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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

1879 Route 300, Newburgh
Section 13; Block 2; Lot 15
R-1 Zone

----- X

Date: October 24, 2019
Time: 7:00 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: CARLOS MARIN
(Present at 8:23 p.m.)

----- X

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

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MARIA CHACHA

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

The first order of business are the public hearings scheduled for this evening. The procedure of the Board is that the applicant will be called upon to step forward, state their request and explain why it should be granted. The Board will then ask the applicant any questions it may have, and then any questions or comments from the public will be entertained. After all the public hearings have been completed, the Board may adjourn to confer with Counsel regarding any legal questions it may have. The Board will then consider the applications in the order heard and will try to render a decision this evening but may take up to 62 days to reach a determination. I would ask that if you have a cell phone, to please turn it off or put it on silent. When speaking, speak directly into the microphone as it is being recorded.

Roll call, please.

MS. JABLESNIK: Darrell Bell.

MR. BELL: Here.

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MARIA CHACHA

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MS. JABLESNIK: Richard Levin.

MR. LEVIN: Here.

MS. JABLESNIK: Anthony Marino.

MR. MARINO: Here.

MS. JABLESNIK: John Masten.

MR. MASTEN: Yes.

MS. JABLESNIK: John McKelvey.

MR. MCKELVEY: Here.

MS. JABLESNIK: Peter Olympia.

MR. OLYMPIA: Here.

MS. JABLESNIK: Darrin Scalzo.

CHAIRMAN SCALZO: Present.

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

CHAIRMAN SCALZO: I understand, Siobhan, you did quite a bit of talking last month. I appreciate that.

MS. JABLESNIK: I did.

CHAIRMAN SCALZO: If you could all please rise for the Pledge of Allegiance. Siobhan, if you could lead, please.

(Pledge of Allegiance.)

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CHAIRMAN SCALZO: Before we begin, we have one applicant this evening which was held over from last month, Maria Chacha, 1879 Route 300 in Newburgh. We have been informed that they will not be in attendance this evening and have asked for a referral to next month's meeting.

Before we actually start with the Board business, if I could get a motion from the Board if we can entertain that for next month.

MR. McKELVEY: I'll make that motion.

MR. MASTEN: I'll second it.

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

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MS. JABLESNIK: Mr. Olympia?

MR. OLYMPIA: Yes.

MS. JABLESNIK: Mr. Scalzo?

CHAIRMAN SCALZO: Yes.

Motion carried.

What that means to any members of the public here to listen to that application, we will be hearing it next month. There will be no notice on it. If anybody is here for that one, you can go.

(Time noted: 7:04 p.m.)

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

CHAIRMAN SCALZO: The first announcement that I had made when the meeting began, that the representatives of Chacha were not here, they are in fact present. We are going to -- this is Board Business held open from September 26th. We had received information from the architect that he was unable to attend and could not make contact with his client, however they are here.

Please step forward and introduce yourself. Keep in mind -- actually, one moment. We have one member -- just sit down for one

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moment and we'll go from there.

(Brief pause in the meeting.)

CHAIRMAN SCALZO: As I mentioned, I made the announcement earlier, we have Maria Chacha, 1879 Route 300, Newburgh, seeking 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 square feet is the minimum, and an existing lot area of 41,922 square feet where 10,000 square feet is the minimum.

This was, as I mentioned, held over from September 26, 2019. I was not at the September meeting, although all of you folks were. Correct?

MR. BELL: I wasn't.

CHAIRMAN SCALZO: The nature of it being held open was what? You folks have heard the presentation.

If you could identify yourself, sir.

MR. MARIN: My name is Carlos Marin, I live at 1879 Route 300. I was here last month as well.

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I was talking, I think the plan to do is have an addition. The addition is going to be a living room. Because we have an existing bedroom downstairs, what we are going to do is put the bedroom that's downstairs, put it upstairs. We don't need any more bedrooms. The addition is 8 foot by 28 foot long. It's going to be 228 square foot of addition. Plus there's going to be a garage. It's a two-family house. We want to have -- we are trying to have one side of the garage for one house and the other house on the other side. So that's the only thing we're trying to do.

CHAIRMAN SCALZO: Okay. As I mentioned, I was not here. Mr. Bell was not here. However, you were also represented by an architect at the last meeting as well.

MR. MARIN: Yes.

CHAIRMAN SCALZO: The presentation was satisfactory. They did keep the meeting open.

At this point I'm going to look to the Members of the Board that were at last month's meeting, if they have any additional questions. Mr. Olympia?

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MARIA CHACHA

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MR. OLYMPIA: Was there a question with regard to the septic system? I can't remember if this was the one or not.

MR. DONOVAN: There was a question. I'm just reading through the minutes. There was a neighbor who appeared and asked a series of questions about the size of the addition, whether or not it had public water and sewer, whether there were wetlands on the property. Those are what I'm seeing from those comments that were made at the prior meeting. There seemed to be an indication that perhaps additional information was going to be submitted.

MR. MARIN: No. That was the only thing. They asked me about the septic. We're not going to add any bedrooms. The only thing is the existing bedroom is downstairs and we're going to put it upstairs. The area is going to be -- the living room is going to be big. That's all.

CHAIRMAN SCALZO: No additional bedrooms?

MR. MARIN: No.

CHAIRMAN SCALZO: Therefore the

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sanitary facilities, in theory, wouldn't need to be enlarged with no bedrooms.

What would lead anyone to believe that there were wetlands on the property?

I didn't visit this one, I'm going to abstain from voting.

MR. BELL: I wasn't here either. I don't know.

MR. DONOVAN: I'll try to find where that was.

MR. MASTEN: Darrin, you were saying wetlands. There's a swamp behind that property.

MR. MARINO: Anything would have to be behind it.

MR. MASTEN: A stream that runs behind there.

MR. DONOVAN: I think the member of the public who spoke indicated that the EAF didn't disclose there were wetlands and this individual believed there were wetlands. I don't think we have any information that there are except that statement by the neighbor.

I think for clarification, there seemed to be confusion as to whether or not the

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additions were proposed on both sides of the dwelling.

MR. MARIN: It's going to be only one side, on our side of the garage.

MR. DONOVAN: The reason why the question was asked, I think, is because the site plan you submitted shows a proposed addition stating 300 on the right side of the house and on the left side of the house. They both indicate a proposed addition.

MR. MARIN: This is a garage. This is a garage.

CHAIRMAN SCALZO: Is the garage existing?

MR. MARIN: No.

MR. DONOVAN: A proposed addition, no living space?

MR. MARIN: No living space. The only living space is going to be the 8 foot by 28 foot long, that's going to be the living room.

CHAIRMAN SCALZO: Perhaps if the map said proposed garage, that would have straightened out the --

MR. DONOVAN: That's correct. I believe

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that that was it.

Have we heard back from the County?

MS. JABLESNIK: Yes.

CHAIRMAN SCALZO: The County is a Local
determination. Very good.

I'll look to Mr. Marino. Any
questions?

MR. MARINO: Did they ask to have this
held over until next month?

CHAIRMAN SCALZO: The GML 239 was not
back from the County. That's why this remained
open. It was purely the County.

MR. MARINO: I have to check my notes.

CHAIRMAN SCALZO: Mr. Masten?

MR. MASTEN: We were just waiting for
that paperwork.

CHAIRMAN SCALZO: Mr. Levin?

MR. LEVIN: No.

CHAIRMAN SCALZO: Mr. McKelvey?

MR. MCKELVEY: No.

CHAIRMAN SCALZO: Mr. Olympia?

MR. OLYMPIA: No.

CHAIRMAN SCALZO: Mr. Bell, you were
not here as well.

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MR. BELL: I'm going to abstain.

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

MS. POST: I'm Heather Post, 1912 Route 300, Newburgh. I can answer some of the questions you were asking before if you would like the background to recap.

CHAIRMAN SCALZO: Sure.

MS. POST: The septic was a question because there was nothing provided on that with the application. The additional information that was requested that was supposed to be submitted, maybe it was just a communication issue, during the meeting I had asked for the plans that had been submitted and denied so that he would end up at the Zoning Board. The architect explained that they had submitted the building plans but they were not available to anybody. So those were supposed to be provided. I did FOIL for those after the meeting and I did go through them. It shows on their property card as well as what the County is holding that they have a four-bedroom property. Their plans show that

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they have five bedrooms proposed. So there is a discrepancy there. Whether that's intended or not, I don't know.

I did FOIL to the County and they did not respond. I asked for the septic approval or plan or anything. There was no response from them.

As far as the wetlands, that came up because I live pretty much across the street and we have wetlands. I went onto the environmental resource mapper on the DEC website and found that they're within the buffer. They are adding to their property increased surface area that is going to be covered and they are within an area that already has wetland issues.

CHAIRMAN SCALZO: It's your contention that they're within the 100 foot adjacent area?

MS. POST: Adjacent area these days, yes. Yes. Absolutely. It wasn't disclosed, it wasn't discussed at all.

They are not just adding an addition. I understand we're talking about surface area. I get that. They're putting two garages in, they are taking the entire roof off, raising the

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floor, which I understand they want an 8 foot ceiling. Not a problem. They are relocating the downstairs bedroom on tenant 2, putting that on the second floor, which makes sense but not talked about. And then on tenant 1 they are leaving all of the existing bedrooms and then adding a bedroom on the second floor.

MR. MARIN: No. No.

MS. POST: That's what your -- I want to --

MR. MARIN: Absolutely wrong. The existing bedroom upstairs in the first house. Just we're trying to make the window in the front. It's an existing bedroom.

MS. POST: I want you to understand that what your architect does show --

MR. MARIN: Something from the architect. It's an existing bedroom in the first house.

MS. POST: Your property card does not show there's anything --

MR. MARIN: We bought the house --

MS. POST: I understand that. I'm not arguing with you about what you currently have.

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It might not be permitted, though, and it might not be on there.

It does show on all -- when I FOIL'd for the application, it does state -- there is a note in there that it is a two-family home, but it was not necessarily permitted as a two-family home initially in 1980 when they took an old garage and converted it to living space. Since then, since they want to change the house, it has to come up to current code, and it doesn't do that. They're asking for two and a quarter of what they have. They need 100,000 square feet of property in order to do a two-family home. They have not even an acre. So they're asking for square footage of living space, calculating garages, they're asking for a 69 percent increase in their home.

MR. MARIN: It's not.

MS. POST: It is.

MR. MARIN: It's not.

MR. OLYMPIA: I remember at the last meeting I recall not only the septic issue but I also asked for a copy of the plans, which were not submitted, for the improvements.

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CHAIRMAN SCALZO: We don't have a set of architectural drawings?

MS. JABLESNIK: The architect said he would submit plans to me. I haven't received anything from him since that meeting.

MS. POST: What I saw was what was submitted to the Building Department because that's what I FOIL'd for. I FOIL'd for anything that was under the building application.

MR. OLYMPIA: Jerry, are you familiar with the proposed --

MR. CANFIELD: No. I didn't come prepared because I didn't even think it was on the agenda. The information you received was that the architect was supposed to get in touch with the applicant and that they couldn't make contact so it had to be removed.

MS. JABLESNIK: I don't have it.

CHAIRMAN SCALZO: At this point I was prepared to just abstain from voting but it sounds as though information that was looked for at last month's meeting has not been submitted.

It's in your hands, sir. We don't have it.

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I'm going to look to the Board here.

We don't have the architectural renderings.

MS. JABLESNIK: He said he was going to submit something to me and he hasn't.

MR. MARIN: He hasn't?

MS. JABLESNIK: I haven't received anything from him.

MR. MARIN: Okay.

CHAIRMAN SCALZO: Additionally, the environmental mapper that Ms. Post had said she reviewed -- sir, I'm going to ask you to make contact with your surveyor --

MR. MARIN: All right.

CHAIRMAN SCALZO: -- and have him put his interpretation of the limits of the wetlands and the 100 foot adjacent area on there. You can reach out to Siobhan tomorrow, she can clarify that for you if you need any additional information.

As I say, I was prepared to abstain from voting but it appears I would like to get out and see the property. My apologies. I thought it would have been something that could have been resolved tonight. I don't personally

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think it can.

Mr. Canfield.

MR. CANFIELD: Also, the wetlands, are we speaking of New York State DEC wetlands or Federal wetlands?

CHAIRMAN SCALZO: There are no adjacent areas regarding Federal wetlands. There is no buffer zone, if you will.

MS. POST: There are in the property adjoining. This gentleman, there are Federal wetlands. There are also New York State wetlands. There is the adjacent area involved with that.

MR. CANFIELD: They are DEC delineated wetlands?

MS. POST: They absolutely are.

CHAIRMAN SCALZO: Your surveyor should be able to -- I'm not looking for exact location in this case.

MR. CANFIELD: He should submit the maps.

CHAIRMAN SCALZO: He should be able to show a general plotting of where these wetlands are and the 100 foot adjacent area. That's just

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going to be based off GIS. We'll see if it's something that's of great concern or not. Unfortunately building within 100 foot adjacent area does require a permit, or at least review by the DEC. We're going to need that information to make a reasonable determination here.

Dave, is this something -- as I said, it now occurs to me I can request that the surveyor place this information on the map, but if the actual delineation of the wetlands is shown with a true depiction of the 100 foot adjacent area, I almost need professional layout of that for us to make our determination.

MR. DONOVAN: If you think it's necessary to make your determination, the answer is yes. If that's going to show -- so the issue being that what's presently mapped may not necessarily be accurate because you don't have an on-site delineation?

CHAIRMAN SCALZO: It's like a GIS. If you've ever looked at an overlay from even our County stuff, the road -- where they show the road right-of-way may not be over the actual pavement. We may be running into the same issue

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MARIA CHACHA

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here. We're going to need to see real delineation on the DEC wetlands as well as the 100 foot adjacent area.

MS. POST: They will come out and identify theirs?

CHAIRMAN SCALZO: The DEC will. It's a free service, I believe, from DEC.

You need to contact DEC to have them do it.

MR. MARIN: Yeah?

CHAIRMAN SCALZO: Yup. Unfortunately I don't think -- I'd be happy, if the Board so desires, to -- I think we're going to hold this open. Sometimes these things take a little bit.

At this point I'm going to look -- unless there are any other comments that I'm waiting for or anyone else from the public wants to speak about this, I'd like to look to the Board to hold the public hearing open yet again while you gather that information.

MR. OLYMPIA: I'll move that we hold it open.

MR. McKELVEY: Second.

CHAIRMAN SCALZO: Motion from Mr.

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MARIA CHACHA

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Olympia, a second from 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?

MR. MASTEN: Yes.

MS. JABLESNIK: Mr. McKelvey?

MR. MCKELVEY: Yes.

MS. JABLESNIK: Mr. Olympia?

MR. OLYMPIA: Yes.

CHAIRMAN SCALZO: Yes.

Sir, do you understand what it is we're going to need from you so we can make an informed decision moving forward? If you're even unclear, give Siobhan a call tomorrow, she will let you know exactly. If anybody was taking notes.

No one will be re-noticed. We will put this on the agenda for November.

MR. BELL: One question. Where do you live adjacent to --

MR. MARIN: She lives far away from me.

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MARIA CHACHA

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MR. BELL: I'm not asking you, sir. I'm asking her.

MS. POST: Across the street and over one house.

MR. BELL: I'm just asking because, as Darrin mentioned, I wasn't here. Now we have time to come out and I'll take a look at it. I want to know where you live.

MR. MARIN: It's not across the street. It's far away from us. It's not like just in front.

MS. POST: Thank you.

CHAIRMAN SCALZO: Now the Board will take a short adjournment here to confer with Counsel regard legal questions raised. If you could wait in the hallway and we'll call you in very shortly.

(Time noted: 8:46 p.m.)

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

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

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

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

IN WITNESS WHEREOF, I have hereunto
set my hand this 7th day of November 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

SDF CAPITAL

8 Taft Avenue, Newburgh
Section 79; Block 9; Lot 25
R-3 Zone

----- X

Date: October 24, 2019
Time: 7:04 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
PETER OLYMPIA

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

APPLICANT'S REPRESENTATIVE: KEVIN TURNYANSZKI

----- X

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

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CHAIRMAN SCALZO: Our first applicant this evening is SDF Capital, 8 Taft Avenue in Newburgh, seeking area variances to keep a 7.2 by 9.9 front porch with a 9.8 front yard setback where 40 feet is required; (b), a carport with an existing 33 foot rear yard setback where 40 is required; and a combined side yard of 24.6 where 30 feet is required; and (C), a 10.6 by 16.2 rear covered deck with an existing rear yard setback of 33 where 40 is required, a side yard of 3.6 where 15 is required, and existing building lot coverage of 1369.8 square feet where 900 is the maximum allowed.

Do we have anyone here this evening to represent that application?

MR. TURNYANSZKI: Yes.

CHAIRMAN SCALZO: Step forward. Before you begin, I will let all the members of the public know we are obliged by position on the ZBA to visit each property. We have all seen it.

If you could introduce yourself, please, and let us know why you're here and what it is you're looking for.

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MR. TURNYANSZKI: Good evening. My name is Kevin Turnyanszki, I'm the owner of SDF Capital. My company owns the property. I purchased it in May of 2019 knowing of the violations for the rear covered back deck, and the porch, and carport, at which point I hired an architect to legalize the structures, and then I learned that they didn't comply with the zoning. At that point I had hired a surveyor and we put everything on paper, going through the zoning application. I'm seeking to legalize all of these three structures on the property. They were preexisting to my ownership. It's in my benefit to -- I think all the benefits to keep them existing as it requires extensive deconstruction and reconstruction which also might raise the same situation, applying for zoning variances and the like.

CHAIRMAN SCALZO: Thank you very much.

MR. TURNPANSZKI: You're welcome.

CHAIRMAN SCALZO: Myself, I have no comments on it. The lots in that neighborhood are pretty small, at least around you. I have no comments myself.

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SDF CAPITAL

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I'll look to the Members of the Board.

Mr. Bell?

MR. BELL: None.

CHAIRMAN SCALZO: Mr. Olympia?

MR. OLYMPIA: Did you secure a title policy when you closed?

MR. TURNYANSZKI: I did, yes.

MR. OLYMPIA: Did it point out the violations?

MR. TURNYANSZKI: It pointed out the violations. I'm kind of new to the real estate investing and this world, so I didn't understand what was involved. I thought it was just a matter of filing building permits that complies with the structural requirements. I later learned that there were zoning and setbacks. That's how it came to this point.

MR. OLYMPIA: Do you know how long the improvements have been existing?

MR. TURNYANSZKI: I can't personally date them but they seem to be in excess of ten or fifteen years based on just the looks of them.

MR. OLYMPIA: Thank you.

CHAIRMAN SCALZO: Mr. McKelvey?

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MR. McKELVEY: No.

CHAIRMAN SCALZO: Mr. Levin?

MR. LEVIN: I'm okay.

CHAIRMAN SCALZO: Mr. Masten?

MR. MASTEN: No.

MR. MARINO: I'm good.

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

(No response.)

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

(No response.)

CHAIRMAN SCALZO: Then I will look to the Board 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 call.

MS. JABLESNIK: Mr. Bell?

MR. BELL: Yes.

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MS. JABLESNIK: Mr. Levin?

MR. LEVIN: Yes.

MS. JABLESNIK: Mr. Marino?

MR. MARINO: Yes.

MS. JABLESNIK: Mr. Masten?

MR. MASTEN: Yes.

MS. JABLESNIK: Mr. McKelvey?

MR. MCKELVEY: Yes.

MS. JABLESNIK: Mr. Olympia?

MR. OLYMPIA: Yes.

MS. JABLESNIK: Mr. Scalzo?

CHAIRMAN SCALZO: Yes.

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

MR. TURNYANSZKI: Thank you very much.

CHAIRMAN SCALZO: Siobhan, all mailings, everything is in order?

MS. JABLESNIK: Everything is in order. The applicant sent out 91 mailings.

CHAIRMAN SCALZO: 91?

MS. JABLESNIK: 91.

(Time noted: 7:09 p.m.)

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

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CHAIRMAN SCALZO: I'll call the meeting back to order. Everything that we will be voting on this evening is a Type 2 action under SEQRA. In this case we're going to go in the order heard.

The applicant, SDF Capital, 8 Taft Avenue in Newburgh, seeking area variances to keep a 7.2 by 9.9 front porch with a 9.8 front yard setback where 40 feet is required; (b), a carport with an existing 33 foot rear yard setback where 40 is required; and a combined side yard of 24.6 where 30 feet is required; and (C), a 10.6 by 16.2 rear covered deck with an existing rear yard setback of 33 where 40 is required, a side yard of 3.6 where 15 is required, and existing building lot coverage of 1369.8 square feet where 900 is the maximum allowed.

We are going to go through the area variance criteria and discuss the five factors. The first one, whether or not the benefit can be achieved by other means feasible to the applicant. In my opinion, some of these are pre-existing nonconforming. It's not out of

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SDF CAPITAL

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character.

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

MR. BELL: I don't believe so.

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

MR. BELL: No.

CHAIRMAN SCALZO: Fourth, whether the request will have adverse physical or environmental effects.

MR. MARINO: No.

MR. LEVIN: No.

CHAIRMAN SCALZO: Fifth, whether the alleged difficulty is self-created, relative but not determinative. The gentleman gave testimony that he purchased it that way.

MR. DONOVAN: You're charged with knowledge, so if you should have known, it's self-created.

CHAIRMAN SCALZO: Buyer beware. Very good.

Having gone through the balancing test of the area variance, does the Board have a

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motion of some sort?

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

MR. MASTEN: I'll second it.

CHAIRMAN SCALZO: We have a motion for
approval by Mr. McKelvey, a second from Mr.
Masten. 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. Olympia?

MR. OLYMPIA: Yes.

MS. JABLESNIK: Mr. Scalzo?

CHAIRMAN SCALZO: Yes.

Motion carried. The variance is
granted.

(Time noted: 9:00 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 7th day of November 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

MATTHEW MALDONADO

129 South Plank Road, Newburgh
Section 67; Block 1; Lot 12
R-3 Zone

----- X

Date: October 24, 2019
Time: 7:09 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
PETER OLYMPIA

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

APPLICANT'S REPRESENTATIVE: MATTHEW MALDONADO

----- X

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

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MATTHEW MALDONADO

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CHAIRMAN SCALZO: Our second applicant this evening is Matthew Maldonado, 129 South Plank Road, Newburgh, seeking an area variance to keep an 8 by 12 front deck with a setback of 28 feet where 50 feet is required.

Regarding the Maldonado application, the mailings?

MS. JABLESNIK: 29.

CHAIRMAN SCALZO: You're not the winner so far. We're going to keep a tab all night.

I just mentioned what you're here for. We want to hear from you, starting with your name.

MR. MALDONADO: Matthew Maldonado, I live at 129 South Plank Road.

I'm trying to get a deck to enter into and to leave my house. It was built prior. It didn't have no like zoning or anything. I was just trying to replace it, and that's why I need a permit.

CHAIRMAN SCALZO: Okay. As I mentioned, we've all visited the sites. You may not have seen us but we saw it.

I have no comments myself. It's far

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MATTHEW MALDONADO

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back up, it's high. You really can't see it from
the road at all.

Mr. Marino, any comments?

MR. MARINO: Was there always a deck
there prior to your purchase?

MR. MALDONADO: Yes.

MR. MARINO: There was?

MR. MALDONADO: Yes.

MR. MARINO: You're just enlarging it
or renovating it?

MR. MALDONADO: I'm just putting it
back the same. It was falling apart. I just put
it firm.

MR. McKELVEY: It's the same size?

MR. MALDONADO: The same size.

CHAIRMAN SCALZO: Mr. Masten?

MR. MASTEN: Nothing.

CHAIRMAN SCALZO: Mr. Levin?

MR. LEVIN: I'm okay.

CHAIRMAN SCALZO: Mr. McKelvey?

MR. McKELVEY: I'm okay.

CHAIRMAN SCALZO: Mr. Olympia?

MR. OLYMPIA: I'm fine.

CHAIRMAN SCALZO: Mr. Bell?

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MR. BELL: I'm good.

CHAIRMAN SCALZO: Very good. At this time I'll open this application up to any members of the public that are here to speak about it. Anyone, please step forward if you have comments.

(No response.)

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

(No response.)

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

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

MR. OLYMPIA: I'll second it.

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

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. Olympia?

MR. OLYMPIA: Yes.

MS. JABLESNIK: Mr. Scalzo?

CHAIRMAN SCALZO: Yes.

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

MR. MALDONADO: Thank you.

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

(Time resumed: 9:00 p.m.)

CHAIRMAN SCALZO: Moving on to Mathew Maldonado, 129 South Plank Road, an area variance to keep an 8 by 12 front deck with a setback of 8 feet where 50 is required.

The first one is whether or not the benefit can be achieved by other means feasible to the applicant. It appears he was just replacing almost in kind.

Second, if there's an undesirable change in the neighborhood character or a

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detriment to nearby properties. No.

Third, whether the request is substantial.

MR. MASTEN: No.

MR. MARINO: No.

MR. BELL: No.

CHAIRMAN SCALZO: It doesn't appear so.

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

MR. McKELVEY: No.

MR. MARINO: No.

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

MR. MARINO: No.

CHAIRMAN SCALZO: So if the Board approves, we'll grant the minimum variance necessary and may impose reasonable conditions. Does the Board have a motion of some sort?

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

MR. OLYMPIA: Second.

CHAIRMAN SCALZO: We have a motion for approval from Mr. Bell and a second from Mr.

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MATTHEW MALDONADO

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Olympia. 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. Olympia?

MR. OLYMPIA: Yes.

MS. JABLESNIK: Mr. Scalzo?

CHAIRMAN SCALZO: Yes.

Motion carried. The variance is
granted. Thank you.

(Time noted: 9:02 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
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 7th day of November 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

JAMES McDONALD

4 Rayland Road, Newburgh
Section 28; Block 4; Lot 2
R-1 Zone

----- X

Date: October 24, 2019
Time: 7:12 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: JAMES McDONALD

----- X

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

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CHAIRMAN SCALZO: Our third applicant this evening is James McDonald, 4 Rayland Road, Newburgh, seeking an area variance to build a 27 by 37 detached accessory structure in the front yard for storage of three vehicles with an existing two-car garage on the property and an existing 160 square foot accessory structure, making the total 1,159 square feet where 1,000 is the maximum allowed.

Mailings, Siobhan?

MS. JABLESNIK: 49 mailings.

CHAIRMAN SCALZO: You're not the winner either. Very good.

Sir, please introduce yourself and let us know what you're looking to do.

MR. McDONALD: Good evening. I'm James McDonald. My wife and I want to build a garage on our property at 4 Rayland Road. It's a 37 by 27 which puts it at 999 square feet. We have an existing shed, so that puts it over by 159 square feet.

We'd like the structure just so we have a place to house our cars. The house has two existing garages but we use those for storage.

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JAMES McDONALD

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My workbench is in there, the boiler is in there, stuff like that. We've never parked our cars there and we've lived there for twenty-one years. We're just looking to clean it up. I have two younger children, so pretty soon they'll have cars too. We're trying to get the place organized.

The thing we learned that you didn't mention is that our house is kind of unique. We have a street in front but the next thing behind us is also a road. We were told we needed to have a variance for that too because we have two front yards technically. It's actually our backyard to us. We were surprised to find out it's called a front yard.

We have an existing pool and a shed, so we use it as a backyard. There's lots of clearance in there.

Those are the three things we're looking for. Again, it will be useful for us. I think for the community, the appearance is the thing I would point to. In the end everything will look a lot nicer.

CHAIRMAN SCALZO: Thank you very much.

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JAMES McDONALD

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I didn't have any comments. As I drove up around the neighborhood there, I guess that's when it turns into --

MR. McDONALD: Leland.

CHAIRMAN SCALZO: -- Leland. On the right-hand side, if you go up around and zip back down, there's a home that happens to be attached all together but I think it's very similar to what you're looking to do.

MR. McDONALD: Exactly.

CHAIRMAN SCALZO: There's one other one in the neighborhood like that. That's my only comment.

Mr. Bell?

MR. BELL: I saw the same thing.

CHAIRMAN SCALZO: Mr. Olympia?

MR. OLYMPIA: I'm fine.

MR. McKELVEY: The only thing I'd say is they're only allowed four garage doors.

CHAIRMAN SCALZO: Four garage doors.

MR. McKELVEY: Right, Jerry?

MR. CANFIELD: Four cars total storage.

MR. McKELVEY: Four cars total.

MR. McDONALD: Yeah. I mean at one

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JAMES McDONALD

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point we were considering actually pulling one of the garage doors off and finishing the wall, but then we were told to technically do that we'd have to put a wall down the middle of the house. I didn't want to do that. I'd be glad to pull the door and reconstruct it as a wall.

CHAIRMAN SCALZO: Actually sir, I believe you just gave testimony that said you don't really use those two as a garage anyway.

MR. McDONALD: For twenty-one years.

CHAIRMAN SCALZO: Mr. McKelvey is just reminding you of the Code you need to follow.

MR. McDONALD: Yes, sir.

MR. MCKELVEY: We can stipulate to that in the decision, --

CHAIRMAN SCALZO: Yes.

MR. MCKELVEY: -- to use that one garage for storage.

MR. DONOVAN: If I may. The Code allows, Jerry, four cars; correct?

MR. CANFIELD: Correct.

MR. DONOVAN: You would need a variance if you're going to have more than four cars.

MR. McDONALD: That's what we're going

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JAMES McDONALD

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for tonight. There's three points we're going for tonight, extra square footage over 1,000 square feet, --

MR. DONOVAN: Right. Two front yards.

MR. McDONALD: -- two front yards and five garage doors on the house, even though --

MR. DONOVAN: Five cars?

MR. McDONALD: No, no. We own four cars. Three of them will go into the new structure and one will remain outside. Again, we do not use those garages under the house. They're not big enough for a car, actually, with the stuff that's inside.

CHAIRMAN SCALZO: Currently you comply with Code.

MR. McDONALD: I think so. They said they count too many doors.

MR. McKELVEY: I just wanted to point that out.

CHAIRMAN SCALZO: I understand that.

Mr. Levin?

MR. LEVIN: I'm okay.

MR. MASTEN: Okay.

MR. MARINO: Okay.

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JAMES McDONALD

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MR. DONOVAN: If I may, what I'm seeing in the notice of disapproval is the square footage, the two front yards. It's not the number of garage doors, it's the number of vehicles that are being stored. Am I correct, Jerry?

MR. CANFIELD: Yes. Mr. Mattina is making a note that bulk table 3 allows maximum vehicle storage of four.

MR. DONOVAN: For clarification, you're asking for the storage of five vehicles? Is that what you're asking for? I don't want to put words in your mouth. You may want to rethink that since I just got my premium notice. I have kids that are twenty-one and nineteen. You might want to not let them drive.

MR. McDONALD: The kid part I wish I could rethink. I'm actually a little unsure. I would like to do the project. I would like to leave all five garage doors there, promising to only use the three new ones.

MR. DONOVAN: You could have twelve garage doors. It's the number of cars you have.

MR. CANFIELD: Correct. A suggestion

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JAMES McDONALD

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may be, if the Board wishes to approve, you have conditions of approval. So again, if you would so choose to make that a condition of approval, a reminder of maximum four vehicles, that's been acceptable in the past.

CHAIRMAN SCALZO: I appreciate what you say, Jerry and John, but I disagree with reminding an applicant of what the Code is. The Code is the Code. I don't think we need any special provisions in our determination to remind an applicant to follow the Code. Listen, I'm just one guy out of seven here.

MR. MASTEN: I agree.

CHAIRMAN SCALZO: At this point I'll open it up to any members of the public that wish to talk about this application. Please step forward if you do.

(No response.)

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

MR. BELL: I'm good.

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

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MR. IBBS: I had a clarification question. I do not currently live next to the premises that he's --

CHAIRMAN SCALZO: Your name?

MR. IBBS: Brian Ibbs. I live in the Town of Newburgh, 1912 Route 300.

Is the issue that you can't exceed four cars on the premises from a visual perspective or is it just the fact that there can't be more than four stored?

CHAIRMAN SCALZO: I'm going to defer to Code Compliance.

MR. CANFIELD: It's four cars stored. Obviously it's not to restrict an individual from having company, a total of more than four cars at any given time. The intent of the Code is four cars maximum storage, such as garaged vehicles.

MR. IBBS: Thanks for the clarification.

CHAIRMAN SCALZO: Any other questions from the public?

(No response.)

MR. MARINO: I just have a question. Are we saying that he can have four garage doors

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JAMES McDONALD

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or five garage doors but he can't store that many cars?

CHAIRMAN SCALZO: Correct.

MR. McKELVEY: He can only store four.

MR. MARINO: Store means inside, not just sitting on the property?

CHAIRMAN SCALZO: I'll have to defer to Code again on this.

MR. CANFIELD: Yes. The intent of the Code is to garage four vehicles. Yes Anthony, inside.

CHAIRMAN SCALZO: Inside.

MR. CANFIELD: Right.

MR. McKELVEY: You can have more parked outside.

MR. CANFIELD: You can have company any given day of the week.

CHAIRMAN SCALZO: Thank you. At this point I'll look to the Board for a motion to close the public hearing.

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

MR. MASTEN: I'll second it.

CHAIRMAN SCALZO: We have a motion from

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JAMES McDONALD

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Mr. Bell. It sounded like a second came in first from Mr. Masten. 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. Olympia?

MR. OLYMPIA: Yes.

MS. JABLESNIK: Mr. Scalzo?

CHAIRMAN SCALZO: Yes.

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

MR. McDONALD: Thank you.

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

(Time resumed: 9:02 p.m.)

CHAIRMAN SCALZO: The next applicant for the evening is James McDonald,

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4 Rayland Road, Newburgh, an area variance to build a 27 by 37 detached accessory structure in the front yard for storage of three vehicles with an existing two-car garage on the property and an existing 160 square foot of accessory structure making the total 1,159 square feet where 1,000 is the maximum allowed.

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

MR. MARINO: I would say no.

MR. OLYMPIA: No.

CHAIRMAN SCALZO: Second, if there's an undesirable change to the neighborhood character. As I mentioned, I had seen a house just around the corner that was substantial in size.

Third, whether the request is substantial. I don't think when you lay it out on the property it appears so, although it does exceed Code.

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

MR. BELL: No.

MR. LEVIN: No.

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MR. MARINO: No.

MR. MASTEN: No.

MR. McKELVEY: No.

MR. OLYMPIA: No.

CHAIRMAN SCALZO: Fifth, whether the alleged difficult is self-created, relevant but not determinative. Of course it's self-created.

If the Board approves, it shall grant the minimum variance necessary and may impose reasonable conditions.

At this point, any further discussion on this?

(No response.)

MR. OLYMPIA: I'll vote for approval.

CHAIRMAN SCALZO: Thank you, Mr. Olympia.

MR. MARINO: Second.

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

MS. JABLESNIK: Mr. Bell?

MR. BELL: Yes.

MS. JABLESNIK: Mr. Levin?

MR. LEVIN: Yes.

MS. JABLESNIK: Mr. Marino?

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MR. MARINO: Yes.

MS. JABLESNIK: Mr. Masten?

MR. MASTEN: Yes.

MS. JABLESNIK: Mr. McKelvey?

MR. MCKELVEY: Yes.

MS. JABLESNIK: Mr. Olympia?

MR. OLYMPIA: Yes.

MS. JABLESNIK: Mr. Scalzo?

CHAIRMAN SCALZO: Yes.

Motion carried. The variance is
granted.

(Time noted: 9:04 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 7th day of November 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

MOULTON MEMORIAL BAPTIST CHURCH

54 Old Little Britain Road, Newburgh
Section 101; Block 6; Lot 8.12
R-2 Zone

----- X

Date: October 24, 2019
Time: 7:20 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: FONTELLA IRONS

----- X

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

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CHAIRMAN SCALZO: Our next applicant this evening is the Moulton Memorial Baptist Church at 54 Old Little Britain Road in Newburgh, seeking a use variance to install a 36 inch by 48 inch freestanding electronic sign in an R-2 Zone.

Siobhan, mailings?

MS. JABLESNIK: This applicant sent out 59 mailings.

CHAIRMAN SCALZO: 59. Still in second place.

Okay. There's been some discussion prior to this application. Jerry, Dave and I were speaking. You and I haven't had the opportunity to speak. This does meet the criteria for a use variance?

MR. CANFIELD: The key issue with this particular sign is what is the determination of the sign. The new sign ordinance, which was created and approved in April of last year, describes in definitions two different types of signs, electronic message display, which is a sign that displays a moveable message. In that case the Code recognizes that sign as a special use permit. Such would need to be approved by

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2 the Planning Board per the Code. It also says
3 that those signs are not permitted in an R-2
4 Zone. The other definition is a different type
5 of sign which is an electronic sign, which this
6 is what we believe this is, where it's an
7 illuminated sign with no flashing or changing
8 message. You may have the ability to manually,
9 mechanically or electronically change the sign,
10 however it doesn't continuously move.

11 The Code does make a ruling that says
12 in an R-2 Zone, which is where the church is
13 located, electronic signs are not permitted.
14 They're only permitted where there's frontage
15 onto a State road. As of early as this afternoon,
16 through Siobhan's research, Old Little Britain
17 Road is a State-owned road. In our opinion, at
18 the last hour reviewing this, and Dave had called
19 our office also to discuss this, I don't believe
20 a variance is needed. Because it is a State
21 road, I believe the sign is permitted in the R-2
22 providing that it is an electronic sign.

23 Now, also I don't know if the sign
24 company is here or anyone from the church --

25 MS. IRONS: From the church, yes.

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MR. DONOVAN: You're doing great so far.

MR. CANFIELD: There are criteria for this sign to be met as far as candle powers, illumination, hours that the sign can be on and all of that. That is basically because it's in a residential zone, so that the sign is not intrusive to the neighbors and/or traffic.

That's basically our opinion, that essentially it does not need a use variance.

I believe there was also confusion on our Department's part as far as if it were an electronic message board, if the use variance was granted it needed to go back to the Planning Board. That is not the case here. We're deeming it as an electronic sign. If that's the case, it is permitted in an R-2 Zone fronting a State road.

CHAIRMAN SCALZO: That makes things easy.

MS. IRONS: It does.

CHAIRMAN SCALZO: Dave, help me out. I don't know what we need to do, or we do nothing and say withdraw your application.

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MR. DONOVAN: In discussions with Code Compliance this afternoon, it seems this falls under the definition of an electronic sign. Electronic signs are allowed in the R-2 Zone. If that's where we are, you, ma'am, can have a nice evening.

MS. IRONS: I didn't get to introduce myself. I'm Fontella Irons, I'm a pastor at Moulton Memorial Baptist Church, and this is practically half of the congregation. Everybody is really interested in this. Thank you so much.

Siobhan, what a woman. Thank you for your research. Thank you.

So we can move forward?

MR. CANFIELD: Yes.

CHAIRMAN SCALZO: I have one question. As I looked at this, is it Moulton, T-I-N?

MS. IRONS: No. It's so embarrassing. An architect you pay thousands of dollars, they got it wrong. It's O.

CHAIRMAN SCALZO: Great.
Have a wonderful evening.

MS. IRONS: Thank you.

(Time noted: 7:24 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 7th day of November 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

ROSEANN FARROW

351 Lakeside Road, Newburgh
Section 33; Block 1; Lot 25
R-1 Zone

----- X

Date: October 24, 2019
Time: 7:24 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
PETER OLYMPIA

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

APPLICANT'S REPRESENTATIVE: JONATHAN CELLA

----- X

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

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CHAIRMAN SCALZO: Our next applicant this evening is Roseann Farrow, 351 Lakeside Road, Newburgh, seeking an area variance to keep a 12 by 20 rear deck with a proposed 37 foot rear yard setback where 40 feet is required, a 65 percent surface lot coverage where 20 percent is the maximum, and increasing the degree of non-conformity of the side yard with an existing 2 feet where 30 foot is required, and combined side yards with an existing 13 feet where 80 feet is required.

Siobhan, mailings?

MS. JABLESNIK: 30 mailings.

CHAIRMAN SCALZO: 30 mailings.

MR. CELLA: I didn't win.

CHAIRMAN SCALZO: 91 is tough to beat. In my six years here I don't think I've heard more than that twice.

We know why you're here but we want to hear who you are and what you have to say.

MR. CELLA: I'm Jonathan Cella representing the owner.

MS. FARROW: I'm Roseann Farrow.

MR. CELLA: As stated, we're here for

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seven total area variances for a previously constructed deck in the rear yard of the property.

As you can see in the pictures, the deck is not visible from the street, it's only visible from the rear yard. Also, there are mature plantings along both side property lines, so it's not visible either from the adjoining properties very much either.

The deck has already been constructed and we're here for the seven area variances, lot width, front yard setbacks, two side yard setbacks, a rear yard setback, building coverage and surface coverage.

We're on Lakeside Road where all the lots are tight.

CHAIRMAN SCALZO: Absolutely.

MR. McKELVEY: We're well aware of it.

CHAIRMAN SCALZO: Even if you wanted to put a couple steps on the back, you'd probably be here for six variances. I get it.

It doesn't appear to be out of character with what's going on in the neighborhood. It's actually very nice. I have

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ROSEANN FARROW

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no comments myself.

I will look to the Members of the Board. Mr. Bell?

MR. BELL: None.

MR. OLYMPIA: None.

CHAIRMAN SCALZO: Mr. McKelvey?

MR. MCKELVEY: None.

MR. LEVIN: I have a question. Why did you do that? Why did you build without a permit?

MS. FARROW: Do you want me to answer that? You weren't in my life then.

I'll tell you the real story. My mom got sick, she had cancer, and I left and went to Long Island during the period that my house was being redone. It was that little cottage I had purchased that year. I just didn't do it. I just stayed in Long Island and she eventually passed away that same year. I came back and it was just history by then. The deck was done. It was a builder, he didn't get the permit and I just put it off. I knew I should have gotten it at some point. Now I'd like to move and now I want to get my house in order and have it legal. So that's why I'm here. I'm staying in Newburgh.

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CHAIRMAN SCALZO: Mr. Masten?

MR. MASTEN: I have no questions.

MR. MARINO: I'm good.

CHAIRMAN SCALZO: As a matter of record, for the files, the Orange Lake Homeowners Association has weighed in on this and they have no objection to what you're looking to do.

At this point I'll open it up to any members of the public that want to speak about this application. Please introduce yourself.

MR. DAIGLE: My name is Mark Daigle, I live at 349 Lakeside Avenue, right behind Roseann's house.

I just want to let you know that from a neighbor's point of view I have no objection to her getting a variance. It's an addition to her property. It gives her a view of the lake. It's certainly understandable.

CHAIRMAN SCALZO: Thank you for your comments.

MR. CELLA: Thank you.

MS. FARROW: Thank you, Mark.

MR. LANGER: Greg Langer with the board of directors of the homeowners association. You

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ROSEANN FARROW

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already got my note. I'm just going to drop it off.

CHAIRMAN SCALZO: We actually don't have a copy.

MR. LANGER: Here's the official copy. Thank you.

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

(No response.)

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

MR. McKELVEY: No.

CHAIRMAN SCALZO: In most cases most of these variances are pre-existing nonconforming.

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

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

MR. MASTEN: I'll second it.

CHAIRMAN SCALZO: Motion from Mr. Levin. Second from Mr. Masten. Roll call.

MS. JABLESNIK: Mr. Bell?

MR. BELL: Yes.

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MS. JABLESNIK: Mr. Levin?

MR. LEVIN: Yes.

MS. JABLESNIK: Mr. Marino?

MR. MARINO: Yes.

MS. JABLESNIK: Mr. Masten?

MR. MASTEN: Yes.

MS. JABLESNIK: Mr. McKelvey?

MR. MCKELVEY: Yes.

MS. JABLESNIK: Mr. Olympia?

MR. OLYMPIA: Yes.

MS. JABLESNIK: Mr. Scalzo?

CHAIRMAN SCALZO: Yes.

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

MR. CELLA: Thank you.

MS. FARROW: Thank you.

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

(Time resumed: 9:04 p.m.)

CHAIRMAN SCALZO: The next applicant is Roseann Farrow, 351 Lakeside Road, seeking an area variance to keep a 12 by 20 rear deck with a proposed 37 foot rear yard setback where 40 feet is required, a 65 percent surface lot coverage

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where 20 percent is the maximum, and increasing the degree of nonconformity of the side yard with an existing 2 feet where 30 foot is required, and combined side yards with an existing 13 feet where 80 feet is required.

Can the benefit be achieved by other means feasible to the applicant. It's already there.

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

MR. MARINO: No.

MR. McKELVEY: No.

CHAIRMAN SCALZO: We had testimony from residents nearby that supported it.

Third, whether the request is substantial. The lot is really small.

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

MR. MARINO: No.

MR. MASTEN: No.

MR. LEVIN: No.

MR. McKELVEY: No.

MR. OLYMPIA: No.

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ROSEANN FARROW

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MR. BELL: No.

CHAIRMAN SCALZO: And the fifth,
whether the alleged difficulty is self-created.
Most certainly it is.

MR. BELL: It is.

CHAIRMAN SCALZO: It's relevant but not
determinative.

I'll look to the Board for a motion of
some sort.

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

MR. OLYMPIA: I'll second it.

CHAIRMAN SCALZO: Motion from Mr. Bell.
Second from Mr. Olympia. 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.

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ROSEANN FARROW

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MS. JABLESNIK: Mr. Olympia?

MR. OLYMPIA: Yes.

MS. JABLESNIK: Mr. Scalzo?

CHAIRMAN SCALZO: Yes.

The motion carried. The variance is granted.

(Time noted: 9:05 p.m.)

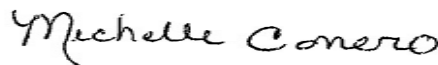
C E R T I F I C A T I O N

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 7th day of November 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

FRANCO & KATHLEEN SAIANO

722 Route 32, Wallkill
Section 4; Block 2; Lot 39.41
RR Zone

----- X

Date: October 24, 2019
Time: 7:30 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
PETER OLYMPIA

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

APPLICANT'S REPRESENTATIVE: FRANCO SAIANO

----- X

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

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CHAIRMAN SCALZO: Our next applicant is Franco and Kathleen Saiano, 722 Route 32 in Wallkill, seeking an area variance to install a 12 by 30 accessory building with an existing 816 square foot where 1,000 is the maximum allowed.

Siobhan, mailings?

MS. JABLESNIK: This applicant sent out 20 mailings. They also were sent to the County and I haven't received anything back yet.

CHAIRMAN SCALZO: Okay. You're the first one -- you're the winner for this evening with the County. General Municipal Law 239 -- you're nodding because you know.

MR. SAIANO: Yes. I don't expect an answer tonight.

CHAIRMAN SCALZO: You can not expect an answer this evening because the County has not weighed back in. However, because you're here, we would like you to tell us what it is you're looking to do so next time we can be very efficient and roll right through.

MR. SAIANO: My name is Franco Saiano, 722 Route 32, Wallkill, New York. I'm here to ask for a variance to go over the 1,000 square foot

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limit. We currently have a carport and a shed. We are planning to enclose our garage, which is within the home itself, creating an in-law apartment for my mother who has dementia, who is with me today. We would like to have some kind of garage structure to be able to keep things out of the weather. The carport is open on all sides. That is why we're going for this 12 by 30.

CHAIRMAN SCALZO: Thank you very much.

As I mentioned, we have all been there. Yours is the easiest driveway to turn around in.

At this point I'll look to the Members of the Board. Mr. Marino?

MR. MARINO: You're going to keep the carport?

MR. SAIANO: Yes.

MR. MARINO: Where will you build the other building?

MR. SAIANO: Behind it.

CHAIRMAN SCALZO: So you'll drive through the carport to get in the garage?

MR. SAIANO: Correct.

MR. MASTEN: I have no questions.

CHAIRMAN SCALZO: Mr. Levin?

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MR. LEVIN: No questions.

MR. McKELVEY: It's a big piece of property.

CHAIRMAN SCALZO: You have a little bit of wetland going on back there.

Mr. Olympia?

MR. OLYMPIA: I'm fine.

CHAIRMAN SCALZO: Mr. Bell?

MR. BELL: I'm good.

CHAIRMAN SCALZO: I'll open it up to any members of the public --

MR. LEVIN: One second. How many cars are going to go into this garage?

MR. SAIANO: The garage can only fit one car. There's enough space to put storage behind it. It's 30 feet long. I have trucks. I only have two trucks under the awning. I have a plow truck that I purchased that I'm working on. There will be three vehicles total.

MR. LEVIN: Thank you.

CHAIRMAN SCALZO: Are there any members of the public here to speak about this applicant?

(No response.)

CHAIRMAN SCALZO: Hearing none, I'll

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look back to the Board.

(No response.)

CHAIRMAN SCALZO: Okay. I'm going to need a motion from the Board to keep the public hearing open.

MR. McKELVEY: I'll make that motion.

MR. MARINO: Second.

CHAIRMAN SCALZO: I have a motion from Mr. McKelvey and a second from Mr. Marino to keep the public hearing open to the November meeting, which is not on a Thursday, it's a Tuesday. The Tuesday prior to Thanksgiving.

MS. JABLESNIK: The 26th.

CHAIRMAN SCALZO: Roll call on that one.

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. Olympia?

MR. OLYMPIA: Yes.

MS. JABLESNIK: Mr. Scalzo?

CHAIRMAN SCALZO: Yes.

The public hearing will remain open.

Anybody who is here to discuss or speak about

this application, you will not be re-noticed.

We'll see you next month.

MR. SAIANO: Very good. Thank you.

(Time noted: 7:34 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 7th day of November 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

MICHAEL & VALERIE STARACE

38 Crown Boulevard, Newburgh
Section 102; Block 9; Lot 7
R-2 Zone

----- X

Date: October 24, 2019
Time: 7:34 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

APPLICANT'S REPRESENTATIVE: MICHAEL STARACE

----- X

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

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CHAIRMAN SCALZO: Our next applicant is Michael and Valerie Starace, 38 Crown Boulevard, Newburgh, seeking an area variance to build a 20 by 20 enclosed, non-heated rear addition with a proposed rear yard setback of 25 where 40 is required.

Siobhan, mailings?

MS. JABLESNIK: This applicant sent out 49 letters.

CHAIRMAN SCALZO: 49. That's good for second place tonight.

If you could introduce yourself and let us know what it is you're looking to do.

MR. STARACE: My name is Mike Starace, 38 Crown Boulevard. I had a structure, an enclosed porch there ,that was not structurally sound so we took that down. We're looking to build a new enclosed porch that will be a little bit larger. It goes against the setbacks but will have views into the backyard for the kids so they can be outside while we see them.

CHAIRMAN SCALZO: Very good. You say replace. Was the old one permitted?

MR. STARACE: Yeah. We bought the

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house with it.

CHAIRMAN SCALZO: If you don't mind,
I'm going to look over to Mr. Canfield.

MR. CANFIELD: Yes, sir.

CHAIRMAN SCALZO: If they're just
replacing -- I suppose if they're not putting
back exactly what was there they would need
variances in this case? It's a corner lot, so --

MR. CANFIELD: What was there perhaps
may have been existing nonconforming. It can
stay that way forever, however at such time when
you go to reconstruct it, then that's where the
variance needs to come in.

CHAIRMAN SCALZO: Thank you very much.

I have no comments. Like I say, it's a
corner lot. It would be nice, as you mentioned,
to have the kids, that way they're not outside,
they're inside.

CHAIRMAN SCALZO: I'll look to Mr.
Marino.

MR. MARINO: I'm good.

CHAIRMAN SCALZO: Mr. Masten?

MR. MASTEN: No.

CHAIRMAN SCALZO: Mr. Levin?

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MR. LEVIN: I'm fine.

MR. McKELVEY: No.

MR. OLYMPIA: No questions.

MR. BELL: I'm good.

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

(No response.)

CHAIRMAN SCALZO: Hearing none, I'll give the Board one last opportunity.

(No response.)

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

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

MR. McKELVEY: I'll second it.

CHAIRMAN SCALZO: Motion from Mr. Bell, a second from 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.

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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.

MS. JABLESNIK: Mr. Scalzo?

CHAIRMAN SCALZO: Yes.

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

MR. STARACE: Thank you very much, gentlemen.

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

(Time resumed: 9:05 p.m.)

CHAIRMAN SCALZO: The next applicant was Michael and Valerie Starace, 38 Crown Boulevard, Newburgh, an area variance to build a 20 by 20 non-heated rear addition with a proposed rear yard setback of 25 where 40 is required.

Can this benefit be achieved by other means feasible to the applicant? No. They had one there before. They are replacing. It may be not the same size.

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

MR. MARINO: No.

MR. LEVIN: No.

CHAIRMAN SCALZO: It does not appear so.

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

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

MR. MARINO: No.

MR. MASTEN: No.

MR. LEVIN: No.

MR. McKELVEY: No.

MR. OLYMPIA: No.

MR. BELL: No.

CHAIRMAN SCALZO: Fifth, whether the alleged difficulty is self-created. Sure it is. They used to have one there. They're sort of replacing that.

Does the Board have a motion of some sort?

MR. BELL: I'll make a motion to

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approve.

MR. MARINO: Second.

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

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. Olympia?

MR. OLYMPIA: Yes.

MS. JABLESNIK: Mr. Scalzo?

CHAIRMAN SCALZO: Yes.

Motion carried. The variances are
granted.

(Time noted: 9:06 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 7th day of November 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

DANIEL DARRIGO AS TRUSTEE OF THE
FRANK DARRIGO REVOCABLE TRUST

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

----- X

Date: October 24, 2019
Time: 7:39 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
PETER OLYMPIA

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

APPLICANT'S REPRESENTATIVE: JEFFREY LEASE

----- X

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

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DANIEL DARRIGO

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CHAIRMAN SCALZO: Our next applicant is Daniel Darrigo as Trustee of the Frank Darrigo Revocable Trust, 84 Lakeside Road, Newburgh, seeking a use variance for 185-83, solar farms shall be located in an industrial district (I Zone) to build a solar farm in a residential district (R-1 Zone).

I need to step away from this application. Mr. McKelvey, if you could take over.

MS. JABLESNIK: By the way, this applicant sent out 105.

CHAIRMAN SCALZO: That's the winner tonight. Thank you for saying that before I walked out.

MR. LEVIN: They're seeking a use variance for 185-83, solar farms shall be located in an industrial district (I Zone), to build a solar farm in a residential district (R-1 Zone).

MR. LEASE: Good evening. I'm Jeff Lease and I'm representing the Darrigo family on this application. I sent in a letter that requested that if you wanted to I would go through the application again. In the interest of

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DANIEL DARRIGO

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time, could I enter the minutes to the June and May meetings of last year?

MR. DONOVAN: So if that's your presentation, you're certainly allowed to submit whatever you want to the Board. I think the request is since your earlier application was granted by the Board, not to make your application for you, but you want to resubmit and have this Board consider the same information that they considered when they granted the variance in 2018?

MR. LEASE: That's my intent, yes.

MR. DONOVAN: You're certainly welcome to do that.

MR. McKELVEY: I also have a question, though. The buildings on the property, do they have permits?

MR. LEASE: I don't know that.

MR. McKELVEY: They have to have permits.

MR. LEASE: Okay. Well --

MR. McKELVEY: Right, Jerry?

MR. CANFIELD: Yes. Any buildings or businesses that are on there. I think that's

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DANIEL DARRIGO

91

what John is eluding to. You have a question on the businesses that are there?

MR. McKELVEY: Yes.

MR. LEASE: I'm kind of thrown aside here. Is that something I'm supposed to answer within the --

MR. McKELVEY: I asked that question the last time you were here.

MR. LEASE: Right. I can't speak to that.

Jerry, I believe this falls under an Ag exemption zone, which is -- that doesn't require permits. I've heard this argument once before.

MR. CANFIELD: Is it an Ag zone?

MR. LEASE: It's an Ag use. It's grandfathered in.

MR. CANFIELD: Is it a County sanctioned Ag use?

MR. LEASE: I don't know. Before I leave and get off this, I don't know what to do right now because I came here asking whether the notes should be entered in the record. If you think it would be better for me to present, I will. I'm not trying to stop it. I didn't want

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DANIEL DARRIGO

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to go through the same application.

MR. DONOVAN: I don't want to act like a lawyer but it's my job. What you choose to present is what you choose to present. The Board is not going to be in a position to say you have to do X or you don't have to do Y. Your presentation is your presentation.

MR. LEASE: Great. So let me confer with Dan Bloom first and let Dan answer the question regarding the buildings.

MR. DARRIGO: As far as I know, our family has been farming for quite a few years. I was under the impression that agriculture related wouldn't need to get permits. I don't know what permits my father or uncle may have gotten. I don't know how to answer your question.

MR. LEVIN: That's not agricultural related.

MR. DARRIGO: Excuse me?

MR. LEVIN: Those buildings aren't agricultural related.

MR. DARRIGO: No. I mean they're not. Some are, some aren't. I believe we're paying taxes on it. I don't know how to answer.

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MR. CANFIELD: If I may. I think, to be candid, what the question is is not necessarily the buildings themselves. You may be correct, at one time it was a working farm and perhaps some of those structures were constructed as farm buildings. I believe what needs to happen is there needs to be a definition of all the uses on the site. I think that's what Mr. McKelvey is asking.

MR. DARRIGO: I've also been doing a supply yard for many years prior to zoning. My father had done that. Buildings were put up in the past for that, too. I mean I had a new -- I had a fire in one of the buildings so I had to put up another building. I was under the impression that because we were -- you know, I needed a building to fix the equipment that I use to farm. I mean I'm still farming. I'm not -- we're not in the Ag district. We never were. I get an Ag exemption from the assessor's office.

MR. CANFIELD: You're not in an AR Zone.

MR. DARRIGO: We were there prior to any zoning.

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DANIEL DARRIGO

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MR. CANFIELD: Your Ag exemption that you're speaking of is a County designation. Is that correct?

MR. LEASE: I believe it is.

MR. CANFIELD: You're claiming the property is in the Ag district. If the Board chooses, it may be advisable to request to have a listing of all the occupancies that are on the site. I think that may clear up this issue.

MR. McKELVEY: I think that would clear it up.

MR. DARRIGO: Would that stop a solar farm, whether these buildings --

MR. DONOVAN: I think it's premature to say that. I think what's happening tonight is the Board is asking questions about what's going on on the property. You're here tonight, obviously, to ask for an approval to do the solar farm. The Board, as I understand it, has questions regarding what's going on on this property that we're being asked to issue an approval on. It's a fair question which I think you should be able to answer.

MR. DARRIGO: Yeah.

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DANIEL DARRIGO

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MR. DONOVAN: The Board would like a written response to that?

MR. McKELVEY: To clear it up.

MR. DARRIGO: Should I arrange a meeting with you, Mr. Canfield?

MR. CANFIELD: We can arrange a visit. I believe Mr. Lease, in the past we have requested to go up there and do an actual inspection. We would welcome that, then we can submit to the Board what our findings are, what businesses are there. If that will help, sure.

MR. OLYMPIA: Mr. Darrigo, do you plan on continuing to farm this property, assuming the solar farm is approved?

MR. DARRIGO: Yes. There's still going to be fields available to farm. That was one of the conditions I made with Jeff here.

MR. LEASE: There will be a remainder of 20 acres left to which he should be able to farm some or all of the acres he needs for the farming operation.

MR. McKELVEY: My point is I'm trying to clear up the property.

MR. LEASE: Right. I got it. That's

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fair.

So I'd like to make the same presentation that I did before, and I'd like to, just because I think it's easiest for me is just to read from the notes that were from the May meeting which were pretty direct in a couple paragraphs. If I may, I would like to enter that same presentation into tonight's meeting.

MR. McKELVEY: Can I ask you another question?

MR. LEASE: Yes, sir.

MR. McKELVEY: You've never taken this project to the Planning Board either, have you?

MR. LEASE: We have not been able to make it to the Planning Board. There are a number of unique things about this project. Number one, it has a DEC contaminated site on it, and the DEC has been very slow to give their approval to the solar panels over and around the site. This is in fact the only site in the State of New York, they believe, in which there's going to be a solar array around a contaminated site. They have now finally given all the specifications that they need, and they've agreed

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to actually let the solar panels go over the top of the capped site, which is what we wanted from the very beginning. That and some of the other investigations on the site. Because the site had to be photographed when the leaves were down, it was very difficult for us to secure topography because it was never a site that had been photographed before. We finally -- it took four months but we got a full and complete topographic survey of the entire property. It could not have been done by hand. Quite frankly, we didn't know that in the beginning. It had to be done by an aerial, by a satellite. So we are actually ready to go to the Planning Board this November. I mean we have everything all ready to go. We just missed it by a month in terms of the variance and how it was being timed with the Planning Board. We're ready to go.

MR. McKELVEY: Are you all done with Central Hudson?

MR. LEASE: That was the other holdup.

MR. McKELVEY: That's what I say.

MR. LEASE: I forgot to mention that. One of the big holdups was that originally the

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connection to the substation in Coldenham was going to be made down Lakeside Road. That has changed because the lines on Lakeside Road are now being used in a different way than they were when we first spoke to Central Hudson two years ago, and so the connection point will now be underground to a point at the intersection of Meadow Avenue and Monarch Drive. At this point they're going to feed into the substation. That method of feeding into the substation will allow the solar farm to properly supply power to Route 300, to the airport and to this building. That's what they want. The connection of the solar farm is being done not only to connect to the substation but to feed outward to the points that they feel they need the most amount of power to surge.

One of the reasons that Central Hudson likes the project is that the surge on the Coldenham substation in July and August is high, mainly because of all the businesses that are on Route 300. What's before them right now is to bring another line down to feed Coldenham. This project will serve as a buffer, as how they used

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to run Danskammer, as a surge buffer, so that when the peak demand happens in those two months, the solar farm is able to cover it. It turns out that that peak demand is from something like 1 o'clock to 5 o'clock, exactly when the sun will be hitting the solar farm.

Negotiating with Central Hudson was pretty important because we couldn't move forward without it. That did hold us up for a couple months until they made that determination.

MR. McKELVEY: That's understandable.

MR. LEASE: There's a number of different people playing into this. If solar farms are something that were done on a regular basis, everybody would be able to kind of streamline it. It's kind of a new model. It's new for the engineers doing it and it's new for the regulating agencies. So between Central Hudson, the DEC, the County, the complications with topography, and even this engineering company, it took a long time to put everything together. When it gets done it's going to be really a miracle. It's a lot more complicated than we imaged.

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If I may, let me just read from my May notes again. The Darrigo family is seeking a variance for 60 acres of property at 84 Lakeside Road, a portion of which would be used as a solar farm, approximately 40 acres. That 40 acre portion will be away from Lakeside Road, will be up at the far end of the property, the eastern section of the property, generally in the area of Amber Fields. The property is currently zoned R-1, single-family residential, with a minimum lot size of 40,000 square feet. Tonight I will demonstrate that there is no reasonable return on this property and that it clearly meets the four points of hardship demonstrated and needed for an application of use variance. For this reason and for others we will request from the R-1 to the solar farm fully described in the Town of Newburgh's current zoning.

The zoning within the Town very clearly states how a solar farm shall be constructed and the setbacks. We need to comport to all of those. Where they designated solar farms in the Town of Newburgh was within an industrial district. If you look at the industrial

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districts within the Town of Newburgh, and we have a map here, there are only two. One is entirely contained within the airport and the other one is the properties in an around Central Hudson/Roseton. There are no properties for sale of any size. Central Hudson and the airport own almost all of them. There's just a scattered few of 4 or 5 acres. So the zoning is there but it's placement, in my opinion, is in the wrong zone.

What's left of the farm is a 60 acre parcel that was purchased by the Darrigo brothers in 1927. They farmed this property since then and have run a material supply operation of which actually the Town of Newburgh is a customer. The original tract of property was more than 150 acres but was bisected in the 1950s by I-84 into two parcels, 60 of which they have presently and 70 acres which were sold off to Manheim Auction many years ago.

Additionally, the family ran -- this is important -- a permitted dump site prior to the formation of the Department of Environmental Conservation on a portion of the 60 acres. The site was annually inspected and found to be in

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compliance with State regulations, however in 1978 the rules had changed and made a certain portion -- certain materials dumped legally on the site illegal and remediation became mandatory. The Darrigo family fully accommodated this request, executing a multi-year investigation that resulted in the remediation and capping of the former waste site. What they did is they took a 1 acre play line trough and put all the contamination waste in there and capped it. That is at the very highest point of the Darrigo farm, generally in this area right here. To provide for this expense the Darrigo family was forced to sell the 70 acres to Manheim to pay for that. All the earnings from that sale and then some was used to comply with the State regulations. This was a disappointment for the family.

Now the retention of the remaining 60 acres is at stake. The family has owned the farm since before the enactment of zoning, has seen those rules change over time and has seen the intended cost of maintaining a farm change under their ownership. The proposed use variance will

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allow the Darrigo family to continue ownership of this property which they have farmed for three generations with the erection of a 4 megawatt array that will pay the Darrigo family an annual rental of \$80,000 a year. This will allow the Darrigos to retain ownership of the property from income other than farming which has become unfeasible economically.

Equally unfeasible, we'd like to show tonight, is the execution of the current R-1 Zone on the site. Let me go through the four points of hardship as they apply to the application. They are defined as unnecessary -- they are defined -- to qualify for a variance upon unnecessary hardship it must be shown that the property can not yield a reasonable return if you use it only for the permitted purposes as currently zoned. Number two, the hardship results from unique characteristics of the property. Thirdly, that the proposal would not alter the character of the neighborhood. And finally, fourth, that the hardship was not self-created.

Let me speak to the first one. Under the zoning regulations the applicant is deprived

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of all economic benefit from this property because the property is in fact encumbered by this very hazardous waste site, this inactive hazardous waste site. This restricts and prevents development as a residential subdivision. It completely prevents residential of the DEC portion of the site which has been designated as 3.8 acres. The DEC will not allow you to build any residence on that section of the property. By the way, that section is not a subdivided separate piece but it's part of the larger 60 acres.

Furthermore, this waste site restricts the balance of the acreage because any future residential subdivision would have to mention the property was once part of or contiguous to the hazardous waste site. This site is actively being monitored this day by the DEC.

Additionally, the R-1 Zone requires 40,000 square feet per lot without much road frontage on the remaining Darrigo property. Installing interior roads to Town standards with lots this large would be cost prohibitive.

Additionally, there's a substantial

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grade difference on the property of 80 feet from the top of the field to the bottom. This would require a road at a 6 percent mandated slope to run 2,100 linear feet for roughly the entire length of the eastern section of the property. This is the length of this road. We would need a road in order to get from this point to this point equal to here. It couldn't be done straight, it would have to curve.

The best use of the property continues to be a farm. As the area has grown up, the site and what must be farmed has changed. This location has simply become too valuable for hanging alfalfa. Solar turns out to be the best solution and a logical crop rotation.

To point number 2, hardship and uniqueness. The hardship is completely unique, not only to this particular site, to the neighborhood and to the Town of Newburgh. There are no other hazardous waste sites in the Town of Newburgh.

To the third point, the variance would not alter the neighborhood. Certainly altering the site to attain an R-1 Zone would require us

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to remove every single tree off the property and do a tremendous amount of grading. It would alter the property to the extent that it would be unrecognizable from where it is today.

The solar farm needs to use as many of the existing fields as there are right now. There are four large fields that are there. Two more need to be opened up that were once fields in the `40s and `50s that have since grown over but have very, very small trees on them. We need to maintain a 50-foot wooded buffer along all the perimeters of the property and then set the solar panels an additional 100 feet off of them. So there's a 150-foot setback from all the property owners.

The zoning has changed many times since the Darrigos have owned the property.

Finally, to the question of whether this act was -- the hazardous condition was self-created, let me speak to that directly. The Darrigo family did not dump materials on this property knowingly and illegally. In fact, Danny Darrigo told me that as a child there was a regular State inspector that would come and look

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at what was kind of a sludge farm at the top of the hill, and they kept meticulous records. One of the reasons the DEC contacted him for a test for these newly designated hazardous materials is that they knew of the farm and they knew the records that the Darrigos had kept. The Darrigos unfortunately were holding the bag when the State regulations changed. It was really unfortunate because they didn't know what they didn't know, and when the regulations changed they had to pay for that cleanup. They did everything they could to hold on to the farm. They ended up having to sell half of it just to pay for that cleanup. That cleanup, by the way, just to give you a sense of scale, was over \$1,000,000.

So we're trying to hold on -- the Darrigos are trying to hold on to this family farm in a way and utilize the very part of the farm which really split it in half.

Let me repeat that actually the dumping on the site was legal and was being monitored by the State at the time. In the '80s the DEC reclassified some of the materials, and basically what they found was paint-like materials that

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must have been dumped in with manure and other material that they weren't aware was being dumped there. That became the subject for the cleanup. It tested positive for these newly reclassified materials, and in a cruel twist the Darrigo family was then forced to pay for the cleanup based on these new regulations. There were never any penalties against the Darrigo family. There were never any fines for this remediation. This was simply a case of the State reclassifying hazardous materials. Unfortunately, as I said, the family was forced to sell half of the farm. A certain portion of the farm, even today, they pay taxes on but they're unable to use that 3.8 acre parcel.

I can't stress enough that any title report done on a subdivision of the 60 acres would invariably come up with the fact that this is a class 4 hazardous waste site. It would compromise any title report and potentially any funding that you could get on the subdivision.

This condition is ongoing and will be ongoing. There are three monitoring wells on the site that the DEC must have access to which they

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make use of every six months.

The family would very much like to continue owning this piece of property which is going back, as I said, several generations. This variance assures that continuation of ownership. The solar farm will provide a rental for the family who continues to own the land where the R-1 would force him to completely sell and give up the property. A stewardship would survive changing zoning and the declining nature of family farming is what is at issue here. The change in regulations was in the DEC. In short, this action provides for a kind of dignity of continuity of ownership for the Darrigos. It's not a multi-national corporation but one of our own Town's people, and taxpayer, and friend, and citizen of the Town of Newburgh. There is in fact no reasonable rate of return on this. That point I think can better be elaborated in Greg Langer's very large report comparing what an R Zone would do to the property in terms of income and what the solar would do.

If I may, based on the application that you had before, I'd like to introduce Greg Langer

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to speak just briefly about his findings.

MR. LANGER: Greg Langer, Valuation Consultants. We're real estate appraisers in Newburgh.

Basically we did an analysis you've seen before as to what you can do with this property, with the 40 acres that will be the site of the solar farm. We did a scenario as to how much you could sell lots for, if you subdivided it into a subdivision, what it would cost you to build those lots out with infrastructure and discounted a sellout over a seven-year period that it would take to build the roads, get the approvals and sell the lots. That came up with a value of approximately \$200,000.

We also looked at what this 40 acres would rent for. Solar farm, we discussed that \$80,000 fee. We showed it would increase annually with the solar farm paying all the expenses. That would result in a value of over \$1,000,000. This was a reasonable return to get as compared to the \$190,000 that you would get from trying to do a whole subdivision and dividing the property out.

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We also showed what land values would be if you tried to sell 40 acres in that area. We came up with a value of around \$200,000.

This is the report that I presented earlier this year. If anybody has any more questions about it, I can go into more detail.

MR. McKELVEY: Does anybody have any questions?

(No response.)

MR. McKELVEY: I guess not.

MR. LANGER: Thank you.

MR. LEASE: So that's basically my presentation. I have other drawings right here which I can show you if you'd like to see the variety of zoning and the look of the farm from a variety of different perspectives.

Basically what this is going to be is panels no higher than about 9 feet tall surrounded by a fence and, as I said, the 50 foot buffer along with the 100-foot setback from there. Most of the property right now for the solar farm is fairly high. It's actually higher than the surrounding homes. It's going to be unlikely that anyone is going to be able to see

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it.

MR. McKELVEY: All the Board Members have been to the property at one time or another.

MR. OLYMPIA: Start to finish, how much time are we speaking of?

MR. LEASE: In order for the construction?

MR. OLYMPIA: Yes.

MR. LEASE: It goes amazingly fast. I've seen a couple of these go. I think the construction of the solar panels themselves will probably take about 45 days. The land clearing will probably take about a month to get it completely cleared, ready, flat and all the stumps out of the way.

MR. LEVIN: Besides the Zoning Board which the clock doesn't tick, are you ready to go?

MR. LEASE: Yes. November. I got a call today from Mike Mortechei, the engineer, and everything from EnterSolar from New York City has been submitted to him. He needs maybe a week, week-and-a-half and we can bring everything over to John.

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I'm really concerned because of another layer here, as I may have mentioned, of Indiana Bat. Indiana Bat requests all clearing stop come March 31st. I brought Jack Powell out to the site and he tells me he can cut everything down to a certain thing but he doesn't need to grind it all out. He has to have at least 30 days in order to get the two or three fields squared away. I'm really looking to try to get approval, or at least clearing approval if not final approval from the Planning Board, by the end of March -- end of February, rather, so we can give Jack 30 days to do that. That's kind of outside the purview of this Board. That's just yet another layer of complexity here.

So to answer your question, 45 days for the construction of the solar farm, then Central Hudson needs to do a number of things, a series of tests which take somewhere between 45 days and 60 days. They turn it on, shut it off, turn it on. If land clearing occurs in March, possibly the project will go on and become live in July or August of next year. That's how we're kind of figuring things out. I haven't even described

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the complex -- ridiculously complex financing on
this thing.

MR. McKELVEY: Any more questions from
the Board Members?

(No response.)

MR. McKELVEY: Any questions from the
public?

MS. CACKOWSKI: Do I get to talk?

MR. DONOVAN: The Chair asked for
public comment. If you have a public comment, now
is the time.

MS. CACKOWSKI: My name is Carol
Davidowski-Cackowski. Steven and I live on the
farm next to Danny. My dad and his dad went to
elementary school, so I know these people. These
are good people. They want to do the right thing
for the neighborhood and for themselves, and
that's not a bad thing. The governor of the
State of New York would like us to be green,
wouldn't he? Danny wants to contribute to that.
Everybody in the County wants more farms. Danny
wants to contribute to that.

At the scoping meeting there were a
number of neighbors that were there. Usually

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neighbors at scoping meetings are like we don't want this, we don't want this. No. Everybody at the scoping meeting was like we want this. We want this in our neighborhood. We want somebody who cares enough about their neighbors, about the environment to do the right thing.

Not only am I a neighbor but I work for an environmental consultant, so I kind of know what he's doing.

MR. DONOVAN: Could you do us a favor? Could you spell your name for the Stenographer?

MS. CACKOWSKI: I'm sorry?

MR. DONOVAN: Could you spell your name for the Stenographer? Just spell your name.

MS. CACKOWSKI: C-A-C-K-O-W-S-K-I.

MR. CACKOWSKI: Good evening, everybody. My name is Steven Cackowski, I live at 100 Lakeside Road. C-A-C-K-O-W-S-K-I. We won't tell you but in Polish it's pronounced Cacooski.

The wife and I own the property adjacent to the entrance. We want to say as neighbors that we believe a use variance for the property should be granted.

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We want to say, or at least I want to say that the use of the property as a solar farm would be the best use. If the property was turned into residential, there would be additional traffic in the area, there would be additional stress on the school system.

If we have an approval to use the property as a solar farm, there are many values to that. One, less traffic in the area. The second is, again, we fulfill green energy.

The property, if turned into residential, would have clearing with the potential for a lot of stormwater issues.

So just to reiterate, I would like to say I wish the Board would grant the use variance. It would work well for the neighborhood and for Mr. Darrigo. Thank you.

MR. McKELVEY: Thank you.

We have a question in the back.

MR. NOBONDO: Good evening. My name is Luis Nobondo, I live at 96 Lakeside Road, not too far from the property in question.

I just want to say that I support this project. I'm a big believer in green renewable

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energy. From what I understand, it's going to be very minimal impact to the environment around the area. For me and my family it's a win-win situation. I hope that the project is given the green light to move forward. Thank you.

MR. LEASE: May I say one additional thing which I had not brought up in other meetings and one of the reasons that Central Hudson wants the project approved? That is that for the forty years the State and the power -- utility companies have wanted to breakdown the power supply system in a process called micro-gridding. Presently right now there are large trunk lines supplying power to our area, to the entire State. If any one of those lines should become interrupted we would lose power. The only solution to micro-gridding is to provide little, tiny power plants throughout the system and break them down into little quadrants. They want this to happen for a couple of reasons. Extreme weather can take down power lines and for acts of terrorism.

This solar farm directly affects Route 300, the Town of Newburgh, Town Hall, the police

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station and part of the airport. In getting it right here, and because this will be the only solar farm ever built in the Town of Newburgh if the laws stay the way they are because there are no other properties. So this is it.

Some other towns have as many as two or three solar farms. This project ensures that in case of a catastrophe, that essential services are maintained within the Town. It becomes a back-up system and it also becomes a surge system in case of a high use, as I said in July and August.

Does the Board have any other questions for me?

MR. MASTEN: Not right now.

MR. LEASE: Thank you.

MR. McKELVEY: Does the Board want to accept what he stated he wanted to put in for the record?

That's the minutes from the other meeting; right?

MR. LEASE: I made the presentation and I read from that presentation. If you would like to enter those minutes as well, I would love that

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to happen, yes. That would be great. In addition to what I stated. That would be great. Thank you.

MR. McKELVEY: Dave, how do we handle this with Jerry checking the other buildings?

MR. DONOVAN: Here are your options: You can hold this open until the information is submitted to Code Compliance and you're satisfied that that information has been submitted, or you could close the hearing, make your determination with a provision in the decision that those issues be taken up with Code Compliance. I mean those are one or two ways to handle that. I don't know if Code Compliance has a preference for that or if they want to be heard on that. He certainly doesn't have to be.

MR. CANFIELD: I think there's some validity to what you say. If there are nonconforming structures on site that are being used in a nonconforming manner, it becomes a Code Enforcement issue which is generally separate from any Boards' decisions and/or actions. So I guess --

MR. DONOVAN: Correct. I think it's

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within the purview of this Board to ask questions about what's going on on the property because you have a request for an approval on that property. At the same point in time, as Code Compliance has pointed out, they are generally two separate issues.

MR. McKELVEY: I understand.

MR. DONOVAN: If the Board is inclined to close the public hearing and act with the provision that there be cooperation and communication with Code Compliance relative to any issues that may be implicated by the Code, you can do that in your decision, if that's what you want to do.

MR. McKELVEY: What's the wishes of the Board? Do you want to close the hearing?

MS. JABLESNIK: Not to throw a wrench in it. This application went to the County and I don't have anything back yet.

MR. DONOVAN: That decision has been made.

MR. McKELVEY: We can't vote on it tonight.

MR. LEASE: Are you sure?

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MS. JABLESNIK: Your submittal was a late submittal and they have 30 days to get back to me.

MR. LEASE: I spoke to her and she said she was going to put that on your desk. That's unusual. She's been great. Okay. That is what it is.

MR. McKELVEY: We have to hold it over until next month.

MS. JABLESNIK: She didn't give anything to you; right?

MR. LEASE: She did not. She said she was going to take care of it. That's unusual.

MS. JABLESNIK: I don't even -- I'm positive. I mean I don't even have the one back from the last one, the Route 32 one.

MR. LEASE: Okay.

MR. DONOVAN: Just as a suggestion, I don't want to speak for the Board but it would be helpful if you communicate with Code Compliance. Since you're coming back for Thanksgiving anyway, turkey, stuffing, information to Code Compliance would be good to go.

MR. LEASE: I want to ask if I can go

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to a workshop meeting with the Planning Board
knowing that I still have this open?

MR. DONOVAN: That would be up to the
Planning Board.

MR. LEASE: I haven't even asked. I
don't want to be presumptuous but I want to kind
of get them on the feel for what it is here. Is
that something that I could do or --

MR. DONOVAN: This Board can't stop
you. It's up to the Planning Board.

MR. LEASE: I want to be clear. I
don't want to be presumptuous and presume that.
Since I have all the plans almost ready, I want
to get the clock ticking with John. I want to
leave them enough time to make suggestions and
changes to that plan.

MR. McKELVEY: I think you'd have to
contact John.

MR. LEASE: I'll do whatever he tells
me to do. Great. Thank you.

MR. DONOVAN: You need a motion to hold
it over.

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

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MR. MASTEN: I'll second it.

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?

MR. MASTEN: Yes.

MS. JABLESNIK: Mr. McKelvey?

MR. McKELVEY: Yes.

MS. JABLESNIK: Mr. Olympia?

MR. OLYMPIA: Yes.

MR. McKELVEY: That meeting will be on
the Tuesday before Thanksgiving.

MR. LEASE: I got that. Thank you.

MR. McKELVEY: It will not be
re-notified for anybody.

MR. LEASE: Thank you very much.

(Time noted: 8:18 p.m.)

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

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

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

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

IN WITNESS WHEREOF, I have hereunto
set my hand this 7th day of November 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

DENISE SPAMPINATO

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

----- X

Date: October 24, 2019
Time: 8:18 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
PETER OLYMPIA

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

APPLICANT'S REPRESENTATIVE: DENISE SPAMPINATO

----- X

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

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DENISE SPAMPINATO

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MS. JABLESNIK: This next application is located near the Thruway as well.

The next applicant on the agenda is Denise Spampinato at 2 Deer Run Road in Wallkill, 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 and in the front yard.

MS. SPAMPINATO: Hello. Denise Spampinato, 2 Deer Run Road. It's actually Newburgh, not Wallkill. I just wanted to point that out.

MS. JABLESNIK: I'm sorry.

MS. SPAMPINATO: We were here last month and the County had not -- the State had not gotten back at that time.

Just to clarify, we currently are seeking to build a two-car garage at 24 foot wide but it will be 40 foot long which will add some storage in the back portion of that. It's not meant to be a four-car garage. There would be no

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DENISE SPAMPINATO

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access without driving all the way through and through the woods to get out. It's really just a two-car garage facing the driveway with planks on the back for storage.

Currently we are seeking a variance because the location of the garage, the way it's facing it's -- actually Deer Run is on the side of the house, it's not really the front of the house. Because of the way it's laid out, we do have to request a variance because it's listed as the front facing the road, as well as we're just outside the setbacks that are required.

MR. McKELVEY: Does anybody have any questions? Mr. Bell?

MR. BELL: No.

MR. OLYMPIA: I'm fine.

MR. MARINO: I'm good with it.

MR. LEVIN: It's going into an area that you can't even see from the road.

MS. SPAMPINATO: Correct. And there's woods all around. We won't be disturbing any neighbors. We're not going to have to clear any additional property for it.

MR. LEVIN: I have no more questions.

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DENISE SPAMPINATO

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

(No response.)

MR. McKELVEY: Once again, no questions
from the Board?

(No response.)

MR. McKELVEY: I'll look for a motion
to close the hearing.

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

MR. MASTEN: I'll second it.

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. Olympia?

MR. OLYMPIA: Yes.

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

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DENISE SPAMPINATO

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(Time resumed: 9:06 p.m.)

CHAIRMAN SCALZO: Denise Spampinato. I did recuse myself from that application, however if you don't mind, I'll go ahead and read it all off.

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 and in the front yard area.

The first one, can the benefit be achieved by other means feasible to the applicant?

MR. BELL: No.

CHAIRMAN SCALZO: Second, if there's an undesirable change in the neighborhood character or a detriment to nearby properties?

MR. MARINO: No.

MR. MASTEN: No.

MR. LEVIN: No.

MR. McKELVEY: No.

MR. OLYMPIA: No.

MR. BELL: No.

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

MR. MARINO: No.

MR. MASTEN: No.

MR. LEVIN: No.

MR. McKELVEY: No.

MR. OLYMPIA: No.

MR. BELL: No.

CHAIRMAN SCALZO: Fourth, whether the request will have adverse physical and environmental effects?

MR. MARINO: No.

MR. MASTEN: No.

MR. LEVIN: No.

MR. McKELVEY: No.

MR. OLYMPIA: No.

MR. BELL: No.

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

Does the Board have a motion of some sort?

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

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DENISE SPAMPINATO

131

MR. MARINO: Second.

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

MS. JABLESNIK: Mr. Olympia?

MR. OLYMPIA: Yes.

CHAIRMAN SCALZO: I abstain.

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

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

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

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

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

IN WITNESS WHEREOF, I have hereunto
set my hand this 7th day of November 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

BOARD BUSINESS

- 1. Mr. Marino - Vote on application at September 2019 ZBA meeting
- 2. KRL Construction for Altin Bengasi
- 3. Acceptance of minutes for September 2019 ZBA meeting

----- X

Date: October 24, 2019
 Time: 9:08 p.m.
 Place: Town of Newburgh
 Town Hall
 1496 Route 300
 Newburgh, NY 12550

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

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

----- X

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

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CHAIRMAN SCALZO: I believe we have tackled everything on the agenda this evening.

Is there any additional Board business? Does anybody have something they want to add?

The acceptance of the meeting minutes?

MR. MASTEN: Do you want to ask --

CHAIRMAN SCALZO: I can't remember what I had for breakfast. I recall now. Last month's meeting Mr. Masten feels as though he was in error with a determination on one of the votes. When he reread the minutes he recalled that he thought he had voted one way but the minutes accurately reflected that he did not. I don't know if that would change the outcome of the action.

Is there a mechanism that he could have it on record that his intention was something else?

MR. DONOVAN: The only way that you could officially change your vote is if there was a motion to rehear an application and do it all over again. You could note for the record that it was your intention to vote a certain way on a certain application.

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As I recall, I don't know what the application was, we had five members here last month. Darrell and John were absent. It was unanimous. Therefore one vote being different, there would still be four votes in favor of the application. It wouldn't have affected the outcome.

If you just want to reflect for tonight's minutes, whatever application it may have been, it was your intention for the record to vote no and you inadvertently voted yes, you can do that. There's not a real mechanism to vote again.

MR. MASTEN: I was just curious.

CHAIRMAN SCALZO: Okay. That would certainly be reflected in tonight's meeting minutes. I have not mentioned the applicant by name.

MR. MASTEN: No.

CHAIRMAN SCALZO: It's your call. If it matters to you we can record it.

MR. MASTEN: That's okay.

CHAIRMAN SCALZO: We'll just let it go. Okay. Back to the acceptance of the

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BOARD BUSINESS

meeting minutes from last month's meeting.
Motion to approve?

MR. BELL: I'll make a motion to
approve last month's minutes.

CHAIRMAN SCALZO: Darrell, you can't.

MR. BELL: I wasn't here. I still read
them.

MR. CANFIELD: One thing. Dave, do we
have anything to discuss on the previous
application with the size? At last month's
meeting an applicant's representative misstated
the actual size.

MR. DONOVAN: That's correct.
Actually, we had that discussion. Just for
clarification, on the application of Bengasi last
month, there was a statement by the applicant's
representative that the deck in question was 14
by 16 when in fact the deck is 14 by 26. The 14
by 26 deck was correctly referenced in the
application, correctly referenced in the survey.
The Board did discuss that matter previously this
evening and reaffirms the issuance of the
variance allowing for a 14 by 26 deck. It also
should be noted it does not change the variance.

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BOARD BUSINESS

The rear yard variance is the same, it's just a correction in the dimension of the deck.

CHAIRMAN SCALZO: Do I have a motion from any of the Members that did attend last month's meeting to accept the meeting minutes?

MR. LEVIN: I'll make that motion.

MR. MARINO: Second.

CHAIRMAN SCALZO: We have a second from?

MR. MARINO: Me.

CHAIRMAN SCALZO: Thanks, Tony. We have a motion from Mr. Levin, we have a second from Mr. Marino. All in favor?

MR. LEVIN: Aye.

MR. MARINO: Aye.

MR. MASTEN: Aye.

MR. McKELVEY: Aye.

MR. OLYMPIA: Aye.

CHAIRMAN SCALZO: Motion to adjourn?

MR. BELL: I'll make the motion.

MR. MARINO: Second.

MR. BELL: Aye.

MR. LEVIN: Aye.

MR. MARINO: Aye.

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BOARD BUSINESS

MR. MASTEN: Aye.

MR. McKELVEY: Aye.

MR. OLYMPIA: Aye.

CHAIRMAN SCALZO: Aye.

(Time noted: 9:11 p.m.)

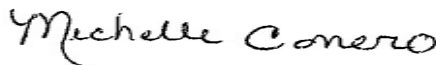
C E R T I F I C A T I O N

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That hereinbefore set forth is a
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IN WITNESS WHEREOF, I have hereunto
set my hand this 7th day of November 2019.



MICHELLE CONERO