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

----- X

In the Matter of

YASSER ALY

300 Lakeside Road, Newburgh
Section 50; Block 1; Lot 48
R-1 Zone

----- X

Date: September 26, 2019
Time: 7:00 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
PETER OLYMPIA

ALSO PRESENT: DAVID DONOVAN, ESQ.
JAMES CAMPBELL
SIOBHAN JABLESNIK

APPLICANT'S REPRESENTATIVE: MICHAEL HENDERSON

----- X

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

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YASSER ALY

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MR. McKELVEY: I'd like to call the meeting to order.

MS. JABLESNIK: The first order of business is a public hearing scheduled for today. The procedure of the Board is the applicant will be called upon to step forward, state their request and explain why it should be granted relief under the code. The Board will then ask the applicant any questions it may have, and then any questions or comments from the public will be entertained. After all of the public hearings have been completed, the Board may adjourn to confer with counsel regarding any legal questions it may have. The Board will then consider the applications in the order heard. The Board will try to render a decision this evening but may take up to 62 days to reach a determination.

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

Roll call. Darryl Bell is absent.

Richard Levin.

MR. LEVIN: Present.

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YASSER ALY

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MS. JABLESNIK: Anthony Marino.

MR. MARINO: Here.

MS. JABLESNIK: John Masten.

MR. MASTEN: Here.

MS. JABLESNIK: John McKelvey.

MR. McKELVEY: Here.

MS. JABLESNIK: Peter Olympia.

MR. OLYMPIA: Here.

MS. JABLESNIK: Darrin Scalzo is also
absent.

Michelle Conero is our Stenographer.
Also we have present Jim Campbell from Code
Compliance and Dave Donovan, our attorney.

MR. McKELVEY: If we could ask you to
stand to say the Pledge.

(Pledge of Allegiance.)

MS. JABLESNIK: The public hearing
notices for all the new applicants being heard
this evening were published in The Mid-Hudson
Times on Wednesday, September 18th, and The
Orange County Post on Friday, September 20th.

The first applicant on the agenda is --
I'm totally going to mess up his first name --
Yasser Aly from 300 Lakeside Road. They're

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YASSER ALY

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seeking an area variance to construct a detached 700 square foot accessory apartment with an existing lot area of 21,390 square feet where 40,000 square feet is required, existing lot width of 65 linear feet where 150 linear feet is required, one side yard setback of 11 feet where 30 feet is required, combined side yards of 37 feet where 80 feet is required, and existing surface coverage of 23 percent where 20 percent is the maximum.

Come on up.

This applicant also sent out 37 letters. All the mailings, publications and postings are in order.

MR. McKELVEY: If you want to go over there, you can take the mic with you.

Please state your name.

MR. HENDERSON: Michael Henderson from Hennessey Architects.

MR. McKELVEY: Let see what you're after.

MR. HENDERSON: This was a pre-approved Zoning Board application two years ago. We're just here to renew it.

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YASSER ALY

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Nothing has changed since the last session.

MR. McKELVEY: Any questions from the Board?

MR. MARINO: I didn't catch the opening phrase. It was approved --

MR. HENDERSON: Yes.

MR. MARINO: -- for an accessory apartment?

MR. LEVIN: It was approved two years ago?

MR. HENDERSON: 2017. Yes.

MR. DONOVAN: This application was approved on December 28, 2017.

MR. MARINO: Why wasn't anything done in that interim time?

MR. HENDERSON: The owners, they know about the six-month time to get a building permit. To obtain a contractor, they kind of had the runaround for awhile. When they finally found one, submitted for a building permit, their six-month time had lapsed.

MR. DONOVAN: I think there are some new members of the Board since this last was

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YASSER ALY

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here. This application last time was the subject of three different public hearing evenings, if you will, before it was approved.

MR. LEVIN: You're doing the exact same thing?

MR. HENDERSON: Yes. Nothing has changed.

MR. McKELVEY: Any further questions?

MR. MARINO: Is it going to be an income apartment or a family --

MR. HENDERSON: Family.

MR. McKELVEY: If there are no more questions --

MR. MASTEN: I have a question. Wasn't there something to do with the foundation, if they were going to go up on the building? They said they were supposed to -- the Building Department said something about will the structure be able to hold the older foundation, because most of it is made out of stone and stuff. I don't remember whatever came of that.

MR. McKELVEY: I remember something like that.

MR. HENDERSON: It's inadequate. We're

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YASSER ALY

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going with new footings.

MR. MASTEN: Some of that old foundation is all stone. They weren't sure if it would hold it up substantially.

MR. HENDERSON: It's inadequate.

MR. MASTEN: All new foundation?

MR. HENDERSON: We're going with a new foundation.

MR. McKELVEY: I think they said that before, too.

Is there anybody from the audience who would like to speak?

(No response.)

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

MR. MASTEN: I have nothing.

MR. McKELVEY: If not, I'll take a motion.

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

MR. MARINO: Second.

MR. McKELVEY: Motion made and seconded.

MS. JABLESNIK: Mr. Levin?

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YASSER ALY

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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. Olympia?

MR. OLYMPIA: Yes.

MR. MCKELVEY: Thank you.

(Time noted: 7:05 p.m.)

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

MS. JABLESNIK: 300 Lakeside Road,
Yasser Aly, an area variance to construct a
detached 700 square foot accessory apartment with
an existing lot area of 21,390 square feet where
40,000 square feet is required, existing lot
width of 65 linear feet where 150 linear feet is
required, one side yard setback of 11 feet where
30 feet is required, combined side yards of 37
feet where 80 feet is required, and existing
surface coverage of 23 percent where 20 percent
is the maximum.

MR. MCKELVEY: Does anybody have

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YASSER ALY

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anything to say?

(No response.)

MR. McKELVEY: If not, we'll look for a motion.

MR. MASTEN: I'll make a motion.

MR. McKELVEY: We have to go through the --

MS. JABLESNIK: You have to go through the Type II.

MR. DONOVAN: You can indicate it's a Type II action under SEQRA. Everything tonight is Type II.

MS. JABLESNIK: We'll go through the area variance criteria and discuss the five factors that you are weighing, the first one being whether or not the benefit can be achieved by other means feasible to the applicant?

MR. LEVIN: I don't believe so.

MR. MASTEN: No.

MR. JABLESNIK: The second, if there is an undesirable change in the neighborhood character or detriment to nearby properties?

MR. LEVIN: It's an improvement to the neighborhood.

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YASSER ALY

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MS. JABLESNIK: The third, whether the request is substantial?

MR. DONOVAN: While the request may be moderately substantial, you do take into consideration it's impact on the neighborhood. You've determined that it does not have an adverse impact on the character of the neighborhood. To the extent it's substantial, that's just one of the factors to be considered. It's not a determinative factor.

MS. JABLESNIK: The fifth, whether the alleged difficulty is self-created? This is relevant but not determinative.

That's it.

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

MR. OLYMPIA: I'll second it.

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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YASSER ALY

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MR. McKELVEY: Yes.
MS. JABLESNIK: Mr. Olympia?
MR. OLYMPIA: Yes.
MS. JABLESNIK: That's approved.
(Time noted: 7:55 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 15th day of October 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

GILBERT GONZALEZ

5 Virginia Court, Newburgh
Section 105; Block 7; Lot 20
R-3 Zone

----- X

Date: September 26, 2019
Time: 7:05 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
PETER OLYMPIA

ALSO PRESENT: DAVID DONOVAN, ESQ.
JAMES CAMPBELL
SIOBHAN JABLESNIK

APPLICANT'S REPRESENTATIVE: GILBERT GONZALEZ

----- X

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MS. JABLESNIK: The next applicant on the agenda is Gilbert Gonzalez, seeking an area variance to keep a 16 foot by 14 foot rear deck built without a permit with a rear yard setback of 13 feet where 40 feet is required at 5 Virginia Circle.

MR. GONZALEZ: How are you doing? My name is Gilbert Gonzalez. I'm asking for a variance, 16 by 14.

MR. McKELVEY: Can you understand him?

THE REPORTER: Yes.

MR. GONZALES: I'm asking for a variance for the deck that was built without a permit. I know I screwed up, didn't come to the Town. I figured I built the deck, there would be no problem because it was in the backyard. I had a smaller deck that was broken and I fell through it. I just thought of calling the contractor so he could come and look at it and see if he could build me a deck.

MR. McKELVEY: How did you get here?

MR. GONZALES: How did I get here?

MR. McKELVEY: Yeah.

MRS. GONZALEZ: I drove.

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MR. McKELVEY: I don't mean that. Why were you told to come before the Board?

MRS. GONZALEZ: To request permission to build the deck.

MR. McKELVEY: Did you get a violation?

MRS. GONZALEZ: Somebody complained. They called and the building inspector came. Sorry, I'm trying to help you.

MR. McKELVEY: It's a well built deck.

Just to reiterate, all the Members of the Board have visited all of the properties.

Do we have any questions from the Board?

MR. MASTEN: I have nothing.

MR. LEVIN: I have a question. It's probably for you, Jim. It appears somebody that built the deck -- I looked at the deck. I couldn't tell the difference if it's a great build or not a great build. Did somebody go out from the Town to inspect that? If it falls down, we probably would have a liability if we approve it.

MR. CAMPBELL: If you approve it tonight we definitely will do a regimen of

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GILBERT GONZALEZ

15

inspections on it.

MR. GONZALEZ: Excuse me. I had a gentleman from the Town, he inspected the deck. His name is Thomas. He went there and looked at it.

MS. JABLESNIK: The building inspector.

MR. CAMPBELL: He was there for the complaint.

MR. DONOVAN: Typically at some point in time I'm sure you'll make him expose some of the footings to make sure they are at the appropriate depth. Unfortunately this is not uncommon. It happens, not only in Newburgh but other places. Most building departments will ask for at least half of the footings to be exposed to make sure they are at the proper depth.

MR. McKELVEY: Any further questions?

MR. MASTEN: I have nothing, John.

MR. McKELVEY: Is there anybody in the audience that would like to speak?

(No response.)

MR. McKELVEY: If not, I'll take a motion.

MR. MARINO: I'll make a motion we

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adjourn -- not adjourn. End the meeting.

MR. DONOVAN: Close the hearing. The rest of the people would be upset if you closed the meeting.

MR. LEVIN: Second.

MR. McKELVEY: We have a motion by Tony, and Richard seconded it.

MS. JABLESNIK: Mr. Levin?

MR. LEVIN: Yes.

MS. JABLESNIK: Mr. Marino?

MR. MARINO: Yes.

MS. JABLESNIK: Mr. Masten?

MR. MASTEN: Yes.

MS. JABLESNIK: Mr. McKelvey?

MR. McKELVEY: Yes.

MS. JABLESNIK: Mr. Olympia?

MR. OLYMPIA: Yes.

MR. DONOVAN: The hearing is closed. The Board goes through all the hearings and they might make their decision afterwards.

MR. GONZALEZ: Thank you.

MRS. GONZALEZ: We can go or stay?

MR. DONOVAN: It's your choice.

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

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(Time resumed: 7:55 p.m.)

MS. JABLESNIK: The next applicant is Gilbert Gonzalez at 5 Virginia Circle, an area variance to keep a 16 by 14 foot rear deck built without a permit with a rear yard setback of 13 feet where 40 feet is required.

The first, whether or not the benefit can be achieved by other means feasible to the applicant?

MR. LEVIN: No.

MR. MARINO: No.

MR. MASTEN: No.

MR. McKELVEY: No.

MR. OLYMPIA: No.

MS. JABLESNIK: If there's an undesirable change to the neighborhood character or a detriment to nearby properties?

MR. LEVIN: No.

MR. MARINO: No.

MR. MASTEN: No.

MR. McKELVEY: No.

MR. OLYMPIA: No.

MR. LEVIN: No.

MS. JABLESNIK: Whether the request is

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substantial?

MR. LEVIN: No.

MR. MARINO: No.

MS. JABLESNIK: Whether the request will have adverse physical or environmental effects?

MR. LEVIN: No.

MR. MARINO: No.

MR. MASTEN: No.

MR. McKELVEY: No.

MR. OLYMPIA: No.

MS. JABLESNIK: Whether the alleged difficulty is self-created?

MR. OLYMPIA: It's irrelevant.

MR. McKELVEY: Do I have a motion?

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

MR. MASTEN: I'll second it.

MS. JABLESNIK: Mr. Levin?

MR. LEVIN: Yes.

MS. JABLESNIK: Mr. Marino?

MR. MARINO: Yes.

MS. JABLESNIK: Mr. Masten?

MR. MASTEN: Yes.

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MS. JABLESNIK: Mr. McKelvey?

MR. MCKELVEY: Yes.

MS. JABLESNIK: Mr. Olympia?

MR. OLYMPIA: Yes.

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

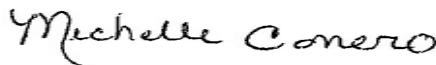
C E R T I F I C A T I O N

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 15th day of October 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

MARIA CHACHA

1877 Route 300, Newburgh
Section 11; Block 1; Lot 49
R-1 Zone

----- X

Date: September 26, 2019
Time: 7:10 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
PETER OLYMPIA

ALSO PRESENT: DAVID DONOVAN, ESQ.
JAMES CAMPBELL
SIOBHAN JABLESNIK

APPLICANT'S REPRESENTATIVE: MICHAEL HENDERSON

----- X

MICHELLE L. CONERO
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MARIA CHACHA

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MS. JABLESNIK: The next applicant on the agenda is Maria Chacha, 1877 Route 300, seeking an area variance to enlarge a nonconforming two-family dwelling with a proposed front yard setback of 57 feet where 60 feet is required, floor area of 1,200 square feet where 1,500 square feet is the minimum, and existing lot area 41,922 square feet where 100,000 square feet is the minimum.

This applicant sent out 21 letters. They also were sent to the County and I did not hear back yet.

MR. McKELVEY: So we can listen to you tonight but we can't vote on it tonight until we get the return from the County.

MR. HENDERSON: Okay.

MR. McKELVEY: State your name, please.

MR. HENDERSON: Michael Henderson from Hennessey Architects.

MR. McKELVEY: Go ahead.

MR. HENDERSON: For this project we're -- it was an existing two-family. We're looking just to do an addition.

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MARIA CHACHA

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The existing square footage is -- the floor is 1,200 doubling to 1,500. The front yard setback, there was a section in the code that took an average of all the houses within 300 feet on a County road, and with that it came out to like 48 feet. We fell within that. 57 was our existing. It was just a little entryway. The main structure is back 60 feet.

MR. McKELVEY: You're going to add on the end; right?

MR. HENDERSON: Yes.

MR. McKELVEY: Questions from the Board?

MR. MARINO: You mentioned you're going to add on the end. Is it in the back of the main building or you're going to go east to west?

MR. HENDERSON: East to west.

MR. McKELVEY: It is a big lot.

MR. MARINO: It is.

MR. McKELVEY: John, any questions?

MR. MASTEN: No.

MR. McKELVEY: Richard?

MR. LEVIN: No questions.

MR. McKELVEY: Peter?

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MARIA CHACHA

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MR. OLYMPIA: No questions.

MR. McKELVEY: Is there anyone that would like to speak on this matter in the audience? Come forward, please.

MS. POST: My name is Heather Post, I reside at 1912 Route 300. It's across the street, kind of caddy corner.

Actually, I have a couple questions maybe you can answer. There's no permission stating whether it's existing. Is it used as a two-family currently?

MR. HENDERSON: Yes.

MS. POST: It is. Okay. So what is the actual address? It's very conflicting in the application, as well as the notice that was sent out. Nothing really matched. There were two different addresses shown and two different SBLs. One of the SBLs on the notice didn't match, it was for another owner, for another piece of property.

MR. McKELVEY: She's going to check.

MS. POST: I mean I know what the property is. That's fairly minor.

MR. OLYMPIA: 1877 Route 300 and 1879

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MARIA CHACHA

24

Route 300 are the two addresses.

MS. POST: The second one doesn't show up on the parcel information.

MS. JABLESNIK: I don't have the Building Department file, I just have the Zoning Board file. I would have to go through and look at the application to match it all up.

MS. POST: I understand. So I guess one of my questions is I did not see -- as part of this application I didn't see a set of plans, so I don't really know what's being added.

Are they on sewer and water? There is a current well there. Is there septic? Do you have to upgrade that?

MR. McKELVEY: Come forward, please.

MR. HENDERSON: He's the owner.

MR. POST: Do you have a septic and well or are you on sewer?

MR. CHACHA: A well.

MS. POST: If you're adding to the home, how are you going to address that?

MR. CHACHA: (Inaudible.)

MR. DONOVAN: This is not going to work. One at a time. The Stenographer is

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MARIA CHACHA

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recording the meeting. If you talk over each other, nothing is going to happen.

MR. CHACHA: We're trying to -- we know how many bedrooms. The only thing we're doing is the bedroom was downstairs, we're going to move it upstairs. We're not making anything bigger, how many bedrooms or anything. We're trying to -- the plans show everything. We're not doing anything bigger. The bedroom was downstairs existing. We're trying to make the downstairs open, the whole thing, and put the bedroom upstairs.

MR. McKELVEY: What do you plan on doing downstairs?

MR. CHACHA: It's going to be a living room -- a dining room and living room. Upstairs is going to be the bedroom.

MR. McKELVEY: Any other questions?

MS. POST: I have more.

MR. McKELVEY: Go ahead.

MS. POST: So with adding to the sides of that house, you're actually increasing how much area of the property you're taking up. One of the things that wasn't disclosed in the EAF

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that was submitted was the wetlands that exist there. There's currently Federal wetlands just to the side of the property and they are within the boundary for the State wetlands. None of that was on there. It's also listed and doesn't define what it is, but it's within a critical area as well.

My concern, honestly, I know the wetlands are an issue across the board. I understand we have to deal with them and I understand that there are ways to do that. Our property specifically gets flooded out. Our other neighbor had actually increased their driveway. I don't know if there was a permit for that. I don't think that there was. That's not really why I'm here. I'm saying the sheet flow that comes off of that now -- all of a sudden, once that was done, the last two seasons that side of our yard floods out.

The other thing that I saw on the application that is worth mentioning is we have -- the adjoining parcel to this gentleman is zoned commercial. That's something that is noted in this. That is zoned commercial and there's

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MARIA CHACHA

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already issues with that apartment house. They have made improvements to their property, and I totally agree it's not like an eyesore, it's not problems, but I will say the property next to them, there are a lot of issues. Doing that, adding more to that, concerns me.

MR. McKELVEY: How close to the wetlands?

MR. HENDERSON: I would have to look into that. I have a boundary line.

MR. McKELVEY: The distance they have to be?

MR. DONOVAN: There's no buffer from the Federal wetlands. There's a buffer for the New York State DEC wetlands. It's easy enough to find out that information.

MS. POST: I have it with me. I'm sorry.

MR. DONOVAN: It's not you can't talk. We can't talk at the same time.

MS. POST: I interrupted you. I apologize. I did print it out. I know you want a formal submission.

MR. DONOVAN: You should be able to --

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MARIA CHACHA

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it's a public record and you should be able to show that so that concern can be addressed. The public hearing is not going to be closed tonight because we haven't heard from the County, as indicated. We're going to be back here next month anyway.

MR. McKELVEY: When you come back next month you won't have to file a notice, you just come back to the meeting. If anybody from the public is interested, it will not be posted again.

MR. OLYMPIA: Can we get plans for what they are going to be doing?

MR. DONOVAN: Are there any building permits?

MR. HENDERSON: Yes.

MR. McKELVEY: Can you get us a copy of them?

MR. HENDERSON: Yes. Actually what was submitted had the layout.

MS. JABLESNIK: Can you submit to Zoning?

MS. POST: I think you got denied by Building? They would have it -- the Zoning Board

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MARIA CHACHA

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would have it; right?

MR. HENDERSON: Yeah. We sent the total package. That page had our drawing, the second floor and first floor.

MR. DONOVAN: I think we got a survey. Did anybody else get anything besides a survey? Do you have building permits?

MR. CHACHA: I have the page with me that shows it. It should have been part of the package.

MR. DONOVAN: Whatever you can submit to assist the Board in making their determination would be helpful.

MR. McKELVEY: Bring it in to the secretary.

Any other questions?

MR. MARINO: Presently is it a two-family house now? Two separate families, you just want to enlarge the living space within the two houses?

MR. CHACHA: What I want to do is put the bedroom -- it's downstairs, put it upstairs.

MR. MARINO: You will be adding on to the size of your building?

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MARIA CHACHA

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MR. CHACHA: To the left side.

MS. POST: That survey shows both.

MR. HENDERSON: There is 78 foot to the living space and then a garage.

MS. POST: So right now there's 1,900 square feet, plus or minus, in the existing home. So that's existing, nonconforming for a two-family. Now you're going to add another 1,200 square feet. You're adding 60 something percent to that home by putting on a small addition as it's noted in there.

MR. HENDERSON: It's not 16. The two apartments are 1,600 and --

MS. POST: That's what the application shows.

MR. HENDERSON: Each.

MS. POST: 1,200 -- the property information with the County shows 1,900 square feet for the full home. You're adding 1,200 square feet per the Zoning application.

MR. HENDERSON: The one apartment is 1,200 square feet. The other apartment is 1,600 square feet.

MS. POST: I'm going to state it again.

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MARIA CHACHA

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The entire structure is shown as 1,900 square feet in total. Right? The application in here shows that you're adding 1,200 square feet to the home. Is that incorrect?

MR. HENDERSON: The one apartment to the left will be 1,200 total and the one apartment to the right will be 1,600.

MS. POST: That is not the way it came across. Okay.

MR. McKELVEY: Any more questions from the Board?

MR. MASTEN: I have nothing, John.

MR. McKELVEY: Anybody else from the public?

(No response.)

MR. McKELVEY: We won't be able to vote on this tonight. We'll need a motion to hold it over.

MR. MASTEN: I'll make a motion to hold it over to next month's meeting.

MR. McKELVEY: Hold on. We have a hand back there.

UNIDENTIFIED SPEAKER: Will there be an opportunity where the public can speak again at

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MARIA CHACHA

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the future meeting when it's reconsidered?
There's a few of us here that are neighbors.

MR. DONOVAN: As indicated before, this application requires a referral to the Orange County Department of Planning. That response has not been received, therefore the public hearing is not going to be closed. You'll be able to speak next month.

UNIDENTIFIED SPEAKER: Thank you.

MR. McKELVEY: You'll be able to speak next month.

UNIDENTIFIED SPEAKER: Thank you.

MR. McKELVEY: We have a motion to hold it over. Do we have a second?

MR. LEVIN: I'll second it.

MR. McKELVEY: Roll call.

MS. JABLESNIK: Mr. Levin?

MR. LEVIN: Yes.

MS. JABLESNIK: Mr. Marino?

MR. MARINO: Yes.

MS. JABLESNIK: Mr. Masten?

MR. MASTEN: Yes.

MS. JABLESNIK: Mr. McKelvey?

MR. McKELVEY: Yes.

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MARIA CHACHA

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MS. JABLESNIK: Mr. Olympia?

MR. OLYMPIA: Yes.

MR. DONOVAN: If I can just repeat what Mr. McKelvey said. There will be no additional mailing. Your notification that it's going to be next month is tonight.

(Time noted: 7:21 p.m.)

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

MS. JABLESNIK: Maria Chacha, 1877 Route 300, an area variance to enlarge a nonconforming two-family dwelling with a proposed front yard setback of 57 feet where 60 is required, floor area of 1,200 square feet where 1,500 is the minimum, and an existing lot area of 41,922 square feet where 100,000 square feet is the minimum.

MR. DONOVAN: This matter is held open for the report.

MR. MCKELVEY: That's held over.

MS. JABLESNIK: I didn't have to read that.

(Time noted: 7:58 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 15th day of October 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

KRL CONSTRUCTION FOR ALTIN BENGASI

37 Wenmar Drive, Newburgh
Section 73; Block 2; Lot 78.1
R-3 Zone

----- X

Date: September 26, 2019
Time: 7:21 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
PETER OLYMPIA

ALSO PRESENT: DAVID DONOVAN, ESQ.
JAMES CAMPBELL
SIOBHAN JABLESNIK

APPLICANT'S REPRESENTATIVE: KENNETH LYTLE

----- X

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MS. JABLESNIK: The next applicant on the agenda is KRL Construction, 37 Wenmar Drive, seeking an area variance to build a new 14 foot by 26 foot rear deck with a proposed rear yard setback of 32 feet where 40 feet is required.

This applicant sent out 64 mailings.

MR. McKELVEY: State your name, please.

MR. LYTLE: Ken Lytle representing Mr. Bengasi.

Good evening. What our client is proposing to do is take an existing approximately 12 by 12 older deck off his home and reconstruct a new larger deck, 14 by 16, which a variance is required for the rear yard.

MR. McKELVEY: Questions from the Board?

(No response.)

MR. McKELVEY: Any questions from the public?

(No response.)

MR. MARINO: We had spoken about the tanks on the property. We got that cleared up. We're okay on that. The propane tank.

MR. McKELVEY: What was it that you

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talked about?

MR. MARINO: What's going to happen to the two tanks on the property now in the back of the house. There's a propane tank and there's an oil tank. I was told the oil tank is being removed.

MR. LYTLE: That's right.

MR. MARINO: The propane tank is being moved --

MR. LYTLE: Relocated further away.

MR. McKELVEY: Okay. John? Peter?

MR. OLYMPIA: I have no questions. It's pretty straightforward.

MR. McKELVEY: Anybody from the public?

MR. FEDER: Good evening. Bill Feder, Rockwood Drive. I didn't hear the dimensions. What were the dimensions?

MR. LYTLE: 14 by 16.

MR. FEDER: It's printed as 14 by 26 on the agenda I believe.

MS. JABLESNIK: That was a typo. Sorry.

MR. FEDER: That makes it a little more palatable.

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MS. JABLESNIK: My fingers got a little excited.

MR. McKELVEY: If there are no further questions, we'll look for a motion.

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

MR. MASTEN: I'll second it.

MR. McKELVEY: Roll call.

MS. JABLESNIK: Mr. Levin?

MR. LEVIN: Yes.

MS. JABLESNIK: Mr. Marino?

MR. MARINO: Yes.

MS. JABLESNIK: Mr. Masten?

MR. MASTEN: Yes.

MS. JABLESNIK: Mr. McKelvey?

MR. McKELVEY: Yes.

MS. JABLESNIK: Mr. Olympia?

MR. OLYMPIA: Yes.

MR. McKELVEY: Thank you.

(Time noted: 7:24 p.m.)

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

MS. JABLESNIK: KRL Construction, 37 Wenmar Drive, seeking an area variance to build a new 14 by 16 foot rear deck with a proposed rear

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yard setback of 32 feet where 40 feet is required.

Whether the benefit can be achieved by other means feasible to the applicant?

MR. LEVIN: I don't believe so.

MS. JABLESNIK: Is there an undesirable change in the neighborhood character or detriment to nearby properties?

MR. LEVIN: No.

MR. MARINO: No.

MR. MASTEN: No.

MR. McKELVEY: No.

MR. OLYMPIA: No.

MS. JABLESNIK: Is the request substantial?

MR. LEVIN: No.

MR. MARINO: No.

MR. MASTEN: No.

MR. McKELVEY: No.

MR. OLYMPIA: No.

MS. JABLESNIK: Will the request have adverse physical or environmental effects?

MR. LEVIN: No.

MR. MARINO: No.

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MR. MASTEN: No.

MR. McKELVEY: No.

MR. OLYMPIA: No.

MS. JABLESNIK: Whether the alleged difficulty is self-created?

MR. MARINO: I don't think it's substantial.

MR. McKELVEY: They're all self-created but not detrimental.

MR. OLYMPIA: I'll move that we approve the application.

MR. LEVIN: I'll second it.

MR. McKELVEY: Roll call.

MS. JABLESNIK: Mr. Levin?

MR. LEVIN: Yes.

MS. JABLESNIK: Mr. Marino?

MR. MARINO: Yes.

MS. JABLESNIK: Mr. Masten?

MR. MASTEN: Yes.

MS. JABLESNIK: Mr. McKelvey?

MR. McKELVEY: Yes.

MS. JABLESNIK: Mr. Olympia?

MR. OLYMPIA: Yes.

(Time noted: 8:00 p.m.)

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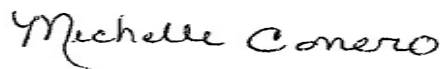
C E R T I F I C A T I O N

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 15th day of October 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

JOYCE CROSSLEY

495 Lakeside Road, Newburgh
Section 28; Block 1; Lot 13.2
R-1 Zone

----- X

Date: September 26, 2019
Time: 7:24 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
PETER OLYMPIA

ALSO PRESENT: DAVID DONOVAN, ESQ.
JAMES CAMPBELL
SIOBHAN JABLESNIK

APPLICANT'S REPRESENTATIVE: ANTHONY BERTLESA

----- X

MICHELLE L. CONERO
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Newburgh, New York 12550
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MS. JABLESNIK: The next applicant on the agenda is Joyce Crossley, 495 Lakeside Road, seeking an area variance to build a 6 by 10 front deck with a proposed setback of 36.3 where 50 feet is required.

MR. BERTLESA: My name is Anthony Bertlesa. I'm here as a proxy for Mrs. Crossley who happens to be away.

We're asking for a front porch. The house originally came with a precast set of steps which have disintegrated and become dangerous.

The front door is 3 feet wide. The existing deck was 4 by 6 -- the existing precast was 4 by 6 which made it difficult to open the 3 foot front door and not to back down a step, which became kind of a nuisance. That's it.

MR. McKELVEY: Any questions?

MR. MARINO: The way Mrs. Crossley is going into the house now is not good at all. There's a set of wooden steps on the side of the house. That's dangerous. What she had before is definitely much better.

MR. McKELVEY: John?

MR. MASTEN: No, I have nothing, John.

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JOYCE CROSSLEY

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MR. McKELVEY: Richard?

MR. LEVIN: Nothing.

MR. McKELVEY: Peter?

MR. OLYMPIA: Nothing.

MR. McKELVEY: Anyone from the
audience?

(No response.)

MR. McKELVEY: If not, I'll entertain a
motion.

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

MR. MARINO: Second.

MR. McKELVEY: Roll call.

MS. JABLESNIK: Mr. Levin?

MR. LEVIN: Yes.

MS. JABLESNIK: Mr. Marino?

MR. MARINO: Yes.

MS. JABLESNIK: Mr. Masten?

MR. MASTEN: Yes.

MS. JABLESNIK: Mr. McKelvey?

MR. McKELVEY: Yes.

MS. JABLESNIK: Mr. Olympia?

MR. OLYMPIA: Yes.

MR. BERTLESA: Thank you.

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JOYCE CROSSLEY

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(Time noted: 7:26 p.m.)

(Time resumed: 8:00 p.m.)

MS. JABLESNIK: Joyce Crossley at 495 Lakeside Road, seeking an area variance to build a 6 by 10 front deck with a proposed setback of 36.3 feet where 50 feet is required.

The first one, whether or not the benefit can be achieved by other means feasible to the applicant?

MR. LEVIN: No.

MR. MARINO: No.

MR. MASTEN: No.

MR. McKELVEY: No.

MR. OLYMPIA: No.

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

MR. LEVIN: No.

MR. MARINO: No.

MR. MASTEN: No.

MR. McKELVEY: No.

MR. OLYMPIA: No.

MS. JABLESNIK: The third, whether the request is substantial?

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MR. LEVIN: No.

MR. MARINO: No.

MR. MASTEN: No.

MR. McKELVEY: No.

MR. OLYMPIA: No.

MS. JABLESNIK: The fourth, whether the request will have adverse physical or environmental effects?

MR. LEVIN: No.

MR. MARINO: No.

MR. MASTEN: No.

MR. McKELVEY: No.

MR. OLYMPIA: No.

MS. JABLESNIK: The fifth, whether the alleged difficulty is self-created?

MR. OLYMPIA: Yes.

MR. MARINO: Yes.

MR. DONOVAN: Pretty much in this context all of your hardships are self-created because you're charged with the knowledge of the Zoning Ordinance. If you violate it, it's a self-created hardship. In the context of an area variance it's just one of the factors to be considered.

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JOYCE CROSSLEY

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MR. McKELVEY: Can I have a motion?

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

MR. MASTEN: I'll second.

MR. McKELVEY: Roll call.

MS. JABLESNIK: Mr. Levin?

MR. LEVIN: Yes.

MS. JABLESNIK: Mr. Marino?

MR. MARINO: Yes.

MS. JABLESNIK: Mr. Masten?

MR. MASTEN: Yes.

MS. JABLESNIK: Mr. McKelvey?

MR. McKELVEY: Yes.

MS. JABLESNIK: Mr. Olympia?

MR. OLYMPIA: Yes.

(Time noted: 8:02 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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interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto
set my hand this 15th day of October 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

MUGHEN NAKAMURA

575 River Road, Newburgh
Section 20; Block 2; Lot 24
R-1 Zone

----- X

Date: September 26, 2019
Time: 7:26 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
PETER OLYMPIA

ALSO PRESENT: DAVID DONOVAN, ESQ.
JAMES CAMPBELL
SIOBHAN JABLESNIK

APPLICANT'S REPRESENTATIVE: MUGHEN NAKAMURA

----- X

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MS. JABLESNIK: The next applicant is Mughen Nakamura, seeking an area variance to build an 8.6 foot by 9.6 foot covered front deck with a 5 foot by 40 foot walkway to the side deck with a proposed front yard setback of 39.6 feet where 50 feet is required. This is located at 575 River Road.

Did I pronounce your first name right?

MR. NAKAMURA: You did. You got it right.

Good evening. My name is Mughen Nakamura. As stated, I am requesting an area variance of about 10.4 feet. Currently the existing property has a front patio, a stone patio that's been there since the construction of the property. It's deteriorating. I believe any means of egress also requires a -- has a limit of the step into the property. I'm not sure that patio meets that exactly.

Additionally, there's a former egress off the kitchen to the side of the home which has a large step down to the actual grass. There's nothing there.

The plan seems to be the most sensible

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to have the front porch deck continue with a walkway to the side porch that is basically level to both means of egress. That walkway would also avoid an uneven terrain around the home to the backyard where the land slopes. The actual property is on an elevation. Most of it, if not all of it, is not visible from the road, or most of the property -- it wouldn't cause hinderance to anyone's sight lines, or views, or any sort of sight entrance on the neighborhood itself.

MR. McKELVEY: There is a fence in the front yard; right?

MR. NAKAMURA: There is a fence in the front yard. Correct.

MR. McKELVEY: I don't think it will be visible from the road.

MR. NAKAMURA: I don't think so either.

MR. McKELVEY: It sits up on a hill.

Any questions? Peter?

MR. OLYMPIA: No questions.

MR. McKELVEY: Is there anyone from the audience that would like to speak?

(No response.)

MR. McKELVEY: If not, I'll entertain a

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motion.

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

MR. MASTEN: I'll second it.

MR. McKELVEY: Roll call.

MS. JABLESNIK: Mr. Levin?

MR. LEVIN: Yes.

MS. JABLESNIK: Mr. Marino?

MR. MARINO: Yes.

MS. JABLESNIK: Mr. Masten?

MR. MASTEN: Yes.

MS. JABLESNIK: Mr. McKelvey?

MR. McKELVEY: Yes.

MS. JABLESNIK: Mr. Olympia?

MR. OLYMPIA: Yes.

MR. McKELVEY: How many letters were
sent out?

MS. JABLESNIK: 37 mailings.

MR. NAKAMURA: Thank you very much.

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

(Time noted: 8:02 p.m.)

MS. JABLESNIK: The next one is Mughen
Nakamura, 575 River Road, an area variance to
build an 8.6 foot by 9.6 foot covered front deck

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MUGHEN NAKAMURA

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with a 5 foot by 40 foot walkway to the side deck
with a proposed front yard setback of 39.6 feet
where 50 feet is required.

The first, whether or not the benefit
can be achieved by other means feasible to the
applicant?

MR. LEVIN: No.

MR. MARINO: No.

MR. MASTEN: No.

MR. McKELVEY: No.

MR. OLYMPIA: No.

MS. JABLESNIK: Is there an undesirable
change in the neighborhood character or a
detriment to nearby properties?

MR. LEVIN: No.

MR. MARINO: No.

MR. MASTEN: No.

MR. McKELVEY: No.

MR. OLYMPIA: No.

MS. JABLESNIK: The third, whether the
request is substantial?

MR. LEVIN: No.

MR. MARINO: No.

MR. MASTEN: No.

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MR. McKELVEY: No.

MR. OLYMPIA: No.

MS. JABLESNIK: The fourth, whether the request will have adverse physical or environmental effects?

MR. LEVIN: No.

MR. MARINO: No.

MR. MASTEN: No.

MR. McKELVEY: No.

MR. OLYMPIA: No.

MS. JABLESNIK: The fifth, whether the alleged difficulty is self-created?

MR. OLYMPIA: Yes.

MR. McKELVEY: They all are.

MR. OLYMPIA: I'll move we approve the application.

MR. MASTEN: I'll second it.

MS. JABLESNIK: Mr. Levin?

MR. LEVIN: Yes.

MS. JABLESNIK: Mr. Marino?

MR. MARINO: Yes.

MS. JABLESNIK: Mr. Masten?

MR. MASTEN: Yes.

MS. JABLESNIK: Mr. McKelvey?

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MR. McKELVEY: Yes.

MS. JABLESNIK: Mr. Olympia?

MR. OLYMPIA: Yes.

MS. JABLESNIK: Approved.

(Time noted: 8:04 p.m.)

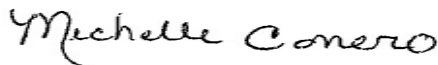
C E R T I F I C A T I O N

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 15th day of October 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

DENISE SPAMPINATO

2 Deer Run Road, Wallkill
Section 14; Block 3; Lot 17
R-1 Zone

----- X

Date: September 26, 2019
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
PETER OLYMPIA

ALSO PRESENT: DAVID DONOVAN, ESQ.
JAMES CAMPBELL
SIOBHAN JABLESNIK

APPLICANT'S REPRESENTATIVE: VINCENT SPAMPINATO

----- X

MICHELLE L. CONERO
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(845) 541-4163

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MS. JABLESNIK: The next person on the agenda is Denise Spampinato, 2 Deer Run Road, seeking an area variance to build a 24 foot by 40 foot by 15 foot four-car detached accessory structure with an existing one-car garage attached to the house and a 5 foot setback from the main building where 10 feet is required in the front yard.

MR. SPAMPINATO: Good evening. My name is Vinnie Spampinato. I am not the property owner, I am her brother. She signed this proxy paperwork for me to be here. I was under the impression I was here to observe. I did not know I would be making a presentation, so I will do my best.

This is part of a downsizing plan with my sister and my parents. This property is owned by my sister. My parents are getting up in years and they are looking to move in with my sister on Deer Run Road and bring all of their stuff with them. My father has a couple of antique cars, a tractor, a few other things that he needs storage for, and he would like to build a detached garage.

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DENISE SPAMPINATO

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As I understand it, they have plenty of room but they're a few feet short on the setbacks.

He asked me to please let everybody know they don't plan on disturbing any vegetation or anyone's view, and they plan on matching the structure to the existing house.

MR. McKELVEY: It's just a garage that they want?

MR. SPAMPINATO: They're looking at pole barn construction.

MR. MARINO: Nothing visible. You can't even see the property from the road.

MR. MASTEN: I drove by it twice.

MR. LEVIN: It's pretty well hidden down in there.

MR. SPAMPINATO: Yes.

MR. McKELVEY: Anybody from the public?

MR. FEDER: Bill Feder, Rockwood Drive. No living quarters above or utilities run to the accessory building?

MR. SPAMPINATO: I believe they're going to run electric but no heat. There won't be anybody staying overnight or anything like

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DENISE SPAMPINATO

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that. Again, just cars and equipment.

MR. McKELVEY: Thank you. Once again,
any further questions from the Board?

MR. MASTEN: I have nothing.

MR. MARINO: I'm good.

MR. DONOVAN: Can I put Jim on the spot
for a second? Is there a building Fire Code
issue with the structure being closer than 10
feet in addition to a Zoning Code issue?

MR. CAMPBELL: Yes. That will have to
be taken into account when the plan review is
done. Basically most likely they'll have to
sheetrock the inside of the garage and no window
openings to that side towards the house.

MR. DONOVAN: Just so you take that
into consideration, there is a Fire Code for
separations and stuff like that. I know you have
to comply. They know what it takes to comply.
Just to keep it in the back of your head.

MR. SPAMPINATO: Will that require any
separate applications or variances?

MR. DONOVAN: Just more money when you
build it.

MR. CAMPBELL: That will be through the

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DENISE SPAMPINATO

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building permit application.

MR. McKELVEY: When they issue that permit they'll tell you what you have to do.

MR. SPAMPINATO: Fair enough.

MR. McKELVEY: Any further questions from the Board?

MR. MASTEN: I have nothing.

MR. McKELVEY: I'll look for a motion.

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

MR. MARINO: Second.

MR. McKELVEY: Roll call.

MS. JABLESNIK: Mr. Levin?

MR. LEVIN: Yes.

MS. JABLESNIK: Mr. Marino?

MR. MARINO: Yes.

MS. JABLESNIK: Mr. Masten?

MR. MASTEN: Yes.

MS. JABLESNIK: Mr. McKelvey?

MR. McKELVEY: Yes.

MS. JABLESNIK: Mr. Olympia?

MR. OLYMPIA: Yes.

MR. SPAMPINATO: Thank you.

MS. JABLESNIK: This application went

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DENISE SPAMPINATO

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to the County. I'm sorry. It's located right there on 300.

MR. McKELVEY: It went to the County so we can't entertain a motion. We'll have to withdraw that motion.

MS. JABLESNIK: Sorry about that.

MR. McKELVEY: It went to the County but it hasn't returned.

MR. MASTEN: Nothing came back yet?

MS. JABLESNIK: No.

MR. McKELVEY: We'll have to entertain a motion to hold it over.

MR. MASTEN: I'll make a motion to hold it over.

MR. MARINO: I'll second that.

MR. SPAMPINATO: What does that mean?

MR. McKELVEY: That means that the --

MR. DONOVAN: So New York State law requires certain properties within 500 feet of a State, or County, or municipal boundary has to be referred to the Orange County Department of Planning for review. The County has 30 days, with some exceptions, but 30 days to issue their report. The nature of the way we do business is

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you don't have to have your application here until 15 days before the meeting, so there's not 30 days. Sometimes they rush and get them for us, sometimes they don't. They didn't make it tonight. The law does not allow us to act without the period expiring, so therefore the Board can't act. The hearing gets adjourned until next month, unfortunately, at which time the Board can act. Either the time will have expired or we'll have a report.

MR. McKELVEY: You can also speak again, too.

MR. SPAMPINATO: Somebody will need to return and be here?

MR. McKELVEY: Pardon?

MR. SPAMPINATO: Somebody needs to be here again?

MR. McKELVEY: If you want to make any additional talk.

MR. DONOVAN: It's never a bad idea. I don't mean to take up your time. You never know what could happen. If somebody has a question. It doesn't have to be you. If someone else is back in town. Even if you have to sit in the

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DENISE SPAMPINATO

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audience for the evening, you're better off
having somebody here, frankly, than not.

MR. McKELVEY: Because the Board may
have more questions.

MR. MASTEN: I have nothing, John.

MR. McKELVEY: I'm saying next month we
may. We're holding it over.

We have to have a roll call on holding
it over.

MS. JABLESNIK: Mr. Levin?

MR. LEVIN: Yes.

MS. JABLESNIK: Mr. Marino?

MR. MARINO: Yes.

MS. JABLESNIK: Mr. Masten?

MR. MASTEN: Yes.

MS. JABLESNIK: Mr. McKelvey?

MR. McKELVEY: Yes.

MS. JABLESNIK: Mr. Olympia?

MR. OLYMPIA: Yes.

MR. McKELVEY: Do you know the date of
the next meeting?

MS. JABLESNIK: October 24th.

MR. McKELVEY: It will be held over
until October 24th.

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DENISE SPAMPINATO

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MS. JABLESNIK: I did tell your dad all that stuff, too. He knows.

MR. SPAMPINATO: Nobody told me.

(Time noted: 7:36 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 15th day of October 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: September 26, 2019
Time: 7:36 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
PETER OLYMPIA

ALSO PRESENT: DAVID DONOVAN, ESQ.
JAMES CAMPBELL
SIOBHAN JABLESNIK

APPLICANT'S REPRESENTATIVE: WYATT SAVAGE

----- X

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

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MS. JABLESNIK: Do you want to do the holdover now?

MR. McKELVEY: We can do the holdover.

MR. DONOVAN: Absolutely.

MS. JABLESNIK: This application was held over from the last meeting. The application is for Nine16 Enterprises at 24 Route 17K, seeking an area variance to increase the degree of nonconformity to enclose the remaining 6.10 feet by 18 foot front porch with an existing 33 feet where 60 feet is required.

MR. SAVAGE: My name is Wyatt Savage for Nine16 Enterprises. Do you need me to explain what this is or did we do this at the last meeting?

MR. McKELVEY: Was there anybody that wasn't here last month?

MR. OLYMPIA: I wasn't here.

MR. McKELVEY: Please.

MR. SAVAGE: So the building is on 17K. The roof is extended over the concrete patio ranging halfway across the front of the building. I just want to complete it and bring it to the other half. It's going to increase the degree of

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nonconformity by about 18 feet. It will make it symmetrical.

MR. McKELVEY: Do you have any questions?

MR. MASTEN: I have none.

MR. McKELVEY: Is there anybody from the audience that would like to speak?

(No response.)

MR. McKELVEY: Once again, any member of the Board?

(No response.)

MR. McKELVEY: If not, we'll take a motion.

MR. MASTEN: I'll make a motion we close it.

MR. LEVIN: I'll second it.

MR. McKELVEY: Roll call.

MS. JABLESNIK: Mr. Levin?

MR. LEVIN: Yes.

MS. JABLESNIK: Mr. Marino?

MR. MARINO: Yes.

MS. JABLESNIK: Mr. Masten?

MR. MASTEN: Yes.

MS. JABLESNIK: Mr. McKelvey?

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MR. McKELVEY: Yes.

MS. JABLESNIK: Mr. Olympia?

MR. OLYMPIA: Yes.

MR. SAVAGE: Thank you.

MR. McKELVEY: In order for the Board to talk to our attorney to see if there are any legal matters, to save time we'll ask you to go out in the hall and we'll call you back.

(Time noted: 7:39 p.m.)

(Time resumed: 8:04 p.m.)

MS. JABLESNIK: We have a held over application from last month, Nine16 Enterprises, 24 Route 17K, seeking an area variance to increase the degree of nonconformity to enclose the remaining 6.10 feet by 18 feet of front porch with an existing 33 feet where 60 feet is required.

The first being whether or not the benefit can be achieved by other means feasible to the applicant?

MR. LEVIN: No.

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

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MR. LEVIN: No.

MR. MARINO: No.

MR. MASTEN: No.

MS. JABLESNIK: The third, whether the request is substantial?

MR. MARINO: No.

MR. LEVIN: I don't believe so.

MS. JABLESNIK: Fourth, whether the request will have adverse physical or environmental effects?

MR. MASTEN: No.

MR. LEVIN: No.

MS. JABLESNIK: The fifth, whether the alleged difficulty is self-created?

MR. OLYMPIA: Yes.

MR. McKELVEY: Can I have a motion to approve?

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

MR. MASTEN: I'll second it.

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. Olympia?

MR. OLYMPIA: Yes.

(Time noted: 8:06 p.m.)

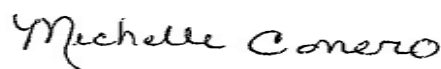
C E R T I F I C A T I O N

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 15th day of October 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

DANIEL DARRIGO

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

----- X

Date: September 26, 2019
Time: 7:50 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
PETER OLYMPIA

ALSO PRESENT: DAVID DONOVAN, ESQ.
JAMES CAMPBELL
SIOBHAN JABLESNIK

----- X

MICHELLE L. CONERO
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MR. McKELVEY: The Board is going to resume the meeting.

We have one more item on the agenda.

MS. JABLESNIK: "I request an extension for a solar variance on the property listed above for 84 Lakeside Road. We've been slowed by the topographic field survey, now complete, and coordination with the DEC for the contamination on the site. We should have an acceptable plan approved by Central Hudson, the solar company and the DEC and NYSERDA to make the Planning Board agenda in the next two months. Respectfully, Dan Guerrino."

MR. McKELVEY: Do you want to explain?

MR. DONOVAN: So the Town Code, Section 185-55, Subdivision D titled expiration, provides unless construction is commenced and diligently prosecuted within six months of the granting of a variance or special permit, such variance or special permit shall become null and void. A six-month period may be extended by the Board for one additional six-month period.

The resolution that I have indicates it was -- this Board acted and issued the variance

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DANIEL DARRIGO

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in June of 2018. It received one extension. I don't see where we have any exceptions in the Code.

Mr. Aly was here tonight. His variance expired and he was required to submit a new application and come back in front of the Board. I don't see where you have any latitude. It's not been the practice of the Board in the past to allow any latitude. The Code says one additional six-month period. That's what the Code says. I don't know that you have any option other than that, unfortunately.

MR. McKELVEY: Do the Members have any questions?

MR. DONOVAN: This is not a public hearing. You don't have to ask the public.

There is an application, so it would be appropriate to -- there is a request, so it would be appropriate to take action on the request.

MR. McKELVEY: We have to close it?

MR. DONOVAN: There's no hearing. The action would be to deny the request because it's not allowed.

MR. McKELVEY: Do I have a motion?

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MR. OLYMPIA: I'll move that the request be denied based on the Code as it stands in denying a further extension of the application.

MR. McKELVEY: Do I have a second?

MR. MASTEN: I'll second it.

MR. McKELVEY: Roll call.

MS. JABLESNIK: Mr. Levin?

MR. LEVIN: Yes.

MS. JABLESNIK: Mr. Marino?

MR. MARINO: No.

MS. JABLESNIK: Mr. Masten?

MR. MASTEN: Yes.

MS. JABLESNIK: Mr. McKelvey?

MR. McKELVEY: Yes.

MS. JABLESNIK: Mr. Olympia?

MR. OLYMPIA: Yes.

MR. McKELVEY: It's denied.

MR. DONOVAN: The request is denied.

(Time noted: 7:53 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 15th day of October 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

BRENNAN GASPARINI
BOARD BUSINESS

1064 Route 32, Wallkill
Section 2; Block 2; Lot 3
RR Zone

----- X

Date: September 26, 2019
Time: 8:06 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
PETER OLYMPIA

ALSO PRESENT: DAVID DONOVAN, ESQ.
JAMES CAMPBELL
SIOBHAN JABLESNIK

APPLICANT'S REPRESENTATIVE: BRENNAN GASPARINI

----- X

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MR. DONOVAN: If I may, there's one other item on the agenda under other Board Business, which is the application of Brennan Gasparini. If you recall, a few months back this Board -- this is the property with two dwellings on one lot. There was an application seeking a variance form of relief, essentially allowing the two dwellings to remain. This Board issued an interpretation that said that because the mortgage foreclosure process is so lengthy, that they were allowed to continue as preexisting nonconforming uses.

As I understand it -- Jim, I don't know if you're familiar with this application at all. You're not. Okay.

I think Mr. Gasparini is in rear of the room tonight. He submitted at least an application to build on -- reconstruct one of the homes.

MR. GASPARINI: Yes.

MR. DONOVAN: That application was denied. I then heard from Mr. Gasparini's attorney. I had a discussion with Mr. Canfield and Mr. Mattina in which they asked for

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clarification from the Zoning Board of Appeals in that, my understanding anyway, is that the house that was proposed, at least in one area, was higher in elevation than the existing home.

Am I characterizing that correctly?

MR. GASPARINI: I don't have the measurements of the existing house prepared.

MR. DONOVAN: Okay. I'll read the denial letter from Code Compliance. It's indicating that because of the increased height, that two variances were required. Both of them were increasing the degree of nonconformity. I then had a conversation with Chairman Scalzo. Chairman Scalzo looked over the building plans and went out to the property. He sent me an e-mail today and asked that I share it with the Board.

Ultimately the issue before this Board is whether or not the building that's proposed is consistent with the variance that you granted or if an additional variance is required for increasing the degree of nonconformity.

Darrin's e-mail that I got late this afternoon is as follows: "Dave, I have a few

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thoughts on the application. If you could pass on, may help other members. I drove by the lot and revisited the application to consider the dwelling on site to be a two-story dwelling. What I also noticed is that there is a small portion of the dwelling that requires a side yard variance which is on the "short side" of the dwelling and which would increase the degree of nonconformity." He then goes on to say, "This may be overcome by moving the dwelling which, if demolished, could be done." That has other implications that I don't think the Chairman considered, which is the Board determined it was allowed to continue with two dwellings as a preexisting nonconforming use, so he couldn't move the dwellings. It sounds to me like Chairman Scalzo agrees that raising the height of the one home would result in an increase in the degree of nonconformity.

Essentially Mr. Gasparini, you're here. I don't know if there's anything else that you want to say to the Board.

I know Jim is not familiar with the application. My conversations with Jerry and

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Joe, they're looking for clarification from the Board if the proposal, which ends up making the house higher, is consistent with your determination. I don't know if you're in a position to answer that question or not.

MR. GASPARINI: How much lower do I have to make the house?

MR. DONOVAN: Unfortunately that's not up to the Board. Generally what happens is Code Compliance makes a determination. You could appeal it to this Board. Under the circumstances, because your application is a little unique, the thought in the conversation between Code Compliance, the Chairman and myself is that we would bring it back under other Board Business discussion. The part that didn't quite work out is neither Jerry or Joe is here and Darrin is not here. I can bring to you what I know. I don't know how much -- I don't know the order of magnitude. I do know Darrin indicates that he thinks it's a two-story dwelling but there is a small portion of the dwelling that requires a side yard variance because it increases the degree of nonconformity. That's

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what Chairman Scalzo says.

MR. GASPARINI: I have no problem moving the house if you want me to move it. I'll move it over so it meets the setback on the side, move it up a little bit, if that makes it easier.

MR. McKELVEY: Will we have to see plans?

MR. DONOVAN: The problem with that is -- so the limited question tonight was whether going up higher with the one house would be consistent with the intent of the prior variance. Not having the building plans in front of you, I don't know how you can make that determination.

MR. McKELVEY: I don't know either.

MR. GASPARINI: I have a set of plans in my car if you'd like them.

MS. JABLESNIK: I have plans right here.

MR. LEVIN: Can we hold it open until next month?

MR. DONOVAN: This is not even an application. The real question was did he need to make an application or was the change minimal enough that an application wouldn't be required.

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That was the question. The people that were involved in the conversation, the only one that's here tonight is me.

So I mean yes, you could ask for copies of the plans and you could have deliberation, if you will, or consider between now and then. Deliberate is the wrong word.

I don't know if, Mr. Gasparini, you want to wait. You can make an application, in the meantime, to be on for next month.

MR. GASPARINI: I mean I thought this was resolved in July.

MR. DONOVAN: Yeah. The determination of Code Compliance is what you're proposing is not consistent with what's there, so therefore --

MR. GASPARINI: My lawyer told me that the height requirement wasn't even approved and that's why we're here right now. Is that true?

MR. DONOVAN: We're here to see if we can reach a resolution of the matter. I don't know that frankly that's possible now.

MR. McKELVEY: I don't think it's possible. If we could see plans.

MR. GASPARINI: I have pictures of the

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existing house in my car, if you'd like to see plans right now.

MR. DONOVAN: That's up to the Board.

MR. McKELVEY: What do you want to do?

MR. MARINO: Can I ask what are the options we have? Is there a list?

MR. DONOVAN: So the options are to either say -- they're not necessarily easy. The options are to say based upon the information we have that we received from Code Compliance, we're not prepared to say that what you're proposing to do is consistent with our variance, therefore you need to appeal and request a variance to increase the degree of nonconformity. The other option would be we don't have the information that we need to make a determination, can you provide that information, and you'll make a determination next month, knowing that that determination could be you need to apply for a variance.

MR. MARINO: Those are the two options we have?

MR. McKELVEY: He's going to show us the plans he had before?

MR. DONOVAN: It's a little

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unfortunate. Basically the conversation with Joe and Jerry was it's kind of a close call, we'd like the ZBA to give us their input as to whether this is consistent with what we decided a couple months ago.

MR. McKELVEY: I think we should wait.

MR. DONOVAN: The conversation that I then had with the Chairman was I'll take a look at the plans, I'll go out to the property and report back to the Board tonight. Something came up and Darrin couldn't make it. I'm trying to convey to you what happened, the conversation that none of you were a party to.

MR. McKELVEY: I think we better have Jerry and Darrin here.

MR. MASTEN: Yes.

MR. McKELVEY: Darrin is the one that went out and inspected. How do you feel?

MR. MARINO: I'm trying to understand it. So basically we're saying that the variance we granted may not be acceptable because the building turns out to be a little taller than what we thought it was going to be?

MR. DONOVAN: That's my understanding,

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Tony, but I haven't reviewed any plans. I was just trying to facilitate a conversation to see if the Board really needed another variance or didn't.

MR. MARINO: Do we know how much taller it is?

MR. DONOVAN: I do not know.

MR. OLYMPIA: If you don't know the answer to that, I don't know how even looking at a set of plans is going to make a difference.

MR. GASPARINI: I can tell you the proposed house is 32.2. I don't know what the existing house is. I didn't measure it. It's coming down, I had no point in measuring it. I thought the Building Department measured it, too.

MR. McKELVEY: Darrin did the inspection.

MR. OLYMPIA: It's something other than 32 feet?

MR. GASPARINI: I didn't measure it myself. I'm unaware of how tall the existing building is. The new building going up is 32.2 feet, yes.

MR. McKELVEY: You're not sure and

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we're not sure, that's for sure.

MR. OLYMPIA: I think we're looking for a way to help you, but without the appropriate information I think it's difficult for us to make a decision on that.

MR. GASPARINI: I mean the house right now is probably 25, 26 feet high. It's about 26 feet. I mean it's two stories, each story is 10 feet. The gable I would imagine is 6 feet, you have another foot or 2 to grade.

MR. McKELVEY: He's saying it but we can't see it.

MR. DONOVAN: It's unfortunately difficult to do this on the fly. The people with whom I discussed it are not here to talk. I frankly am not comfortable with you making a decision.

MR. McKELVEY: I'm not comfortable either.

MR. LEVIN: I would vote to hold it over.

MR. DONOVAN: So your options are to make an application now so you have a hearing next month or to have this Board consider it

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again next month under what's called other Board Business, understanding that if there's a determination that you need a variance, you're going to then have to make an application after next month. So you've lost another month.

MR. GASPARINI: I'm already fourteen months down, so I might as well just wait and see what happens next month. Right?

MR. McKELVEY: It's just hard for us --

MR. DONOVAN: You may want to submit additional copies, even if you have a reduced copy, that's going to show -- the crisp issue is what's the difference in height now and -- what's the height now and what's the height going to be.

MR. GASPARINI: All right.

MR. McKELVEY: I agree, we have to hold this over.

MR. DONOVAN: It's just under Board Business.

MR. McKELVEY: It's Board Business, that's all it is. I agree with what Dave says. I think we should look at it next month.

MR. LEVIN: Okay.

MR. McKELVEY: Darrin will be back and

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Jerry will be back.

MR. MARINO: What we're looking at is the fact that the house may be higher than what we gave the variance for? That's the question?

MR. McKELVEY: Mm'hm'.

MR. MARINO: And if it is, he needs a new variance?

MR. DONOVAN: That would be correct.

MR. McKELVEY: I guess we'll have to leave it at that and look at it next month.

MR. LEVIN: Okay.

MR. DONOVAN: That's all I have.

MR. McKELVEY: Did everybody read the minutes?

MR. LEVIN: Yes.

MR. McKELVEY: A motion for approval?

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

MR. MASTEN: I'll second it.

MR. McKELVEY: Everybody say aye.

MR. LEVIN: Aye.

MR. MARINO: Aye.

MR. MASTEN: Aye.

MR. McKELVEY: Aye.

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Peter wasn't here.

MR. OLYMPIA: I wasn't here.

MR. McKELVEY: Okay. Any other Board
business?

(No response.)

MR. McKELVEY: If not, I'll entertain a
motion to adjourn.

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

MR. LEVIN: Second.

MR. McKELVEY: All in favor?

MR. LEVIN: Aye.

MR. MARINO: Aye.

MR. MASTEN: Aye.

MR. McKELVEY: Aye.

MR. OLYMPIA: Aye.

(Time noted: 8:17 p.m.)

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