Area variances of the rear and combined side yards to add a deck that will be attached to the existing deck. Actually, they're going to be replacing the deck built without a permit.

As far as SEQRA goes, this is a Type 2 action. We didn't need a GML-239 referral on this at all. This is a fairly straightforward application.

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Please introduce yourself. I think I captured what it is you're looking to do, but if you feel as though I've missed something and you'd like to add something, please do.

MS. GRAMSTAD: My name is Jeannine Gramstad, 13 Westwood Drive in Colden Park, Town of Newburgh. We're looking to replace our existing deck. It's rotting and needs more help than I do. We're making it larger to accommodate our growing family.

CHAIRMAN SCALZO: Very good. Thank you.

MS. GRAMSTAD: Thank you.

CHAIRMAN SCALZO: I was out to the site today. I took a look at it. It does not appear out of character with the neighborhood at all to me. It appears as though you're just going to be extending the house line. That's where the deck is going to be. Correct?

MS. GRAMSTAD: Correct.

CHAIRMAN SCALZO: Okay. So what your house offset is now, the deck will be the same?

MS. GRAMSTAD: Correct.

CHAIRMAN SCALZO: Okay. I feel as though it's a pretty straightforward application.

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JEANNINE GRAMSTAD

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I'm going to turn now to the Members of the Board. Mr. Bell, do you have any comments on this?

MR. BELL: No.

CHAIRMAN SCALZO: Mr. Marino?

MR. MARINO: No.

MR. McKELVEY: I have no comments. I live in Colden Park.

CHAIRMAN SCALZO: Very good. Mr. Masten?

MR. MASTEN: I talked to the homeowner this morning.

CHAIRMAN SCALZO: Very good. Mr. Levin?

MR. LEVIN: No comment.

CHAIRMAN SCALZO: At this point we're going to open it up to any of the applicants sitting here or any members of our electronic public.

MR. FORTE: Is it following all codes to extend it and make it larger?

CHAIRMAN SCALZO: Well, they are here seeking area variances because if they build it it will encroach upon some of the side yard, rear

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yard setbacks. That's why we're here. They're seeking relief from those requirements.

MR. FORTE: Is it near any other person's property line?

CHAIRMAN SCALZO: No. And I understand it's difficult for you to hear. What it is, this deck is going to be an extension of the house line. So there will be nothing sticking out further than the house. If you were standing in the front yard looking down the house, there would be nothing sticking out any further than it already is.

MR. FORTE: Got you.

MS. GRAMSTAD: We're trying to square off to the house.

CHAIRMAN SCALZO: Anyone else from our electronic public?

(No response.)

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

MR. MASTEN: I have nothing, Darrin.

CHAIRMAN SCALZO: Very good. Does the Board have perhaps a motion to close the public hearing?

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

MR. McKELVEY: I'll second.

CHAIRMAN SCALZO: We have a motion from Mr. Bell and a second from Mr. McKelvey. Roll on that, Siobhan.

MS. JABLESNIK: Mr. Bell?

MR. BELL: Yes.

MS. JABLESNIK: Mr. Levin?

MR. LEVIN: Yes.

MS. JABLESNIK: Mr. Marino?

MR. MARINO: Yes.

MS. JABLESNIK: Mr. Masten?

MR. MASTEN: Yes.

MS. JABLESNIK: Mr. McKelvey?

MR. McKELVEY: Yes.

MS. JABLESNIK: Mr. Scalzo?

CHAIRMAN SCALZO: Yes.

The public hearing is now closed.

We're going to move right into the area variance criteria and discuss the five factors, the first one being whether or not the benefit can be achieved by other means feasible to the applicant. I saw the deck today. The deck

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does need to be replaced. It is in --

MR. LEVIN: Somebody can get hurt.

CHAIRMAN SCALZO: If there's an undesirable change in the neighborhood character or a detriment to nearby properties. I don't believe so. We saw everything around there.

We had an action in here a couple years back where -- and it's nice to follow up on what you do. The garage that was four or five houses down away from you, it's beautiful.

All right. So the third criteria, whether the request is substantial. I don't believe so. Does anyone disagree?

MR. McKELVEY: No, it's not.

CHAIRMAN SCALZO: 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. This is relevant but not determinative.

MR. BELL: No.

CHAIRMAN SCALZO: Very good. Having gone through the balancing test for the area variance, does the Board have a motion of some

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JEANNINE GRAMSTAD

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sort?

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

MR. MASTEN: Second.

CHAIRMAN SCALZO: I've got a motion
from Mr. McKelvey. I got a second from Mr.
Masten. Roll on that.

MS. JABLESNIK: Mr. Bell?

MR. BELL: Yes.

MS. JABLESNIK: Mr. Levin?

MR. LEVIN: Yes.

MS. JABLESNIK: Mr. Marino?

MR. MARINO: Yes.

MS. JABLESNIK: Mr. Masten?

MR. MASTEN: Yes.

MS. JABLESNIK: Mr. McKelvey?

MR. McKELVEY: Yes.

MS. JABLESNIK: Mr. Scalzo?

CHAIRMAN SCALZO: Yes.

Motion carried. The variances are
granted.

MS. GRAMSTAD: Thank you very much.

I wanted to thank Siobhan for all your
help. Without you I would still be filling out

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the form.

MS. JABLESNIK: You're welcome.

(Time noted: 8:01 p.m.)

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

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

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

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

IN WITNESS WHEREOF, I have hereunto
set my hand this 8th day of September 2020.



MICHELLE CONERO

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

----- X
In the Matter of

OLGA CABRERA
Newburgh CPC of the WMM

5208 Route 9W
Section 27; Block 2; Lot 22.12
B Zone

----- X

Date: August 27, 2020
Time: 8:01 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

ALSO PRESENT: SIOBHAN JABLESNIK

APPLICANT'S REPRESENTATIVE: JOSEPH MINUTA

----- X

MICHELLE L. CONERO
3 Francis Street
Newburgh, New York 12550
(845)541-4163

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CHAIRMAN SCALZO: Our next applicant is Olga Cabrera, 5208 Route 9W in Newburgh. They are seeking a change in use to retain a building that's a place of worship requiring area variances for front yard setback, lot surface coverage and parking requirements.

This under SEQRA is an Unlisted action. The Planning Board has not declared their intent to be lead agency and we can proceed on an uncoordinated review basis. A negative declaration will be needed before the Board can vote on the application. I'm just giving the Board Members that heads up.

GML-239 referral. This had been sent out over thirty days ago. We have not gotten any response from the County, therefore we are allowed to vote on it this evening should it come to that.

This is a change of use from a former pet shop to a place of worship, although it used to be a catering hall many years ago when I was a little child. The change of use results in the loss of any

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protections for any pre-existing conditions.

It looks like the front yard setback and lot surface coverage will remain the same but the parking may be reduced slightly as a result of some boundary line dispute. We're going to let the applicant's representative dig a little deeper into that.

So that being said; Mr. Minuta, if you could introduce yourself and let us know if I have captured what you're looking to do there.

MR. MINUTA: You captured the essence, Mr. Chairman. Do I speak here or speak over there?

CHAIRMAN SCALZO: I would say speak over there. You appear to be more than six feet away from any of us, so if you would like to remove your mask, if you are comfortable removing your mask.

MR. MINUTA: That would be tremendous. It's putting me to sleep.

CHAIRMAN SCALZO: Don't encroach on that six feet.

MR. FORTE: Can you make sure he speaks close to us? There are two of us on this call

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that live adjacent to the property of this proposed site.

CHAIRMAN SCALZO: Coming right up.

MR. MINUTA: Sir, is that up close and personal enough?

MR. FORTE: You can say that.

MR. MINUTA: You can hear me? Hello?

MR. FORTE: Margaret, can you hear him?

MS. SHEFLIN: I can hear him, yes.

MR. MINUTA: Wonderful. Thank you for attending, and thank you all for being here. I know this is difficult.

Siobhan, you're doing a great job putting it all together.

We have a pre-existing nonconforming addition -- condition, excuse me. This used to be the old Rhoda Arms catering hall. It was built in the 1950s. My client, who is the applicant, has purchased the building to utilize it, which is essentially the same occupancy, the A-3 occupancy under the building code which is assembly. It's going to be a place of worship. Religious congregation.

The issue that we have this evening is

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the existing building does not meet the front yard setback. 50 feet is required under the current code. It may have met the code at the time it was built, however the existing is 35.1 feet. So we're seeking some relief on that since it's existing.

We are also seeking two other items. The lot coverage area exceeds the permitted under the current zoning code. Currently we're exceeding the 5.3 -- 3.52 percent on this property.

So again, all of these things are existing nonconforming. That's that piece of the pie. I'm trying to keep this very simple.

Because of the change of use in the current code requirements for parking, the total number of parking stalls that are required based on the building's size right now is 183. Currently there's 92. We did a re-striping plan which provided 102 spaces.

I also need to depict that this corner of the lot, there was a property line dispute at some point in time which was resolved. This property ended up going to the adjacent property

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owner which eliminated a bunch of spaces here. So based on some of our reworking of the parking lot for parking flow and parking spaces, we're able to increase what was already there. So at this point we're seeking a variance for 81 spaces that are required for the change of use, if you will, even though the building exists and we're not adding any square footage.

That's pretty much it.

MR. FORTE: I have another question quickly. I live in the house right on the property line of this area. Are you planning to build any of this parking coming up toward my property line at 37 Albany Post Road? I'm right there on the line on the other side. I am the property right next to it. Are you planning to expand anywhere upward toward my property line?

CHAIRMAN SCALZO: Hang on. Sir, if I could. The format of the meeting is after the applicant or his representative presents it, the Board is going to ask any questions, which may actually answer some of the questions you may already have. At that point I will open the meeting up to members of the public. So sir, if I

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could just ask you to hold your questions for a few moments and we'll get right back to you.

MR. FORTE: My apologies.

CHAIRMAN SCALZO: No. That's quite all right. Not a problem. I'm glad you're on and I'm glad you're asking questions. That's what these meetings are for.

Mr. Minuta, had you completed your presentation?

MR. MINUTA: Yes, Mr. Chairman. Thank you.

CHAIRMAN SCALZO: At this point I'm going to look to the Members of the Board for any comments.

As Mr. Minuta did say, we do have some pre-existing nonconforming conditions out there. I was out there myself today. Boy, that parking lot is in poor condition. I understand, by reading the Planning Board minute notes, that your intent is to pave that. You're not striping on that stuff, that's for sure.

The reduction in parking. I also understand from the Planning Board meeting minutes that you are going to try to overcome

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that by utilizing vans to bring in multiple congregants.

MR. MINUTA: They're using means of transportation. A van can accommodate ten to fifteen people. So, you know, one stall where let's say three people may be in a car, now you're looking at fifteen people coming in. So this is all for the congregation.

With regard to the usage, it's primarily just weekend and some things during the week, as any religious organization would have.

CHAIRMAN SCALZO: Very good. So that is your -- that's an attempt to overcome the deficiencies in the parking spaces.

MR. MINUTA: That's one way. The other is to placard so we can limit the number of occupants. We're balance testing that aspect of it.

CHAIRMAN SCALZO: Thank you.

Now I'm going to turn it over to the Members of the Board. Mr. Marino, any comments on this?

MR. MARINO: Yes. In fact, I was going to ask the question not quite as defined as the

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gentleman on the phone. Are you planning to do any building on the ground other than just cleaning up and maybe renovating the main Rhoda Arms building itself?

MR. MINUTA: No.

MR. MARINO: Is it used now as a place of worship? Was it recently used as a place of worship?

MR. MINUTA: The applicant had purchased it for that use, for that reason.

MR. MARINO: But it hasn't been used yet for that purpose?

MR. MINUTA: I can't answer that. I know that, you know --

CHAIRMAN SCALZO: As I said in the parking lot today, I did notice that there was an indication that it is a place of worship.

MR. MARINO: There's a sign.

MR. MINUTA: The sign may be there. They occupy the building when they want to, as anybody would. As far as congregation --

CHAIRMAN SCALZO: You're going to need to come up. You're going to need to face the camera and you're going to need to introduce

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yourself, sir. I'm not yelling at you, I'm just trying to talk loud enough.

MR. PEREZ: Hello. My name is Faniel Perez. I am one of the members of the church and the pastor's representative when it comes to any questions that we have towards that.

Currently we use the church Tuesdays, Thursdays, Fridays, Saturdays and Sundays. Remember, we have two floors. Correct? We have two floors. We use the upstairs. The upstairs we only have members of like maybe like fifty people. So any -- the only -- what we want to accomplish is that when we meet in the downstairs area, which we're setting for -- how many chairs to fit in downstairs?

MR. MINUTA: When we get to that point. Right now the upstairs is being used. The downstairs is sort of on hold. When we get to the point to have full compliance and a certificate of occupancy, building permits and so forth, then the entire building will be utilized.

MR. PEREZ: Downstairs is only going to be utilized maybe once a month. It's not going to be used Monday through Friday and Saturday and

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Sunday. It's only once a month for big, big events. That's only once a month. We'll let you know what time.

MR. MINUTA: Thank you, sir.

CHAIRMAN SCALZO: Thank you.

I was rolling through the Members of the Board. I hit Mr. Marino. Mr. Bell, do you have any comments?

MR. BELL: No.

CHAIRMAN SCALZO: Mr. McKelvey, do you have any comments?

MR. McKELVEY: No.

CHAIRMAN SCALZO: Mr. Masten?

MR. MASTEN: Joe, that's all part of the same church right there?

MR. MINUTA: Yes.

MR. MASTEN: All right. All right. I was concerned. I was worried about that.

I seen people there on Sundays with vans.

MR. MINUTA: Right.

CHAIRMAN SCALZO: Mr. Masten, I just want to make you aware, you have to speak up. You have a mask on your mouth.

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MR. MASTEN: I'm trying.

CHAIRMAN SCALZO: Mr. Levin, do you have any comments?

MR. LEVIN: You just answered them. One church is going to take the whole building?

MR. MINUTA: They own the entire property and building. Yes.

MR. LEVIN: They don't own it?

MR. MINUTA: They do own it.

MR. LEVIN: I thought that woman owned it.

MR. MINUTA: So Pastor Cabrera is the applicant. Pastor Olga Cabrera is the applicant and owner of this church.

MR. LEVIN: Okay.

MR. MINUTA: Okay?

MR. LEVIN: Yes.

CHAIRMAN SCALZO: Very good. Thank you. At this point I believe the Members of the Board have asked all of their questions, so I'm going to turn it over to the members of the public.

Sir, the floor is yours.

MR. FORTE: Now there's an old road.

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It used to be accessible. Is there any plans to fix that road that comes in from 9W towards the church area -- the proposed church? There's an old road there. I don't know what the name -- maybe old -- what is it, Margaret? What was the name of this road that used to go down the driveway from the property above us -- next to us, Margaret?

MS. SHEFLIN: I think it's Court Road or something.

MR. FORTE: Yes, Court Road. Is there any plans to do -- it's grown over. It's really busted up. If anybody is walking in that area it can be hazardous. Is there any plans to fix that up a little bit for people to have access around the whole perimeter of the building?

CHAIRMAN SCALZO: Mr. Minuta, before you answer that question, just so I'm clear and I can understand what you're saying, the information that was available online did show a survey prepared by Howard Weeden's office. This former road that you're talking about, is this the driveway that kind of runs diagonal up the property? Is that what you're talking about,

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sir?

MR. FORTE: Yes. It goes to the properties above the property we're discussing right now.

CHAIRMAN SCALZO: The survey does not show that there are any rights to anyone other than the owners of the property for use of that road.

MR. FORTE: Right.

CHAIRMAN SCALZO: I just want to point out what I'm looking at here. What I thought you were initially indicating was the 25-foot right-of-way right off 9W as per a filed map to the adjoining driveway to the reputed property of Durango.

MR. FORTE: Well again -- okay. We are up on the top. Nobody uses that driveway anymore. But if for safety concerns -- I mean it's grown over and it's been -- I mean it's not in great condition. It may be advisable to fix that area a little bit around the side of the building so no one gets hurt because it's deteriorated over the years and it's in shambles. I don't know if they're responsible for that.

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Maybe they need to pave it over and make it look a little bit more, I would say not an eyesore and maybe safety -- safety concerns. If anybody decides to walk around the building, they don't trip because it's all broken up because of years of nonuse.

CHAIRMAN SCALZO: You make a very solid point. What we're here tonight as the Zoning Board of Appeals is to recognize what the applicant is asking for regarding relief from certain restrictions to the property.

MR. FORTE: Okay.

CHAIRMAN SCALZO: What you're bringing up actually may be a very good point to bring up to the Planning Board. This will go back to the Planning Board. The aesthetic aspects of the project is something that the Planning Board has much more input on than -- actually, the Zoning Board of Appeals has no input on aesthetics or the driveway that you're talking about. All we're here for tonight is to address what the applicant is required to get him back to the Planning Board.

MR. FORTE: I got you. Now, it's my

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understanding, because it was hard to hear,
there's no plan to build any other structures on
the property that they own?

CHAIRMAN SCALZO: That is correct.

MR. FORTE: Okay. Thank you.

MS. SHEFLIN: I have one question. I
thought I heard the gentleman say he's going to
be -- they're going to have services on Tuesday,
Friday, Saturday and Sunday. Is that correct?

MR. PEREZ: No.

CHAIRMAN SCALZO: Come back up, please,
so they can hear you clearly.

Could you repeat the question, please?

MS. SHEFLIN: Are you going to be
having services on Tuesday, Friday, Saturday and
Sunday?

MR. PEREZ: My name is Faniel Perez.
We have service Tuesdays, Thursdays, Fridays and
Sundays.

MS. SHEFLIN: Tuesday, Thursday, Friday
and Sunday?

MR. PEREZ: In the upstairs part of the
church. We don't have that much members that
attend during those days with this pandemic going

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on.

MS. SHEFLIN: Okay. I'm just wanting to know the amount of traffic that will be at that location on those days.

MR. MINUTA: So ma'am, if I may. My name is Joseph Minuta, I'm the architect for the project. All of the questions that you have right now are Planning Board questions. To the extent loads of people coming in and out, et cetera, that's all Planning Board. Tonight we're here for three specific reasons, and those are the variances on the property. To allay your question, I believe Mr. Perez has answered that with regard to the days of the week. The intent here is to improve the overall property. New landscaping, new pavement, no trip hazards, things of that nature.

To address the other gentleman's question; yes, all these things are going to be cleaned up. They are being cleaned up right now.

MR. FORTE: Will there be a hearing as well with the Planning Board?

MR. MINUTA: Yes. This will go before the Planning Board, hopefully within the next

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couple of weeks.

MS. JABLESNIK: Ma'am, can you just state your name for the Stenographer, please?

MS. SHEFLIN: Sure. I'm Margaret Sheflin and I'm 39 Albany Post Road.

CHAIRMAN SCALZO: Do any other members of the public wish to speak about this application?

(No response.)

CHAIRMAN SCALZO: Okay. Hearing none, I'm going to turn to the Board. Any additional questions the Board may have after we've heard the members of the public?

MR. McKELVEY: I have nothing.

MR. BELL: I have nothing.

MR. MARINO: I have nothing.

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

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

MR. BELL: I'll second.

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

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on that, Siobhan.

MS. JABLESNIK: Mr. Bell?

MR. BELL: Yes.

MS. JABLESNIK: Mr. Levin?

MR. LEVIN: Yes.

MS. JABLESNIK: Mr. Marino?

MR. MARINO: Yes.

MS. JABLESNIK: Mr. Masten?

MR. MASTEN: Yes.

MS. JABLESNIK: Mr. McKelvey?

MR. MCKELVEY: Yes.

MS. JABLESNIK: Mr. Scalzo?

CHAIRMAN SCALZO: Yes.

The public hearing is closed.

Because this is an Unlisted action under SEQRA, if the Board is going to make a motion to approve this application, then we will also need a motion for a negative declaration. So I'll look to the Board. Do we have a motion from the Board for a negative declaration?

MR. MCKELVEY: I'll make the motion.

MR. BELL: I'll second.

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

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This is for an Unlisted action under SEQRA. Roll call.

MS. JABLESNIK: Mr. Bell?

MR. BELL: Yes.

MS. JABLESNIK: Mr. Levin?

MR. LEVIN: Yes.

MS. JABLESNIK: Mr. Marino?

MR. MARINO: Yes.

MS. JABLESNIK: Mr. Masten?

MR. MASTEN: Yes.

MS. JABLESNIK: Mr. McKelvey?

MR. MCKELVEY: Yes.

MS. JABLESNIK: Mr. Scalzo?

CHAIRMAN SCALZO: Yes.

Motion carried for the negative declaration.

And now we are moving on to the area variance criteria.

MR. FORTE: Gentlemen, before you begin I just want to say thank you for your time tonight and God bless all of you. Keep safe, and your families. It was a pleasure to be part of this tonight.

CHAIRMAN SCALZO: Thank you very much,

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sir.

MR. LEVIN: Thank you.

MR. FORTE: Take care.

CHAIRMAN SCALZO: The first one being whether the benefit can be achieved by other means feasible to the applicant. The applicant, as well as the representative of the owner, has stood in front of us and noted that they are pre-existing nonconforming conditions with the exception of the parking. Two out of those three are very simple to me.

If there's any discussion on the reduction in parking, does anyone have any comments on that?

(No response.)

CHAIRMAN SCALZO: It appears as though mitigation efforts have been put forth.

All right. Second, if there's an undesirable change in the neighborhood character or a detriment to nearby properties. Well I don't believe it's going to be an undesirable change in the neighborhood. The physical structures are going to remain the same, although the traffic patterns around it will change. That's something

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for the Planning Board to work out during the Planning Board process.

MR. McKELVEY: And they're going to pave it.

CHAIRMAN SCALZO: That's going to definitely make it look much better.

The third, whether the request is substantial. The pre-existing nonconforming conditions, no.

The reduction in parking. While you look at the sheer numbers on it, it seems substantial, but I don't think it's going to be substantial enough for us to look the other way on this.

The fourth, whether the request will have adverse physical or environmental effects. We're not increasing lot coverage. Nothing of the sort.

The fifth, whether the alleged difficulty is self-created. This is relevant but not determinative. Two of the three are not self-created. The only one that would be self-created is the parking issue. Correct.

Now, having gone through the balancing

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test of the area variance, what's the pleasure of
the Board?

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

MR. BELL: Second.

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. Marino?

MR. MARINO: Yes.

MS. JABLESNIK: Mr. Masten?

MR. MASTEN: Yes.

MS. JABLESNIK: Mr. McKelvey?

MR. McKELVEY: Yes.

MS. JABLESNIK: Mr. Scalzo?

CHAIRMAN SCALZO: Yes.

The motion is approved. The variance is
approved.

MR. MINUTA: Thank you, Mr. Chairman,
Members of the Board. Thank you for your time.

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CHAIRMAN SCALZO: Thank you, Mr.
Minuta. Good luck.

(Time noted: 8:23 p.m.)

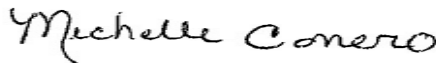
C E R T I F I C A T I O N

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

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

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

IN WITNESS WHEREOF, I have hereunto
set my hand this 8th day of September 2020.



MICHELLE CONERO

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

----- X
In the Matter of

DONNA MARIE HOUSMAN

106 Rock Cut Road
Section 49; Block 4; Lot 4
R-1 Zone

----- X

Date: August 27, 2020
Time: 8:23 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

ALSO PRESENT: SIOBHAN JABLESNIK

APPLICANT'S REPRESENTATIVE: DONNA HOUSMAN

----- X

MICHELLE L. CONERO
3 Francis Street
Newburgh, New York 12550
(845)541-4163

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CHAIRMAN SCALZO: Our next applicant this evening is Donna Marie Housman, 106 Rock Cut Road in Newburgh. They're requesting an area variance for the front yard to keep a covered front porch built without a permit.

Under SEQRA this is a Type 2 action. Rock Cut Road is a County road, however the application was sent to the County over thirty days ago. We have not heard back from the County, therefore we can act on this application this evening.

Siobhan, mailings?

MS. JABLESNIK: This applicant sent out 23 letters.

CHAIRMAN SCALZO: 23. Very good.

Okay. We have a representative here of this application. Please introduce yourself.

We've all seen the application. We've all visited the properties. Actually, because the computer is sitting right there, if you'd like to sit for this, you can as well.

MS. HOUSMAN: My name is Donna Housman, 106 Rock Cut Road. I'm asking for an area variance to complete the covered porch that I

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DONNA MARIE HOUSMAN

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started because my steps were broken. The concrete steps that were there were broken for a long time. They became unsteady. I always wanted a front porch, and I figured once they were broken I had to replace the steps. It will increase the size of the steps to the porch. But it is not finished.

CHAIRMAN SCALZO: Correct. As I said, we have been there. I was actually there today.

The front porch, from the original survey it was a small -- just steps up to your front door it appeared. Now it appears as though it's almost the width of the house. It sticks out 6 or 8 feet. Am I correct in that assumption?

MS. HOUSMAN: Yes. The steps were -- the bushes that were there, I cut them. Some of them died behind the very front, which is another factor in it. The steps, they don't come out any further than the sidewalk that was already there. Like I said, we didn't go any further than that. The bushes were already to the end of the house also.

CHAIRMAN SCALZO: Very good. And why we're here tonight is the minimum front yard

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DONNA MARIE HOUSMAN

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setback on the County road would be 60 feet.

You're going to be less than that in this case.

So in looking at the character of the neighborhood, I didn't see anything that would lead me to believe that that would be detrimental to the neighborhood. That's where I'm going to leave that with my opinion.

I'm going to look to Mr. Masten. Do you have any comments on this?

MR. MASTEN: I believe everything should be all right. The 4x4s every so many feet.

Eventually they're going to put a roof over that.

CHAIRMAN SCALZO: The application does say they want to have a covered porch.

MS. HOUSMAN: Yes.

CHAIRMAN SCALZO: Mr. McKelvey, any questions?

MR. MCKELVEY: No.

CHAIRMAN SCALZO: Very good. Mr. Marino?

MR. MARINO: I agree.

CHAIRMAN SCALZO: Mr. Bell?

MR. BELL: Good.

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DONNA MARIE HOUSMAN

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CHAIRMAN SCALZO: Mr. Levin?

MR. LEVIN: No questions.

CHAIRMAN SCALZO: Very good. At this point I'm going to open this up to any members of the public, our electronic public. Is there anyone here to speak about this application?

(No response.)

MR. LEVIN: I don't think anybody is there.

CHAIRMAN SCALZO: Okay. So in this case I will look to the Members of the Board. Do we have perhaps a motion to close the public hearing?

MR. MASTEN: I'll make the motion.

MR. MARINO: Second.

CHAIRMAN SCALZO: We have a motion from Mr. Masten. We have a second from Mr. Marino. Siobhan, would you like to roll on that.

Mr. MS. JABLESNIK: Mr. Bell?

MR. BELL: Yes.

MS. JABLESNIK: Mr. Levin?

MR. LEVIN: Yes.

MS. JABLESNIK: Mr. Marino?

MR. MARINO: 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.

The public hearing is closed.

Let's see. As I had mentioned, this is a Type 2 action under SEQRA.

We are going to go through the five factors, the first one being whether or not the benefit can be achieved by other means feasible to the applicant. It's already started and it would be a travesty to tear it down.

Second -- that's not an excuse. I'm not saying that for future applications that are in front of us.

The second, if there's an undesirable change in the neighborhood character or a detriment to nearby properties. It does not appear so. We all stood there today -- or I stood there today and it didn't appear it was out of character.

Third, whether the request is

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substantial. With regard to the County highway, it appears there will be maybe 50 feet. Actually, we have that in the application. I'd have to take a look.

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

Fifth, whether the alleged difficulty is self-created. This is relevant but not determinative. Of course it's self-created, but she's replacing steps that were in poor condition.

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

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

MR. MARINO: I'll second.

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

MS. JABLESNIK: Mr. Bell?

MR. BELL: Yes.

MS. JABLESNIK: Mr. Levin?

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MR. LEVIN: Yes.

MS. JABLESNIK: Mr. Marino?

MR. MARINO: Yes.

MS. JABLESNIK: Mr. Masten?

MR. MASTEN: Yes.

MS. JABLESNIK: Mr. McKelvey?

MR. MCKELVEY: Yes.

MS. JABLESNIK: Mr. Scalzo?

CHAIRMAN SCALZO: Yes.

The motion is approved. The variances are granted.

MS. HOUSMAN: Thank you very much.

CHAIRMAN SCALZO: Can you come up here for a moment, please? I've got something for you. As part of the application I saw that one of the surveys was prepared by a land surveyor named Garrison Scott. I worked for Mr. Scott. I actually drafted that map in 1992.

MS. HOUSMAN: This is the original one.

CHAIRMAN SCALZO: That's the original.

MS. HOUSMAN: You know, I was going to call and ask --

CHAIRMAN SCALZO: He's out of business since 1993.

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DONNA MARIE HOUSMAN

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MS. HOUSMAN: Whoa. Thank you so much.

CHAIRMAN SCALZO: There you go. Enjoy
it.

MS. HOUSMAN: Thank you. Thank you very
much.

MS. JABLESNIK: There really is no one
left on there. It's Michelle, me and me.

CHAIRMAN SCALZO: All right. The
meeting is still open. In case our Town
Councilmen -- our liaison Town Councilmen may
want to check in on us, we have to leave that
open.

(Time noted: 8:32 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 8th day of September 2020.



MICHELLE CONERO

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

----- X
In the Matter of

SHUNAIID MEMOM

165 Gardnertown Road
Section 69; Block 4; Lot 4.3
R-3 Zone

----- X

Date: August 27, 2020
Time: 8:32 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

ALSO PRESENT: SIOBHAN JABLESNIK

APPLICANT'S REPRESENTATIVE: ERIN McCONNELL

----- X

MICHELLE L. CONERO
3 Francis Street
Newburgh, New York 12550
(845)541-4163

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CHAIRMAN SCALZO: Our next applicant is Shunaid Memom, 165 Gardnertown Road in Newburgh. They're seeking a use variance to install ground-mounted solar in the R-3 District. This is also an Unlisted action under SEQRA, should we get that far.

The GML-239 referral. I don't believe Gardnertown Road is a County road.

Because ground-mounted, freestanding systems are not permitted in the R-3 Zoning District, the applicant must seek a use variance. Unlike the five-part balancing test for an area variance, the use variance criteria involves the evaluation of four factors, each of which must be satisfied before a use variance can be granted. Where an area variance, sometimes they may meet four out of the five criteria and that's acceptable, however in a use variance you need to get four out of four. Without four out of four we are required by law to decline the application. So our alternatives here are we can continue the application to supplement proof.

I'm going to let you go through your entire presentation here in this case, but you've

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got a tough hill to climb with use variances.
I've been on the Board for six or seven years and
I think we've only issued three.

MS. O'CONNELL: All right.

CHAIRMAN SCALZO: I don't want to
discourage you. It's not impossible. I'm going to
let you go ahead and present and we're going to
go from there.

MS. McCONNELL: Do I stand here or go
over there?

CHAIRMAN SCALZO: Now that we've
learned --

MS JABLESNIK: There's nobody there.

CHAIRMAN SCALZO: Until someone else
checks in. You are also six feet away from
everyone, if you'd like to unmask. Just maintain
your distance.

MS. McCONNELL: All right. Hi. I'm Erin
McConnell. I'm actually with Empire Solar
Solutions. I'm here today to represent the
applicant.

So again, we're seeking a variance
because for some reason -- I'm not sure. You can
explain why after this -- it's restricted in the

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area. I'm just curious.

CHAIRMAN SCALZO: We don't actually make code. That's Town Council makes the code. We just grant variances from it.

MS. McCONNELL: We're looking to install an 11.7 kilowatt systems. It's thirty-six panels. There's going to be nine rows of four and a total of 685 square feet.

We're seeking the area variance because it's restricted in the area. We opted for the ground because roof is not as optimal as we'd like it. We really try to get the southernmost exposure.

As far as aesthetics, it would be -- I don't think we could actually get all the panels. It's a large house but there's setbacks. There's obstructions on the back of the house. We opted for the ground mount here.

We chose that northern corner. With the one restriction that we're going for, I'm sure it's probably -- there's one side that's 24.5. I know that's probably tight there.

CHAIRMAN SCALZO: I'll help you out. Because it's not allowed in that zone or in that

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district, we have no criteria for setbacks. So perhaps you may want to look at other districts that do allow it, should you be back in front of us next month.

MS. McCONNELL: I have another one. So yes, that might come through next month.

So we chose that corner because we need southernmost exposure. That's why it's up to the property line, because it's very well screened is what I will say.

The property is -- I don't know if you stopped by.

CHAIRMAN SCALZO: I live about 1,000 feet from it.

MS. McCONNELL: You do. Okay. So we chose that corner because basically if we put it anywhere towards the center, I think that's the other treeline.

CHAIRMAN SCALZO: I was surprised at the precipitous slope and how well it looks. You couldn't see much.

MS. McCONNELL: It would be great screening.

We're just here to try to, you know,

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see if this customer can go solar going with the ground.

CHAIRMAN SCALZO: Okay. Having heard what you have to say, I personally am a big fan of solar. That's just my opinion. There's five of us -- six of us here today. The criteria to meet this, it's got to be real financial information. Because your utilities bills are high is not a -- my utility bills are high.

MS. McCONNELL: Just wait and see.

CHAIRMAN SCALZO: Sure. Sure. And the other criteria that you're going to need -- actually, I can read them to you, which may help you. You can not realize a reasonable return, substantial as shown, by competent financial evidence. That's real dollars and cents. The alleged hardship is unique and does not apply to substantial portions of the district or neighborhood. The requested variance will not alter the essential character of the neighborhood. The alleged hardship has not been self- created. You have to meet all four of these.

So just what I'm hearing -- like I say,

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I'm a big fan of solar. I live in the same district. I have the opportunity to go roof mount. I have a southern facing roof anyway.

In this case, the ground-mounted stuff, my own opinion is -- if you're going to come back to us, my own opinion is I don't think you meet the criteria, which is why you can request for us to leave this meeting open while you gather more information.

MS. McCONNELL: Yes.

CHAIRMAN SCALZO: But I'm going to tell you it's a tough hill to climb. So it's -- I don't know how else to put it.

What I'm going to do is I'm actually going to roll this out to my fellow ZBA Members. I'm going to start with Mr. Levin. He's way over there.

Mr. Levin, do you have any comments on this?

MR. LEVIN: Only that it's way back off the road.

CHAIRMAN SCALZO: Sure it is.

MR. LEVIN: That's the only positive I see for it.

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MS. McCONNELL: What I would say is yeah, we put a bunch of panels on this. You're worried about the character. I will say if we did put this totally on the roof, it's going to be an eyesore worse than the ground mount.

MR. LEVIN: Why would it be that way?

MS. McCONNELL: The back is going to be all scattered. The front, I don't know if -- it's not optimal, so we're going to try to stay away from the front. So if there's one or two panels, it might look silly in my mind.

CHAIRMAN SCALZO: To who?

MS. McCONNELL: To anyone. If you're not going to see the ground mount.

CHAIRMAN SCALZO: If it were on the roof and you just said it would be on the back, who would see it?

MS. McCONNELL: Here's where you are mistaken. I would not be able to get 36 panels on the back. If that was the case, we wouldn't be here.

CHAIRMAN SCALZO: I happened to look at what the requirements were for R-1. Ground mounted solar is allowed in R-1 I believe. I want

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to say off the front property line it's got to be
200 feet.

MS. McCONNELL: So I'd be back here
anyway.

CHAIRMAN SCALZO: Right. Right.

MS. McCONNELL: It's very narrow,
small, like uneven property.

CHAIRMAN SCALZO: And there's a 30-foot
side yard setback. That's not for the district
that you're in. I'm just trying to -- so in this
case, personally I'm not going to shut you down,
but I want you to understand what it is you need
to bring back to us.

MS. McCONNELL: Got you.

CHAIRMAN SCALZO: So Mr. Bell, do you
have anything to add to that?

MR. BELL: No.

CHAIRMAN SCALZO: Mr. Marino, do you
have anything to add to that?

MR. MARINO: I was there just about two
days ago. I was impressed with the fact that
there's so much wooded area behind the house. The
gentleman I spoke to said where these panels
would be going, no one could build beyond that.

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It's even more shaded or protected. I would be anxious next month to hear the extra information.

MS. McCONNELL: Okay.

CHAIRMAN SCALZO: Mr. McKelvey?

MR. McKELVEY: I want to hear the extra information.

CHAIRMAN SCALZO: Okay. Mr. Masten?

MR. MASTEN: I didn't realize how much the property went back. To the right and all the way in the back. But like you say --

CHAIRMAN SCALZO: You know, if you were to insist that we close this, then we --

MS. McCONNELL: I want to speak to the owners. They'll probably come here.

CHAIRMAN SCALZO: Like I say, if you look up on the internet, Dr. Google, what you need.

MS. McCONNELL: I know. I know.

CHAIRMAN SCALZO: Again, it can be done but you've got to be prepared.

MS. McCONNELL: Got you.

CHAIRMAN SCALZO: Like I say, I have utility bills that are high. I haven't pulled the trigger yet but it's coming.

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So in this case I'm going to look to the Board. Are we going to look for a motion to hold the public hearing open?

MR. BELL: I'll make the motion.

MR. MASTEN: Second.

CHAIRMAN SCALZO: We have a motion from Mr. Bell. We have a second from Mr. Masten. Roll on that.

MS. JABLESNIK: Mr. Bell?

MR. BELL: Yes.

MS. JABLESNIK: Mr. Levin?

MR. LEVIN: Yes.

MS. JABLESNIK: Mr. Marino?

MR. MARINO: Yes.

MS. JABLESNIK: Mr. Masten?

MR. MASTEN: Yes.

MS. JABLESNIK: Mr. McKelvey?

MR. MCKELVEY: Yes.

MS. JABLESNIK: Mr. Scalzo?

CHAIRMAN SCALZO: Yes.

The public hearing is going to remain open until September --

MS. JABLESNIK: 24th.

MS. McCONNELL: Thank you.

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

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

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

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

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

IN WITNESS WHEREOF, I have hereunto
set my hand this 8th day of September 2020.

Michelle Conero

MICHELLE CONERO

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

----- X
In the Matter of

GNS GROUP LTD for 7 ELEVEN, INC.

78 Route 17K
Section 95; Block 1; Lot 25
IB Zone

----- X

Date: August 27, 2020
Time: 8:42 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

ALSO PRESENT: SIOBHAN JABLESNIK

APPLICANT'S REPRESENTATIVE: NANCY FORREST

----- X

MICHELLE L. CONERO
3 Francis Street
Newburgh, New York 12550
(845)541-4163

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CHAIRMAN SCALZO: What we have here is our last applicant for this evening which happens to be GNS Group Limited for 7 Eleven, Inc., 78 Route 17K, Newburgh, seeking an area variance of two front yards to replace four faces on an existing nonconforming pylon sign.

Now, as I say, we've all been up there. This one went for the GML-239 referral. We got nothing back from the County. You're gold. We're allowed to --

MS. JABLESNIK: No. We didn't get -- this application isn't thirty days. So -- yeah. This was submitted less than thirty days ago.

MS. FORREST: We can still present. If it comes back, I don't need to come back. You just tell me if you're all for it.

CHAIRMAN SCALZO: That's correct. This is also an Unlisted action under SEQRA. We have to wait for the GML-239.

This appears to be a renovation and/or refurbishing of an existing sign. The new Town sign ordinance allows the continuation of an existing nonconforming sign so long as there is

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no alteration, modification, change or reconstruction of the sign.

This applicant proposes to replace the existing sign. We obviously have to undertake the five-part balancing test to evaluate whether the benefit to the applicant outweighs the detriment to the surrounding property owners.

Here's the kicker for all of us here. It should be noted that the denial, should we come to deny this variance, the result is that the existing sign stays exactly the same. So that's just an interesting tidbit for you. The sign will stay exactly as it is. All we're changing is the panels here.

That being said, did I capture your presentation?

MS. FORREST: Yes. Two things that I would say.

CHAIRMAN SCALZO: One more. I know you're --

MS. FORREST: Nancy Forrest --

CHAIRMAN SCALZO: I know you're a frequent flyer.

MS. FORREST: -- with GNS Group

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GNS GROUP LTD/7 ELEVEN, INC.

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representing 7 Eleven.

CHAIRMAN SCALZO: Very good. Now the floor is yours.

MS. FORREST: Two things. Obviously the ordinance had changed within the last couple of years. The sign has been out there over twenty years.

Also, I don't know if you noticed in your packet, the State, since the time this sign was up, has taken property along 300. So it was originally 22 feet anyway. So those are reasons.

As you read there, and I know that 7 Eleven was arguing with me. I said do you know if it's 40 feet or the Town of Newburgh can tell you. If you're changing the name and the color, it is a change. I know it's confusing when you read that because it basically tells you it's grandfathered but then it tells you you can't. It's a little confusing to read there. That is simply why we're here.

I took pictures of the sign. It's been over twenty years. It's not in the way of any traffic. It's simply that the store is now going to be owned by 7 Eleven. The sign change is the

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logo and color.

I did already receive my permits for building the signs. They're holding off building those until I get an approval to change those panels. They're paying more for this than they are for those.

CHAIRMAN SCALZO: Okay. Because it's at the intersection of 300 and 17K, you're getting it from both sides. Did DOT have to weigh in on this or no?

MS. FORREST: No. I haven't heard anything.

CHAIRMAN SCALZO: I can't imagine.

MS. FORREST: As I said, the County -- it seems like I remember when the County, it was always a matter of local concern. It seems like over the last seven years or so they're stepping up more and saying they'll do it unless it's something for them.

CHAIRMAN SCALZO: All you're changing is the panels? You're not increasing the lumens of any backlighting?

MS. FORREST: Nothing. Changing those faces out, putting new faces in. The sign is

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built as the sign is built. It has not been retrofitted to LED.

CHAIRMAN SCALZO: Unfortunately I'm going to look -- unfortunately we can't close this public hearing tonight because of the GML-239. You don't necessarily have to come back next month for this because we know what's going on. Thank you for your presentation.

I'll look to the Members of the Board. Mr. Levin, do you have any comments on this?

MR. LEVIN: No.

CHAIRMAN SCALZO: Mr. Masten, any comments?

MR. MASTEN: No.

CHAIRMAN SCALZO: Mr. McKelvey?

MR. MCKELVEY: No.

CHAIRMAN SCALZO: He's already putting his stuff away.

Mr. Marino?

MR. BELL: It will be brighter. The 7 Eleven sign is white. It's going to be a good sign.

CHAIRMAN SCALZO: Okay. Any members -- there is no public.

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I'll look to the Board for a motion to keep the public hearing open.

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

MR. MARINO: Second.

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

MS. JABLESNIK: Mr. Bell?

MR. BELL: Yes.

MS. JABLESNIK: Mr. Levin?

MR. LEVIN: Yes.

MS. JABLESNIK: Mr. Marino?

MR. MARINO: Yes.

MS. JABLESNIK: Mr. Masten?

MR. MASTEN: Yes.

MS. JABLESNIK: Mr. McKelvey?

MR. MCKELVEY: Yes.

MS. JABLESNIK: Mr. Scalzo?

CHAIRMAN SCALZO: Yes.

The public hearing remains open. If we see you next month, we see you next month.

MS. FORREST: Can I tune in online?

CHAIRMAN SCALZO: You absolutely can.

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MS. FORREST: If they say no, it's a majority plus one from the Board? If the County says they don't want us to do it, I need a majority plus one from you?

CHAIRMAN SCALZO: You're correct. I would be stunned if that happened, but --

MS. FORREST: I'll probably come online. I'll save the drive.

Thank you very much.

CHAIRMAN SCALZO: Have good night.

MS. FORREST: You, too.

CHAIRMAN SCALZO: We have no further items on the agenda other than the reading of the last meeting minutes. Did everybody read those? Does anybody have comments?

(No response.)

CHAIRMAN SCALZO: They've been perfect. I have no comments.

MR. BELL: No.

CHAIRMAN SCALZO: Does anybody have anything else?

(No response.)

CHAIRMAN SCALZO: I just want to go on record as thanking Peter Olympia for his time on

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GNS GROUP LTD/7 ELEVEN, INC.

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the Zoning Board of Appeals. He was a wonderful member. We will miss him.

Other than that --

MR. MARINO: I thought this hybrid meeting tonight went fairly well once we got the sound set up.

CHAIRMAN SCALZO: It's only going to get better.

MR. BELL: I was starting to sweat hard. I was like this ain't going to work.

MS. JABLESNIK: Next month is September. Maybe it will be cooler.

CHAIRMAN SCALZO: I have a USB XLR. I'll bring that over. And I've got a long mic cable. I'll run it up here so they can all hear.

I'll look for a motion to close the Zoning Board of Appeals meeting.

MR. MASTEN: So moved.

MR. BELL: Second.

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

MR. BELL: Aye.

MR. LEVIN: Aye.

MR. MARINO: Aye.

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MR. MASTEN: Aye.

MR. McKELVEY: Aye.

CHAIRMAN SCALZO: Aye.

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

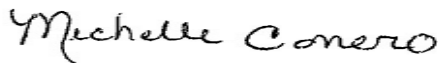
C E R T I F I C A T I O N

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

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

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

IN WITNESS WHEREOF, I have hereunto
set my hand this 8th day of September 2020.



MICHELLE CONERO