

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

3 -----X

4 In the Matter of

5 PRESTIGE HOMES
(Louis Lima)
6 Charles St/Elmhurst Ave/Gardnertown Road,
Newburgh, 53-2-10 & 11
7 R1 Zone

-----X

8 Tuesday, November 26, 2024
9 7:00 p.m.
Town of Newburgh Town Hall
10 1496 Route 300
Newburgh, New York

11 BOARD MEMBERS: DARRIN J. SCALZO, Chairman
12 DARRELL W. BELL
13 JAMES EBERHART, JR.
14 GREG M. HERMANCE SR.
JOHN D. MASTEN
15 JAMES C. POLITI
DONNA HOPPER REIN

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

19 APPLICANT'S REPRESENTATIVE: KEN LYTLE

20
21

22 Reported by: Kari L. Reed

23 MICHELLE L. CONERO
24 Court Reporter
Michelleconero@hotmail.com
25 (845)541-4163

1 Prestige Homes

2 CHAIRMAN SCALZO: I'd like to call the
3 meeting of the Zoning Board of Appeals to
4 order.

5 The first order of business this evening
6 are the public hearings which have been
7 scheduled. The procedure of the Board is that
8 the applicant will be called upon to step
9 forward, state their request and explain why it
10 should be granted. The Board will then ask the
11 applicant any questions it may have, and then
12 any questions or comments from the public will
13 be entertained. The Board will then consider
14 the application and will try to render a
15 decision this evening, but may take up to 62
16 days to reach a determination.

17 I would ask if you have a cellphone to
18 please turn it off or put it on silent. And
19 when speaking, speak directly into the
20 microphone, as it is being recorded.

21 Roll call, please.

22 MS. JABLESNIK: Darrell Bell.

23 MR. BELL: Here.

24 MS. JABLESNIK: James Eberhart.

25 MR. EBERHART: Here.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Prestige Homes

MS. JABLESNIK: Greg Hermance.

MR. HERMANCE: Here.

MS. JABLESNIK: John Masten.

MR. MASTEN: Here.

MS. JABLESNIK: James Politi.

MR. POLITI: Here.

MS. JABLESNIK: Welcome back.

Donna Rein.

MS. REIN: Here.

MS. JABLESNIK: Darrin Scalzo.

CHAIRMAN SCALZO: Here.

MS. JABLESNIK: Also present is our attorney, David Donovan; from Code Compliance, Joseph Mattina; and our stenographer this evening is Kari Reed.

CHAIRMAN SCALZO: Will you please rise for the Pledge.

(Pledge of Allegiance said.)

CHAIRMAN SCALZO: All right. Before we actually get into the main portion of the agenda, I want to let any members of the public that are here for the Prime and Tuvel, otherwise known as the QuickChek, at the intersection of Lakeside Road and 17K, they

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Prestige Homes

have asked to be deferred for the meeting this evening, and as a board we need to vote on whether or not we will allow that to occur. They're asking to be deferred until the January meeting. So does the Board have any discussion on that, we will maintain a public hearing open until that time?

No? I look for a motion then.

MR. MASTEN: I make a motion.

MR. HERMANCE: I second.

CHAIRMAN SCALZO: We have a motion to keep the public hearing open from Mr. Masten, we have a second from Mr. Hermance. All in favor?

(Chorus of ayes.)

CHAIRMAN SCALZO: Those opposed? None.

Therefore, anybody here for the Prime and Tuvel matter, we'll hear that in January of 2025.

Moving on to the regularly scheduled agenda. Our applicant, first applicant is Prestige Homes, Louis Lema. Charles Street, Elmhurst Avenue and Gardnertown Road, in an R1 Zone. This is a Planning Board referral for a proposed lot line change located on the corner

1 Prestige Homes

2 of Charles and Elmhurst Avenue. Both lots ten
3 and eleven require area variances for minimum
4 lot area, and lot eleven requires an area
5 variance of a minimum lot width.

6 Do we have mailings on that, Siobhan?

7 MS. JABLESNIK: This applicant mailed 29
8 letters.

9 CHAIRMAN SCALZO: Twenty-nine letters.
10 Very good.

11 And who do we have with us this evening?
12 The world traveler, otherwise known as Ken
13 Lytle.

14 MR. LYTLE: How are we doing tonight.

15 CHAIRMAN SCALZO: Very good.

16 MR. LYTLE: So what we have before you
17 here is an existing, on the existing lot, our
18 frontage has an existing -- it has a
19 delapidated structure in the front corner of
20 the house. And we're looking to relocate the
21 property line and more evenly split these two
22 lots, allowing for two new residential homes.
23 We've done the septic and testing out there,
24 along with some inground septics, located
25 adjoining wells and septics. As you mentioned

Prestige Homes

1
2 before, it's at the intersection of Gardnertown
3 Road and Elmhurst and Charles Street, we've got
4 three roads and three frontages. And there's
5 actually on Lot 11 we have a lot width issue
6 for a zoning variance also. The way we
7 proposed the property line was pretty much
8 supposed to be an equal split to minimize the
9 impact. So again, we're looking to split the
10 two existing lots first, we're looking to
11 relocate the line to make it a better situation
12 for these two lots.

13 CHAIRMAN SCALZO: Very good. Thank you
14 for your narrative on that. My position here
15 is, you know, we took two, one that was really
16 small and one that was a little larger, and
17 you're really making it look a little more
18 balanced. I have no comments, which is very
19 unusual for me. So I'll start down at the
20 other end. Mr. Politi, do you have any
21 comments?

22 MR. POLITI: I wanted to, one of the
23 questions I was going to ask about were the
24 water, sewer and septic, and you've answered
25 those.

1 Prestige Homes

2 MR. LYTLE: Right.

3 MR. POLITI: That was really the only
4 issue I had was to make sure. I appreciate it.

5 I'm good.

6 CHAIRMAN SCALZO: Mr. Eberhart?

7 MR. EBERHART: No questions from me.

8 CHAIRMAN SCALZO: Very good.

9 Mr. Hermance?

10 MR. HERMANCE: No questions.

11 CHAIRMAN SCALZO: All right.

12 Mr. Bell. You know, welcome back, Mr.
13 Bell. They recognized Mr. Politi hadn't been
14 here for two months, but you've got to give
15 this guy too, he hasn't been here for two
16 months.

17 MS. JABLESNIK: welcome back.

18 CHAIRMAN SCALZO: Yes.

19 Mr. Masten, any comments on this
20 application?

21 MR. MASTEN: I have no comments.

22 MS. REIN: I do.

23 CHAIRMAN SCALZO: Very good.

24 MS. REIN: This is a Type II, counselor?

25 MR. DONOVAN: That's correct.

1 Prestige Homes

2 MS. REIN: I'm going to ask this question
3 even though it is a Type II. Because on page
4 two, question 12 B, there's an affirmative for
5 "is the project site, or any portion of it,
6 located in or adjacent to an area designated as
7 sensitive for archaeological sites in the New
8 York State Historic Preservation Office." So
9 does that impact us?

10 CHAIRMAN SCALZO: well, perhaps I can help
11 you, Mr. Lytle. Question 12, "does the project
12 site contain", I'm going to reiterate what you
13 just said, "or is it substantially contiguous
14 to a building, archeological site or district
15 which is listed in the National or State
16 Register of Historic Places, or that has been
17 determined by the Commissioner of the New York
18 State Office of Parks, Recreation and Historic
19 Preservation to be eligible for listing on the
20 State Register of Historic Places." And then
21 the project site, any portion of it located on
22 or adjacent to anything that's related to SHPO.
23 That question is typically when you plug in the
24 address for the website, it will answer that
25 question for you. So will it have an impact on

1 Prestige Homes

2 the project, that's a question Mr. Lytle can
3 answer. However, it's checked "yes" because
4 it's done automatically through the DEC's
5 website.

6 MR. LYTLE: That's correct.

7 MS. REIN: Then whoever signed this had to
8 reject that; right? They had to make sure that
9 all of the answers were correct?

10 CHAIRMAN SCALZO: well, we're relying on
11 New York DEC to be accurate with their
12 information that they provided us.

13 MS. REIN: So we can safely assume this is
14 accurate?

15 CHAIRMAN SCALZO: would you safely assume
16 that that's accurate, Mr. Lytle?

17 MR. LYTLE: I don't believe the site will
18 be impacted by that at all, but again, it is a
19 standard that is a DEC automatic check. We
20 can't uncheck it on our end.

21 MS. REIN: Then what's done about it, is
22 anything done about it or is it just ignored?

23 MR. DONOVAN: Ken, will the Planning Board
24 ask you to do -- engage any expert to do any
25 testing on site?

1 Prestige Homes

2 MR. LYTLE: I don't believe so. But
3 again, as we get to that point with the
4 Planning Board we'll know at that point.

5 MR. DONOVAN: Donna, I can tell you
6 sometimes what happens in other places if that
7 is auto filled, yes, or sometimes the
8 applicants will say hey, we may have, there may
9 be something contiguous, you hire an
10 archeologist, you know what I mean, so when
11 that person does a study, that's then submitted
12 to SHPO, and 99 times out of 100 they don't
13 find anything, and SHPO says there's nothing on
14 this site. But if there's anything nearby,
15 it's going to get auto filled there. Relative
16 to our variance, this is a Type II, it's not in
17 the application before us for the variance it's
18 not relevant. The Planning Board may or may
19 not during their review ask for any additional
20 like archeological --

21 MR. LYTLE: That's right.

22 MR. DONOVAN: -- or whatever company does
23 that kind of work.

24 MS. REIN: Thank you.

25 CHAIRMAN SCALZO: And actually, to

1 Prestige Homes

2 continue on that, and I swear I'll talk slower.
3 I speak quickly, and it's difficult for the
4 stenographer to pick up everything that I'm
5 saying.

6 For a larger site, I mean, if you look at
7 the size of this lot or these lots when they're
8 going to be combined, they're relatively small
9 but if this was an application that had a
10 hundred acres that there were perhaps, you
11 know, artifacts that may have been excavated
12 while they were doing some test wells or
13 something like that, then they may end up, the
14 Planning Board may direct the applicant to dig
15 deeper. But for something this size I would be
16 very surprised if the Planning Board requested
17 the applicant to do that.

18 MS. REIN: Isn't there protocol for that?

19 CHAIRMAN SCALZO: I don't know if there's
20 a threshold that they would cross that would,
21 you know, check them, check the box for them to
22 ask for that.

23 MS. REIN: Just say how big it should be
24 before they dig deeper or anything like that.

25 CHAIRMAN SCALZO: That's a great question,

1 Prestige Homes

2 and you know what, I'm going to try and find an
3 answer for you before our next meeting.

4 MS. REIN: Thank you.

5 CHAIRMAN SCALZO: Or if, unless Mr. Lytle
6 would happen to know that question?

7 MR. LYTLE: I do not, but if you find out
8 the information I'll be happy to know.

9 CHAIRMAN SCALZO: I'll let you know if you
10 want.

11 MS. REIN: I'm good.

12 CHAIRMAN SCALZO: Great question.

13 MS. REIN: Thank you.

14 CHAIRMAN SCALZO: All right. Anybody else
15 on the board?

16 Anyone from the public wish to -- come on
17 up, sir. We need to know who you are and
18 where, well, we don't need to know where you
19 live, just who you are.

20 MR. KURTZ: How you doing. Well, I live
21 right next to this proposed site on 675
22 Gardnertown Road. Where are the lot lines
23 again, you just trying to make it.

24 MR. LYTLE: The lot line was right down
25 here.

1 Prestige Homes

2 CHAIRMAN SCALZO: And, sir, I do want to
3 let you know that all this information is on
4 the Town's website. So you can jump right to
5 the --

6 MR. KURTZ: Ah, I was wondering about
7 that.

8 CHAIRMAN SCALZO: -- meeting section, and
9 it's all public information. And even after
10 this meeting is over it will move to a
11 different section, which is past meetings, so
12 all of this is still available for you to
13 review.

14 MR. KURTZ: Thank you. Okay.

15 MR. LYTLE: So here is the lot line.

16 MR. KURTZ: I understand now.

17 MR. LYTLE: And we're relocating here to
18 this side to actually give more space.

19 MR. KURTZ: So you're actually splitting
20 it in two?

21 CHAIRMAN SCALZO: All right, sir, the
22 other thing that I have to just ask is that,
23 your questions and comments are part of the
24 public record, so a small, you know --

25 MR. KURTZ: Okay, I'm sorry. Well,

1 Prestige Homes

2 basically I, I just wanted to clear up what was
3 going on. Is this a meeting to okay the
4 building of two houses?

5 CHAIRMAN SCALZO: This is just a meeting
6 to -- he needs the approval of the variances
7 from this board, and then he goes back to the
8 Planning Board. So there will be another
9 opportunity to comment.

10 MR. KURTZ: Okay. So this doesn't
11 necessarily make -- guarantee that he can --
12 the lots are big enough to build a house or
13 what type of house he's going to build on there
14 or how big the house is going to be? That will
15 be later on?

16 CHAIRMAN SCALZO: well, inherently there's
17 a challenge with this particular two lots
18 together, because there's a dwelling already on
19 one. So if --

20 MR. KURTZ: Yeah.

21 CHAIRMAN SCALZO: -- if he had a very
22 sophisticated applicant that he's working for
23 could come in and rebuild the house and we
24 really couldn't say much. He'd have to go a
25 different type of standard system for septic

1 Prestige Homes

2 than any other lot, you know, it's already a
3 building lot. So when I look at it from my
4 point of view, he's actually doing a good
5 service to the neighborhood by evening those
6 lots out rather than having one on a postage
7 stamp and then the other --

8 MR. KURTZ: No, I agree. They're - just I
9 thought there was an acre requirement for a
10 house.

11 CHAIRMAN SCALZO: There certainly are.
12 But it's very difficult to zone yourself out of
13 a building lot. So these lots --

14 MR. KURTZ: No, I understand.

15 CHAIRMAN SCALZO: -- were created --
16 before, before the zoning was created these
17 lots were created.

18 MR. KURTZ: Okay. That's what I was,
19 that's what my question was.

20 CHAIRMAN SCALZO: Oh, no, it's a good
21 question.

22 MR. KURTZ: The lot line's changed so that
23 you're able to fit a house on both sides.

24 MR. LYTTLE: Right. They're taking two
25 lots and reconstructing them to keep two lots,

1 Prestige Homes

2 no more.

3 MR. KURTZ: Okay. I mean, does the lot
4 size have anything to do with how big the
5 houses could be?

6 MR. LYTLE: There'll be actually setback
7 requirements you have to fit the house within.

8 MR. KURTZ: That's where the house is
9 going to be?

10 MR. LYTLE: Right. If you actually see
11 the darker squares, those are where the house
12 locations are.

13 MR. KURTZ: Okay.

14 MR. LYTLE: We have frontages on all three
15 roads, so we're going to give it a very large
16 front setback, making the house into a small
17 location.

18 MR. KURTZ: Okay.

19 MR. DONOVAN: Is the existing structure
20 going to be demolished?

21 MR. LYTLE: Absolutely. And regarding
22 that the Planning Board asked the attorney to
23 do that, to be more specific.

24 CHAIRMAN SCALZO: Yeah. The house
25 actually encroaches on the right of way.

1 Prestige Homes

2 MR. LYTLE: Yeah.

3 MR. DONOVAN: Sir, if you could for
4 record, just let us know who you are.

5 MR. KURTZ: Gary Kurtz and my wife Diane.
6 And we live at 675 Gardnertown Road.

7 MR. DONOVAN: Thank you.

8 MR. KURTZ: We just wanted to see what was
9 going on.

10 CHAIRMAN SCALZO: Oh, no, it's very
11 important, and I appreciate that you took the
12 time to come out. Your comments are important
13 to the process.

14 MR. KURTZ: I've been in Newburgh a long
15 time and, you know, I appreciate what the town
16 has done. All right, thanks, guys.

17 CHAIRMAN SCALZO: Thank you.

18 Any other members of the public wish to
19 speak about this application?

20 (No response.)

21 CHAIRMAN SCALZO: It does not appear so.
22 One last look at the Board, any other
23 comment?

24 (No response.)

25 CHAIRMAN SCALZO: No, so I'll look to the

1 Prestige Homes

2 Board for a motion to close the public hearing.

3 MR. MASTEN: I make a motion to close the
4 public hearing.

5 MR. BELL: I'll second.

6 We have a motion to close the public
7 hearing from Mr. Masten and we have a second
8 from Mr. Bell. All in favor?

9 (Chorus of ayes.)

10 CHAIRMAN SCALZO: Those opposed?

11 (No response.)

12 CHAIRMAN SCALZO: Very good. Since this
13 is a Type II action under SEQRA, we are going
14 to go through the area variance criteria and
15 discuss our five factors. The first one being
16 whether or not the benefit can be achieved by
17 other means feasible to the applicant. Well,
18 he could leave the lot lines just like they
19 are. I think this is actually a better
20 solution.

21 The second, if there's an undesirable
22 change in the neighborhood character or a
23 detriment to nearby properties.

24 (Some "nos" from the Board)

25 CHAIRMAN SCALZO: It does not appear so.

1 Prestige Homes

2 The third, whether the request is
3 substantial. Perhaps by the neighborhood
4 layout you may consider that. But again, you
5 know, if he were to rebuild the house on that
6 smaller lot, that would really throw it out
7 there.

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

10 MS. REIN: No.

11 CHAIRMAN SCALZO: And the fifth, whether
12 the alleged difficulty is self created, which
13 is relevant but not determinative. Of course
14 it's self created, because the zoning was
15 changed since these lots were created.

16 So, having gone through the balancing
17 test, does the Board have a motion of some
18 sort?

19 MS. REIN: I make a motion to approve.

20 MR. POLITI: I second.

21 CHAIRMAN SCALZO: We have a motion for
22 approval from Ms. Rein, we have a second from
23 Mr. Eberhart, oh, was it --

24 MR. POLITI: Politi.

25 CHAIRMAN SCALZO: Oh, Mr. Politi.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Prestige Homes

Can we roll on that, please.

MS. JABLESNIK: Mr. Bell.

MR. BELL: Yes.

MS. JABLESNIK: Mr. Eberhart.

MR. EBERHART: Yes.

MS. JABLESNIK: Mr. Hermance.

MR. HERMANCE: Yes.

MS. JABLESNIK: Mr. Masten.

MR. MASTEN: Yes.

MS. JABLESNIK: Mr. Politi.

MR. POLITI: Yes.

MS. JABLESNIK: Ms. Rein.

MS. REIN: Yes.

MS. JABLESNIK: Mr. Scalzo.

CHAIRMAN SCALZO: Yes.

The motion is carried, the variances are approved.

MR. LYTLE: Great, thank you. Have a good night.

CHAIRMAN SCALZO: Thanks.

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Prestige Homes

CERTIFICATE

STATE OF NEW YORK)
) SS:
COUNTY OF ORANGE)

I, KARI L. REED, a Shorthand Reporter
(Stenotype) and Notary Public within and for
the State of New York, do hereby certify:

I reported the proceedings in the
within-entitled matter and that the within
transcript is a true record of such
proceedings.

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

IN WITNESS WHEREOF, I have hereunto set my
hand this 23rd day of December 2024.

Kari L Reed

KARI L. REED

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

-----X

4 In the Matter of

5 SARA GOULD
7 Eastview Road, Newburgh
6 70-2-4
R3 Zone

7 -----X

8 Tuesday, November 26, 2024
9 7:16 p.m.
Town of Newburgh Town Hall
10 1496 Route 300
Newburgh, New York

11 BOARD MEMBERS: DARRIN J. SCALZO, Chairman
12 DARRELL W. BELL
13 JAMES EBERHART, JR.
14 GREG M. HERMANCE SR.
JOHN D. MASTEN
15 JAMES C. POLITI
DONNA HOPPER REIN

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

19 APPLICANT'S REPRESENTATIVE: SARA GOULD

20
21

22 Reported by: Kari L. Reed

23 MICHELLE L. CONERO
24 Court Reporter
Michelleconero@hotmail.com
25 (845)541-4163

1 Sara Gould

2 CHAIRMAN SCALZO: Our second applicant
3 this evening is Sarah Gould, 7 Eastview Road
4 Newburgh, an area variance, seeking an area
5 variance of increasing the degree of
6 non-conformity of the front yard to keep an
7 existing non-conforming front porch.

8 Siobhan, do we have mailings on that?

9 MS. JABLESNIK: This applicant sent 31
10 letters.

11 CHAIRMAN SCALZO: So 31 letters. I'm kind
12 of surprised you were --

13 MS. GOULD: I was shocked that there were
14 that many. I thought maybe ten.

15 CHAIRMAN SCALZO: Okay.

16 MS. JABLESNIK: I'm always shocked at the
17 amount of people.

18 CHAIRMAN SCALZO: Okay, so who do we have
19 with us?

20 MS. GOULD: I'm Sara Gould. I'm the owner
21 of 7 Eastview Road.

22 CHAIRMAN SCALZO: Very good. I'm right
23 around the corner on Fifth.

24 MS. GOULD: Nice.

25 CHAIRMAN SCALZO: It's a quiet little

1 Sara Gould

2 street.

3 MS. GOULD: It is a very quiet street.

4 CHAIRMAN SCALZO: Very good. If I have
5 captured everything it is that you are looking
6 for in that one sentence, we can move on. If
7 you have some color commentary to add to it,
8 feel free.

9 MS. GOULD: No, I would keep the color
10 commentary to myself. I just need to finish
11 repairing the porch that was falling apart
12 under ants, so.

13 CHAIRMAN SCALZO: Very good. Well, not
14 very good.

15 MS. GOULD: No, yeah.

16 CHAIRMAN SCALZO: But I understand is more
17 like it. Okay, I really, I see what you're
18 doing. I, you know, it looks like it's
19 replacing in kind, same size, footprint,
20 everything else is --

21 MS. GOULD: The steps are actually a
22 little bit smaller, that way we won't --
23 because the steps went directly into the street
24 before, which for people who know Eastview
25 Road, I've had some close calls because I had

1

Sara Gould

2

to walk into the street to get to my driveway.

3

But yeah, it's actually less of a footprint

4

because the steps come in closer to the house.

5

CHAIRMAN SCALZO: Even better.

6

I have no comments on this. Other

7

comments? Let's start first with Ms. Rein.

8

MS. REIN: I'm good.

9

CHAIRMAN SCALZO: You know, it is a Type

10

II action under SEQRA, it's dimensional.

11

MR. MASTEN: I'm good.

12

CHAIRMAN SCALZO: well, no, these are good

13

things.

14

Mr. Masten, you say you're good as well?

15

MR. BELL: Yup, yup.

16

MR. DONOVAN: You sound just like Mr.

17

Bell.

18

CHAIRMAN SCALZO: I guess so. Mr. Bell,

19

you have no comments?

20

MR. BELL: No questions, no comments.

21

CHAIRMAN SCALZO: Mr. Hermance.

22

MR. HERMANCE: I have no comments.

23

CHAIRMAN SCALZO: Mr. Eberhart.

24

MR. EBERHART: No comments.

25

CHAIRMAN SCALZO: Mr. Politi.

1 Sara Gould

2 MR. POLITI: No comments.

3 CHAIRMAN SCALZO: All right, at this point
4 I'll open it up, any members of the public that
5 wish to speak about this application?

6 (No response)

7 CHAIRMAN SCALZO: It does not appear so.
8 Very good. I'll look for a motion from the
9 Board to close the public hearing.

10 MR. BELL: I make a motion to close the
11 public hearing.

12 CHAIRMAN SCALZO: Second?

13 MR. MASTEN: I'll second it.

14 CHAIRMAN SCALZO: Sounds like we have a
15 motion from Mr. Bell and we have a second, Mr.
16 Masten spoke a little more loudly than Mr.
17 Politi, so we're going to go that way. All in
18 favor?

19 (Chorus of ayes.)

20 CHAIRMAN SCALZO: Those opposed?

21 (No response.)

22 CHAIRMAN SCALZO: Very good. This is a
23 Type II action under SEQRA. We just heard
24 those five factors we're going to be weighing.
25 We are going to do the same for you. The first

1

Sara Gould

2

one being whether or not the benefit can be

3

achieved by other means feasible to the

4

applicant. Well, you heard about the ants, and

5

she's just trying to make it strong so she can

6

step on her deck, you know.

7

Second, if there's an undesirable change

8

in the neighborhood character or a detriment to

9

the nearby properties. That would be no.

10

Third, whether the request is substantial.

11

Well, we actually just heard that it's going to

12

be further away from the road than it was

13

before, so it actually is a -- makes it a

14

little better.

15

MR. BELL: Safer.

16

CHAIRMAN SCALZO: Yup.

17

The fourth factor, whether the request

18

will have adverse physical or environmental

19

effects.

20

MR. BELL: None.

21

CHAIRMAN SCALZO: And fifth, whether the

22

alleged difficulty is self created, which is

23

relevant but not determinative. She is

24

replacing in kind, making it smaller, so

25

actually it's, in this case I wouldn't consider

1 Sara Gould

2 that to be self created.

3 Having gone through our balancing tests of
4 the area variance, does the Board have a motion
5 of some sort?

6 MR. POLITI: I make a motion to approve.

7 MR. BELL: I'll second it.

8 CHAIRMAN SCALZO: You guys are killing me.
9 I'm going to give it to Mr. Politi. We have a
10 motion from Mr. Politi. It sounded like we had
11 a second from Mr. Bell.

12 MR. BELL: Yeah.

13 CHAIRMAN SCALZO: Can we roll on that,
14 please, Siobhan.

15 MS. JABLESNIK: Mr. Bell.

16 MR. BELL: Yes.

17 MS. JABLESNIK: Mr. Eberhart.

18 MR. EBERHART: Yes.

19 MS. JABLESNIK: Mr. Hermance.

20 MR. HERMANCE: Yes.

21 MS. JABLESNIK: Mr. Masten.

22 MR. MASTEN: Yes.

23 MS. JABLESNIK: Mr. Politi.

24 MR. POLITI: Yes.

25 MS. JABLESNIK: Ms. Rein.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Sara Gould

MS. REIN: Yes.

MS. JABLESNIK: Mr. Scalzo.

CHAIRMAN SCALZO: Yes. The motion is carried, the variances are approved.

MS. GOULD: Thank you.

CHAIRMAN SCALZO: Good luck.

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Sara Gould

CERTIFICATE

STATE OF NEW YORK)
) SS:
COUNTY OF ORANGE)

I, KARI L. REED, a Shorthand Reporter
(Stenotype) and Notary Public within and for
the State of New York, do hereby certify:

I reported the proceedings in the
within-entitled matter and that the within
transcript is a true record of such
proceedings.

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

IN WITNESS WHEREOF, I have hereunto set my
hand this 23rd day of December 2024.

Kari L Reed

KARI L. REED

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

3 -----X

4 In the Matter of

5 CROSSCUT CONSTRUCTION
70 Frozen Ridge Road, Newburgh
21-1-1
6 R2 Zone

7 -----X

8 Tuesday, November 26, 2024
7:20 p.m.
9 Town of Newburgh Town Hall
1496 Route 300
10 Newburgh, New York

11 BOARD MEMBERS: DARRIN J. SCALZO, Chairman
12 DARRELL W. BELL
13 JAMES EBERHART, JR.
14 GREG M. HERMANCE SR.
15 JOHN D. MASTEN
16 JAMES C. POLITI
17 DONNA HOPPER REIN

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

21 APPLICANT'S REPRESENTATIVE: STEVE WAGNER

22 Reported by: Kari L. Reed

23 MICHELLE L. CONERO
24 Court Reporter
Michelleconero@hotmail.com
25 (845)541-4163

1 Crosscut Construction

2 CHAIRMAN SCALZO: And, and we're only
3 allowed --

4 MR. DONOVAN: They get six months with one
5 six month extension.

6 MS. REIN: Okay. Okay.

7 MR. DONOVAN: That's the way it goes. Do
8 you remember the hotel?

9 CHAIRMAN SCALZO: Oh, Ram, Ram Hotel,
10 yeah. Same thing happened.

11 MS. REIN: Okay.

12 CHAIRMAN SCALZO: I have no questions.
13 Mr. Politi.

14 MR. POLITI: Nope.

15 CHAIRMAN SCALZO: Mr. Eberhart.

16 MR. EBERHART: No.

17 CHAIRMAN SCALZO: Mr. Hermance.

18 MR. HERMANCE: I have none.

19 CHAIRMAN SCALZO: Mr. Bell.

20 MR. BELL: No.

21 CHAIRMAN SCALZO: Mr. Masten.

22 MR. MASTEN: No.

23 CHAIRMAN SCALZO: Ms. Rein.

24 MS. REIN: No.

25 CHAIRMAN SCALZO: Anyone from the public

1 Crosscut Construction

2 who wishes to speak about this application?

3 (No response.)

4 CHAIRMAN SCALZO: No, very good, okay.

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

7 MR. HERMANCE: I'll make a motion to close
8 the public hearing.

9 MS. REIN: I second.

10 CHAIRMAN SCALZO: We have a motion from
11 Mr. Masten, we have a second from Ms. Rein.
12 All in favor?

13 (Chorus of "ayes")

14 CHAIRMAN SCALZO: Any opposed?

15 (No response.)

16 CHAIRMAN SCALZO: And again, here we go,
17 we're going to go through our five factors, the
18 first one being whether or not the benefit can
19 be achieved by other means feasible to the
20 applicant in 2022 and now 2024. That would be
21 no.

22 MS. REIN: No.

23 CHAIRMAN SCALZO: The second, if there's
24 an undesirable change in the neighborhood
25 character or a detriment to nearby properties.

1 Crosscut Construction

2 balancing criteria, does Board have a motion of
3 some sort?

4 MS. REIN: I make a motion to approve.

5 MR. BELL: I second.

6 CHAIRMAN SCALZO: Oh, geez, Mr. Masten,
7 you were staring at me, I thought it was going
8 to be you.

9 we have a motion for approval from Ms.
10 Rein, we have a second from Mr. Bell. Can you
11 roll on that, please, Siobhan.

12 MS. JABLESNIK: Mr. Bell.

13 MR. BELL: Yes.

14 MS. JABLESNIK: Mr. Eberhart.

15 MR. EBERHART: Yes.

16 MS. JABLESNIK: Mr. Hermance.

17 MR. HERMANCE: Yes.

18 MS. JABLESNIK: Mr. Masten.

19 MR. MASTEN: Yes.

20 MS. JABLESNIK: Mr. Politi.

21 MR. POLITI: Yes.

22 MS. JABLESNIK: Ms. Rein.

23 MS. REIN: Yes.

24 MS. JABLESNIK: Mr. Scalzo.

25 CHAIRMAN SCALZO: Yes. The motion is

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Crosscut Construction

approved, the variances are granted.

MR. WAGNER: Thank you.

CHAIRMAN SCALZO: Good luck with that, Mr.
Wagner.

MR. BELL: It's been a long time coming.

CHAIRMAN SCALZO: Get that moving.

MR. WAGNER: Thank you.

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Crosscut Construction

CERTIFICATE

STATE OF NEW YORK)
) SS:
COUNTY OF ORANGE)

I, KARI L. REED, a Shorthand Reporter
(Stenotype) and Notary Public within and for
the State of New York, do hereby certify:

I reported the proceedings in the
within-entitled matter and that the within
transcript is a true record of such
proceedings.

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

IN WITNESS WHEREOF, I have hereunto set my
hand this 23rd day of December 2024.

Kari L Reed

KARI L. REED

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

3 -----X

4 In the Matter of

5 APJ ENTERPRISES OF NEWBURGH, LLC
6 Lakeside Road, Newburgh
11-1-74.1
R1 Zone

7 -----X

8 Tuesday, November 26, 2024
9 7:25 p.m.
Town of Newburgh Town Hall
10 1496 Route 300
Newburgh, New York

11 BOARD MEMBERS: DARRIN J. SCALZO, Chairman
12 DARRELL W. BELL
13 JAMES EBERHART, JR.
14 GREG M. HERMANCE SR.
JOHN D. MASTEN
15 JAMES C. POLITI
DONNA HOPPER REIN

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

19 APPLICANT'S REPRESENTATIVE: ROLAND BLOOMER

20

21

22 Reported by: Kari L. Reed

23 MICHELLE L. CONERO
24 Court Reporter
Michelleconero@hotmail.com
25 (845)541-4163

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

APJ Enterprises

CHAIRMAN SCALZO: All right, our final applicant for the evening is APJ Enterprises of Newburgh, LLC, Lakeside Road, for a use variance to keep an 80 by 40 by 20 storage building on a vacant parcel. This was deferred last month, and we had asked for some information from the applicant, which we have yet to receive. So who do we have with us?

MR. BLOOMER: Good evening. My name is Roland Bloomer. I'm responding for the applicant, Johnson Bloomer LLP. The applicant, Al Julien, is not able to make it tonight, so I'm proceeding without him if that satisfies the Board.

CHAIRMAN SCALZO: You can present.

MR. BLOOMER: Okay. Last time we were here, and I appreciate the adjournment to gather further information. This was a use variance submitted before the board. We were having an issue with the financial version -- financial prong of the test. We had asked for additional information or additional time to gather more information to re-look at what was going on with what we had going on there.

APJ Enterprises

1
2 Upon a further review of what was
3 happening, it became evident to me there was a
4 preexisting nonconforming condition on the
5 property. Specifically there's four barns on
6 the property, that are used agriculturally on
7 the property. The storage shed that was put
8 up, a pole barn, 80 by 40, would expand the
9 nonconforming use that is currently there. So
10 we aren't sure whether to continue going with
11 the use variance or if it's something that we
12 should change over to an area variance. I'm
13 not sure as to the process for that, whether I
14 should be submitting all new paperwork to the
15 board, or whether that's something that would
16 have to be done on the floor.

17 Another issue I would like to bring up is
18 it's currently agricultural. So as
19 agricultural it allows certain uses to the
20 property that may be not allowed under the
21 zoning codes and ordinances. Specifically,
22 305A of the EDL states that a local government
23 should not unreasonably restrict or regulate
24 operations on agriculture property and that
25 unless it can be shown for public health or

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

APJ Enterprises

safety issues. We don't believe there's either a public health or a safety issue with an 80 by 40 by 3,000 square foot storage unit being put in the back of the property.

So that is what I have to present to the board tonight for consideration. I am open to hearing direction or statements that need to be made my way.

CHAIRMAN SCALZO: Okay. So just so I understood part of your narrative.

MR. BLOOMER: You mean.

CHAIRMAN SCALZO: You're not sure if this still fits under a use variance or perhaps an area variance, and in which case you had indicated could you change that application right here on the floor. The short answer to that is no.

MR. BLOOMER: No, it would have to be resubmitted?

CHAIRMAN SCALZO: Yeah, so that would have to be resubmitted. And I'm going to have to look at counsel or code compliance here, because they already have a preexisting nonconforming condition with those -- but this

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

APJ Enterprises

is a new --

MR. DONOVAN: well, look at me first.

MR. MATTINA: Yes, please.

(Laughter.)

CHAIRMAN SCALZO: Yes.

MR. DONOVAN: So code compliance, did you issue a violation here, Joe, originally?

MR. MATTINA: Yes, one of our inspectors did issue an Order of Remedy.

MR. DONOVAN: Okay. And then there's a Notice of Disapproval, which basically says this accessory structure is not permitted.

MR. BLOOMER: So it's prohibited?

MR. DONOVAN: So it's prohibited, correct.

So if, if -- and we're not, we're an appeals board, zoning board of appeals. So we sit in review of the building department's determination. They haven't made a determination on whether or not it's a preexisting nonconforming use. You have to submit some sort of proof that this structure was -- I can't tell you what to do. The chairman was, was very succinct that we can't do that tonight.

1 APJ Enterprises

2 MR. BLOOMER: Correct.

3 MR. DONOVAN: But in order to do that, if
4 that's the appropriate way in which you want to
5 proceed, you'd have to demonstrate to code
6 compliance that the structure was either
7 permitted at the time it was constructed or it
8 was constructed at such time as there was no
9 zoning in the Town of Newburgh. So you don't
10 have to say anything tonight, but that's what
11 you would need to prove for it to be a
12 preexisting nonconforming use. Code compliance
13 would then either have to agree or disagree
14 with that. And then, depending on what they
15 said, you could appeal that determination to
16 us.

17 MR. BLOOMER: Understood.

18 MR. DONOVAN: You also could make an
19 application for an interpretation. But you
20 have a use variance now. An application for
21 interpretation asks this board to interpret
22 that it's a preexisting nonconforming use.
23 Those are the two avenues for you to pursue I
24 think. But right now there's a use variance
25 application, and the board can either vote on

1 APJ Enterprises

2 it or you can withdraw it. If you withdraw it,
3 right, you're back with whatever enforcement
4 proceedings are going on with code compliance.
5 But you don't have the proof for it I can tell
6 you, so it's --

7 MR. BLOOMER: Correct.

8 MR. DONOVAN: -- you know, that ship is
9 sinking.

10 MR. BLOOMER: Understood. Which is what
11 led us down this avenue, if you will.

12 If I hear you, heard you correctly, just
13 before we conclude here, you're talking
14 specifically about the structure in question as
15 being preexisting, not the use of the property
16 being preexisting nonconforming and expanding
17 there?

18 MR. DONOVAN: So I don't know anything
19 about that, I don't think the board has any
20 evidence before that. I don't know that code
21 compliance has anything relative to that issue.

22 CHAIRMAN SCALZO: Right. But we all have
23 Google Earth, and we can certainly see what
24 wasn't there three years ago.

25 MR. BLOOMER: Correct. That's what --

1 APJ Enterprises

2 where the question is coming from, because
3 there's two completely different arguments. So
4 that's why I was trying to --

5 CHAIRMAN SCALZO: Right. And you did
6 mention that this is agricultural.

7 MR. BLOOMER: Yes.

8 CHAIRMAN SCALZO: This is in, what, is it
9 in the RA zone?

10 MR. MATTINA: It's R1.

11 MR. BLOOMER: It's R1, which that doesn't
12 prevent it from being agricultural.

13 CHAIRMAN SCALZO: Okay, but now it just
14 brings me back to the one on Oak Street that
15 had vineyards there. They ended up petitioning
16 to the Ag, Ag and Markets or something.

17 MR. DONOVAN: They, they went to Ag and
18 Markets.

19 CHAIRMAN SCALZO: Yes.

20 MR. DONOVAN: Ag and Markets contacted the
21 town.

22 CHAIRMAN SCALZO: Because they were in a
23 residential district as well. So until that
24 process would be done, you're in a residential
25 district. You know, just, you may have horses

1 APJ Enterprises

2 in a paddock, but that doesn't necessarily make
3 it agricultural.

4 MR. BLOOMER: Even though it's 1-16
5 agricultural, other stock on the property?

6 MR. DONOVAN: Do you have an agricultural,
7 is there an ag exemption on the property?

8 MR. BLOOMER: So --

9 MR. DONOVAN: If you know.

10 MR. BLOOMER: -- all I know is the
11 property card listed it as --

12 CHAIRMAN SCALZO: Oh, whoa, whoa, whoa, if
13 you're going to talk about how the assessors
14 assessed the property. The code and the
15 assessors office, they -- they don't speak very
16 often, if you know what I mean, so.

17 MR. DONOVAN: We actually litigated that
18 case, just so you know, the assessor has it two
19 family, code compliance has it one family.
20 They made an application, this particular
21 property owner, that they wanted two family.
22 It was denied. At the appellate division they
23 were affirmed. The assessor, code compliance
24 and the ZBA are two different things.

25 CHAIRMAN SCALZO: The assessor just wants

1 APJ Enterprises

2 their money. That's really what it comes down
3 to. They want to, they want to get everything
4 they can out of you, so they'll -- so that is
5 no, that's by no means an approval.

6 MR. BLOOMER: I got it, one over the
7 other, I got you, thank you.

8 CHAIRMAN SCALZO: You're welcome, Joe.

9 MR. MATTINA: Thank you.

10 CHAIRMAN SCALZO: That's public record.

11 So you've got a couple of options on the
12 table before you. I, you -- we can either
13 proceed or you can withdraw. I leave it up to
14 you.

15 MR. BLOOMER: I believe I should -- I
16 would like to withdraw and resubmit to the
17 board based on, I can still go off of the
18 original code determination or I have to go
19 back to code?

20 CHAIRMAN SCALZO: All right, let me -- if
21 you were to withdraw, just counsel, help me
22 out, if he withdraws, the -- so the application
23 is no longer with us?

24 MR. DONOVAN: Correct.

25 CHAIRMAN SCALZO: And the code compliance

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

APJ Enterprises

determination stands the minute that he
withdraws; correct?

MR. DONOVAN: Correct, that's correct,
yeah.

CHAIRMAN SCALZO: So anything that has to
happen code-wise can't occur because the
application has been withdrawn.

MR. DONOVAN: Right.

CHAIRMAN SCALZO: I just wanted to clear
that up and also make it a matter of record.

MR. DONOVAN: Now, it's up to you if you
want to come for an interpretation, you know.
What may be cleaner, again, it's up to you, if
you go back to code compliance and make your
argument that you're a preexisting
nonconforming use and permitted, then code
compliance can rule on that, then you can
appeal that, which is likely for an
interpretation.

MR. BLOOMER: Which we end up --

MR. DONOVAN: Back here.

CHAIRMAN SCALZO: Also, with the
withdrawal, the Order of Remedy is basically
come right back where you are. So, you know.

1 APJ Enterprises

2 MR. BLOOMER: As opposed to a denial,
3 which would --

4 MR. DONOVAN: Put you right back where you
5 are too.

6 MR. BLOOMER: Exactly.

7 CHAIRMAN SCALZO: Exactly.

8 MR. BLOOMER: Yeah. Okay.
9 we will withdraw.

10 CHAIRMAN SCALZO: withdrawing the
11 application?

12 MR. BLOOMER: Yes.

13 CHAIRMAN SCALZO: Okay.

14 So counsel, with the applicant withdrawing
15 the application, in this instance we no longer
16 have an application; therefore, we don't have a
17 public hearing to call.

18 MR. DONOVAN: That's correct. There's no
19 longer an application.

20 CHAIRMAN SCALZO: Okay.

21 MR. BELL: There's no longer an
22 application.

23 CHAIRMAN SCALZO: Have a good night.

24 MR. BLOOMER: Thank you very much.

25 (Time noted: 7:34 p.m.)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

APJ Enterprises

CERTIFICATE

STATE OF NEW YORK)
) SS:
COUNTY OF ORANGE)

I, KARI L. REED, a Shorthand Reporter
(Stenotype) and Notary Public within and for
the State of New York, do hereby certify:

I reported the proceedings in the
within-entitled matter and that the within
transcript is a true record of such
proceedings.

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

IN WITNESS WHEREOF, I have hereunto set my
hand this 23rd day of November 2024.

Kari L Reed

KARI L. REED

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

3 -----X

4 In the Matter of

5

Board Discussion

6 -----X

7 Tuesday, November 26, 2024
8 7:35 p.m.
Town of Newburgh Town Hall
1496 Route 300
Newburgh, New York

9

10 BOARD MEMBERS: DARRIN J. SCALZO, Chairman
11 DARRELL W. BELL
12 JAMES EBERHART, JR.
13 GREG M. HERMANCE SR.
JOHN D. MASTEN
14 JAMES C. POLITI
15 DONNA HOPPER REIN

16

17

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

21

22

23

24

25

Reported by: Kari L. Reed

26

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

27

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Discussion

CHAIRMAN SCALZO: That's it, other than our meeting minutes from last month. Does the Board make a motion to accept the meeting minutes from last month?

MR. EBERHART: I make a motion that we accept the meeting minutes from last month.

MR. MASTEN: Second.

CHAIRMAN SCALZO: We have a motion to accept meeting minutes from last month from Mr. Eberhart. We have a second, I think it was Mr. Masten, or was it Mr. Bell, who hasn't been here for two months, so it must have been Mr. Masten. All in favor?

(Chorus of ayes.)

MR. BLOOMER: Those opposed?

(No response.)

MS. JABLESNIK: I have received a --

CHAIRMAN SCALZO: Is this board business that we're talking about?

MS. JABLESNIK: Yes.

CHAIRMAN SCALZO: All right.

MS. JABLESNIK: So Mr. Tuvel sent an email today requesting, you know, either the next meeting or a special meeting. What do I tell

1 Discussion

2 him?

3 CHAIRMAN SCALZO: We will not entertain
4 any special meetings.

5 MS. JABLESNIK: That's what I figured.

6 CHAIRMAN SCALZO: He asked for not
7 December. But I'm glad you brought that up,
8 Siobhan. So when we're all reviewing the
9 meeting minutes in December for November's
10 meeting, folks, we got a lot of information to
11 read regarding the traffic studies at, for the
12 QuickChek, all right. And Ken Wersted called
13 me on the day before he was leaving to go to
14 Cancun to celebrate his wife's 50th birthday,
15 so he was home on a Saturday afternoon, that's
16 a dedicated fellow there, but he's got some,
17 and it's only four pages, Ken Wersted's stuff,
18 you all have it electronically, please read it.

19 MS. REIN: It's a book.

20 CHAIRMAN SCALZO: No, no, that's not Ken
21 Wersted's. That is the applicant's traffic
22 study information.

23 MS. REIN: Okay.

24 CHAIRMAN SCALZO: And I had asked the
25 applicant for the Reader's Digest version --

1 Discussion

2 MS. REIN: That is not it.

3 CHAIRMAN SCALZO: -- and we got that. Ken
4 wersted gave us the Reader's Digest version
5 with his comments. And Ken read that whole
6 book, so.

7 MS. REIN: Yeah, I got through the first
8 three million words and then my eyes glazed
9 over.

10 CHAIRMAN SCALZO: And you're very kind.
11 You know what, I gave explicit instructions to
12 the applicant, and they didn't follow them;
13 therefore, it didn't sit well with me for the
14 rest of the application process. So, I'm, I'm
15 yeah, I'm asking you folks to please read that
16 traffic study.

17 MR. MASTEN: Yes, I started reading it.

18 CHAIRMAN SCALZO: Yeah. Just the Ken
19 wersted, just the four pager. And it's great,
20 and he's got a lot of good ideas.

21 One thing I will just talk about now is he
22 noticed that this application has three
23 entrances onto Lakeside Road. And of the other
24 nine QuickCheks in Orange County that he
25 checked in on, none of them have three

1

Discussion

2

entrances, they only have two. So it appears as though they're trying to accommodate truck traffic through that facility.

3

MR. BELL: Yeah, they are.

4

CHAIRMAN SCALZO: And so we've got some questions to ask of the applicant certainly. The applicant does wish that Ken wersted could be here for the meeting. I don't know that I can insist that he is. I can certainly invite him. But he's under no obligation to come to the meeting.

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

MR. DONOVAN: So the applicant's attorney called me, and he expressed a concern that if Ken wersted was not here and the Board had questions that they wanted him to answer, that it would take more time. So that's why he wanted him here so there would be some sort of -- you would have the applicant's traffic engineer and your engineer in the room at the same time before you voted. That's what he thought. Now, he obviously just got the Ken wersted report Saturday.

24

CHAIRMAN SCALZO: Yes.

25

MR. DONOVAN: He sent it to me. So that's

1

Discussion

2

why they're not here tonight. The attorney's

3

away --

4

CHAIRMAN SCALZO: In December.

5

MR. DONOVAN: That's why they're pushing

6

it to January. It's not necessarily a bad idea

7

to have your consultant here. But it's up to

8

you guys, you know. It's not -- it's whatever

9

you guys decide. And you don't need to decide

10

right now either.

11

CHAIRMAN SCALZO: No. But the other, what

12

I think a wonderful idea for us would be is for

13

us to all have reviewed that traffic study

14

before the December meeting, and then we can

15

all, we can certainly discuss it after the

16

regular meeting, you know, still being recorded

17

so it's still part of the -- any, anything that

18

we are talking about I suppose.

19

MR. DONOVAN: If I can just interrupt.

20

I'm a little --

21

CHAIRMAN SCALZO: We shouldn't do that?

22

MR. DONOVAN: I don't, I don't like the

23

idea of you having a conversation about Jim

24

Politi's project when Jim Politi is not in the

25

room.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Discussion

CHAIRMAN SCALZO: Okay. Well, then all I can ask is that you folks do your homework for next month, and if you had questions we should be fully prepared with these questions, you know, and --

MR. DONOVAN: And if I could say, I'm sorry to interrupt, Darrin, I'm going to forget because I'm getting older, I have my birthday next month, what's likely going to happen is the applicant's traffic consultant is going to respond to Ken Wersted's letter, which is going to result in Ken Wersted commenting on their response.

CHAIRMAN SCALZO: Right.

MR. DONOVAN: This is, you should definitely read it, but it's not the end of the story.

CHAIRMAN SCALZO: Sure. I'm hoping Mr. Truvel, his group responds. Quite honestly, Siobhan, if he does reach out to you tomorrow for what we did today, you can say you got Ken Wersted's comments, it would be in your best interest to submit your responses back to those, you know, by the December, you know, he

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Discussion

doesn't have to be here, we won't talk about it, we can defer them to January, but the more time we have, just in case Ken can't make it --

MR. DONOVAN: Understood.

CHAIRMAN SCALZO: -- would be in the best interest.

MR. DONOVAN: Understood.

CHAIRMAN SCALZO: So you've got homework, folks. I know it's tough through the holiday season, but, you know. There's a lot of football to watch between now and then.

So, that being said, folks I'm looking for a motion to adjourn.

MR. POLITI: I'd make the motion.

MS. REIN: I second.

CHAIRMAN SCALZO: I have a motion to adjourn from Mr. Politi, we have a second from Ms. Rein. All in favor?

(Chorus of ayes.)

CHAIRMAN SCALZO: That's the fastest meeting we have had in ever.

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Discussion

CERTIFICATE

STATE OF NEW YORK)
) SS:
COUNTY OF ORANGE)

I, KARI L. REED, a Shorthand Reporter
(Stenotype) and Notary Public within and for
the State of New York, do hereby certify:

I reported the proceedings in the
within-entitled matter and that the within
transcript is a true record of such
proceedings.

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

IN WITNESS WHEREOF, I have hereunto set my
hand this 23rd day of November 2024.

Kari L Reed

KARI L. REED