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

----- X
In the Matter of

BJORN HANSEN

13 Lakeview Drive, Newburgh
Section 101; Block 2; Lot 1
R-2 Zone

----- X

Date: February 28, 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

----- X

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

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BJORN HANSEN

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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 if you have a cell phone, to please turn it off or put it on silent. When speaking -- am I to understand our microphone is not working?

MS. JABLESNIK: Those are not. Ours are but those are not.

CHAIRMAN SCALZO: If anyone is coming

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BJORN HANSEN

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up to speak regarding any applicant, talk loud.
That would be appreciated.

Roll call, please.

MS. JABLESNIK: Darrell Bell?

MR. BELL: Present.

MS. JABLESNIK: Mr. Levin?

MR. LEVIN: Present.

MS. JABLESNIK: Anthony Marino?

MR. MARINO: Here.

MS. JABLESNIK: John Masten?

MR. MASTEN: Here.

MS. JABLESNIK: John McKelvey?

MR. MCKELVEY: Present.

MS. JABLESNIK: Peter Olympia?

MR. OLYMPIA: Here.

MS. JABLESNIK: Darrin Scalzo?

CHAIRMAN SCALZO: Here.

MS. JABLESNIK: Also present are David
Donovan, our Attorney, and Gerald Canfield from
Code Compliance.

CHAIRMAN SCALZO: As well as our
Stenographer.

MS. JABLESNIK: And our Stenographer,
Michelle Conero.

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BJORN HANSEN

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CHAIRMAN SCALZO: The first order of business would be the Pledge. We can stand for the Pledge.

(Pledge of Allegiance.)

CHAIRMAN SCALZO: Our first applicant this evening is Bjorn Hansen, 13 Lakeview Drive, seeking an area variance to keep a 12 by 12.9 rear covered deck built without a permit with a 25 foot rear yard setback where 40 feet is required.

I would like to let the members here of the audience know that all of the Members of the Zoning Board of Appeals have visited the site so we are personally familiar with what's happening.

Is Mr. Hansen here, or anyone representing?

MR. HANSEN: Good evening. I'm here to apply for the area variance for my house at 13 Lakeview. I'm applying for this because I bought the house a year-and-a-half ago and I've been working on it here and there. The deck was there when I bought it. It had a roof on it when I bought it. The roof was damaged badly from lack of maintenance, so I tried to repair it and tried

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BJORN HANSEN

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to make it safer, a better design. I'm applying for it because it's not 40 feet from the property line as are none of the decks or covered decks in my neighborhood. I want to keep that there if I can.

CHAIRMAN SCALZO: Very good. Thank you. Stay right there. Don't move. As I say, we've all visited the site and taken a look. From my observations you back up right up to the Jehovah Witness facility. That's correct?

MR. HANSEN: Yes.

CHAIRMAN SCALZO: All of the homes are of similar offset from the rear yard. If your neighbor was trying to do the same thing he would be standing here before us as well.

MR. HANSEN: Yes.

CHAIRMAN SCALZO: I personally have no comments on this application so I'm going to look to the Board.

Mr. Marino?

MR. MARINO: I don't see any problem. It's a very nice neighborhood. I see what you want to do. It's fine.

CHAIRMAN SCALZO: Mr. Masten?

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BJORN HANSEN

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MR. MASTEN: I agree. It blends in with everything there.

CHAIRMAN SCALZO: Mr. Levin?

MR. LEVIN: I agree with them.

CHAIRMAN SCALZO: Mr. McKelvey?

MR. MCKELVEY: It was there when you bought the house.

CHAIRMAN SCALZO: Mr. Olympia?

MR. OLYMPIA: I have no comment.

CHAIRMAN SCALZO: Mr. Bell?

MR. BELL: Nothing.

CHAIRMAN SCALZO: Very good.

At this point I would like to open the floor up to any members of the public that wish to speak about this application.

(No response.)

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

(No response.)

CHAIRMAN SCALZO: In that case I will look to the Board to make a motion to close the public hearing.

MR. MASTEN: I'll make a motion.

CHAIRMAN SCALZO: Thank you, Dave.

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BJORN HANSEN

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MR. BELL: I'll second it.

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

MS. JABLESNIK: Mr. Bell?

MR. BELL: Yes.

MS. JABLESNIK: Mr. Levin?

MR. LEVIN: Yes.

MS. JABLESNIK: Mr. Marino?

MR. MARINO: Yes.

MS. JABLESNIK: Mr. Masten?

MR. MASTEN: Yes.

MS. JABLESNIK: Mr. McKelvey?

MR. MCKELVEY: Yes.

MS. JABLESNIK: Mr. Olympia?

MR. OLYMPIA: Yes.

MS. JABLESNIK: Mr. Scalzo?

CHAIRMAN SCALZO: Yes.

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

MR. HANSEN: Thank you.

(Time noted: 7:07 p.m.)

(Time resumed: 8:41 p.m.)

CHAIRMAN SCALZO: I'm going to call the
meeting back to order.

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BJORN HANSEN

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Before we begin, all of the applicants that we heard this evening are Type 2 actions under SEQRA, therefore we don't have to say that for every application.

We are going to revisit Hansen, 13 Lakeview Drive, Newburgh, seeking an area variance to keep a 12 by 12.9 rear covered deck built without a permit with a 25 foot rear yard setback where 40 is required.

Any comments from the Board on that?

(No response.)

CHAIRMAN SCALZO: No. Then we will go through our factors.

Area variance criteria, the first being whether or not the benefit can be achieved by other means feasible to the applicant.

MR. MASTEN: No.

MR. MARINO: No.

MR. McKELVEY: No.

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

MR. BELL: No.

MR. OLYMPIA: No.

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BJORN HANSEN

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MR. LEVIN: No.

MR. MASTEN: No.

MR. MARINO: No.

CHAIRMAN SCALZO: No.

The third, whether the request is substantial.

MR. BELL: No.

MR. OLYMPIA: No.

MR. LEVIN: No.

MR. MASTEN: No.

MR. MARINO: No.

CHAIRMAN SCALZO: No.

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

MR. BELL: No.

MR. OLYMPIA: No.

MR. LEVIN: No.

MR. MASTEN: No.

MR. MARINO: No.

CHAIRMAN SCALZO: No.

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

MR. BELL: No.

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BJORN HANSEN

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MR. OLYMPIA: No.

MR. LEVIN: No.

MR. MASTEN: No.

MR. MARINO: No.

CHAIRMAN SCALZO: No.

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

So that being said, I'll look to the Board for a motion.

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

MR. MASTEN: Second.

CHAIRMAN SCALZO: We have a motion from 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.

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BJORN HANSEN

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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. Thank you.

(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 18th day of March 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

HUDSON LAND DESIGN

317 North Plank Road, Newburgh
Section 35; Block 3; Lots 6 & 7
B Zone

----- X

Date: February 28, 2019
Time: 7:08 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

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

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

----- X

MICHELLE L. CONERO
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CHAIRMAN SCALZO: Our second applicant this evening is Hudson Land Design, 317 North Plank Road, seeking an area variance to allow a front yard setback of 10.1 where 60 is required and a side yard setback of 10.1 where 15 is required. This happens to be on a State road.

Siobhan, did we hear back from the County yet?

MS. JABLESNIK: No. Not yet.

CHAIRMAN SCALZO: Not yet. Actually, before we even dig deep in here, I just had a couple questions on the actual application. It appears on the agenda as Hudson Land Design which is your firm?

MR. BODENDORF: Yes.

CHAIRMAN SCALZO: Very good. But the application I'm looking at here is for a Shawn Jackson, and then later on it's 317 North Plank Road but that's the address -- there's a couple of inconsistencies on what I'm looking at. The schedule A or the deed actually shows for North Plank Holdings, LLC. Who is the applicant?

MR. BODENDORF: The applicant is Shawn Jackson. He is present this evening.

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CHAIRMAN SCALZO: Very good. Thank you very much. If you heard Siobhan, we have to refer all of these to the State, or in this case the County because it's on a State road. We have not heard back from them. They're allowed 30 days to respond. You can present this evening but we can not vote and will recommend holding the public hearing open in case the County does come back with something that we may have to discuss. Please introduce yourself and carry on and we'll do the best we can.

MR. BODENDORF: Good evening. My name is Mike Bodendorf, I'm with Hudson Land Design for the applicant who is here this evening if you have any questions.

The applicant is looking to convert this existing former residential structure into his office for his construction business. In recent years, maybe not so recent years, it was a nonconforming lawnmower sales building.

He's going to dress up the building. This is the existing conditions.

We're here tonight because we're seeking two area variances, one for the front

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yard setback and one for the side yard setback.
The front yard setback sits at 14.8 feet from the
front property line and the side yard setback
sits at 10.1. It's an existing structure so
we're not creating any of these variances.

CHAIRMAN SCALZO: Preexisting
nonconforming.

MR. DONOVAN: If I could just interrupt
a second for a clarification. The agenda I think
from the Planning Board indicated the front yard
setback is 10.1. That's not accurate?

MR. BODENDORF: We corrected that on
the plans.

MR. DONOVAN: Just for clarification
purposes, the plans show --

MR. BODENDORF: The plans originally
set 10.1 on the front yard setback. That was
incorrect. I carried that through.

MR. DONOVAN: So no one thought Darrin
made a mistake when he read that in the
beginning.

MR. CANFIELD: Also, that's the way the
referral came through. You are correct.

MR. DONOVAN: Say that again.

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MR. CANFIELD: You are correct.

Michelle got it.

MR. BODENDORF: Just to show you the site plan very quickly, there are no changes to the exterior dimensions of the structure. We will be installing a parking lot to conform with the parking regulations for an office building. No self-created setbacks. We will be consolidating the two lots into one.

CHAIRMAN SCALZO: This is subject to the Planning Board's review?

MR. BODENDORF: Correct.

CHAIRMAN SCALZO: I myself have nothing.

I'll look to the Members of the Board. I'll start with Mr. Bell.

MR. BELL: I'm good.

CHAIRMAN SCALZO: Mr. Olympia?

MR. OLYMPIA: No comment.

CHAIRMAN SCALZO: Mr. McKelvey?

MR. MCKELVEY: It's close to the highway too.

MR. BODENDORF: It's pretty much in line with that barbershop.

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CHAIRMAN SCALZO: Mr. Levin?

MR. LEVIN: Is the parking lot going to be where it is right now on each side?

CHAIRMAN SCALZO: No.

MR. BODENDORF: No. The Planning Board is not going to allow us to park any cars, and I'm sure the DOT wouldn't allow that either. The parking lot will be beside the building.

CHAIRMAN SCALZO: Mr. Masten?

MR. MASTEN: No.

CHAIRMAN SCALZO: Mr. Marino?

MR. MARINO: How many spaces for parking?

MR. BODENDORF: Nine.

CHAIRMAN SCALZO: That's based on the criteria --

MR. BODENDORF: Yes. Technically you could park two cars in the garage as well.

MR. MARINO: The Planning Board gave you that number or that's the number you had?

MR. BODENDORF: That's the number we came up with. That's probably still for discussion with the Planning Board.

CHAIRMAN SCALZO: There is a minimum by

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code; correct, Jerry?

MR. CANFIELD: Yes. Parking spaces are determined by the occupancy type.

CHAIRMAN SCALZO: As I mentioned, we need to -- actually, at this point I'll open it up to any members here from the audience who want to comment on this application?

(No response.)

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

(No response.)

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

MR. CANFIELD: One comment. The applicant's representative, in your narrative it refers to this as a business park. It's a B Zone, not a business park. Zoning wise business park is something different.

Also, the section that you cite is 185-18, not 195. Just a couple of clean-up items.

MR. McKELVEY: I'll make a motion to keep it open.

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CHAIRMAN SCALZO: I have a motion to keep the public hearing open from Mr. McKelvey. A second?

MR. MASTEN: I'll second it.

CHAIRMAN SCALZO: Second from Mr. Master. Roll call.

MS. JABLESNIK: Mr. Bell?

MR. BELL: Yes.

MS. JABLESNIK: Mr. Levin?

MR. LEVIN: Yes.

MS. JABLESNIK: Mr. Marino?

MR. MARINO: Yes.

MS. JABLESNIK: Mr. Masten?

MR. MASTEN: Yes.

MS. JABLESNIK: Mr. McKelvey?

MR. MCKELVEY: Yes.

MS. JABLESNIK: Mr. Scalzo?

CHAIRMAN SCALZO: Yes.

The public hearing remains open. We will not re-notice this. Anyone that would like to comment on this should be here next month.

Thank you.

MR. BODENDORF: So procedurally we just show up next month?

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CHAIRMAN SCALZO: Yes.

MR. BODENDORF: Okay. Very good.

Thank you very much.

(Time noted: 7:13 p.m.)

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

CHAIRMAN SCALZO: Our second applicant,
Hudson Land Design, that remains open.

(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 18th day of March 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

MMFLO, LLC
LOU & MAUREEN BACH

218 Sunset Cove, Newburgh
Section 51; Block 7; Lot 5
R-1 Zone

----- X

Date: February 28, 2019
Time: 7:14 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

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CHAIRMAN SCALZO: Our third item on the agenda this evening is MMFLO, LLC, Lou and Maureen Bach, 218 Sunset Cove, seeking an area variance to remove an existing one-story single-family residence and replace it with a three-story single-family residence with a 5 foot rear yard setback where 40 is required, a 5 foot setback where 30 feet is required, combined side yards of 14.3 where 80 is required, minimum building lot coverage of 1,676 square feet where 542.9 is required, and surface coverage of 2,700 square feet where the minimum required is 1,085.8 square feet.

I was remiss earlier. Siobhan, the mailings?

MS. JABLESNIK: Just for this one or do you want me to go through all of them?

CHAIRMAN SCALZO: I'm sorry to back you up.

MR. JABLESNIK: They were all posted in The Mid-Hudson Times on Wednesday, February 20th, and The Orange County Post on February 22nd -- Friday, February 22nd. 13 Lakeview Drive mailed out 40. 317 North Plank mailed out 24. This

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one, MMFLO, 44 letters. All the mailings and
postings are in order.

CHAIRMAN SCALZO: Very good.

Mr. Minuta, if you could take us
through the --

MR. MINUTA: Thank you, Mr. Chairman.
Joseph Minuta with Minuta Architecture
representing Mr. and Mrs. Lou and Maureen Bach
for the project.

What we have here is a property that
would not meet any zoning regulation. The
existing lot, existing property has a home on it
which is actually set over the property line. We
have a dock area here just for access.

This is the roadway. You enter this
way. You have the drive area.

You've all been to the site?

CHAIRMAN SCALZO: Yes.

MR. MINUTA: Then we've got the garage
in front. This is the existing home.

There's currently a 3 foot clear side
yard on one side and a 9.9 on the other. The
building and its age don't really comply with
what we're trying to accomplish here. What we

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tried to do is actually make the site safer and clean it up so you have better access for maintenance purposes as well as safety, such as EMS and so forth that may need to access the property.

The new home would be situated here. The deck area we've set back 5 foot from the rear yard line, so we've cleaned that up and kept the entire building back from the property line. Infill of the dock area, so we have a continuous flat surface of what exists. We're maintaining the existing garage and creating some new areas here.

The variances that we're seeking tonight, which you have, is to remove the existing one-story single-family residence and replace it with a three-story single-family residence, a 5 foot rear yard setback where 40 is required, a 5 foot side yard setback where 30 is required, combined side yards of 14.3 that would now exist in this proposed plan where 80 is required. The minimum building lot coverage is 1,676, 542.9 would be required. The surface coverage is 2,700 square feet where the minimum

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of 1,085.8 is required. What we have is a small lot with a lot of constraints that we're trying to clean up and put a new home on where one already existed.

CHAIRMAN SCALZO: Thank you. I'm looking at the same drawing you are. Just so I understand this completely, the property line that runs along Orange Lake, the building will be removed because at this point the building encroaches upon the lake?

MR. MINUTA: Correct.

CHAIRMAN SCALZO: And you are going to be replacing the dwelling with a deck and the deck now will be 5 feet from the property line?

MR. MINUTA: The edge of the deck.
Correct.

CHAIRMAN SCALZO: Mr. Minuta, how far from the property line to the actual dwelling?

MR. MINUTA: That is roughly -- on the shorter side it's almost 18 to 20 feet to the actual dwelling itself.

CHAIRMAN SCALZO: As your plan shows the existing dwelling, to the south of it --

MR. MINUTA: Mm'hm'.

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CHAIRMAN SCALZO: -- would be almost at the front property line it appears.

MR. MINUTA: I'm sorry. Say that one more time.

CHAIRMAN SCALZO: The brick dwelling that's immediately to the right if you're in the lake looking at it, that's 2.2 clear of the property line but that appears to straddle the lake.

MR. MINUTA: Correct. That's the adjoining property. One of the benefits here is that we're actually pulling the home back so both lots will have a better view in either direction.

CHAIRMAN SCALZO: Okay. All right. I'll open it up to Members of the Board. Mr. Marino, any comments?

MR. MARINO: Not right now.

CHAIRMAN SCALZO: Mr. Masten?

MR. MASTEN: Not at this time.

CHAIRMAN SCALZO: Mr. Levin?

MR. LEVIN: Not at this time.

MR. McKELVEY: Not at this time.

CHAIRMAN SCALZO: Mr. Olympia?

MR. OLYMPIA: No.

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CHAIRMAN SCALZO: Mr. Bell?

MR. BELL: I'm good.

CHAIRMAN SCALZO: We're all saving our comments because I'm certain that we're going to have input from the audience that will prompt us to think of other questions to ask.

At this point I'm going to open it up to any members of the public that are here to speak about this action. Please come forward, state your name and we'll go from there.

MR. HENDRICKSON: How are you? John Hendrickson. I would be the guy 5 feet north of the box, this house. I can't be happier the way they presented it. They came to the Orange Lake Association Board, they presented their plans that they're doing now to you. Since the day that they bought the house they've been talking with me and the other neighbors and making sure everything is going to be nice. We can't be happier that that house is not going to be there any more. So as far as I'm concerned, this is a God send. I'm happy to endorse them.

CHAIRMAN SCALZO: You've had a chance to look at all the renderings?

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MR. MINUTA: Yeah.

MR. HENDRICKSON: Yeah. They came before the board. It's actually, like the architect says, we're going to have a better view of the lake. They're moving the structure back. I mean I don't know why anybody would complain about that. And build a new house as well.

I talked to Donna who is on the other side. She's sitting in the back there. I don't know if she wants to talk. She was concerned. It ends up, you know, say three stories to one story seems like it's going to go up giant in the sky. It actually isn't much higher than the existing roof that's on that house. There's a garage behind it and it's going to be a little higher than that. I mean it's not -- it's the shortest three-story house that I've ever heard of.

CHAIRMAN SCALZO: Your comment is going to lead me to my next question to Mr. Minuta.

Is the garage proposed to stay in place?

MR. MINUTA: Yes.

MR. HENDRICKSON: Thank you.

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CHAIRMAN SCALZO: Thank you very much.

MR. McKELVEY: We have a copy of your homeowners meeting.

MR. BELL: Are you in the brick or the --

MR. HENDRICKSON: No. I'm on the other side.

MR. BELL: We were trying to figure out which side you were on.

MR. HENDRICKSON: I think I'm closer than Donna actually.

MR. BELL: You are. You have a small piece.

MR. HENDRICKSON: You can hand me the salt from the shower.

MR. BELL: I was going to say a cup of sugar out the window.

CHAIRMAN SCALZO: We are in possession of -- the Orange Lake Homeowners Association had presented a letter to us, the Board. I'll read that in. "Dear Chairman Scalzo and Board Members, in reference to the subject application the Orange Lake Homeowners Association invited the applicants to our February 4th board meeting

1 for the purpose of discussing the proposed
2 application. The applicants presented their plan
3 to construct a new residence including survey and
4 architectural plans. Their proposal as presented
5 is consistent with structures in the community
6 and this board believes it would be a significant
7 improvement over the existing structure.

8 Additionally, unlike many recent applications
9 around our community, their proposal actually
10 improves the view shed of the surrounding
11 residences as the new structure will be situated
12 further away from the lake when compared to the
13 existing. The Orange Lake Homeowners Association
14 recommends that this application be approved as
15 submitted. Respectfully submitted by Alfred
16 Bockemuhl." Thank you.

17
18 Are there any other members of the
19 public that wish to speak about this application?
20 Please step forward.

21 MS. RONK: Good evening. My name is
22 Donna Marie Ronk and I happen to live in the
23 brick house that you're referring to.

24 When I received my letter, being a
25 layman, when I heard three floors, you know, I

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was in a panic. I've been assured by my neighbors, Mr. Hendrickson and Sammie Thomas who live down the way, they understand more than I as a layman. I'm looking forward to them doing the property as long as it's approved by the Board and make sure that it stays that way. I'm happy with it. Thank you.

CHAIRMAN SCALZO: Thank you very much.

Mr. Minuta, if you could -- I don't know that you know the existing structure, what is that and how does that compare to the proposed?

MR. MINUTA: Off the top of my head I do not. What I will tell you is that I've heard three stories a lot tonight. What's very important to understand is that it's considered a third story. The bottom is primarily buried. Under the building code if you exceed more than 6 feet above grade on average around the perimeter, it is then considered a story. What you basically have is a foundation. It's still two stories above but because of where the grade is it's considered a three story, if that helps anybody.

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CHAIRMAN SCALZO: Okay. It does not exceed --

MR. MINUTA: It does not exceed the 35 foot height on average as measured by the side grade.

CHAIRMAN SCALZO: Thank you.

Does anyone else from the public wish to speak about this?

(No response.)

CHAIRMAN SCALZO: I'll look to the Board for one more opportunity?

(No response.)

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

MR. CANFIELD: Just one question.

CHAIRMAN SCALZO: Jerry.

MR. CANFIELD: On the survey that was submitted there are two sheds. If you scale them, if the scale is accurate, it's about 50 square feet more. On yours, Joe, they're not there. I'm questioning is one this abandoned well, like well cover, and then another shed, are they going to be removed?

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MR. MINUTA: So yes. Our new plan shows the utility shed having been removed and the other one is for the well head so it's not -- yeah.

MR. CANFIELD: The other one is going to be removed, though?

MR. MINUTA: Yes.

MR. CANFIELD: If they weren't that would impact the area variance for the total building coverage. It's not a point if they are being removed.

MR. MINUTA: That's fine.

Just as a clarification, if I'm not mistaken, the garage being in the front yard as an accessory, do we need to cover that tonight?

MR. CANFIELD: If they are going to be removed, no.

MR. MINUTA: The garage is staying.

MR. CANFIELD: I would look at that as existing nonconforming. I don't know when it was built. Unlike a site plan, if it were before the Planning Board it would probably lose it's nonconformity protection, but I don't know that that applies here.

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MR. MINUTA: Thank you.

MR. CANFIELD: We did not make that as an issue.

MR. MINUTA: Wonderful.

CHAIRMAN SCALZO: Anything else, Jerry?

MR. CANFIELD: One other thing. There is an existing deck that you spoke of on the lake side which appears to be an encroachment. I don't know that the Board can do anything about it other than make note of it.

The area from the headwall back, is that a deck?

MR. MINUTA: So --

MR. CANFIELD: What is that?

MR. MINUTA: -- we have a technicality on that subject. A deck is a permanent structure, a dock is a nonpermanent structure. What we have here is we have the existing dock which gives you access to the lake. If that dock was not there you would not have that access. You wouldn't be able to pull a boat up, et cetera. This is simply a continuation of that. That is going to remain in place. This all remains here. We're simply filling

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in this area where the house was and it's being pulled back. That will be consistent with the dock area. Does that make sense?

MR. CANFIELD: It does. Maybe Dave may want to chime in on that.

CHAIRMAN SCALZO: A deck and a dock are two different things.

MR. BELL: They are.

MR. DONOVAN: Jerry, are we concerned with the deck portion since the anklebone is connected to the shinbone?

MR. CANFIELD: My only concern is that it's a preexisting condition and it's an encroachment over the property line. Whatever you determine it as, a deck or a dock, I think it should be noted that it is an encroachment.

MR. DONOVAN: So that I'm clear, is all of that considered the deck or only a portion?

MR. MINUTA: How do we determine that? The area that says new deck here, which is this --

MR. DONOVAN: Hold on a second. I'm looking at the survey.

MR. MINUTA: So that is an elevated

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area. It's an elevated deck. Underneath that is a concrete patio. There's no structural or wood connection to the house at that point. Here's the existing, here's the new house. This is the concrete patio that will be below. Directly above that is the deck. At this location we go from concrete patio onto a dock. Now, in order to make that connection, obviously it needs to be consistent so we don't fall into a hole.

MR. DONOVAN: Is that connected to the deck? You said the deck is above it? I don't visit the sites.

MR. MINUTA: Fair enough. It's two completely separate types of material, separate structures. The patio is simply on the ground, and so is the deck or dock but it is connected thereto. It's a transition piece if you will.

MR. DONOVAN: Is it permanently connected?

MR. MINUTA: Well that depends on the definition of a dock. A dock is technically a temporary structure but has the longevity. The deck is a permanent structure.

CHAIRMAN SCALZO: Mr. Bockemuhl?

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MR. BOCKEMUHL: If I could speak.
Alfred Bockemuhl, past president, Orange Lake Homeowners Association. I just want to clarify because I think Mr. Donovan, it might help that the deck is on the second floor, the dock is on the ground level. If we were to start to analyze docks, we'd have to go around the entire lake and analyze every piece of property on the lake because without exception every house has a dock, and they have to be attached in some way, shape or form. I think that's -- this goes back to a recommendation from your office twenty years ago to declare it a dock because it's a temporary structure.

MR. CANFIELD: That's not my point at all. The rest of the properties around the lake is not what's before the Board tonight. My only comment to the Board is as in the past, to maintain consistency, if there's an encroachment of any type it's been made part of the record, and that's my reference. Just made part of the record. Whatever you determine, it's still an encroachment. It's over the property line. Do you agree with me there?

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MR. BOCKEMUHL: I agree with you but every dock is over the property line.

MR. CANFIELD: Every dock isn't before us. That's all I'm saying.

MR. BOCKEMUHL: Okay.

CHAIRMAN SCALZO: The concrete wall, Jerry, is also over the property line?

MR. CANFIELD: Yes.

CHAIRMAN SCALZO: The dock meets the concrete wall?

MR. MINUTA: The dock cantilevers over. That's a headwall.

MR. DONOVAN: My suggestion is going forward, if it's the Board's inclination to approve this application, then we simply note that the dock and the concrete pad -- is that the correct --

MR. MINUTA: Yes.

MR. DONOVAN: -- the concrete pad are preexisting conditions, that while they encroach there's not any extension, there's not an increase in degree of nonconformity, they're not being changed at all, and existing nonconforming relative to the condition of the house are being

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reduced. I think I will indicate that Code Compliance is correct in that we should note the encroachment but it's not an impediment to the Board's action.

MR. MINUTA: Mr. Donovan, if I may.

MR. DONOVAN: You just did well. Don't screw it up.

MR. MINUTA: I'm not going to screw it up. Thank you so much. The concrete pad that we are proposing does not exist.

MR. DONOVAN: Understood.

MR. MINUTA: You mentioned that exists. I just wanted to make that clear for the record.

MR. DONOVAN: I'll still good with that.

CHAIRMAN SCALZO: Very good.
The last opportunity for the public comments?

(No response.)

CHAIRMAN SCALZO: Board, anything else?

MR. BELL: No.

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

MR. LEVIN: I'll make the motion.

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MR. McKELVEY: Second.

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

MS. JABLESNIK: Mr. Bell?

MR. BELL: Yes.

MS. JABLESNIK: Mr. Levin?

MR. LEVIN: Yes.

MS. JABLESNIK: Mr. 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.

MR. MINUTA: Thank you.

(Time noted: 7:33 p.m.)

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

CHAIRMAN SCALZO: Our next applicant was MMFLO, LLC, Lou and Maureen Bach, 218 Sunset

1
2 Cove, Newburgh, an area variance to remove an
3 existing one-story single-family residence and
4 replace it with a three-story single-family
5 residence with a 5 foot rear yard setback where
6 40 is required, a 5 foot side yard setback where
7 30 is required, combined side yards of 14.3
8 where 80 is required, minimum building lot
9 coverage of 1,676 where 542.9 is required,
10 surface coverage of 2,700 square feet where the
11 minimum required is 1,085.8.

12 Any final comments from the Board?

13 MR. MASTEN: No.

14 MR. MARINO: No.

15 MR. McKELVEY: The properties are
16 close.

17 CHAIRMAN SCALZO: They're tight.

18 The area variance criteria, the first
19 one being whether or not the benefit can be
20 achieved by other means feasible to the
21 applicant.

22 MR. BELL: No.

23 MR. OLYMPIA: No.

24 MR. LEVIN: No.

25 MR. MASTEN: No.

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MR. MARINO: No.

CHAIRMAN SCALZO: No.

Remodeling the house would be about it.

The second, if there's an undesirable change in the neighborhood character or detriment to nearby properties. We've heard testimony that it's going to be an improvement.

The third, whether the request is substantial.

MR. BELL: No.

MR. OLYMPIA: No.

MR. LEVIN: No.

MR. MASTEN: No.

MR. MARINO: No.

CHAIRMAN SCALZO: No.

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

MR. LEVIN: I don't believe so.

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

MR. BELL: No.

MR. OLYMPIA: No.

MR. LEVIN: No.

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MR. MASTEN: No.

MR. MARINO: No.

CHAIRMAN SCALZO: No.

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

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

MR. BELL: Second.

CHAIRMAN SCALZO: We have a motion to approve from Mr. Levin. We have a second, I believe from Mr. Bell. Roll call.

MS. JABLESNIK: Mr. Bell?

MR. BELL: Yes.

MS. JABLESNIK: Mr. Levin?

MR. LEVIN: Yes.

MS. JABLESNIK: Mr. Marino?

MR. MARINO: Yes.

MS. JABLESNIK: Mr. Masten?

MR. MASTEN: Yes.

MS. JABLESNIK: Mr. McKelvey?

MR. MCKELVEY: Yes.

MS. JABLESNIK: Mr. Olympia?

MR. OLYMPIA: Yes.

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MS. JABLESNIK: Mr. Scalzo?

CHAIRMAN SCALZO: Yes.

Motion carried. Approved.

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

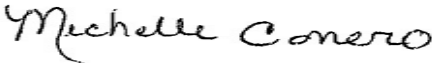
C E R T I F I C A T I O N

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

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

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

IN WITNESS WHEREOF, I have hereunto
set my hand this 18th day of March 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

RHONA CHAMBERS

16 Odell Circle, Newburgh
Section 51; Block 5; Lot 5
R-1 Zone

----- X

Date: February 28, 2019
Time: 7:33 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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RHONA CHAMBERS

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CHAIRMAN SCALZO: Our next applicant is a hold over from the January 24, 2019 meeting. The applicant is Rhona Chambers, 16 Odell Circle, R-1 Zone, seeking an area variance to rebuild the front porch, add a second story addition, raise the roof line and rebuild the decks and pergolas. It requires a front yard minimum setback of 50 where 25.4 is proposed, one side yard minimum setback of 30 feet where 1.5 feet is proposed, combined side yard of 80 feet where 12 is proposed, and a rear yard of 40 feet where 0 is proposed. The maximum building lot coverage is 10 percent where 45 percent is proposed. The maximum surface lot coverage 20 percent where 54 percent is proposed.

This is, as I say, still open. There's no mailings, no requirements on that end. We're in good shape, although I forgot to ask about the Bach application.

How many were put out for that?

MS. JABLESNIK: We sent 44.

CHAIRMAN SCALZO: Very good.

Mr. Brown, if you could just give us a brief overview of this project.

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MR. BROWN: Okay. I'm Charles Brown, the engineer for the applicant. After the first meeting we lowered the roof pitch and we removed some dormers we had. What I've done here is the red line is the existing roof. This is from the street. I also brought a map here that shows Rhona's residence is further back from the lake than anything around it.

My client asked me not to meet with the homeowners association and to ask the Board to vote on the application before it.

CHAIRMAN SCALZO: As it sits?

MR. BROWN: As it sits here.

CHAIRMAN SCALZO: Okay. Mr. Levin actually, at his request, because we all wanted to go take another look, that's why we maintained the public hearing to remain open. This is one of the more interesting applications I've seen.

We did get minutes from the homeowners association. In their minutes they also supplied us with a letter that gave us information regarding setbacks of properties that are relatively near this lot, if I could say it that way. Give me one second.

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MR. DONOVAN: Mr. Chairman, while you're doing that, just an item for clarification. In the information from Code Compliance it's indicating that there's a height variance required.

MR. CANFIELD: No.

MR. DONOVAN: What am I looking at?

MR. CANFIELD: I think Joe Metina just made reference to that to indicate to the Board the difference in the height from the existing structure to the proposed. Are you looking at the 22 --

MR. DONOVAN: I'm looking at the chart that was prepared November 18th. It indicates a maximum building height 22 feet 2 inches.

MR. CANFIELD: No, that's not the minimum building height, it's what the existing building height is.

MR. DONOVAN: So it's one column?

MR. CANFIELD: Correct. If you look over all the way on the end, variance percentage, there is none because there is no variance sought there.

MR. DONOVAN: I know I asked Mr. Brown

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at an earlier meeting whether he needed a height variance and the answer was no. I just needed that clarified. Looking at this Code Compliance sheet, I understand what you're saying, it might be somewhat --

MR. CANFIELD: He just added that for your convenience to see the difference.

CHAIRMAN SCALZO: The letter that I was looking for I can't seem to put my hand on but I was just handed a copy of it. It was from the Orange Lake Homeowners Association. Dear Chairman Scalzo, Board Members, in reference to the subject application the Orange Lake Homeowners Association invited the applicant and their professional representatives to our February 4th board meeting for the purpose of discussing concerns with the proposed application. The applicant declined the invitation and stated a meeting wouldn't be necessary. Nonetheless, our board discussed the application and offer the following for your consideration: The proposed addition will undoubtedly compromise the view shed of the adjacent residences and is not consistent with

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the neighboring structures. In preparation of the aforementioned meeting, empirical data was gathered -- you did that just for me Alphonse, I'm sure -- empirical data was gathered in the form of measurements of the setback from the lake for the first and second floor where applicable of the adjacent structures. The intent was to offer a guide for possible modifications to the proposed plans. The measurements were recorded as follows: There were seven samples from the lake to the first floor, the minimum was 4 feet, the maximum was 32.6 feet, the average was 21.4 feet. The lake to the second floor, they had five samples, the minimum 17.5, the maximum was 33 feet, the average being 25.7. The current Odell Circle proposal is, they're claiming here, an average of 8.5 feet now. Continuing with the letter. As submitted, the applicant's proposal, the first and second floor setback measurement would be 8.5 with a 3 foot deck resulting in 5.5 and would not be harmonious with the character of the neighboring homes. Based on the above information and the comments delivered during two previous public hearings, the Orange Lake

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Homeowners Association recommends that this application be denied.

Since the author of the letter happens to be here; the samples, the minimum and the maximum, is that a weighted average or is it -- if you're going to throw empirical data in this letter I'm going to call you on it, Alpie. What do we got?

MR. BOCKEMUHL: My table was prepared so nicely for me.

Alpie Bockemuhl, past president of Orange Lake Homeowners Association. We gathered the information, the samples being seven homes. Seven homes of at least the first floor obviously. The minimum distance from the lake to the first floor was 4 feet in those seven homes. The maximum distance was 32.6 feet. The net average for the seven homes was 21.4. Of those seven homes only five had a second floor. The minimum second floor distance was 17.5 feet, the maximum was 33 feet for an average of 25.7.

CHAIRMAN SCALZO: Okay. That makes a little more sense.

I had Mr. Brown hang an enlarged

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version of the tax map up on the easel.

Alphie, could you tell me which homes you took these measurements from?

MR. BOCKEMUHL: Yeah. The address of the application is 16 Odell.

CHAIRMAN SCALZO: Correct.

MR. BROWN: 12 Odell and 14 Odell. If you're facing the house from the road, the two to the right. And then 18, 20, 22 and 24.

CHAIRMAN SCALZO: So all along that same --

MR. BOCKEMUHL: Correct.

CHAIRMAN SCALZO: Thank you. I wanted to make sure we were looking at apples and apples.

MR. BOCKEMUHL: Understood. The sample being they make a bit of a community right there. Houses beyond 24 are considered on the separate street. Houses -- I say houses further north than 24. Houses further south than 12 are a four-lot subdivision that was built in the 1990s.

CHAIRMAN SCALZO: Thank you very much.

MR. BOCKEMUHL: No problem.

CHAIRMAN SCALZO: Does anybody else

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have any questions for Alphonse while he's up?

(No response.)

CHAIRMAN SCALZO: Again, I was there with Mr. Marino and I took some photos from the contiguous property looking north on the lake which I'm going to hand out to my Board Members. If you'll just go one way and then come back. I also took some other photos from the Bach property, the applicant that was just in front of you a couple minutes ago, so you could get a general look at the top line of the houses moving from the Roth's house, which is number 22 I suppose, which is -- that's a big one. And then Ms. Linet I believe who is here. It kind of goes down into a little belly there. Jodi's house next to that is probably the lowest one, or the one on the other side of you.

Charlie, on your application, and this is observation, this is all it is, your client had expressed a willingness to get rid of those two gables which Tony Marino and I, standing there looking at that with the thought that that actually might increase the view of the folks that were in here on Spencer because with the

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flat roof -- the roof as it is now it's almost a billboard effect whereas if you flop the gable 90 degrees they'd actually be able to see a little bit better.

MR. BROWN: Plus we're removing the chimney.

CHAIRMAN SCALZO: As Tony and I stood on Jodi's deck looking up, it's winter and there's no leaves on the trees at this point. If I could point out to the Members of the Board, in the summer that's gone. That view is gone with the leaves.

MR. MARINO: You can't see anything. That's been there for years.

CHAIRMAN SCALZO: Something else that I pulled out of the County website. The contiguous properties, tax lot 51-5-7, tax lot 51-5-3, 51-5-6, 51-5-5, nobody has got -- I stopped at the Roth's house because theirs is kind of an anomaly. As far as square footage goes with these homes, your client is looking for a maximum of 1,400 square feet.

MS. CHAMBERS: 1,496.

CHAIRMAN SCALZO: Is that exterior

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dimensions?

MS. CHAMBERS: It's 1,496 square feet with the deck of 760.

CHAIRMAN SCALZO: Ms. Chambers, if you could stand up here. It's being recorded. We know who you are but --

MR. CANFIELD: Identify yourself, please.

MS. CHAMBERS: My name is Rhona Chambers, I'm the owner of 16 Odell.

The structure that we're looking to build is 1,496 square feet with a 760 square foot deck.

CHAIRMAN SCALZO: And also there's no change to the deck? You're going to pull that back. That's still the plan; correct?

MR. BROWN: The lower deck, we're pulling it back to the property line.

CHAIRMAN SCALZO: Right. As I say, this is a very interesting application which led me back to some meeting on January 28, 2016 where we had Don and Tammy Murphy in here, and their application was very similar to what we have going on here. They were looking to build out

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over an existing -- a deck or a porch that was put on at a later date. The homeowners association tried to work with them and they just couldn't seem to come to a conclusion that was going to lead them to something that was going to work for everybody. Inevitably that got denied.

Looking at that, I don't -- I'm making a bunch of observations here. I'm going to look to my fellow Board Members here for comments and then we're going to open it up to other members of the public. That's going to be the exchange of ideas and that's where we're going to go.

I was hoping that we could have everyone come to meet in the middle. Somebody is going to walk out of here tonight not happy. We're not quite sure who it's going to be at this point. If we could have fostered some communication between the two ends here things might have ended up differently.

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

MR. BELL: I was looking -- actually, I drew out a sketch of these homes. I guess my question is based on the -- one of the positions

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is the view being blocked, the blockage of view and the height. What I looked at today when I was standing there, I was looking -- I had my back against her house on the lake side and I was able to just kind of look to my left and right and see whose homes stuck out further.

I'm like you, I wish that they would have come to an agreement. You know, it's pretty hard right now. I'm contemplating right now.

CHAIRMAN SCALZO: Very good.

Mr. Olympia?

MR. OLYMPIA: I would like to see a meeting of the minds between the Board and the homeowners association and the applicant, see if there's some room for additional compromise.

I know you want to build a house there and get it done and the homeowners association wants something that compliments their property and doesn't interject itself into their view shed. I know where I live views are very, very important and I would really object to somebody building a structure that obstructed my view. I would just recommend and suggest that.

CHAIRMAN SCALZO: Very good. Actually

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I'm going to -- Jodi, if you could step up.

You've given testimony in the previous meeting. My opinion is you are the one that's going to be most impacted by this application. Reading the meeting minutes from our 2016 meeting, the chairman at the time, Mr. Manley, said to one of the contiguous homeowners if the Board was inclined to grant any type of variance what would you believe to be fair and reasonable, because -- and it was the contiguous neighbor to the applicant at the time. You know what, I don't want to put you on the spot like that but because it's affecting you the most, is there -- we can revisit this in ten minutes if you want. I hate to put somebody on the spot like that. If we were inclined to grant a variance, is there something that you had in mind?

MS. BRANGACCIO: I think if you remember from the first meeting, all I ever asked for was a compromise in proposed plans, and then it came to the fact that it looked like a compromise was not willing to be had.

So I think I've expressed how it's going to block me. I definitely have expressed

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how my lower views were blocked, so that again makes me a little bit more protective of my upper views. I get it that it's winter so you can't see that, just like a lot of things. I showed you photos. There's homeowners here that saw it. I am protective of the one set of views I have left once those billboards go back up.

I think I'm trying to compromise with all the other variances. I wanted a compromise even in the proposal of potentially bringing the house -- the upper part of the house back along with it's deck. As it is now, it's now a full second story with a deck off of it extending on. It's like further, just poking you in the eye.

Now you've gotten to see something like 22 Odell which is in your face. There were views there at one point but somebody built a large structure in somebody's face and now there are no views.

My compromise would be hopeful in that she would consider bringing it back even, you know, 8, 10 feet, building out off the other end. She could still have her deck off that top second level, she could still have her second structure

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and still have the home she wants.

CHAIRMAN SCALZO: Okay. Thank you. We're not in the business of telling what we would grant if things were modified. We can't tell you what to do. We can't even make suggestions.

MS. BRANGACCIO: I guess I don't know what variance -- I don't know how to answer that question. I think I understand what you're asking me but I don't know --

CHAIRMAN SCALZO: Let me give you a for example. If the footprint of the home was to remain as it is on the lower floor, and then the upper floor was shifted towards the road, and the deck that they're proposing was to come out to where the front of the existing lower floor is now, that would still keep it back on the upper end. Your view shed that you currently have wouldn't be impacted at all. Would that be something that you would be willing to accept?

MS. BRANGACCIO: I would be willing to accept that.

CHAIRMAN SCALZO: Thank you for -- thank you. I appreciate that. Again, I'm not

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telling anyone here what to do but I would just like -- you've just given me what I asked for, what would you be willing as far as a variance, what would be reasonable. It appears that you would think that might be reasonable. Thank you very much.

MR. LEVIN: What does the homeowner feel about that?

CHAIRMAN SCALZO: We'll get to that. This is the public hearing and everyone is going to get a chance to speak that wants to speak.

I really appreciate you giving us that information. Thank you so much.

At this point again I'm going to look to any members of the audience that want to speak on this application. Please come forward, state your name and state your case.

MR. HENDRICKSON: Hi. John Hendrickson again. The guy with the shower.

CHAIRMAN SCALZO: Right.

MR. HENDRICKSON: I just wanted to make a comment. You hit on it already. Orange Lake is a special place and everybody keeps an eye out for everyone, everybody makes sure everyone is

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happy. If someone isn't, you know, it's addressed. It's just unfortunate that this has started like this. I mean we live in houses on the water. If your boat goes in, we call 911 to save you. If your kid falls through the ice, somebody comes and rescues him. It's not a great way to start by doing something that is obviously not compliant with the way we live on Orange Lake.

CHAIRMAN SCALZO: Compliance is a tough word when you're talking about any of the lots on Orange Lake.

MR. HENDRICKSON: Agreed. To further -- I mean I don't want to talk about my house. Forget it. Throw me out of here. To go further, you know, that's the whole idea of the lake association, to keep an eye on people and to make sure everybody has a nice view and nobody gets hurt. If someone acts up, we address it.

I guess my point is what you guys have already come up with, let's start this civilly and come to an agreement rather than try to bulldoze something through that's not going to make very many people happy.

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CHAIRMAN SCALZO: I wouldn't consider it being a bulldoze.

MR. HENDRICKSON: Or trying to push something through that's not going to make a lot of people happy. That's my comment.

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

MR. FOWLER: Hi. I'm Art Fowler, I also sit on the board. I live at 8 Snider Avenue on the west side of the lake.

I just want to weigh in personally on this. I just think it's completely wrong if someone comes in and buys a home and decides to make an improvement to their home at the cost of a neighbor without consideration, something that would mitigate that expense to the adjoining property. So I just wanted to make that statement. I feel pretty strongly about that. I recommend this not be approved.

CHAIRMAN SCALZO: Thank you for your comments.

MR. DONOVAN: Mr. Chairman, if I could, as we try to get everyone to get along and

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compromise, just for the record to remind everyone there are laws in place. The laws don't elevate one individual or one party to any greater degree than another individual or party. As the Board is well aware, there's a five-part balancing test. The Board has to engage in that five-part balancing test and reach a decision. As the Chairman indicated before, if the Board is put in that position where the sides here, if you will, don't agree, then the Board needs to make a decision guided by the law and that five-part balancing test. You could weigh what in this case the Orange Lake Homeowners Association says against what's in the application, but there's no veto authority. It's just information for you to consider in engaging in the balancing test.

CHAIRMAN SCALZO: Thank you.

Something else that Mr. Marino and I had observed when we were out there, one of the concessions by the applicant was the mature oak tree on the front left corner was to come down. I'm not a dendrologist but it appeared to be a healthy tree to me. I don't see how that compromise is benefiting -- it could be

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benefiting the individual that asked for it because I'm sure the leaves end up in his yard. Other than that, there is another row of trees that goes down that would continue to block his view.

MS. CHAMBERS: It was all of those.

CHAIRMAN SCALZO: I only thought it was the big oak tree.

MS. CHAMBERS: No.

CHAIRMAN SCALZO: I don't believe they're on your property. It's on the other side of the fence.

MS. CHAMBERS: He agreed that he would -- that neighbor agreed that he would share the cost with me to trim those down, which would improve her view.

CHAIRMAN SCALZO: Okay. Ms. Chambers, step on up.

MS. CHAMBERS: All right. 10 minutes and 32 seconds is all I need. First of all, can I build a house on a dock? I'm just kidding.

Okay. Once again, my name is Rhona Chambers, I'm the owner of 16 Odell. I would like to address the concerns of the people from

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the neighborhood that have come out over the past three months to oppose my variance request. Forgive me for reading this but I feel it is important to go on the record and I don't want to forget anything.

Mr. Squires from across the street at 24 Spencer Avenue, I believe I have satisfied his concern with obstructing his view by cutting down the trees and lowering the roof line which will be lower than the current roof.

I want to reassure Ms. Sherri Scott of 14 Spencer Avenue, which is located across the road and down the street, that her views are not affected by the height of my roof line as they will, once again, be lower than the current height and should not be a factor in the value of her home.

Ms. Linet from 20 Odell Circle. Ms. Linet was concerned that the only concession I made was to cut down a tree. I just want to be clear, once again, the roof line has been dropped which required new drawings, and new drawings are not free. Ms. Linet has had an extensive renovation on her home last summer and was

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approved for six variances in July of 2018, front yard, rear yard, combined yard, building lot coverage and lot surface area. Ms. Linet has been adamantly opposing my variance, speaking at great length to this Board at meetings. She is a good friend of Ms. Brangaccio from 14 Odell Circle. I see them together frequently.

Mr. Alphie Bockemuhl of 35 Plank Road stated that the proposed construction is, I quote, "Unreasonably oversized in comparison to the neighboring houses." I would like to submit an aerial photograph that shows the extremely large neighboring houses. Mr. Bockemuhl received a variance approval in 2004 for a front yard setback of 1 foot where 40 feet is required. 35 South Plank Road is nowhere near my home and has no impact on him. As he stated, he is the former president of the Orange Lake Homeowners Association.

Can I give you this?

CHAIRMAN SCALZO: Absolutely.

MS. CHAMBERS: Mr. Langer, the current president of the Orange Lake Homeowners Association, stated that he felt, I quote, "We

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don't think that someone should improve their views at the expense of someone else's views." I want you to know I am not trying to improve my views, I'm trying to make enough living space for a single-family home. I want to be clear on the record that my proposed construction is a living space of 1,496 square feet with a deck of 760 square feet.

Mr. Jeff Farnell of 42 Tenbrouck Lane, the next door neighbor of Ms. Turner-Dubois, stated I should visit the homeowners association and talk to them and work it out. The problem there is that the Orange Lake Homeowners Association is biased. It is made up of a group of friends and family members of Ms. Brangaccio of 14 Odell who have come here to support her effort even though it does not affect them or their homes. Ms. Brangaccio has not yet disclosed to this Board that she is a member of the Orange Lake Homeowners Association. I think we have already established that the Orange Lake Homeowners Association is a voluntary association with no legal authority.

Ms. Turner-Dubois of 10 Mace Circle

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stated at last month's meeting that my new proposed construction is an eyesore. I quote, "Even if it were lovely construction, I just think it would be a bit of an eyesore the way it would essentially jut out too close to the lake." I would like you please to refer to the aerial photograph once again. It not only shows that my house does not just jut out, it actually sits further back than any house in that cove, and 14 Odell, Ms. Brangaccio's home, sits the closest to the lake than any of the homes in that cove. Ms. Dubois is the vice president of the Orange Lake Homeowners Association and also the sister-in-law to Ms. Brangaccio.

At the last meeting Ms. Dubois stated that I did not due my due diligence as a property owner because I didn't know the history of the lake. I did some research on the property and found that many, many properties in close vicinity to my property have had approved variances. They include 14 Odell, Ms. Brangaccio's home, rear and side variances, 1993; 20 Odell, Ms. Linet's home; 22 Odell had two approved in `89 and 2004; 24 Odell; 9 Tenbrouck;

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30 Tenbrouck; 36 Tenbrouck; 40 Tenbrouck; 30 Old South Plank Road; 35 Old South Plank Road. And that's just to name a few. 2 North End is another one.

I pulled the minutes from the previous owner's variance board application in 2007. It was a little confusing and long but after much back and forth with lawyers and architects he revised his design from a three-story home with a screened-in three-season room located where my deck currently is to a two-story home in the same footprint and removed the three-season room which was the issue of opposition at the time for Ms. Brangaccio. After his revision the home is essentially the same as my proposed design. I quote Ms. Brangaccio on page 72 of the 2007 minutes. She states, "If you are saying that the house that you propose to build will stop at the same property line and not extend further out to block any of my existing views or violate any of the laws, as well as the deck and the navigation of the dock, then I don't have an objection to it provided you are not seriously blocking or hindering the neighbors in terms of view and side

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property lines." I reached out to the previous owner and he confirmed the accuracy of this. He also stated that he was not denied a variance as Mr. Langer had stated in December's meeting but he never pursued the renovation or the variance because of personal reasons.

Ms. Brangaccio of 14 Odell has stated many inaccuracies to this Board to protect her minimal view from her upstairs side window, or side windows now that she has illegally installed a new one. She has stated on the record, I quote, "One's best views are side views. I'd be left with a loss of the majority of my views, devaluation of my property because I will have half of my views, financial hardship because I will have 80 percent less of my views." Good grief. It's 55 percent surface lot on 45 percent building lot on a home which is like 4,000 square feet.

But the statement that I take most offense to is when she called me unneighborly and malicious because I hung paddle boards and used an umbrella. What she failed to tell you was upon purchasing the home I split the cost of a

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very expensive fence with her. I would like to submit a photograph.

CHAIRMAN SCALZO: Thank you. That would be the PVC fence?

MS. CHAMBERS: Yes. The four-foot fence.

She was adamant about the height of the fence at lakeside and told me it was the law that the fence must be four feet high for the first ten feet from the lake, after which it could be the standard six foot in height. The day of construction she instructed the builder to build a fence four feet high for twenty feet from the lake, two fence panels, which defeated the purpose of the fence entirely for me. When I inquired with her about the issue, she stated, I quote, "I get privacy in aesthetics but I paid a hell of a lot of money for my views and my property value so we need to come to a compromise or rip the whole thing down and have nothing. It belongs to both of us and is on the property line so we either work it out, which I think we can, we are both adults, or it goes away. I'm not blocking my views." When a neighbor intervened

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to mediate the situation, she reluctantly agreed to change the fence panel to the standard six-foot height and she shook my hand on the resolution. She has yet to change the fence panel. I think I was very neighborly in splitting the cost of this fence with Ms. Brangaccio. I believe her anger about the fence and her sense of entitlement to Orange Lake is the reason that Ms. Brangaccio has adamantly pursued attempting to block my variance approval. After all, she did agree to it in 2007, and it is on record.

Throughout this meeting Ms. Brangaccio has reminded us numerous times that she is not an unreasonable person, that she is a fair person, that she is not a difficult person. People who have to remind us that they are fair and reasonable are the ones who are not. Ms. Brangaccio, in my opinion, is behaving like a playground bully.

I want you to know that I have the best intentions at heart to build a beautiful home and move forward in a positive manner. I have served the State of New York for 26 years as a critical

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care nurse and a flight paramedic. It is my intention to retire next year and live at 16 Odell Circle with my two children and volunteer for this community's emergency medical services.

Thank you very much for your time and patience.

CHAIRMAN SCALZO: Thank you for your comments.

Charlie, if I could ask, Ms. Chambers had mentioned that you dropped the height.

MR. BROWN: Yes. We dropped the roof pitch.

CHAIRMAN SCALZO: You dropped the roof pitch. I went out -- I thought the final determination was going to be 2 feet higher than what it is right now.

MR. BROWN: No. The ridge is exactly the same height. Again, we took off these two dormers. The chimney is coming down too. We're actually increasing the view of the lake from across the street.

CHAIRMAN SCALZO: That I understand. That was observed by Mr. Marino and I when we were out there.

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Jodi.

MS. BRANGACCIO: I would like a chance to clear my name that was just slandered all over the place, which it bears, you know, not a lot here so I'll try to keep it minimal. I'd like to clear the air a little bit.

Regarding the fence, we did agree to do a fence. We talked about it with the fencer. We talked about -- I actually didn't want the panels at the front of the lake. I actually didn't want anything about the fence but I was trying to be a good neighbor. She picked the color, she picked the height, she picked the style. She made six renovations to it which added an extra \$1,000 to our bill. We talked to the guy. I said by the ordinance it needs to be four feet within ten feet and after that whatever makes her happy. The first time he did it he did it sloped so it wasn't, but she didn't like it because it was making her dizzy so she had him come out and do it. I said okay, it needs to be four feet within ten. I wouldn't mind for you guys all to go take a look. It's six feet. I agreed to that because she was getting so upset about it. The problem

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RHONA CHAMBERS

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is her deck is three feet from ground level.

The fence is from ground level, is it not?

CHAIRMAN SCALZO: I would assume so.

MS. BRANGACCIO: So it's six feet. In terms of that, that's totally inaccurate, and I did not force any of that.

CHAIRMAN SCALZO: You know what. I appreciate that you're defending yourself if you will. I want to try to bring us all back to discussing the variances. If we can just focus on --

MS. BRANGACCIO: I just feel like it gives you a disvision of me and what I'm trying to attempt here. It's just not true, so I feel the need to defend my name and what's going on here.

1996 was a totally different case, and pulling words out of a meeting out of context is not appropriate here either.

CHAIRMAN SCALZO: I understand. We have access to those meeting minutes as well. We can see it all.

If you have anything more relative to

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RHONA CHAMBERS

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the variance. I do appreciate the input you gave earlier, so thank you.

MS. BRANGACCIO: I just wanted to say one last thing. There's a reason there's nobody here supporting this. You saw somebody made a good neighborly gesture, they made renovations, they went to the Board, they worked with the neighbors, people came to support them. To date I haven't seen a single person come here and support this because nobody is in favor of it.

MS. CHAMBERS: Because I don't know anybody here.

MS. BRANGACCIO: You can shove it down our throats as much as you want. It's not about bullies or friends or family. Nothing has been hidden. It's about nobody is in favor of it.

CHAIRMAN SCALZO: Thank you.

MR. BOCKEMUHL: I just want to make --

CHAIRMAN SCALZO: Alfie, if you could keep all of your comments relative to the variance.

MR. BOCKEMUHL: I am.

CHAIRMAN SCALZO: Thank you.

MR. BOCKEMUHL: As stated in the

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RHONA CHAMBERS

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letter, we made an effort to meet with the applicant. It was actually the second effort. We tried to meet with them very quickly before the last meeting in an effort to try to wrap this up last month. Our board was prepared to offer suggestions to come to a compromise in similar fashion to what we did with the Murphy application where we made suggestions to maintain the square footage of the house and not impact people's view shed. We still maintain our position in working with the applicants before they come before your Board so that we're all on the same page.

CHAIRMAN SCALZO: Thank you.

MR. McKELVEY: I think we have to reach some kind of compromise.

CHAIRMAN SCALZO: I'm not sure. To quote Mr. Donovan from 2016, the applicants make applications and the Board makes determinations. So that's it. We need to move to the next step, which is anyone else from the public that wants to speak about this?

(No response.)

CHAIRMAN SCALZO: I'm going to look

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RHONA CHAMBERS

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back to the Board. Mr. Marino, any further comments?

MR. MARINO: It doesn't matter if it doesn't work, I'll just speak up a bit louder.

It's very upsetting to sit here and see neighbors go at each other the way we've seen tonight. I'm sorry it turned out like that. I'd like to see something settled.

Ms. Brangaccio mentioned before there were certain conditions she would accept. We heard from Mr. Brown that they removed the two dormers and lowered the roof line by 4 feet. Does that bring us anywhere near an agreement or not?

CHAIRMAN SCALZO: I believe, Tony, the issue is getting closer to the lake.

MR. MARINO: All right.

CHAIRMAN SCALZO: So the height is -- it's certainly a part of it, but I believe that's not the main factor here.

MR. MARINO: In that case I do wish they could sit down and try to work out some kind of a compromise. We've got Ms. Chambers investing a lot of money in her property as are

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RHONA CHAMBERS

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the neighbors who live there already. There should be some way we can come to an agreement where both sides walk away not totally happy with the decision but at least satisfied to some extent that their voice was listened to.

CHAIRMAN SCALZO: Thank you, Tony.

Mr. Masten?

MR. MASTEN: I feel the same way. I feel that they should sit down and compromise with each other. Like they did with the past applicant from a year or two ago, sit down, compromise and work things out.

CHAIRMAN SCALZO: Thank you, Mr. Masten.

Mr. Levin?

MR. LEVIN: I didn't hear what your opinion was of her --

MS. CHAMBERS: I didn't quite understand it.

MR. LEVIN: Okay. Her compromise that she gave you.

CHAIRMAN SCALZO: I could probably paraphrase what the compromise is. I put her on the spot really. The compromise, as I understood

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RHONA CHAMBERS

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it, was your lower floor facing the lake would stay exactly where it was, however as you go up, kick back towards the street. If your deck -- your second floor deck was to come out to the front line of that currently as it exists and go no further than that, it appears that would be acceptable.

MS. CHAMBERS: Currently as it exists the front of the deck with the edge of the lower floor?

CHAIRMAN SCALZO: Right.

MS. CHAMBERS: And then how far back from the --

CHAIRMAN SCALZO: Your deck is proposed to be 5.5 feet. Correct, Charlie?

MR. BROWN: Yes.

CHAIRMAN SCALZO: So if you were to shift -- I can't tell you.

MS. CHAMBERS: I'm just trying to picture it.

CHAIRMAN SCALZO: I'm trying to reiterate what it was I understood it would be. If you're looking to maintain the square footage that you currently have in your plans, if there's

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RHONA CHAMBERS

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a way to cantilever it towards the road, then you would still maintain your square footage, you would still maintain your deck overlooking the lake but you would not be as intrusive on the view line.

MS. CHAMBERS: How far --

CHAIRMAN SCALZO: That's something you'd have to work out with your design professional. If the current front face on the lake side, you go no further than that, it appears I'm hearing that that may be acceptable.

We take the Orange Lake Homeowners Association's recommendations under advisement. We're not bound --

MS. CHAMBERS: I understand. I know.

CHAIRMAN SCALZO: As Mr. Marino said, and I couldn't say it any better, we would really like to not have to make a determination based on the application as it is in front of us because we've got two parties here and somebody is not going to walk out happy.

MS. CHAMBERS: It's very expensive to redo designs. I don't know if I can move the entire house forward to the road.

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RHONA CHAMBERS

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CHAIRMAN SCALZO: That's what engineers are for.

MS. CHAMBERS: Yeah. To me it's not reasonable because she doesn't have the view. When the leaves are on those trees there is no view from her upper story window.

CHAIRMAN SCALZO: I was there and Tony and I noticed it.

MS. CHAMBERS: I have a picture of it with the trees with leaves.

CHAIRMAN SCALZO: Ms. Chambers, I understand. I just told you what my interpretation was of --

MS. CHAMBERS: I understand.

CHAIRMAN SCALZO: -- what would be a reasonable variance to be granted.

MS. CHAMBERS: Yeah. I would need to see a little sketch from Charlie because I can't really picture it.

CHAIRMAN SCALZO: If you were to want to see a sketch from Charlie, not a full-blown set of plans --

MS. CHAMBERS: If he could just show me on that.

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RHONA CHAMBERS

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MR. BROWN: I'm not designing now.

CHAIRMAN SCALZO: The clock is ticking.

MS. CHAMBERS: So there would be a second story. I mean I need the square footage --

CHAIRMAN SCALZO: I understand that.

MS. CHAMBERS: -- on that lake side second story.

MR. BROWN: Rhona, I understand what he's saying. We can't just do it here because --

MS. CHAMBERS: I'm just trying to get an idea of what she's asking.

CHAIRMAN SCALZO: In that case I think I can see a little bit of compromise perhaps happening here. I don't necessarily myself want to close this public hearing at this point. However, Ms. Chambers and Charlie, is this something you would entertain? I know the longer it takes the more money it costs.

MS. CHAMBERS: I'm going to roll the dice.

CHAIRMAN SCALZO: You're going to roll the dice?

MS. CHAMBERS: I'm going to roll the dice because I don't have any more money to spend

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RHONA CHAMBERS

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doing this.

CHAIRMAN SCALZO: Okay. In that case, any further comments from any members of the public?

MR. FARNELL: Jeff Farnell, 42 Tenbroeck. The measurements that Alphonie provided before, I'm curious how they compare to the proposed 0 foot setback in the rear of the house. Right now it seems as though the rear setback is set at some -- what was the amount -- 40 feet is the code. If they're saying 0 is proposed, what if 5 feet was proposed and it pushed the whole house back? How many other houses have 0 foot setback from the rear?

CHAIRMAN SCALZO: I'm not quite understanding.

MR. FARNELL: In the description it says that a rear yard of 40 feet, 0 is proposed.

MR. BROWN: That's to the existing deck which is actually over the property line. We're trimming it even with the property line.

MR. FARNELL: That's my point. Maybe not going to a 0. Instead --

MR. BROWN: That's already there.

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RHONA CHAMBERS

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CHAIRMAN SCALZO: That's the deck, not the house.

MR. FARNELL: I mean it's already -- we've already pushed the house as far as we possibly can.

CHAIRMAN SCALZO: Actually currently it exceeds that. It's in negative numbers right now. They're pulling it back to 0.

MR. FARNELL: That's even funnier then. I was just curious. Maybe that would have been a compromise to pull back rather than the 0 proposed. I get the answer of pushing back. At the top it probably improves the view shed. I agree.

CHAIRMAN SCALZO: Thank you.
Any further comments from the Board?

MR. LEVIN: No.

MR. McKELVEY: No.

CHAIRMAN SCALZO: If we are satisfied that we have all the information that we need, then I will look to the Board for a motion to close the public hearing.

MR. OLYMPIA: I'll move it.

CHAIRMAN SCALZO: We have a motion from

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RHONA CHAMBERS

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Mr. Olympia.

MR. BELL: Second.

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

MS. JABLESNIK: Mr. Bell?

MR. BELL: Yes.

MS. JABLESNIK: Mr. Levin?

MR. LEVIN: Yes.

MS. JABLESNIK: Mr. Marino?

CHAIRMAN SCALZO: Temporarily out.

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.

MS. CHAMBERS: Thank you.

(Time noted: 8:22 p.m.)

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

CHAIRMAN SCALZO: The next applicant is
Rhona Chambers, 16 Odell Circle, Newburgh,

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seeking an area variance to rebuild a front porch and a second story addition, raise the roof line and rebuild the decks and pergolas. It requires a front yard minimum setback of 50 where 25.4 is proposed; one side yard minimum setback of 30 where 1.5 is proposed; combined side yard of 80 where 12 is proposed; and rear yard of 40 where 0 is proposed; maximum building lot coverage is 10 percent where 45 percent is proposed; and the maximum surface lot coverage of 20 percent where 54 percent is proposed.

Do we have discussion on this applicant? I know I have. This is probably one of the best ones we've had as far as spirited conversation between all the audience with their comments.

I have tasked Counsel with finding information regarding similar applications in this area. We did a comparison to the applicant -- the other applicant that we just gave approval to, the Bach application, just here and now, but there's other information that I personally feel I would like to evaluate that Mr. Donovan is going to provide to us.

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Do any other Members of the Board have any comments relative to this? If you would prefer to vote on it tonight, that's up to you.

MR. McKELVEY: No.

CHAIRMAN SCALZO: I would need a motion to defer.

MR. MASTEN: I'll make a motion.

MR. MARINO: Second.

CHAIRMAN SCALZO: We have a motion to defer --

MR. DONOVAN: For clarification, that's to the March meeting; correct?

CHAIRMAN SCALZO: To the March meeting. That is correct.

To defer from Mr. Masten. We have 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.

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MS. JABLESNIK: Mr. McKelvey?

MR. MCKELVEY: Yes.

MS. JABLESNIK: Mr. Olympia?

MR. OLYMPIA: Yes.

MS. JABLESNIK: Mr. Scalzo?

CHAIRMAN SCALZO: Yes.

So we will reserve decision until
March. What that allows us to do is we have
legal counsel that's going to do some evaluations
for us and guide us further.

Thank you.

In this case, anyone that is here for
the 16 Odell Circle application, next month you
will not be re-noticed but we will be meeting
again.

(Time noted: 8:52 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 18th day of March 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

PAUL BROTHE

1 Genna Way, Newburgh
Section 79; Block 4; Lot 1.2
R-1 Zone

----- X

Date: February 28, 2019
Time: 8:22 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: Our final item this evening held open from January 24th is Paul Brothe, 1 Genna Way in Newburgh, seeking an area variance to install 30 ground-mounted solar panels in the front yard. The Town Municipal Code states solar collectors are not to be located in the front yard.

This is a maintenance of the public hearing remaining open. Since we now have a representative here of the solar company, if you could just go ahead and run us through the project quickly, that would be great.

MR. SICARI: Sure. My name is Anthony Sicari, I'm the owner at the New York State Solar Farm. I've been working with Mr. Brothe for the past year on his solar system. A lot of thought went into the solar system that we put there.

The equipment that we're using at Mr. Brothe's house is a sun power solar panel. We're not using a cheap commodity-based solar panel. If we were using something that was a commodity solar panel we'd have roughly 20 percent more space than we need on the solar system that we're using there. We're using the highest efficiency

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technology that we can in his ground-mounted solar system.

The system is 9.8 KW with 30 sun power panels. It's on a racking system. There's no footings. It's basically like a corkscrew getting drilled directly into the ground. Believe it or not, in the past we have had to move them because a pool gets installed. There's no concrete footings that are there on that one.

The system is not trackable so it's not following the sun. It is facing due south. It's a fixed tile so it can get sun all year round. We're facing it south, so from 9W it's basically going to be horizontal to the street. You're not going to, from 9W, see the face of the panels, you're actually going to see the side of the panels, like that. So it's going to be bladed from street view.

The other thing that we have in the packets that I handed you guys was we have obviously the homeowner's consent copy of the proxy but also the set of the site plans showing the proposed vegetation and the screening that we have in there. There's one that shows an

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PAUL BROTHE

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overview and one a little more detailed that Mr. Brothe put together showing exactly what trees are being planted and where they are. Also in there is a set of preliminary construction approval from Central Hudson. They approved the metering there, they approved the new meter.

Right now we're up against the clock just to try to lock in our NYSERDA grant that we have for the project. That's our biggest thing. Once we install the project, then we can secure the funds that are granted for every home to go solar in the State. That's where we're currently at.

If you have any questions.

CHAIRMAN SCALZO: We are glad you're here. We did not wait for you. We waited for word back from the County.

Did we get word back from the County? That's the whole reason this remained open.

MS. JABLESNIK: We should have. I'm pretty sure that I have that back in the office.

CHAIRMAN SCALZO: My guess, if it was something that wasn't an eyebrow raiser it would probably be a Local determination, however I'm

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PAUL BROTHE

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going to look to Dave to say am I going to get myself in trouble?

MR. DONOVAN: No. The only way the County -- if the County didn't respond, their timeframe is up, so you're free to act. The timeframe wasn't up last month. On the other hand, if they recommended disapproval, you need a supermajority of the Board to override that. In my experience the County is pro-solar so I would assume it's either a Local determination or a Local determination and please grant the variance type of letter from the County.

CHAIRMAN SCALZO: I understand.

The other aspect here is your client is surrounded by streets. You approach his home from the front, and to me the solar panels would be in the backyard however, which he wouldn't need to be here at all. Because he does also have frontage on 9W, he's required to be here.

I myself have no comments other than arborvitaes is candy to deer because I have had --

MR. BROTHE: Really?

CHAIRMAN SCALZO: You may want to

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PAUL BROTHE

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consider different plantings. They're not going to look like what you want them to in a couple years.

I have no other comments. I'm going to look to the Board Members.

Mr. Bell?

MR. BELL: I'm good.

CHAIRMAN SCALZO: Mr. Olympia?

MR. OLYMPIA: I have no comments.

CHAIRMAN SCALZO: Mr. McKelvey?

MR. MCKELVEY: I'm fine.

CHAIRMAN SCALZO: Mr. Levin?

MR. LEVIN: The maximum height is 11 foot 3 inches?

MR. SICARI: Yes.

CHAIRMAN SCALZO: Mr. Masten?

MR. MASTEN: No questions.

CHAIRMAN SCALZO: Mr. Marino?

MR. MARINO: I'm good.

CHAIRMAN SCALZO: I'll open it to any members of the public at this point that want to speak on this application? I saw your hand up.

(No response.)

CHAIRMAN SCALZO: In this case then

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PAUL BROTHE

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

MR. McKELVEY: I'll make that motion.

MR. MASTEN: I'll second that.

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

MS. JABLESNIK: Mr. Bell?

MR. BELL: Yes.

MS. JABLESNIK: Mr. Levin?

MR. LEVIN: Yes.

MS. JABLESNIK: Mr. 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.

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PAUL BROTHE

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Folks, before proceeding the Board would like to take a short adjournment to confer with Counsel regarding any legal questions raised by tonight's applications. If I could ask in the interest of time, if you could wait out in the hallway and we'll call you back in very shortly.

(Time noted: 8:30 p.m.)

(Time resumed: 8:52 p.m.)

CHAIRMAN SCALZO: The next applicant is Paul Brothe, 1 Genna Way, Newburgh, seeking an area variance to install 30 ground-mounted solar panels in the front yard. Town Municipal Code states solar collectors shall not be located in the front yard.

Area variance criteria, the first one being whether or not the benefit can be achieved by other means feasible to the applicant.

As I stated, I felt as though -- I know he's surrounded by streets but it appears to be the backyard to me.

MR. McKELVEY: It's far off the main road, too.

CHAIRMAN SCALZO: The second, if there's an undesirable change to the neighborhood

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PAUL BROTHE

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character or detriment to nearby properties.

I don't know that any other properties
can see him.

The third, whether the request is
substantial. I don't believe so.

MR. MASTEN: No.

MR. MARINO: No.

MR. McKELVEY: No.

CHAIRMAN SCALZO: The fourth, whether
the request will have adverse physical and
environmental affects.

MR. BELL: No.

MR. OLYMPIA: No.

MR. LEVIN: No.

MR. MASTEN: No.

MR. MARINO: No.

CHAIRMAN SCALZO: No.

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

He is surrounded by streets.

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

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PAUL BROTHE

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

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

CHAIRMAN SCALZO: We have a motion for approval by Mr. Bell.

MR. McKELVEY: I'll second it.

CHAIRMAN SCALZO: We have a second by 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.

MS. JABLESNIK: Mr. Scalzo?

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PAUL BROTHE

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CHAIRMAN SCALZO: Yes.

Motion approved. The variance is granted for the solar. Good luck.

I have no further business on the agenda for this evening other than the approval of the January meeting minutes. I had one revision which had been corrected. Other than that, does anyone have any other comments on the meeting minutes from last month?

(No response.)

CHAIRMAN SCALZO: Then I would look for a motion to approve the meeting minutes.

MR. MASTEN: I'll make the motion.

CHAIRMAN SCALZO: We have a motion from Mr. Masten.

MR. BELL: I'll second the motion.

CHAIRMAN SCALZO: All in favor on that?

MR. BELL: Aye.

MR. OLYMPIA: Aye.

MR. LEVIN: Aye.

MR. MASTEN: Aye.

MR. MARINO: Aye.

CHAIRMAN SCALZO: Aye.

There's no further business in this

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PAUL BROTHE

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case, I'll make a motion to close the meeting.
Do I have a motion to close the meeting?

MR. McKELVEY: I'll make the motion.

MR. MASTEN: Second.

CHAIRMAN SCALZO: Motion by Mr.
McKelvey, second from Mr. Masten. All in favor?

MR. BELL: Aye.

MR. OLYMPIA: Aye.

MR. LEVIN: Aye.

MR. MASTEN: Aye.

MR. MARINO: Aye.

CHAIRMAN SCALZO: Aye.

(Time noted: 8:55 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 Aye way
interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto
set my hand this 18th day of March 2019.

Michelle Conero

MICHELLE CONERO