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STATE OF NEW YORK : COUNTY OF ORANGE  
TOWN OF NEWBURGH PLANNING BOARD

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In the Matter of

RUSSELL & LEE SITE PLAN  
(2011-27)

Request for Referral to the Zoning Board of Appeals  
----- X

BOARD BUSINESS

Date: February 2, 2012  
Time: 7:48 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman  
FRANK S. GALLI  
CLIFFORD C. BROWNE  
KENNETH MENNERICH  
JOSEPH E. PROFACI  
JOHN A. WARD

ALSO PRESENT: MICHAEL H. DONNELLY, ESQ.  
BRYANT COCKS  
PATRICK HINES  
GERALD CANFIELD

----- X  
MICHELLE L. CONERO  
10 Westview Drive  
Wallkill, New York 12589  
(845)895-3018

MR. BROWNE: The last item of Board

1  
2 Business is Russell & Lee Site Plan, project  
3 number 2011-27. The applicant is requesting to  
4 be referred to the ZBA for multiple variances,  
5 the number of parking spaces, front yard setback,  
6 side yard setback on buildings 1 and 3, both side  
7 yard setback and a rear yard setback. The  
8 applicant will also be going for a use variance  
9 for the existing single-family home, but that  
10 action will be from the Building Department's  
11 denial. The Planning Board can not refer this --  
12 refer use variances to the ZBA.

13 CHAIRMAN EWASUTYN: At this point I'll  
14 turn to Mike Donnelly, Planning Board Attorney,  
15 who will be preparing a letter to the ZBA and  
16 also to elaborate somewhat on the 278 action that  
17 the applicant is -- needs satisfaction from the  
18 ZBA.

19 MR. DONNELLY: Years ago you always had  
20 to be turned down by the building inspector to  
21 apply for either an area variance or a use  
22 variance. About ten or so years ago the  
23 legislature thought it made sense that if when an  
24 applicant appeared before the Planning Board for  
25 either a subdivision or site plan review, when it

1  
2 became apparent that area variances were needed,  
3 dimensional variances, that the applicant could  
4 go directly to the Zoning Board on a referral  
5 from the Planning Board. There was no similar  
6 amendment to allow a use variance transfer or  
7 report out from the Planning Board. Therefore,  
8 for the use variance appeal the applicant will  
9 need to get an opinion letter or denial letter  
10 from the building department and separately apply  
11 for the use variance.

12 As to the area variance, at your  
13 direction I will send a letter to the Zoning  
14 Board. I will include all of the variances  
15 listed on the agenda here and the applicant can  
16 separately pursue that.

17 CHAIRMAN EWASUTYN: Any questions from  
18 Board Members or Consultants?

19 MR. BROWNE: With that letter, also  
20 leave an understanding with him that he needs  
21 to --

22 MR. DONNELLY: I'll mention he'll be  
23 separately applying for a use variance.

24 MR. BROWNE: Thank you.

25 CHAIRMAN EWASUTYN: I would move to

1  
2 approve that motion subject to Mike Donnelly  
3 preparing a letter outlining the necessary  
4 variances and the extent at which we're referring  
5 him to the ZBA, and the other use variance that  
6 may be required under a separate umbrella.

7 MR. WARD: So moved.

8 MR. PROFACI: Second.

9 CHAIRMAN EWASUTYN: I have a motion by  
10 John Ward. I have a second by Frank Galli.

11 MR. PROFACI: No.

12 CHAIRMAN EWASUTYN: Excuse me. Joe  
13 Profaci. Excuse me. Any discussion of the  
14 motion?

15 (No response.)

16 CHAIRMAN EWASUTYN: I'll move for a  
17 roll call vote starting with Frank Galli.

18 MR. GALLI: Aye.

19 MR. BROWNE: Aye.

20 MR. MENNERICH: Aye.

21 MR. PROFACI: Aye.

22 MR. WARD: Aye.

23 CHAIRMAN EWASUTYN: Myself, yes. So  
24 carried.

25 Thank you.

1  
2 I'll move for a motion to close the  
3 Planning Board meeting of the 2nd of February.

4 MR. GALLI: So moved.

5 MR. MENNERICH: Second.

6 CHAIRMAN EWASUTYN: I have a motion by  
7 Frank Galli and second by Ken Mennerich. I'll  
8 ask for a roll call vote starting with Frank  
9 Galli.

10 MR. GALLI: Aye.

11 MR. BROWNE: Aye.

12 MR. MENNERICH: Aye.

13 MR. PROFACI: Aye.

14 MR. WARD: Aye.7.

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16 (Time noted: 7:50 p.m.)  
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22 C E R T I F I C A T I O N  
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I, Michelle Conero, a Shorthand Reporter and Notary Public within and for the State of New York, do hereby certify that I recorded stenographically the proceedings herein at the time and place noted in the heading hereof, and that the foregoing is an accurate and complete transcript of same to the best of my knowledge and belief.

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DATED: February 22, 2012

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15 (No response.)

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17 roll call vote starting with Frank Galli.

18 MR. GALLI: Aye.

19 MR. BROWNE: Aye.

20 MR. MENNERICH: Aye.

21 MR. PROFACI: Aye.

22 MR. WARD: Aye.

23 CHAIRMAN EWASUTYN: Myself, yes. So  
24 carried.

25 Thank you.

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10 MR. GALLI: Aye.

11 MR. BROWNE: Aye.

12 MR. MENNERICH: Aye.

13 MR. PROFACI: Aye.

14 MR. WARD: Aye.7.

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16 (Time noted: 7:50 p.m.)  
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22 C E R T I F I C A T I O N  
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2 I, Michelle Conero, a Shorthand  
3 Reporter and Notary Public within and for  
4 the State of New York, do hereby certify  
5 that I recorded stenographically the  
6 proceedings herein at the time and place  
7 noted in the heading hereof, and that the  
8 foregoing is an accurate and complete  
9 transcript of same to the best of my  
10 knowledge and belief.  
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DATED: February 22, 2012