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

----- X
In the Matter of

CONSTANCE POWLES & CHRIS DAVIS

149 Forest Road, Wallkill
Section 3; Block 1; Lot 7
AR Zone

----- X

Date: March 23, 2023
Time: 7:00 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, New York

BOARD MEMBERS: DARRIN SCALZO, Chairman
DARRELL BELL
JAMES EBERHART, JR.
ROBERT GRAMSTAD
GREGORY M. HERMANCE
JOHN MASTEN
DONNA REIN

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

APPLICANT'S REPRESENTATIVE: DENNIS MILHOLM

----- X

MICHELLE L. CONERO
3 Francis Street
Newburgh, New York 12550
(845) 541-4163

1 C O N S T A N C E P O W L E S & C H R I S D A V I S

2 CHAIRMAN SCALZO: I'd like to call
3 the meeting of the Zoning Board of
4 Appeals to order. The order of business
5 this evening are the public hearings
6 which have been scheduled. The procedure
7 of the Board is that the applicant will
8 be called upon to step forward, state
9 their request and explain why it should
10 be granted. The Board will then ask the
11 applicant any questions it may have, and
12 then any questions or comments from the
13 public will be entertained. The Board
14 will then consider the applications and
15 will try to render a decision this
16 evening but may take up to 62 days to
17 reach a determination. I would ask that
18 if you have a cellphone, to please turn
19 it off or put it on silent. When
20 speaking, speak directly into the
21 microphone as we have our stenographer
22 who is doing her very best to hear
23 everyone.

24 Roll call, please.

25 MS. JABLESNIK: Darrell Bell.

1 C O N S T A N C E P O W L E S & C H R I S D A V I S

2 MR. BELL: Here.

3 MS. JABLESNIK: James Eberhart.

4 MR. EBERHART: Here.

5 MS. JABLESNIK: Robert Gramstad.

6 MR. GRAMSTAD: Here.

7 MS. JABLESNIK: Greg Hermance.

8 MR. HERMANCE: Here.

9 MS. JABLESNIK: John Masten.

10 MR. MASTEN: Here.

11 MS. JABLESNIK: Donna Rein.

12 MS. REIN: Here.

13 MS. JABLESNIK: Darren Scalzo.

14 CHAIRMAN SCALZO: Here.

15 MS. JABLESNIK: Also present is our

16 Attorney, Dave Donovan; from Code

17 Compliance, Joseph Mattina; and our

18 Stenographer is Michelle Conero.

19 CHAIRMAN SCALZO: If we could all

20 please rise for the Pledge.

21 (Pledge of Allegiance.)

22 CHAIRMAN SCALZO: For anyone that

23 is here regarding Conew by Lite Brite

24 that's out on Route 300, right in front

25 of the Stop & Shop, they have withdrawn

1 C O N S T A N C E P O W L E S & C H R I S D A V I S

2 their application. If anyone is here for
3 that, we're not going to act upon that
4 this evening. If you're here for that,
5 you can actually split.

6 All right. Our first applicant
7 this evening is Constance Powles and
8 Chris Davis, 149 Forest Road. This is
9 very close to the County line. They're
10 seeking area variances of the front yard
11 on the County road, the placement of the
12 structure to the center line of the road,
13 and the rear yard setback to keep two
14 decks built without permits.

15 Do we have mailings on this?

16 MS. JABLESNIK: This applicant sent
17 out 22 letters. It was also mailed to
18 the County. We received back a Local
19 determination.

20 CHAIRMAN SCALZO: Local
21 determination only. You have no idea how
22 lucky you are.

23 MS. JABLESNIK: Talk to the rest of
24 the room.

25 CHAIRMAN SCALZO: I had just

1 C O N S T A N C E P O W L E S & C H R I S D A V I S

2 mentioned two sentences of what you're
3 trying to do. If I have captured that
4 adequately to your satisfaction, then we
5 can just start having the Board ask you
6 questions, and then turn it over to the
7 public. However, if you would like to
8 add any of your own color or comment to
9 that, go right ahead.

10 MR. MILHOLM: I believe you summed
11 it up perfectly well.

12 CHAIRMAN SCALZO: Now we just need
13 to know your name.

14 MR. MILHOLM: My name is Dennis
15 Milholm.

16 CHAIRMAN SCALZO: It was pretty
17 straightforward, folks. I took a ride by
18 it, turned around in the little
19 cul-de-sac across the street. I call it
20 a cottage. You just put a small, very
21 low-to-the- ground front deck on it. Did
22 you even need a handrail on that?

23 MR. MILHOLM: We just thought it
24 would be better for safety to put it up.

25 CHAIRMAN SCALZO: Any kids running

1 C O N S T A N C E P O W L E S & C H R I S D A V I S

2 into the house, they run into that first.

3 MR. MILHOLM: Right into the road.

4 Yes, sir.

5 CHAIRMAN SCALZO: Safety first.

6 All right. Ms. Rein, do you have
7 any comments regarding this application?

8 MS. REIN: I have a quick question.
9 What page is this? 2 of 15, number 6,
10 "Is the proposed action consistent with
11 the predominant character of existing
12 buildings or natural landscape," and you
13 wrote "No."

14 MR. MILHOLM: I think that was a
15 typo.

16 MS. REIN: You think it was a typo.
17 I don't know if it matches the aesthetics
18 of the other houses in the area.

19 MR. MILHOLM: I believe it does.
20 It's nothing outlandish or crazy.

21 MS. REIN: It was just confusing to
22 me.

23 MR. MILHOLM: It's probably no.
24 It's just along the lines of everything
25 else in the neighborhood.

1 C O N S T A N C E P O W L E S & C H R I S D A V I S

2 CHAIRMAN SCALZO: How long have you
3 owned the property?

4 MR. MILHOLM: It's a matter of
5 September.

6 CHAIRMAN SCALZO: Not many years --
7 probably ten years ago, across the street
8 and a little bit down there was a trailer
9 which somebody lived in. As far as the
10 character of the neighborhood, it's got
11 every type of dwelling you can imagine.
12 Thank you.

13 Ms. Rein, anything else?

14 MS. REIN: No. That's it. Thank
15 you.

16 CHAIRMAN SCALZO: Mr. Masten?

17 MR. MASTEN: I have no comment on
18 it.

19 CHAIRMAN SCALZO: How about you,
20 Mr. Bell?

21 MR. BELL: Two people were out
22 looking today to copy the number down to
23 ask me about the owner to see if they
24 were ready to sell. I did let them know
25 there was a sign in the yard.

1 C O N S T A N C E P O W L E S & C H R I S D A V I S

2 CHAIRMAN SCALZO: Thank you, Mr.

3 Bell.

4 Mr. Hermance?

5 MR. HERMANCE: What was there prior
6 to the deck?

7 MR. MILHOLM: Sure. It was a
8 stoop. It was kind of falling apart and
9 dilapidated. This is more to make it
10 safer.

11 MR. HERMANCE: How large of a stoop
12 was it?

13 MR. MILHOLM: I don't remember the
14 exact --

15 MR. DAVIS: About 6 feet.

16 CHAIRMAN SCALZO: Help me out. If
17 anyone is going to speak, that's fine. I
18 just need to know who you are.

19 MR. DAVIS: I'm Chris Davis. I
20 thought he was asking me.

21 MR. MILHOLM: About 6 feet.

22 CHAIRMAN SCALZO: Mr. Hermance,
23 anything else?

24 MR. HERMANCE: No.

25 CHAIRMAN SCALZO: Mr. Eberhart?

1 C O N S T A N C E P O W L E S & C H R I S D A V I S

2 MR. EBERHART: Nothing.

3 CHAIRMAN SCALZO: Mr. Gramstad?

4 MR. GRAMSTAD: No. Nothing.

5 CHAIRMAN SCALZO: At this point,
6 this is a public hearing. Any comments
7 from the public regarding this
8 application, at this time anyone, please
9 step forward.

10 (No response.)

11 CHAIRMAN SCALZO: It does not
12 appear so. Very good.

13 I'll look to the Board for one
14 last opportunity for any questions on
15 this application.

16 MR. BELL: No.

17 CHAIRMAN SCALZO: Very good. I'll
18 look to the Board for a motion to close
19 the public hearing.

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

22 MR. EBERHART: Second.

23 CHAIRMAN SCALZO: We have a motion
24 from Mr. Masten. I think it was Mr.
25 Eberhart as a second. All in favor?

1 C O N S T A N C E P O W L E S & C H R I S D A V I S

2 MR. BELL: Aye.

3 MR. EBERHART: Aye.

4 MR. GRAMSTAD: Aye.

5 MR. HERMANCE: Aye.

6 MR. MASTEN: Aye.

7 MS. REIN: Aye.

8 CHAIRMAN SCALZO: Aye.

9 Those opposed?

10 (No response.)

11 CHAIRMAN SCALZO: This is a Type 2
12 action under SEQRA?

13 MR. DONOVAN: That's correct.

14 CHAIRMAN SCALZO: Thank you, sir.

15 We're going to go through the
16 variance criteria and discuss the five
17 factors, the first one being whether the
18 benefit can be achieved by other means
19 feasible to the applicant. Even if the
20 applicant replaced -- we can't adequately
21 describe what was there, they would still
22 have had to appear before us.

23 Is that correct, Mr. Mattina?

24 MR. MATTINA: Correct. It's
25 preexisting nonconforming.

1 C O N S T A N C E P O W L E S & C H R I S D A V I S

2 CHAIRMAN SCALZO: A preexisting
3 nonconforming condition.

4 MR. MATTINA: Correct.

5 CHAIRMAN SCALZO: The second, if
6 there's an undesirable change in the
7 neighborhood character or a detriment to
8 nearby properties. I would say
9 absolutely not. I would love to have
10 seen a before photo. That would have
11 really drove it home.

12 MR. MILHOLM: Understood.

13 CHAIRMAN SCALZO: The third,
14 whether the request is substantial. Not
15 really.

16 MR. BELL: No.

17 CHAIRMAN SCALZO: I think he did
18 more than he needed to by putting that
19 rail up. It's less than a foot off the
20 ground.

21 The fourth, whether the request
22 will have adverse physical or
23 environmental effects. It does not
24 appear so.

25 And the fifth, whether the alleged

1 C O N S T A N C E P O W L E S & C H R I S D A V I S

2 difficulty is self-created which is
3 relevant but not determinative. Again, we
4 mentioned this is a preexisting
5 nonconforming condition, so no.

6 Having gone through the balancing
7 tests for the area variance, does the
8 Board have a motion of some sort?

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

11 MS. REIN: Second.

12 CHAIRMAN SCALZO: We have a motion
13 from Mr. Bell. It sounded like Ms. Rein
14 beat you to it, Mr. Gramstad.

15 Will you roll on that, please,
16 Siobhan?

17 MS. JABLESNIK: Mr. Bell?

18 MR. BELL: Yes.

19 MS. JABLESNIK: Mr. Eberhart?

20 MR. EBERHART: Yes.

21 MS. JABLESNIK: Mr. Gramstad?

22 MR. GRAMSTAD: Yes.

23 MS. JABLESNIK: Mr. Hermance?

24 MR. HERMANCE: Yes.

25 MS. JABLESNIK: Mr. Masten?

1 C O N S T A N C E P O W L E S & C H R I S D A V I S

2 MR. MASTEN: Yes.

3 MS. JABLESNIK: Ms. Rein?

4 MS. REIN: Yes.

5 MS. JABLESNIK: Mr. Scalzo?

6 CHAIRMAN SCALZO: Yes.

7 The motion carried. The variances
8 are approved. Good luck.

9 MR. MILHOLM: Thank you very much.

10

11 (Time noted: 7:11 p.m.)

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

----- X

In the Matter of

JAVON McCOY

25 Stony Run Road, Newburgh
Section 73; Block 14; Lot 6
R-3 Zone

----- X

Date: March 23, 2023
Time: 7:12 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, New York

BOARD MEMBERS: DARRIN SCALZO, Chairman
DARRELL BELL
JAMES EBERHART, JR.
ROBERT GRAMSTAD
GREGORY M. HERMANCE
JOHN MASTEN
DONNA REIN

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

APPLICANT'S REPRESENTATIVE: JAVON McCOY

----- X

MICHELLE L. CONERO
3 Francis Street
Newburgh, New York 12550
(845) 541-4163

1 JAVON MCCOY

2 CHAIRMAN SCALZO: Our second
3 applicant is Javon McCoy, 25 Stony Run
4 Road, seeking a special permit to create
5 a home occupancy involving the sale of
6 firearms and accessories on the premises.

7 Siobhan, do we have mailings on
8 this?

9 MS. JABLESNIK: This applicant sent
10 out 50 mailings.

11 CHAIRMAN SCALZO: 5-0. Is that the
12 winner for the evening?

13 MS. JABLESNIK: Winner, winner.

14 CHAIRMAN SCALZO: You're the winner
15 with regard to that.

16 We've actually had a couple of
17 permits similar to yours come in in the
18 last couple of years. I am familiar with
19 what it is that you're looking to do.
20 I'm assuming that you're an FFL at this
21 point, or you're on your way.

22 MR. MCCOY: This is my first step.
23 I have to do --

24 CHAIRMAN SCALZO: You actually need
25 permission or you need to get a variance

1 JAVON MCCOY

2 from us first, and then you need to
3 apply --

4 MR. McCOY: I don't mean to cut you
5 off. I applied for that already, and
6 they called me to set up my interviews
7 and stuff. They said do you have the
8 paper from the Town. I said I thought I
9 was supposed to do this first. So I have
10 to apply for this and resubmit the
11 application back to them.

12 CHAIRMAN SCALZO: Now I'm going to
13 cut you off. Could you state your name,
14 please, for Michelle?

15 MR. McCOY: I'm sorry. Javon
16 McCoy. I reside at 25 Stony Run Road,
17 Newburgh, New York.

18 CHAIRMAN SCALZO: I assumed it was
19 you.

20 So you know what, like I say, this
21 is a little -- I'm not going to call it
22 unusual. We don't get a lot of these.
23 My assumption here is that probably a
24 handful of people that are here from the
25 public probably want to hear about what

1 J A V O N M c C O Y

2 it is you're trying to do. If could you
3 explain the process. There are also some
4 Board Members that weren't on the Board
5 when we had our previous applications
6 that were similar. Take your time. Dumb
7 it down for us, please, if you could. Go
8 ahead. The floor is yours.

9 MR. McCOY: I've had a full carry
10 permit since I was 21 years old. I'll be
11 48 this year. I have a lot of friends
12 that are officers, like to hunt, shoot,
13 collect guns and stuff, and me myself
14 personally. I think it would be
15 beneficial for me, my friends and whoever
16 wants to obtain a firearm, needs a full
17 background check, they could come to me
18 and ask me if I could get the particular
19 firearm. I would do my research. Okay,
20 I can get the firearm, X amount of
21 dollars, are you interested, deposit, and
22 they would come, do the background check,
23 paperwork. I call the ATF, they'll run
24 the background check and get back to me
25 stating they're clear or not to receive

1 JAVON McCOY

2 the firearm.

3 CHAIRMAN SCALZO: Okay. My
4 understanding is exactly how you just
5 said it. Retail sales, will you have any
6 displays there or is it special order
7 only?

8 MR. McCOY: Special order only. I'm
9 not going to open up a gun store out of
10 my house. After I order it, I'll receive
11 the firearm, it will go in my safe, be
12 locked up until the person is ready to
13 pick it up.

14 CHAIRMAN SCALZO: Okay. I've got a
15 feeling there's going to be some
16 questions, so stay right where you are.
17 I have a feeling there will be some
18 questions, more so than what I just
19 asked.

20 MR. DONOVAN: Mr. Chairman, do you
21 think -- if I can ask the Board. This is
22 not a variance. This is something that I
23 don't think many of you have seen before.
24 This is a special permit. The reason why
25 it's a request for a special permit is

1 JAVON MCCOY

2 it's a home occupation. According to the
3 Town Code, any home occupation requires a
4 special permit. That's issued by the
5 Zoning Board. There are three criteria
6 in the code. Is everybody familiar with
7 that or do you want me to run through it?

8 CHAIRMAN SCALZO: Please, Counsel,
9 run right through it.

10 MR. DONOVAN: Mr. McCoy, you
11 probably read this or were directed this.
12 What the Board needs to be satisfied with
13 is each special permit shall be of such
14 character, intensity and location that in
15 general it will be in harmony with the
16 orderly development of the district in
17 which the property in concern is situated
18 and will not be detrimental to the
19 orderly development of adjacent
20 districts. The second is that each
21 special permit sought in a residence
22 district shall be so located on the lot
23 involved that it shall not impair the
24 use, enjoyment and value of adjacent
25 residential properties. The third is

1 JAVON MCCOY

2 that the nature and intensity of the
3 special permit sought in a residence
4 district and the traffic generated by it
5 shall not be hazardous or detrimental to
6 the prevailing residential character of
7 the neighborhood.

8 If I can, maybe you can just
9 elaborate a little bit. Where is it
10 going to be located in the house? Do you
11 have a special room? Is there going to
12 be a parking space? How many people are
13 going to be there? Are you going to have
14 employees?

15 MR. MCCOY: There's no employees,
16 no in and out traffic. Like I said, it
17 will all be special order. I have a big
18 enough driveway for somebody to park in,
19 or they can park in front of the house.
20 Really nobody drives through my road
21 unless you live on the street. It's
22 pretty quiet. I have my safes inside my
23 walk-in closet, which I have a lock on
24 those doors. I have two safes in my
25 closet, which I submitted the pictures.

1 JAVON McCOY

2 CHAIRMAN SCALZO: That's just the
3 exterior.

4 MR. McCOY: The house and inside
5 the bedroom and where the safes are
6 located and everything.

7 MS. REIN: How do you intend to
8 promote this? Are there going to be
9 signs or anything on your property?

10 MR. McCOY: No, none of that.
11 Basically my friends. I have a lot of
12 friends that shoot, hunt, all that stuff.
13 It will be pretty much word of mouth
14 through my friends.

15 MS. REIN: What happens if you get
16 a couple of things in and they don't want
17 them? Do you send them back? Do you
18 store them? What do you do with them?

19 MR. McCOY: If they're not going to
20 be approved, they're not going to get it.

21 MS. REIN: Let's say it's approved.

22 MR. McCOY: Okay.

23 MS. REIN: I go into a store and
24 somebody buys a dress for me and they
25 give me the dress and they think I'll

1 JAVON MCCOY

2 love it and I don't love it and I tell
3 them to bring it back. If they bring a
4 gun back to you, what happens to that
5 gun?

6 MR. McCOY: There's no returns on
7 firearms once you purchase it. It's not
8 like buying a pair of sneakers. There's
9 no returns.

10 MS. REIN: So once they purchase it
11 from you, once everything is done legally
12 and they give you the money, that's it?

13 MR. McCOY: That's it. If they
14 don't like it, then they have to go and
15 try to sell it to somebody. They can
16 come back to me and say listen, X person
17 wants to buy this firearm from me. I
18 would have to do the transfer papers to
19 sell it to the new person that wants to
20 buy the firearm.

21 MS. REIN: What about ammunition?

22 MR. McCOY: I'm not selling
23 ammunition. That's another permit
24 through the FFL.

25 CHAIRMAN SCALZO: If I can just

1 JAVON MCCOY

2 tack on to Ms. Rein's question. Should a
3 person, and this is hypothetical of
4 course, decide that -- you know, after
5 they do receive the handgun, that it's
6 not for them, you could hold it; correct?
7 If someone else were to want it, as an
8 FFL you can hold it in your safe? You
9 are the safe person, if you will?

10 MR. McCOY: Correct.

11 CHAIRMAN SCALZO: So while the
12 paperwork is being processed for a
13 potential new buyer, you are in
14 possession of the firearm. Correct?

15 MR. McCOY: Correct. Yes. They
16 would have to go through the same
17 process, background check, submit it to
18 the County, it has to get signed by the
19 judge, and they would come back to me
20 with their coupon in order to receive
21 that firearm.

22 CHAIRMAN SCALZO: Thank you.

23 Ms. Rein, I've got a feeling we're
24 going to go back and forth a couple
25 times.

1 JAVON MCCOY

2 Mr. McCoy, as I say, since I've
3 been here I think we've had two or three.

4 MR. MASTEN: Three of them.

5 CHAIRMAN SCALZO: One was out on
6 Quaker, quite the rural neighborhood.

7 MR. MCCOY: Where is that?

8 CHAIRMAN SCALZO: Quaker Street is
9 off 300. It ends up running out into
10 Rock Cut or Mill Street. Anyway, it was
11 -- I'm very familiar with your
12 neighborhood. I don't live very far from
13 you.

14 MR. MCCOY: Okay.

15 CHAIRMAN SCALZO: I used to walk my
16 dog over there. Anyway, I know the
17 neighborhood. It's quiet, it's an
18 established development, a subdivision
19 that's -- you know, the lots are half
20 acre plus or minus.

21 The other one was over, I want to
22 say on Rockwood. That one -- the public
23 input on that was substantial.
24 Substantial is as polite as I can say it.
25 One was successful and one was not. I'm

1 JAVON McCOY

2 just trying to --

3 MR. McCOY: I understand.

4 CHAIRMAN SCALZO: -- paint a
5 picture for you.

6 Ms. Rein, you're all set.

7 How about you, Mr. Masten?

8 MR. MASTEN: I'm good with it.

9 There's a certain number of years that he
10 has to come back.

11 CHAIRMAN SCALZO: Thank you. Mr.
12 Masten is right.

13 MR. MASTEN: Four years.

14 CHAIRMAN SCALZO: You need to
15 review -- renew -- should you be
16 successful today, I believe -- Counsel,
17 help me out here. Is it every three or
18 four years that you need to come back in
19 and reestablish your --

20 MR. DONOVAN: Let me find it for
21 you, Mr. Chairman, while you ask your
22 questions. It's in here someplace.

23 MR. BELL: The one I read for 2020
24 was three years.

25 MR. McCOY: In three years I have

1 JAVON McCOY

2 to come back?

3 CHAIRMAN SCALZO: Right here.

4 MR. McCOY: I don't have to reapply
5 and all that?

6 MR. DONOVAN: If I recall
7 correctly, your license will be subject
8 to renewal. Correct?

9 MR. McCOY: Yes.

10 MR. DONOVAN: I think what the
11 Board did, because you're allowed to
12 impose reasonable conditions, which is a
13 time limitation as well. The condition
14 imposed at that time was to return each
15 time you apply -- you had to apply for
16 renewal of the FFL.

17 MR. McCOY: Okay. I'm not sure what
18 the time is. I haven't gotten that far
19 yet.

20 CHAIRMAN SCALZO: It's a process.
21 We're all aware of that. Very good.

22 Mr. Masten, you're good. Thank you
23 for bringing that up.

24 MR. MASTEN: It stuck in my mind.

25 CHAIRMAN SCALZO: The information

1 JAVON MCCOY

2 that Siobhan had sent out from the
3 previous two, I was hopeful that helped
4 everyone, if they got a chance to read
5 it.

6 Mr. Bell, you were kind of rolling
7 there. Do you have anything else?

8 MR. BELL: He took the one I was
9 going to mention as well.

10 CHAIRMAN SCALZO: I never start in
11 the middle, Mr. Bell.

12 MR. BELL: No, I don't have
13 anything else right now.

14 CHAIRMAN SCALZO: Okay.

15 MR. BELL: I've been through these.

16 CHAIRMAN SCALZO: I understand.

17 Mr. Hermance, down to you.

18 MR. HERMANCE: Have you considered
19 perhaps a small brick and mortar building
20 in a business district where this would
21 be -- wouldn't be needing a variance?

22 MR. MCCOY: No, I haven't thought
23 of that. I'd just like to do it out of
24 my house. It's right there. I have a
25 job 9 to 5. This is just something that

1 JAVON MCCOY

2 -- a little side thing.

3 MR. HERMANCE: Okay.

4 CHAIRMAN SCALZO: Mr. Eberhart?

5 MR. EBERHART: I'm a gun owner
6 myself.

7 CHAIRMAN SCALZO: As am I.
8 Concealed carry.

9 MR. EBERHART: Concealed carry
10 also. I have concerns. I would want to
11 hear from those folks in the neighborhood.

12 CHAIRMAN SCALZO: And that's coming
13 soon, Mr. Eberhart. Believe me, I will
14 allow us all to express our -- ask our
15 questions and hear the testimony that the
16 public is going to give. So Mr.
17 Eberhart, we're going to let you listen
18 and then we'll comment on that in a
19 little bit of time.

20 Mr. Gramstad?

21 MR. GRAMSTAD: No. Everybody asked
22 the questions I had. I'm good there.

23 CHAIRMAN SCALZO: Okay. I'll tell
24 you what I'm going to do. I'm going to
25 open this up to the public. I've got a

1 JAVON MCCOY

2 feeling we're going to get some
3 questions.

4 Mr. McCoy, you can sit in one of
5 those front seats.

6 At this point I'd like to open it
7 up to any members of the public that are
8 here to talk about this application.
9 Please state your name for the record and
10 we will receive your comments.

11 MS. TRAGIS: Teresa Tragis, I
12 reside at 15 Stony Run Road. I'm right
13 down the road from Jay.

14 When I received the letter, it was
15 a little scary because I'm thinking he
16 wants to have a gun store in his house.
17 That's the way I interpreted the letter.
18 I misinterpreted the letter.

19 My family are all hunters. My
20 kids, my son-in-law, my daughter-in-law,
21 they all have pistol permits. Me and my
22 mother-in-law are the only ones who do
23 not have pistol permits, okay. Being gun
24 owners, or being in a family of gun
25 owners, it doesn't necessarily mean that

1 JAVON MCCOY

2 you're reckless. As a matter of fact, I
3 think you're safer than somebody who has
4 no knowledge of guns.

5 My understanding is that he wants
6 to do it as a collector, as a help to his
7 friends, as opposed to having to go to
8 like the Thruway Market to purchase a new
9 hunting rifle or a new pistol.

10 As long as I know that my house
11 will be safe and there aren't going to be
12 any hoodlums coming into the
13 neighborhood, then --

14 CHAIRMAN SCALZO: Hoodlum is a
15 rough word to use.

16 MS. TRAGIS: Yes, I know that. I
17 mean it's not like they're trying to
18 obtain rifles and pistols and whatnot
19 illegally. He's trying to do it legally,
20 and I don't see any problem with that.

21 CHAIRMAN SCALZO: Got you. Have
22 you lived on Stony Run for a long time?

23 MS. TRAGIS: About forty years.

24 CHAIRMAN SCALZO: Forty years.

25 Okay.

1 JAVON MCCOY

2 MS. TRAGIS: My in-laws purchased
3 the house in '64 or '65. I purchased it
4 from my in-laws eleven years ago.

5 CHAIRMAN SCALZO: Okay. I'd say
6 about fifteen, twenty years ago I think
7 there was a crazy kid party and the house
8 ended up on fire. They pulled the safe
9 out of the house and dragged it in the
10 woods.

11 MS. TRAGIS: On my road?

12 MR. LEVINSON: The Voltara house.
13 Across the street from me.

14 MS. TRAGIS: Where are you?

15 MR. LEVINSON: 35 Stony Run.

16 MS. TRAGIS: 35. I know where you
17 are, too.

18 CHAIRMAN SCALZO: That's the only
19 type of trouble I've heard of in that
20 neighborhood. Like I say, I've lived
21 around the corner for thirty years.

22 MS. TRAGIS: I was more concerned
23 about how the letter read than I was when
24 I really learned what he wanted to do and
25 why. I'm a widow, so I'm by myself in

1 JAVON MCCOY

2 the house. The last thing that I want to
3 do is invite trouble. Believe me, I know
4 him well enough that if I didn't think it
5 was a good idea, he would have heard from
6 me when I got the letter in the mail to,
7 you know, tell him no, no way, I'm not
8 supporting you. He's a very responsible
9 person. He's come to my house and helped
10 me, and I support him.

11 CHAIRMAN SCALZO: Well, thank you
12 very much.

13 Counsel, just if this moves
14 forward, this allowance variance we're
15 going to call it, whatever we're going to
16 call it --

17 MR. DONOVAN: Special permit.

18 CHAIRMAN SCALZO: This is issued to
19 the individual, not the home. Correct?

20 MR. DONOVAN: It's issued to an
21 individual for an individual use. An
22 individual home occupation.

23 CHAIRMAN SCALZO: Correct. Let's
24 say Mr. McCoy moves, everything is done?

25 MR. BELL: Yeah.

1 JAVON MCCOY

2 MR. DONOVAN: Correct. I had to
3 think about that.

4 CHAIRMAN SCALZO: It does not go
5 with him to his next residence?

6 MR. MCCOY: I'd have to reapply.

7 CHAIRMAN SCALZO: We're going to
8 get back to that, the reapplying thing,
9 shortly. Thank you very much.

10 MS. TRAGIS: You're welcome.

11 CHAIRMAN SCALZO: Is there anyone
12 else here from the public that wishes to
13 speak about this application? Mr.
14 Fetter.

15 MR. FETTER: Good evening, folks.
16 Bill Fetter, Rockwood Drive. I was one
17 of the many who opposed the arms on
18 Rockwood Drive.

19 I'm not against anybody having arms
20 in their house, their own personal
21 ownership, but transferring any more than
22 need be in what I think is a relatively
23 dense neighborhood I don't think is
24 warranted.

25 That's really all. Thank you.

1 JAVON MCCOY

2 CHAIRMAN SCALZO: Thank you, Mr.
3 Fetter.

4 Sir, please step forward and state
5 your name for the record.

6 MR. LEVINSON: My name is David
7 Levinson, 35 Stony Run Road. I'm third
8 generation in Newburgh. I've been in the
9 Pine Brook area since 1969. I spent my
10 entire career in Newburgh as a school
11 teacher in the Newburgh District.

12 I've known Javon since he was a
13 student at NFA. I have good experience
14 at picking out the good guys and the bad
15 guys. He's one of the good guys.

16 As far as living in my
17 neighborhood, he puts us all to shame.
18 He took a house that was totally decrepit
19 -- I'm speaking to his character, by the
20 way. I mean it has bearing on this --
21 and made it a showplace, put in a
22 swimming pool. Everything for his two
23 children. He bought a hotdog cart for
24 his twelve-year old daughter to teach her
25 how to be an entrepreneur. He's nothing

1 JAVON MCCOY

2 but a model citizen. To deny this I
3 think would be a shame.

4 I'm also a licensed handgun owner
5 since 1974. I have purchased handguns
6 and they went to a person like Javon,
7 then I had to take -- after he received
8 it, I had to take the information to the
9 County, have it put on my license and
10 then bring the ticket back to him and
11 then get -- not Javon but another dealer,
12 and then get the firearm.

13 He's trying to do things the legal
14 and the correct way. It's easy to get a
15 handgun, take \$100, go down to the City
16 of Newburgh and in an hour you can come
17 back --

18 CHAIRMAN SCALZO: Mr. Levinson,
19 let's hang on to that thought process.

20 MR. LEVINSON: He's trying to do
21 things the correct way. I retract that
22 last statement, if I can. Okay. But
23 he's trying to do things the right way.

24 CHAIRMAN SCALZO: Thank you, Mr.
25 Levinson.

1 JAVON MCCOY

2 Back to Mr. Fetter for one moment.
3 Mr. Fetter, do you live in this
4 neighborhood?

5 MR. FETTER: No. I live on
6 Rockwood Drive.

7 CHAIRMAN SCALZO: Very good. Thank
8 you.

9 Anyone else from the public that's
10 here to speak about this application?

11 MR. STEPINSKI: My name is John
12 Stepinski, I live at 12 Christie Road,
13 next door to Dave and Javon.

14 I have nothing bad to even say to
15 Javon. He waves all the time. We don't
16 see each other too much in the wintertime
17 because we're never on our front lawn.
18 He raises his kids great. He takes care
19 of the house. We don't even know if the
20 kids are in the street. That's how well
21 he takes care of them. He's a stand-up
22 guy. If you didn't live in the
23 neighborhood you wouldn't even know he's
24 there. We all talk to each other. You
25 wouldn't even know he was there. That's

1 JAVON MCCOY

2 a great neighbor. He's doing his side
3 jobs and doing things he has to do. You
4 see that trailer come out, you know he's
5 going to do something. That's great.

6 If he can make a couple bucks and
7 follow the law, I have nothing against
8 that, you know. That's what the American
9 way is. Thank you.

10 CHAIRMAN SCALZO: Thank you.

11 Would anyone else like to speak
12 about this application? Step forward,
13 sir. State your name, please.

14 MR. BENDER: Ron Bender, I'm on
15 Rock Cut -- Forest Road, actually, across
16 the street from the first applicant
17 there, which is why I'm mainly here.

18 This is oversight, so please
19 forgive my being unprepared. My question
20 is more about the zoning regulations in a
21 situation like this. Is there any sort
22 of statement in there with regard to
23 requiring video monitoring inside or
24 outside the house for a situation like
25 this?

1 JAVON MCCOY

2 CHAIRMAN SCALZO: I don't know the
3 answer to that, however, we have our Code
4 Compliance representative here, Mr.
5 Mattina. It may not be something that's
6 in the code.

7 Mr. Mattina, are you aware if it is
8 or not?

9 MR. MATTINA: There's nothing in
10 the code that would address surveillance
11 or video cameras or anything like that.

12 MR. BENDER: Okay.

13 MR. MCCOY: The Ring camera and the
14 lights if anybody comes in the front, and
15 the doorbell. Even when the garbage
16 truck goes by, I get the alert on the
17 phone to see who is there. I spoke to
18 the gentleman today. I was at work, he
19 rang the bell. I was talking to him
20 through the thing when I was at work
21 today.

22 MR. BENDER: I feel sorry for you.
23 Too many notices. That is the only thing
24 that I would think might be something we
25 should look at.

1 JAVON MCCOY

2 CHAIRMAN SCALZO: I do know the
3 Town is currently reviewing the
4 comprehensive plan. Perhaps that might
5 be something that could make it in there.

6 MR. BENDER: Okay. Thanks.

7 CHAIRMAN SCALZO: Thank you. Does
8 anyone else want to speak about this
9 application?

10 (No response.)

11 CHAIRMAN SCALZO: I'm going to go
12 back to the Board now. I'll start down
13 the other end. Mr. Gramstad, you've
14 heard some testimony from residents close
15 and not so close to Mr. McCoy. Any other
16 comments regarding that?

17 MR. GRAMSTAD: No. I talked to him
18 earlier. I asked him about -- he said
19 accessories, gun barrels and stocks and
20 stuff like that. Ms. Rein asked about
21 the ammunition. That was one of the
22 questions I had also. I'm good.

23 CHAIRMAN SCALZO: Mr. Eberhart --
24 I'm, I don't want to say surprised at the
25 testimony we heard here, but I expected

1 JAVON MCCOY

2 actually more people to come up and
3 speak.

4 Mr. Eberhart, do you have any
5 thoughts on that?

6 MR. EBERHART: I'm a former
7 military person, right. If it was in my
8 neighborhood, it's not good. I said I
9 would take into account what his
10 neighbors had to say.

11 CHAIRMAN SCALZO: All the neighbors
12 within 500 feet were mailed and had the
13 opportunity to be here this evening, or
14 send in comments that we could have seen.

15 MR. DONOVAN: If I can, let me
16 point out that it's not a poll or a
17 calculation of the people who come,
18 whether they're in favor or against it.
19 It's an evaluation of the three factors
20 that are set forth in the code, as well
21 as your utilization of your own
22 commonsense, having been on the Board for
23 a number of years. While public input is
24 important, it should not be the
25 determining factor.

1 JAVON MCCOY

2 CHAIRMAN SCALZO: Very good.
3 Counsel, I don't want to say, but I'm
4 going to ask you to read more words. It
5 was twelve minutes ago you read those
6 three criteria and I probably forgot them
7 by now. If you could go ahead and remind
8 us again.

9 MR. DONOVAN: What I attempted to
10 do, hopefully successfully, is kind of
11 distill the three factors. There's four
12 factors in the code. One applies to a
13 business district, so I'm going to skip
14 that one. The three factors in the code
15 are, number one, will the use proposed be
16 in harmony with the district. Two, will
17 the use impair the use and enjoyment or
18 value of adjacent properties. Three, is
19 the intensity of the use hazardous or
20 detrimental to the character of the
21 neighborhood.

22 Basically you're looking at is
23 there going to be an adverse impact on
24 the neighborhood if this home occupation
25 is permitted. If there's not going to

1 JAVON MCCOY

2 be, then you have the basis to issue a
3 special permit.

4 MS. REIN: You don't really know
5 whether or not there's going to be an
6 adverse affect on the neighborhood at
7 this point.

8 MR. DONOVAN: That's an excellent
9 point, because the code -- Mr. Masten
10 recalled this. We had a specific time
11 period for renewal imposed on a prior
12 applicant. Our code says the ZBA may
13 require conditions. They also may
14 subject the approval to a periodic
15 renewal. You don't have to, but you can.
16 I think the feeling for the other
17 application was that maybe you should see
18 how it goes, because there was a lot of
19 neighbor opposition, as I recall, with
20 the other one. See how it goes and
21 determine whether or not you're going to
22 grant that again. My point being is you
23 can but you don't have to.

24 CHAIRMAN SCALZO: Okay. That's
25 perfect.

1 JAVON MCCOY

2 Mr. Mattina -- actually, Mr. McCoy,
3 please.

4 MR. MCCOY: I have a question.
5 With that being said, fifty letters were
6 mailed out. Nobody came to say anything
7 or wrote back any comments. Me
8 personally, that would mean they have
9 nothing against it.

10 CHAIRMAN SCALZO: Well, that's not --

11 MR. DONOVAN: The point I want to
12 make is that's not the determinative
13 factor. I was once in a meeting where a
14 board member said everybody opposed,
15 raise your hand. I was like, that's
16 really not the way this works. There's
17 objective criteria. In reaching your
18 decision, you can certainly say fifty
19 letters were sent, three people showed up
20 and they were in favor of it. That can
21 factor in to your decision making. It's
22 not the determinative factor.

23 CHAIRMAN SCALZO: Very good. As
24 you said, harmony in the district was the
25 one that really called my attention.

1 JAVON MCCOY

2 Harmony in the district. There are no
3 other home occupations such as this in
4 this location, but there also are not in
5 many other districts, unless they're in a
6 brick and mortar type location.

7 Mr. Mattina, do you recall the
8 other -- the only other one we approved
9 that I can recall out on Quaker -- was it
10 Quaker?

11 MR. MATTINA: Quaker.

12 CHAIRMAN SCALZO: Have you received
13 any comments, complaints --

14 MR. MATTINA: Not a word.

15 CHAIRMAN SCALZO: Okay.

16 MR. MATTINA: There's been no
17 complaints filed against him, or
18 complaints of any type.

19 CHAIRMAN SCALZO: Okay.

20 MR. BELL: That was in 2021.

21 CHAIRMAN SCALZO: '21.

22 MR. BELL: 2020.

23 CHAIRMAN SCALZO: Okay. One year
24 people weren't on the road.

25 MR. BELL: Exactly.

1 JAVON McCOY

2 CHAIRMAN SCALZO: Mr. Hermance,
3 we've heard testimony and a few other
4 things here.

5 MR. HERMANCE: I don't know if you
6 commented on this earlier. Is there
7 going to be any advertising for this type
8 of business?

9 MR. McCOY: No advertising.

10 MR. HERMANCE: It's just going to
11 be strictly friends --

12 MR. McCOY: Word of mouth. A
13 friend of a friend. I'm not going to put
14 an ad in the paper, something on Facebook
15 or a big sign on my front yard. I would
16 like to keep it as on the hush as I can
17 so not to bring attention to my home.

18 MR. HERMANCE: It would be an
19 appointment?

20 MR. McCOY: Correct. Yes.

21 MR. HERMANCE: Okay. That's all I
22 have.

23 CHAIRMAN SCALZO: Mr. Bell?

24 MR. BELL: That's one of the things
25 I was going to ask, the operation times,

1 JAVON McCOY

2 your time of operation.

3 MR. McCOY: I work from 6:30 to
4 2:30, so any time reasonable after that.
5 Not coming to my house at 10:00 at night.
6 Maybe 8:00, 9:00 the latest.

7 MR. BELL: So what time are we
8 talking?

9 MR. McCOY: So say from 3 to 8.
10 Like I said, I'm not --

11 MR. DONOVAN: Mr. McCoy, I don't
12 want to put words in your mouth, but is
13 it by appointment?

14 MR. McCOY: By appointment only.

15 MR. DONOVAN: You're not going to
16 have an illuminated sign in front that
17 says stop and buy your gun between 3 --

18 MR. McCOY: No. If somebody says I
19 can't get there until 8:30, I'm not going
20 to say it's after 8:00, you can't come.
21 Again, it's not advertising. There's not
22 going to be signs on my truck, my
23 trailer, in the front or driving down the
24 street on the megaphone.

25 MR. BELL: So this is basically

1 JAVON McCOY

2 those people who you know --

3 MR. McCOY: Correct.

4 MR. BELL: -- who are looking to
5 purchase a firearm?

6 MR. McCOY: Yes.

7 MR. BELL: You're going to act as
8 if you were the legal -- you're going to
9 be the dealer?

10 MR. McCOY: So they don't have to
11 go to the Thruway Market.

12 MR. BELL: I'm good.

13 CHAIRMAN SCALZO: Mr. Masten, you
14 were right on it. Do you have anything
15 else?

16 MR. MASTEN: I was wondering, is
17 there a possibility that at one time,
18 before you were going to have it in your
19 house, were you possibly looking,
20 possibly, to an outside facility, like a
21 storefront or something?

22 MR. McCOY: At this time, no,
23 because I have no time to run that. I
24 have a regular job. I can't be there for
25 that.

1 JAVON McCOY

2 MR. MASTEN: That was one of the
3 questions prior. That answers my
4 question. Thank you.

5 CHAIRMAN SCALZO: Ms. Rein?

6 MS. REIN: Well, I'm thinking that
7 according to what David said, rather than
8 wait the three or four years, I think
9 maybe we should put something in place
10 that gives us a year, maybe two years to
11 go back and revisit this to see if there
12 have been any issues, and then we can
13 decide if we want to extend it longer.
14 Since it is something that's very new in
15 this area and we do have at least one
16 concern, maybe we can put it on a sort of
17 probationary thing, see how it goes. If
18 there's nothing that's bad going on, then
19 we'll say you don't have to come back in
20 a year or two, you can come back when
21 your license has to be renewed.
22 Something along those lines.

23 MR. McCOY: I have a question. The
24 person that did speak to say something,
25 they're not in my neighborhood.

1 JAVON McCOY

2 CHAIRMAN SCALZO: Correct. You
3 also heard Counsel say that's really not
4 -- hearing the testimony for us is very
5 valuable. Perhaps the members of the
6 public can bring up something that we
7 haven't thought of. Perhaps they can
8 throw out something regarding an adverse
9 effect on the neighborhood. They may not
10 live there, but maybe they drive through.
11 I don't know.

12 MR. McCOY: The gentleman before me
13 with his front steps, I could have known
14 this guy, twenty years ago we worked
15 together, he was an asshole. I could say
16 I don't approve. I mean, that's --

17 MS. REIN: We don't turn people
18 down because they're an asshole.

19 MR. McCOY: You can come up and
20 make anything up why you don't want it
21 done or whatever. He came from a
22 different neighborhood.

23 MS. REIN: It's just a concern.

24 CHAIRMAN SCALZO: Hang on. Ten
25 years I've been on the Board and that's

1 JAVON McCOY

2 the first and second time, and I know it
3 wasn't said with malice, but let's keep
4 it --

5 MR. McCOY: I'm sorry. I'm sorry.

6 CHAIRMAN SCALZO: The two of you.

7 Mr. Levinson.

8 MR. McCOY: I'm in construction.

9 It's like normal talk.

10 MR. LEVINSON: Can I say one more
11 thing? In order to have and maintain an
12 FFL, you're tightly regulated by the
13 Federal Government. They have the right
14 at any time, unannounced, to knock on his
15 door and come in and inspect the
16 facilities. If there was a problem -- I
17 mean, you might have a neighbor who is an
18 anti-gun person who would object to it.
19 If he does anything that's outside the
20 law, the Federal Government has the right
21 to come in right away and shut him down.

22 MR. MASTEN: Close him down.

23 CHAIRMAN SCALZO: Thank you, Mr.
24 Levinson.

25 MS. REIN: I'm good.

1 JAVON MCCOY

2 CHAIRMAN SCALZO: You're good.

3 All right. I'm going to look out to
4 the members of the public. Does anybody
5 else have anything they want to add to
6 this? This is unusual. I know it's
7 taking a little longer than a lot of the
8 other applicants.

9 Sir, I apologize, I forgot your
10 name.

11 MR. BENDER: Ron. I just want to
12 make something clear. I'm all for this
13 guy putting this in. I don't have a
14 problem with it. I just think that the
15 zoning regulations should encompass some
16 sort of surveillance, even in a situation
17 like this. I mean, if it's brick and
18 mortar, they'd have cameras all over the
19 place.

20 CHAIRMAN SCALZO: Not necessarily.

21 MR. BENDER: No?

22 CHAIRMAN SCALZO: It's not required.

23 MR. BENDER: Well --

24 CHAIRMAN SCALZO: It's not a
25 requirement.

1 JAVON McCOY

2 MR. BELL: A lot of them do it for
3 their own safety.

4 MR. BENDER: Right, right. That's
5 why I think even for a --

6 MR. BELL: Which he kind of does by
7 having that Ring camera, because it's
8 going to identify whoever is coming in.

9 MR. BENDER: That's what makes me
10 feel comfortable, even though I'm not in
11 the neighborhood. I just think that in
12 general it probably should be something,
13 especially nowadays at the price point
14 that the devices are, that in a situation
15 even like this with -- I'm presuming he's
16 only going to have one or two people come
17 to the house at any time.

18 CHAIRMAN SCALZO: Two might be a
19 crowd in this case. It sounds like it.

20 MR. BENDER: Right. Right.

21 MR. McCOY: One person.

22 CHAIRMAN SCALZO: You typically
23 don't want to overlap something like
24 that.

25 MR. BENDER: So, you know, I just

1 JAVON MCCOY

2 wanted to kind of clarify the point here.

3 MR. BELL: Okay.

4 MR. BENDER: I just think it's
5 something that should be looked into, as
6 we mentioned.

7 CHAIRMAN SCALZO: Thank you. Thank
8 you very much.

9 Counsel, I'm going to ask you one
10 more time. The first criteria was
11 harmony in the district. Part of the
12 other criteria was any adverse effect on
13 the neighborhood.

14 MR. DONOVAN: Use, enjoyment and
15 value of adjacent properties. The
16 intensity of use shall not be hazardous
17 or detrimental to the neighborhood.
18 Traffic generation, that type of thing.

19 CHAIRMAN SCALZO: Very good. Okay.
20 In this case it appears as though anyone
21 from the public has said their peace at
22 this point.

23 At this point, Counsel, it's
24 appropriate to close the public hearing.
25 Correct?

1 JAVON MCCOY

2 MR. BELL: Yes.

3 MR. DONOVAN: I sound just like Mr.
4 Bell. It's amazing.

5 Using your discretion. If you think
6 you have enough information to make a
7 decision, you can close the public
8 hearing.

9 CHAIRMAN SCALZO: If the Board
10 feels as though we've got enough
11 information to close the public hearing,
12 then someone can make a motion for that.

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

15 MR. GRAMSTAD: Second.

16 CHAIRMAN SCALZO: We have a motion
17 from Mr. Bell. I think it was Mr.
18 Gramstad. All right. All in favor?

19 MR. BELL: Aye.

20 MR. EBERHART: Aye.

21 MR. GRAMSTAD: Aye.

22 MR. HERMANCE: Aye.

23 MR. MASTEN: Aye.

24 MS. REIN: Aye.

25 CHAIRMAN SCALZO: Aye.

1 JAVON MCCOY

2 Those opposed?

3 (No response.)

4 CHAIRMAN SCALZO: All right. Any
5 further discussion on this? It's
6 certainly -- like I say, we don't get
7 these very often.

8 We've heard from the applicant that
9 there will be no advertising, there will
10 be no displays, there will be no
11 ammunition sold, there will be no
12 advertising or signs in the home stating
13 what it is.

14 We have the ability, if we were to
15 get that far, for a frequency of renewal,
16 as Ms. Rein had mentioned there.

17 Also, we heard testimony from one
18 of the members of the public reminding us
19 that the Federal inspection can occur at
20 any time if Mr. McCoy is granted his
21 ability to do this.

22 This is a process. Mr. McCoy can't
23 move any further without this. It
24 doesn't matter to us. I'd like to say
25 for everybody on that side of the table,

1 JAVON MCCOY

2 this is always emotional. When on this
3 side of the table, it's not. We just
4 have to look at everything that's been
5 presented to us and act accordingly.

6 So Counsel, if we were to choose to
7 move forward and grant the special permit
8 or oppose it, what is our next step?

9 MR. DONOVAN: The next step, if
10 someone was going to choose to make a
11 motion to approve, it would just be make
12 a motion to approve because you
13 determined that the home occupation is in
14 harmony with the district that it's
15 located in, will not impair the use,
16 enjoyment or value of adjacent
17 properties, and the intensity of the use
18 shall not be hazardous or detrimental to
19 the character of the neighborhood. If
20 you make those findings, you can make a
21 motion to approve. If you wish to -- I
22 think the conditions in terms of the
23 operation of the business have already
24 been described. You can just say as
25 described, as then you can determine

1 JAVON McCOY

2 whether you want to make a time
3 limitation.

4 My only suggestion on that -- I
5 know Ms. Rein suggested a shorter time.
6 I wouldn't suggest anything less than the
7 period of the FFL license, because that's
8 -- if you're going to approve it, you're
9 likely to then impose a condition that's
10 going to cause this gentleman a problem
11 because it's not approved for the length
12 of the license. You're not required to
13 have a time limit, though. That's in the
14 discretion of the Board, if you think
15 there's a good reason for it.

16 MR. BELL: And what is that time
17 again? I want to verify.

18 MR. DONOVAN: I'm not sure. I
19 think it was three or four years from the
20 gentleman before. I don't know if Mr.
21 Mattina knows the answer.

22 MR. McCOY: I haven't gotten that
23 far yet. This is my first step.

24 MR. BELL: Reading the one from
25 2020, we did impose a three-year --

1 JAVON MCCOY

2 CHAIRMAN SCALZO: I believe it was
3 three years as well.

4 MR. MASTEN: A four-year renewal.

5 MR. BELL: We just read it. It's
6 right here in writing.

7 MR. DONOVAN: I think that's what
8 we were told at the time by the
9 applicant. Again, the Board needs to
10 decide whether that's something you want.

11 MR. BELL: I think that would be a
12 good thing to do.

13 CHAIRMAN SCALZO: At this point I
14 believe I've heard everything that I need
15 to hear, but I'm one of seven.

16 Ms. Rein, is there anything else
17 that you feel as though you want to learn
18 about with this application?

19 MS. REIN: No. I was just
20 concerned about making the time a little
21 shorter. As Counsel said, that maybe
22 brings an issue with the --

23 MR. BELL: FFL.

24 MS. REIN: -- licensing, or
25 whatever it is with the Federal.

1 JAVON MCCOY

2 CHAIRMAN SCALZO: You know what, I
3 like your point, because if there is an
4 issue in the neighborhood, even if that
5 time span is shorter than what the FFL
6 license were to grant, we don't want to
7 allow it to continue.

8 MS. REIN: We want to nip it in the
9 bud.

10 CHAIRMAN SCALZO: Counsel, I
11 understand your point. It becomes an
12 issue for the applicant, should we hear
13 from the public that it's not working or
14 there's other factors that were not
15 revealed during this public hearing.
16 Correct?

17 MR. DONOVAN: Correct. If you
18 don't mind, I'm going to flip it a little
19 bit. Tonight we heard from three folks
20 that thought this was a great idea.

21 CHAIRMAN SCALZO: One opposed.

22 MR. DONOVAN: Correct. If the
23 reverse is true, one year, two years,
24 three years from now, does that mean if
25 you have three people opposed and one

1 JAVON MCCOY

2 person in favor, that you're going to
3 change your mind? I'm just saying that
4 the number of people who come and speak
5 and what they say is a factor to be
6 considered, but it should not be the be
7 all and end all of your decision.

8 MS. REIN: It's not going to match
9 the criteria you spoke of. Say in a year
10 or so you get more information from the
11 folks that live in the area and they tell
12 us specifically what the problem is, it's
13 not just yeah, I want it or I don't want
14 it.

15 CHAIRMAN SCALZO: It's going to be
16 a complaint. It's not going to be I just
17 moved here and I don't like what this guy
18 does.

19 MR. DONOVAN: Not to make Mr.
20 Mattina's life difficult, because God
21 knows Code Compliance has enough work to
22 do, making sure buildings aren't going to
23 fall down, if someone is going to
24 complain that this is a 24/7 operation
25 with lights and signs, that's in

1 JAVON McCOY

2 violation of your approval.

3 CHAIRMAN SCALZO: Thank you,
4 Counsel, for reminding us of that.

5 MR. GRAMSTAD: I have a question.
6 If it came out in a year from now that
7 there were problems, wouldn't the Federal
8 Government step in and close him down?

9 MR. McCOY: Yes.

10 MS. REIN: That would depend on
11 whether the Federal Government knew about
12 it.

13 MR. GRAMSTAD: I would think they
14 would step in and close them down.

15 CHAIRMAN SCALZO: Someone could
16 lodge a complaint with the Feds, is what
17 you're saying.

18 MR. GRAMSTAD: Right.

19 MS. REIN: They would have to know
20 about it.

21 MR. BELL: If they would.

22 CHAIRMAN SCALZO: Thanks for making
23 me think. That's good.

24 Mr. Masten, anything else?

25 MR. MASTEN: Nothing right now,

1 JAVON M C C O Y

2 Darrin.

3 CHAIRMAN SCALZO: Mr. Bell?

4 MR. BELL: I'm good.

5 CHAIRMAN SCALZO: Mr. Hermance?

6 MR. HERMANCE: I have nothing

7 further.

8 CHAIRMAN SCALZO: Mr. Eberhart?

9 MR. EBERHART: Nothing.

10 MR. GRAMSTAD: I'm good.

11 CHAIRMAN SCALZO: I think we're at

12 that point. I'm going to look to the

13 Board here for a motion of some sort.

14 Counsel, we don't have to go

15 through the variance criteria?

16 MR. DONOVAN: You do not, no.

17 CHAIRMAN SCALZO: All right. So if

18 someone was to make a motion, no matter

19 -- if they make a motion to deny, then

20 we're done. If they --

21 MR. DONOVAN: You still have to

22 vote.

23 CHAIRMAN SCALZO: Yeah. Thank you,

24 Counsel. If they make a motion to

25 approve, we can -- because Michelle keeps

1 JAVON MCCOY

2 wonderful minutes, we can just recite out
3 of the meeting minutes what the
4 restrictions to the application would be.
5 Correct?

6 MR. DONOVAN: Correct, Mr.
7 Chairman.

8 MS. REIN: So we can approve with
9 conditions? Is that what you're saying?

10 CHAIRMAN SCALZO: Exactly.

11 MR. BELL: Yeah.

12 CHAIRMAN SCALZO: I'll look to the
13 Board. Does anybody have any --

14 MR. BELL: I'll make a motion for
15 approval as long as it fits within the
16 harmony of the district, there's no
17 adverse effect on the neighborhood and
18 there's nothing hazardous or detrimental
19 to the neighborhood, and to impose the
20 three-year renewal in guidelines with the
21 FFL.

22 CHAIRMAN SCALZO: Mr. Bell, like I
23 say, the harmony in the district, I don't
24 disagree with you. The harmony in the
25 district is a tough one because we don't

1 JAVON MCCOY

2 have many of these.

3 Counsel, when I say harmony with
4 the district, are we looking for
5 consistency or are we looking for --

6 MR. DONOVAN: Consistent with the
7 neighborhood.

8 CHAIRMAN SCALZO: Well, it's a home
9 occupation that's by appointment only. I
10 believe they actually allow other home
11 occupations.

12 MR. DONOVAN: There's a number of
13 home occupations that are listed in the
14 code, many of which, frankly, are more
15 intense than this use would appear to be.

16 CHAIRMAN SCALZO: Mr. Bell, I
17 believe, threw out a motion for approval
18 with some conditions. Just to cover
19 that, we're going to any of the
20 restrictions that were mentioned during
21 the public hearing, as well as our
22 comments that Michelle has recorded would
23 also be imposed upon this application.

24 MR. DONOVAN: Mr. Chairman, just to
25 clarify, I take the minutes and I turn

1 JAVON MCCOY

2 them into a written decision. That would
3 be incorporated in the written decision.

4 CHAIRMAN SCALZO: Okay. That's
5 great.

6 So Mr. Bell, would you like to hang
7 your motion on what Counsel just said?

8 MR. BELL: I do agree. I will hang
9 my motion on what he just said.

10 CHAIRMAN SCALZO: Very good. Do we
11 have a second to that?

12 MR. GRAMSTAD: Second.

13 CHAIRMAN SCALZO: We have a second
14 from Mr. Gramstad. This is delicate; so
15 Siobhan, you're going to have to roll on
16 this.

17 MR. DONOVAN: So everyone
18 understands and I understand, it's a
19 motion to grant the special permit with
20 the requirement that the permit be
21 renewed in three years. Three years from
22 tonight or three years from the issuance
23 of the FFL?

24 MR. BELL: That's a good question.

25 CHAIRMAN SCALZO: It would make

1 JAVON McCOY

2 sense for it to be three years from the
3 issuance of the FFL, because if it wasn't
4 you would be in here -- perhaps when
5 you're talking about the Federal
6 Government, it could take you three
7 months to get it and you'll be here two
8 years and nine months from now.

9 MR. BELL: Would we be able to
10 require that once that is approved, he
11 has to bring it to show it to Code
12 Compliance?

13 CHAIRMAN SCALZO: That is perfect.
14 That's also a condition.

15 MR. BELL: That's condition. An
16 additional condition is to supply us with
17 your dated FFL license.

18 MR. McCOY: Okay.

19 MR. BELL: Bring it to Code
20 Compliance. That will be the effective
21 date. The three-year date will start at
22 that time.

23 MR. McCOY: What if it's more than
24 three years I have to renew my license?

25 CHAIRMAN SCALZO: We're going to

1 JAVON MCCOY

2 give you three years.

3 MR. McCOY: Even if my thing
4 doesn't expire with the FFL?

5 CHAIRMAN SCALZO: We're still doing
6 it at three.

7 MS. REIN: That's already a
8 condition.

9 MR. McCOY: Okay. In three years I
10 have to reapply for this whole --

11 CHAIRMAN SCALZO: You have to come
12 in and sit in front of us again.
13 Probably not me.

14 MR. McCOY: Send all those letters
15 out and all that stuff, too?

16 MR. DONOVAN: The code says the
17 same procedure.

18 MR. BELL: And if I may add,
19 because we're going to keep it consistent
20 in what we have done in the past.

21 MR. McCOY: The person that got
22 this use in 2020, they're doing it?

23 CHAIRMAN SCALZO: They will be back
24 this year.

25 MR. BELL: They come back this

1 JAVON McCOY

2 year. Yes.

3 MR. McCOY: Okay. All right.

4 CHAIRMAN SCALZO: So we have a
5 motion from Mr. Bell. We have a second
6 from Mr. Gramstad.

7 MS. JABLESNIK: Just so I know,
8 when he comes in for his -- when he goes
9 back for his building permit, how does
10 that work now? They get issued a CO.
11 Does he get issued the CO after the stuff
12 is done with --

13 MR. MATTINA: That will be a
14 condition. They'll tell me when his date
15 starts and we'll issue the CO based on
16 three years after that.

17 MR. McCOY: I can't get nothing
18 until I get the approval.

19 MR. MATTINA: You'll get a
20 certificate.

21 MS. JABLESNIK: Then I'll have that
22 date.

23 MR. BELL: You'll be able to roll
24 once you leave here.

25 CHAIRMAN SCALZO: Mr. Mattina, this

1 JAVON McCOY

2 is a building permit?

3 MR. MATTINA: It has to be for a
4 home occupancy.

5 MR. McCOY: So now the actual
6 approval, I have to come there and pick
7 it up?

8 CHAIRMAN SCALZO: We haven't voted
9 yet. You're looking at your watch. I'm
10 looking at mine, too.

11 MS. JABLESNIK: You're only
12 applicant number 2.

13 MR. BELL: I recommended approval.
14 We have six other Board Members.

15 CHAIRMAN SCALZO: This is the third
16 time I'm going to ask Siobhan to roll on
17 that, please.

18 MS. JABLESNIK: Mr. Bell?

19 MR. BELL: Yes.

20 MS. JABLESNIK: Mr. Eberhart?

21 MR. EBERHART: Yes.

22 MS. JABLESNIK: Mr. Gramstad?

23 MR. GRAMSTAD: Yes.

24 MS. JABLESNIK: Mr. Hermance?

25 MR. HERMANCE: Yes.

1 JAVON McCOY

2 MS. JABLESNIK: Mr. Masten?

3 MR. MASTEN: Yes.

4 MS. JABLESNIK: Ms. Rein?

5 MS. REIN: Yes.

6 MS. JABLESNIK: Mr. Scalzo?

7 CHAIRMAN SCALZO: Yes.

8 MR. BELL: Now you can roll.

9 MR. McCOY: Do I have to pick this
10 up or is it going to be mailed to me?

11 CHAIRMAN SCALZO: Call Siobhan
12 tomorrow.

13 MR. McCOY: Sounds good. Thank
14 you. Have a good night.

15

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

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1 JAVON M C C O Y

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

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5

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

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

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

15 IN WITNESS WHEREOF, I have hereunto set
16 my hand this 2nd day of April 2023.

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Michelle Conero

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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

JUAN PENA
(AMERICAN GRANITE)

179 South Plank Road, Newburgh
Section 60; Block 3; Lot 14.2
B Zone

----- X

Date: March 23, 2023
Time: 8:00 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, New York

BOARD MEMBERS: DARRIN SCALZO, Chairman
DARRELL BELL
JAMES EBERHART, JR.
ROBERT GRAMSTAD
GREGORY M. HERMANCE
JOHN MASTEN
DONNA REIN

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

APPLICANT'S REPRESENTATIVE: JONATHAN MILLEN

----- X

MICHELLE L. CONERO
3 Francis Street
Newburgh, New York 12550
(845) 541-4163

1 JUAN PENA

2 CHAIRMAN SCALZO: Our next
3 applicant is Juan Pena, American Granite,
4 179 South Plank Road in Newburgh, seeking
5 area variances of the rear and side yard
6 for the outdoor storage of granite within
7 the fenced area of the site.

8 Do we have mailings on that,
9 Siobhan?

10 MS. JABLESNIK: Yes. This
11 applicant sent out 31 mailings.

12 We mailed to the County, but we did
13 not receive their letter back yet.

14 This is also a Planning Board
15 application.

16 MR. DONOVAN: It's not residential.
17 Right?

18 MS. JABLESNIK: No.

19 MR. DONOVAN: So it's not subject
20 to the --

21 CHAIRMAN SCALZO: Not subject to
22 the opt out, which means we need the
23 County's response.

24 MR. DONOVAN: That's correct.

25 CHAIRMAN SCALZO: Mr. Millen, you

1 JUAN PENA

2 understand what that means?

3 MR. MILLEN: Yes.

4 CHAIRMAN SCALZO: You have a full
5 Board, so being able to present and have
6 us ask you questions is perfect. If I've
7 captured everything that you wanted me to
8 capture in that one sentence, great. If
9 not, if you want to go ahead and point to
10 your survey --

11 MR. MILLEN: First of all, I will
12 say that I am Jonathan Millen, land
13 surveyor.

14 What we have here is this
15 particular business is looking to store,
16 in this area that's in blue, granite that
17 they use in the process of their
18 business.

19 Now, while the code calls for a 10-
20 foot minimum to the side yard or the rear
21 yard, the fact is that the terrain in the
22 backyard is about 8 or 9 feet higher.
23 The movie theater parking lot is back
24 here. There's not much impact as far as
25 visually that there would be by not

1 JUAN PENA

2 having the 10 feet between the rear yard
3 setback. The 7 foot setback as opposed
4 to a 10, we'll have trees planted here.
5 What am I looking to say?

6 MR. GRAHAM: Shrubs?

7 MR. MILLEN: Shrubs. There we go.
8 Shrubs will be planted here to block that
9 view from the back of the parking lot of
10 this unit here.

11 I would say that the effective
12 operation of the business depends on
13 having outdoor storage.

14 CHAIRMAN SCALZO: Thank you. Mr.
15 Millen, a couple quick questions. 43
16 feet wide with a gate I see, is this
17 going to be, more or less -- once a
18 client of the applicant comes in, this is
19 what I want, is this for display purposes
20 in the back, is it just for storage or
21 they will eventually process the stone?

22 MR. MILLEN: Right. This is where
23 someone orders a specific type of granite
24 for their countertop, it comes in in a
25 much larger format than they can utilize

1 JUAN PENA

2 initially to store within the building.
3 They store it outside of the building and
4 bring it in, cut it, do whatever they
5 need to do to deliver it.

6 CHAIRMAN SCALZO: I do appreciate
7 how you put on the trailer and the
8 turning radiuses on that. I notice that
9 you did leave off the front where it's
10 going to be the tightest to get through.
11 That's really not why we're here. We're
12 talking about the stuff in the back.

13 I did visit the site yesterday.
14 Currently the area that's shaded in blue
15 has a couple of dumpsters in there.
16 Where are they going to move to?

17 MR. MILLEN: I believe they're
18 going to put the dumpsters in this area
19 right here.

20 CHAIRMAN SCALZO: The area that's
21 already dedicated to dumpsters has
22 dumpsters in it. I want to say there
23 were four when I was there.

24 MR. BELL: If I may.

25 MR. MILLEN: I'm sorry?

1 JUAN PENA

2 MR. BELL: If I may.

3 CHAIRMAN SCALZO: You're going to
4 help out the applicant. Go ahead,
5 Darryl.

6 MR. BELL: It seems like he might
7 need a little help. When I went today
8 and spoke with the gentleman there, I
9 asked that question. There are four
10 dumpsters there. All of those dumpsters
11 will be moved out and they'll bring two
12 larger dumpsters in to fit into that
13 dumpster area. Instead of being four,
14 it's just going to be two.

15 CHAIRMAN SCALZO: Mr. Millen,
16 you're not giving him a cup of coffee
17 later or anything?

18 MR. BELL: I just --

19 CHAIRMAN SCALZO: I noticed that
20 myself. It is tucked back. I agree with
21 your assessment there, that the area
22 behind it is up high. As far as any
23 detriment to the character of the
24 neighborhood, I don't see any at all.

25 This is a public hearing. I'm

1 JUAN PENA

2 going to start in the middle. Mr. Bell,
3 what do you got? You just helped him out
4 and you're good?

5 MR. BELL: Yes. When I was there
6 today, I was able to walk inside of the
7 area where they actually cut the granite,
8 looked at the slabs that he's looking to
9 move from inside out to the storage area.
10 I think it's a good idea.

11 CHAIRMAN SCALZO: All right. Mr.
12 Hermance?

13 MR. HERMANCENCE: No, I don't see it
14 as a detriment. It's an actual
15 improvement.

16 CHAIRMAN SCALZO: Very good. Mr.
17 Masten?

18 MR. MASTEN: I have nothing.

19 CHAIRMAN SCALZO: Mr. Eberhart?

20 MR. EBERHART: Nothing.

21 CHAIRMAN SCALZO: Ms. Rein?

22 MS. REIN: Actually, my question is
23 for Counsel. On page 3 it says here is
24 the project located in the hundred year
25 floodplain, and it says yes. Is that

1 JUAN PENA

2 even an issue for us in this?

3 MR. DONOVAN: Relative to the
4 outdoor storage, no. It could be a
5 Planning Board issue. The Planning Board
6 referral said this is a Type 2 action, so
7 we don't really need to do anything with
8 SEQRA. The relief that's being requested
9 is not related to anything to do with a
10 floodplain. The question was answered,
11 but it really has no impact on us.

12 MS. REIN: Thank you. I have no
13 questions.

14 CHAIRMAN SCALZO: Thank you. Mr.
15 Gramstad?

16 MR. GRAMSTAD: No. I went there and
17 everything was explained to me.

18 CHAIRMAN SCALZO: You saw what I
19 did there. I went back and forth.

20 Are there any members of the public
21 that wish to speak about this
22 application?

23 (No response.)

24 CHAIRMAN SCALZO: No. Very good.
25 Well, even if you weren't here to speak

1 JUAN PENA

2 about it and you wanted to come back next
3 month, you're going to have that
4 opportunity. Because we did not hear
5 back from the County, we cannot close the
6 public hearing. No one will be
7 re-noticed.

8 I'm going to look to the Board for
9 a motion to keep the public hearing open.

10 MR. MASTEN: I'll make the motion.

11 MS. REIN: Second.

12 CHAIRMAN SCALZO: We have a motion
13 from Mr. Masten, we have a second from
14 Ms. Rein to keep the public hearing open
15 to the April --

16 MS. JABLESNIK: 27th.

17 CHAIRMAN SCALZO: -- whatever the
18 fourth Thursday in April is.

19 All in favor?

20 MR. BELL: Aye.

21 MR. EBERHART: Aye.

22 MR. GRAMSTAD: Aye.

23 MR. HERMANCE: Aye.

24 MR. MASTEN: Aye.

25 MS. REIN: Aye.

1 JUAN PENA

2 CHAIRMAN SCALZO: Aye.

3 Those opposed?

4 (No response.)

5 CHAIRMAN SCALZO: Mr. Millen, we'll
6 see you in a month.

7 MS. JABLESNIK: April 27th.

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9 (Time noted: 8:07 p.m.)

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1 JUAN PENA

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

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

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

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

15 IN WITNESS WHEREOF, I have hereunto set
16 my hand this 2nd day of April 2023.

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Michelle Conero

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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

ADAM SHAPIRO

307 Lakeside Road, Newburgh
Section 50; Block 1; Lot 17
R-1 Zone

----- X

Date: March 23, 2023
Time: 8:07 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, New York

BOARD MEMBERS: DARRIN SCALZO, Chairman
DARRELL BELL
JAMES EBERHART, JR.
ROBERT GRAMSTAD
GREGORY M. HERMANCE
JOHN MASTEN
DONNA REIN

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

APPLICANT'S REPRESENTATIVE: ADAM SHAPIRO

----- X

MICHELLE L. CONERO
3 Francis Street
Newburgh, New York 12550
(845) 541-4163

1 A D A M S H A P I R O

2 CHAIRMAN SCALZO: Our next
3 applicant is Adam Shapiro, 307 Lakeside
4 Road in Newburgh, seeking area variances
5 of increasing the degree of nonconformity
6 of an existing nonconforming accessory
7 structure in the front yard to build a 5
8 by 12 addition.

9 Do we have mailings on that,
10 Siobhan?

11 MS. JABLESNIK: Yes. This
12 applicant sent out 35 letters.

13 CHAIRMAN SCALZO: 35. Not quite
14 the winner, but close.

15 All right. Who do we have with us?

16 MR. SHAPIRO: Adam Shapiro, 307
17 Lakeside Road in Newburgh.

18 CHAIRMAN SCALZO: Mr. Shapiro, you
19 heard what I just said, those two -- one
20 sentence. We have visited the site. We
21 have looked. You're not the first house
22 on Lakeside Road that has a garage out on
23 the street, out in front of the house.
24 What you're looking to do does not seem
25 substantial, but I've got some questions.

1 A D A M S H A P I R O

2 I did notice you, as part of the
3 application package -- you purchased the
4 property, I want to say, in 2000?

5 MR. SHAPIRO: That's correct.

6 CHAIRMAN SCALZO: Okay. And your
7 deed recites that you had a survey
8 prepared by Dan Yanosh, and it was for
9 you because it was dated right at the
10 time -- right around your closing, but
11 you gave us a sketch with some very small
12 lettering on it, which I had to jump on
13 my computer and blow it up. Mr. Mattina
14 probably couldn't see it because he needs
15 a magnifying glass. When I tell you the
16 offset to the front right corner of the
17 proposed shed is 4 feet, as far as I
18 know, that's a no-no.

19 MR. MATTINA: Right. This isn't
20 the survey I reviewed.

21 CHAIRMAN SCALZO: How come that's
22 not in the package?

23 MR. MATTINA: I would have picked
24 up the 4 feet, trust me.

25 CHAIRMAN SCALZO: Okay. So that's

1 A D A M S H A P I R O

2 my observation, Mr. Shapiro. You know,
3 you're here because your garage is in
4 front of the house, but there's also
5 another variance we're looking for here,
6 if that's where it's to remain, because
7 the minimum setback for an accessory
8 structure is 5 feet. You can slide that
9 back on the garage and probably meet your
10 5 feet there, but that's not what your
11 sketch shows. I would love to see the
12 actual survey. That's just me.

13 So that being said, I'm going to
14 look at Mr. Hermance. Mr. Hermance, do
15 you have comments on this application?

16 MR. HERMANCE: It does show the
17 sewer here, so you have a leachfield
18 also?

19 MR. SHAPIRO: No.

20 CHAIRMAN SCALZO: Lakeside Road,
21 they -- you probably have a pump station.

22 MR. SHAPIRO: We had the green
23 pumps that pump up to the Town line. Not
24 all of them are like that. It starts at,
25 actually, my house.

1 A D A M S H A P I R O

2 CHAIRMAN SCALZO: Sorry, Mr.
3 Hermance. I cut you off.

4 MR. HERMANCE: No problem. That
5 was my question, because --

6 MR. SHAPIRO: That's all the way
7 towards the house, about 100 feet away
8 from where the 5 by 12 structure will be.

9 CHAIRMAN SCALZO: Got you. Mr.
10 Bell, do you have any comment on this?

11 MR. BELL: No.

12 CHAIRMAN SCALZO: All right. Mr.
13 Eberhart?

14 MR. EBERHART: I have nothing for
15 the proposed shed.

16 CHAIRMAN SCALZO: Except for that 4
17 feet.

18 MR. EBERHART: I didn't see that.

19 CHAIRMAN SCALZO: I'm telling you,
20 I had to blow it up.

21 How about you, Mr. Masten?

22 MR. MASTEN: I have none.

23 CHAIRMAN SCALZO: Mr. Gramstad?

24 MR. GRAMSTAD: Nothing.

25 CHAIRMAN SCALZO: Ms. Rein?

1 A D A M S H A P I R O

2 MS. REIN: Just the 4 feet. I
3 think we should get the original.

4 CHAIRMAN SCALZO: I have to agree
5 with you. I'm kind of surprised it
6 wasn't in the package.

7 All right. Let's open this up to
8 any members of the public. Are there any
9 members of the public here that wish to
10 speak about this application?

11 (No response.)

12 CHAIRMAN SCALZO: It's thinning
13 out.

14 Okay. Back to the Board.

15 MR. BELL: No.

16 CHAIRMAN SCALZO: No other
17 comments.

18 Ms. Rein, you said you wanted to
19 see the survey, which I'm in agreement.

20 Mr. Mattina, not that you have the
21 file here with you. Are there any other
22 show stoppers that you saw on that
23 survey?

24 MR. MATTINA: No. Like I said,
25 what he submitted with the building

1 A D A M S H A P I R O

2 permit could be different than this. A
3 foot is a foot.

4 CHAIRMAN SCALZO: I want a little
5 consistency. I'm one of seven. I'm
6 looking, and I don't want to hang you up
7 there, Mr. Shapiro, but myself, I'd like
8 to see something. If the other five
9 people agree with me. Ms. Rein seems to
10 agree with me at this point.

11 MS. REIN: Yes.

12 CHAIRMAN SCALZO: I would like to
13 -- I don't necessarily need to keep the
14 public hearing open, but I would like to
15 see that survey.

16 Counsel, do I need to keep the
17 public hearing open?

18 MR. DONOVAN: I guess it's a
19 question for the applicant. If there's
20 no attribution, there's no who prepared
21 this, it just says site plan. There's no
22 seal. How did you come up with the --

23 MR. SHAPIRO: To be honest with
24 you, there's an online service you can
25 buy that's like \$100. They do a plot

1 A D A M S H A P I R O

2 plan from that.

3 CHAIRMAN SCALZO: Now I really need
4 to see the survey. They're not licensed.
5 They're not --

6 MR. SHAPIRO: I mean, you asked for
7 a plot plan. That's what I provided. I
8 didn't know it had to be a sealed
9 approval.

10 MR. DONOVAN: Only because what
11 you're showing doesn't comply.

12 MR. SHAPIRO: That's fine. From
13 the building permit, the instructions, it
14 says a plot plan. It doesn't say an
15 official, inspected by whoever plot plan.
16 So that was the instructions I was given.

17 CHAIRMAN SCALZO: I understand
18 that. I'm not going to beat you up over
19 that. I need to see -- like I say,
20 because that 4 foot dimension to the
21 property line is deficient, now I do want
22 to see if you can dig up your survey.

23 Again, Counsel, we can close the
24 public hearing, but don't necessarily
25 have to act on it?

1 A D A M S H A P I R O

2 MR. DONOVAN: What would you do
3 when you get the survey?

4 CHAIRMAN SCALZO: Actually, in this
5 case, Mr. Shapiro, what I did notice is
6 if you were to shift that, I'll call it a
7 lean-to, if you were to shift it further
8 towards the lake, you'll probably meet
9 your 5 feet.

10 MR. DONOVAN: Because of the shape
11 of the lot.

12 MR. SHAPIRO: If I move it maybe 1
13 foot further west, it will probably do
14 that, towards the lake.

15 CHAIRMAN SCALZO: Perhaps, Counsel,
16 we can say it this way. We'll leave the
17 public hearing open. I need something a
18 little more accurate. Typically a plot
19 plan is fine. You've got a bowling alley
20 of a lot.

21 MR. SHAPIRO: May I interject here?
22 If you go and visit the property, --

23 CHAIRMAN SCALZO: I have.

24 MR. SHAPIRO: -- there's many
25 garages that are within 1 foot of each

1 A D A M S H A P I R O

2 other. My neighbor to the south actually
3 has theirs two feet in between garages.
4 If you go further up Lakeside, up north,
5 there's garages that are literally
6 touching.

7 CHAIRMAN SCALZO: They could be
8 quite possibly on the property line.
9 They're probably preexisting
10 nonconforming. You're looking to do
11 something new. We try to prevent that
12 from happening.

13 MR. SHAPIRO: The neighbor next to
14 me, in the last twenty years, got a
15 garage -- got a permit for it which was
16 probably 2 feet away from each other.
17 Maybe even on the property line itself.

18 MR. DONOVAN: If I can suggest
19 this. If the Board is inclined to
20 approve it, you could approve it subject
21 to the shed -- the accessory building
22 complying with all setbacks. That means
23 you're going to have to move it. Code
24 Compliance is going to need a survey. If
25 you want it 4 feet away, then you're

1 A D A M S H A P I R O

2 going to need a survey.

3 CHAIRMAN SCALZO: Or you reduce the
4 size by a foot and get your 5. I don't
5 know if that's going to satisfy what
6 you're looking to do.

7 MR. SHAPIRO: Honestly, I'm just
8 looking to put a shed on the side of my
9 house to store a half dozen bikes.
10 That's the use of this. That's all I'm
11 looking to do.

12 CHAIRMAN SCALZO: I understand.
13 Believe me, everybody needs more storage.
14 I wish I had a two-car garage. I only
15 have one. It's inconsistent with how the
16 Board reacts to applications, to approve
17 something knowing that we're deficient
18 when we have the opportunity to get
19 compliance, if you understand what I
20 mean.

21 MR. BELL: So moving that --

22 CHAIRMAN SCALZO: What you're
23 saying is moving it --

24 MR. BELL: -- to the west would
25 probably do that.

1 A D A M S H A P I R O

2 MR. DONOVAN: Without the survey,
3 you don't know. What I'd suggest, if you
4 want it to move forward, you can approve
5 it subject to complying with all
6 setbacks. That throws it in Joe's hands.

7 CHAIRMAN SCALZO: It's in Joe's
8 hands, and Joe is going to require you to
9 have an as-built after you put the shed
10 up to show that it does meet your side
11 yard setbacks.

12 MR. DONOVAN: Or if you want to ask
13 for a variance for less than 5 feet,
14 you'll need a certified survey so the
15 Board knows where it is.

16 MR. SHAPIRO: The cost of the
17 garage is like less than \$1,000 in
18 materials. A surveyor to come out there
19 and resurvey the land is probably \$1,200
20 at minimum.

21 MS. REIN: Can I ask a question?
22 What if we can approve it on the basis
23 that he brings us the original survey?

24 MR. DONOVAN: It depends on what
25 the original survey shows. If you're

1 A D A M S H A P I R O

2 willing to give 4 feet --

3 MR. SHAPIRO: The original survey
4 was completed in 2000. I might have a
5 copy at home.

6 MS. REIN: Do you know what it
7 says? 4 feet? 5 feet?

8 CHAIRMAN SCALZO: Mr. Mattina has
9 it.

10 MR. DONOVAN: It's not going to say
11 anything because the shed isn't on it.

12 MR. SHAPIRO: I'm looking to build
13 a shed.

14 CHAIRMAN SCALZO: The shed was
15 built after -- not the shed you have.
16 The garage.

17 MR. SHAPIRO: The garage is pre-
18 existing. That's been there probably
19 since the '40s.

20 CHAIRMAN SCALZO: It's old
21 cottages. It was all summer dwellings.

22 MR. SHAPIRO: That garage, believe
23 it or not, was, at that time, in the
24 '40s, a residence. Somebody lived in
25 that garage.

1 ADAM SHAPIRO

2 CHAIRMAN SCALZO: Counsel, how
3 about this. The applicant did not
4 indicate that he was looking for a side
5 yard variance in this case. Do we have
6 to have him go through the process or is
7 that something we can -- 5 feet compared
8 to 4 in this particular neighborhood is
9 not -- you know, you can still make your
10 way around it.

11 MR. DONOVAN: You mean re-noticing?

12 CHAIRMAN SCALZO: No, no, no.

13 MR. DONOVAN: No, because there's
14 been a variance requested relative to the
15 garage. The public is on notice that a
16 variance has been requested relative to
17 the garage because it's preexisting
18 nonconforming, right, and it's an
19 expansion. The fact that another
20 variance has been identified that relates
21 to that does not require an additional
22 mailing.

23 CHAIRMAN SCALZO: That's not where
24 I was going, but thank you.

25 MR. DONOVAN: A good answer to

1 ADAM SHAPIRO

2 something that wasn't a question.

3 CHAIRMAN SCALZO: Great. The
4 variance -- he landed here because his
5 garage is in front of his house, closer
6 to the road. That was the only variance.
7 Now we're introducing another variance
8 requirement, or he's looking for a second
9 variance because he will not meet the 5
10 foot side yard setback. Can that 4 feet
11 as opposed to 5 feet be placed within
12 this application as we sit here tonight?

13 MR. DONOVAN: Yes.

14 MS. REIN: Good. Okay.

15 CHAIRMAN SCALZO: That's what I was
16 trying to get at.

17 MR. DONOVAN: I thought I answered
18 that question.

19 CHAIRMAN SCALZO: Did you?

20 MR. BELL: You did.

21 MS. REIN: In a different language.

22 CHAIRMAN SCALZO: I'm going to have
23 to read these minutes. I hope you got it
24 all right.

25 MS. JABLESNIK: You do read the

1 A D A M S H A P I R O

2 minutes.

3 CHAIRMAN SCALZO: I'll read them
4 better.

5 MS. REIN: We're trying to get this
6 so you can get what you need.

7 MR. SHAPIRO: I appreciate it.

8 MS. JABLESNIK: Question for you,
9 though, because the survey in the office
10 that went with the building permit must
11 say that it meets the 5-foot requirement
12 because Joe didn't send it for off the 5
13 feet. I can e-mail that to everyone, if
14 that's what you'd like.

15 CHAIRMAN SCALZO: The survey that
16 was sent in, Joe, I don't expect you to
17 remember, but if you do it's great. Was
18 the attachment to the garage -- the shed
19 and the garage, was that sketched on the
20 survey?

21 MR. MATTINA: I couldn't tell you.

22 CHAIRMAN SCALZO: You don't
23 remember. Okay.

24 MR. MATTINA: I'm pretty sure I
25 would have picked it up if it was 4 feet.

1 A D A M S H A P I R O

2 MR. DONOVAN: Do you recall if you
3 drew a box or something?

4 MR. SHAPIRO: I definitely didn't
5 draw a box.

6 MR. DONOVAN: I don't think there
7 would be anything, Joe, for you to do a
8 calculation because it wasn't resurveyed.

9 MR. MATTINA: If he's asking for a
10 5-foot cantilever, I scale it out and
11 it's 7, 8 foot, I'm not going to bring it
12 up. If I have the survey and the
13 existing shed is showing 8 feet from the
14 property line, he's only asking for --

15 CHAIRMAN SCALZO: If it's 8 and
16 he's asking for 3.

17 MR. MATTINA: Wrong numbers. It
18 had to have shown at least 10 feet off
19 the property line.

20 CHAIRMAN SCALZO: I hate to use a
21 word that starts with a C and ends in
22 ompromise. If we were to say, as the
23 applicant stands here, we would --
24 because as the Zoning Board of Appeals,
25 we can grant the minimum variance

1 A D A M S H A P I R O

2 necessary. We don't have to necessarily
3 give him what he's asking for. We can
4 impose reasonable conditions here.

5 MS. REIN: Without it costing him
6 \$1,200. Can we manage that?

7 CHAIRMAN SCALZO: Well, I don't
8 know.

9 MR. BELL: How wide is this gate?

10 MR. SHAPIRO: The gate is -- it's
11 just under 6, that gate there. The shed
12 would actually be shorter.

13 MR. BELL: Shorter than this gate?

14 MR. SHAPIRO: Than the width.
15 Yeah. Probably about 6 inches I'd say.

16 MR. BELL: Okay.

17 CHAIRMAN SCALZO: If we gave him 4
18 feet, and once we get the survey, you
19 sketch off that, if it's anything less
20 than, I guess we have to have him back.
21 Just an idea. I thought the FFL was
22 difficult. Perhaps we can revise the way
23 the applications read, if you have a
24 survey we would like it.

25 MR. SHAPIRO: Maybe put on there

1 ADAM SHAPIRO

2 that for a plot plan, that you'd like a
3 stamped or official plot plan, because if
4 this was -- if I had known, I would have
5 gone through the necessary process to get
6 what you needed on the first go around,
7 sir.

8 MR. BELL: I understand what you're
9 saying.

10 MS. JABLESNIK: Normally what's
11 accepted is what's denied by the Building
12 Department. You're supposed to submit
13 the same exact thing that you submitted
14 to the Building Department, because
15 that's what we go off of.

16 MR. SHAPIRO: Got you. I mean, I
17 don't want to waste everyone's time. If
18 it said official, I would have taken the
19 necessary steps and wouldn't just spent
20 \$120 on an internet plot plan. I was
21 under the assumption that that's what you
22 needed. My apologies for not
23 understanding.

24 CHAIRMAN SCALZO: That's fine. Mr.
25 Shapiro, is there a resistance for you to

1 A D A M S H A P I R O

2 shift this back, because --

3 MR. SHAPIRO: Just aesthetically.

4 Like, I had it the way it was because
5 aesthetically -- right now I have the two
6 -- Mr. Bell was there earlier. I have
7 two just swinging fences. I wanted to
8 remove those fences there and just have
9 the shed there, because I stored my bikes
10 back there previously and they were
11 getting ruined. That's why I just wanted
12 to have a shed there, just so I can keep
13 my bikes without them getting rusted.
14 Just the family bicycles. Aesthetically
15 it wouldn't look good if it shifted back.
16 That's why I had it right there where it
17 was. If you require it to move 6 inches
18 or a foot to, you know, get the 5 feet,
19 then I'll do it. I didn't think it was
20 going to look as good, because the way
21 the garage is set up, I wanted to have a
22 little setback so it can look more -- you
23 know, so it can look appealing to the
24 neighborhood as opposed to just there be
25 a separation between -- if I keep it

1 A D A M S H A P I R O

2 level like this and all together and have
3 the shed right even with the edge of the
4 garage, I didn't think it aesthetically
5 would look as pleasing as if I set it
6 back a foot or a foot and-a-half.

7 CHAIRMAN SCALZO: All right.
8 Anybody else?

9 MR. BELL: No.

10 CHAIRMAN SCALZO: All right. If
11 we've heard enough, if anybody wants to
12 close the public hearing, I'll look for a
13 motion.

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

16 MS. REIN: I'll second.

17 CHAIRMAN SCALZO: We have a motion
18 from Mr. Bell. We have a second from Ms.
19 Rein. All in favor?

20 MR. BELL: Aye.

21 MR. EBERHART: Aye.

22 MR. GRAMSTAD: Aye.

23 MR. HERMANCE: Aye.

24 MR. MASTEN: Aye.

25 MS. REIN: Aye.

1 ADAM SHAPIRO

2 CHAIRMAN SCALZO: Aye.

3 Those opposed?

4 (No response.)

5 CHAIRMAN SCALZO: This is a Type 2
6 action under SEQRA. We'll go through the
7 five factors we're weighing, the first
8 one being whether or not the benefit can
9 be achieved by other means feasible to
10 the applicant. Not if he wants to keep
11 his bikes from getting rusty.

12 The second, if there's an
13 undesirable change in the neighborhood
14 character or a detriment to nearby
15 properties. Orange Lake is a unique
16 area.

17 MR. BELL: It's too compact.

18 CHAIRMAN SCALZO: We actually heard
19 testimony from the applicant about the
20 tightness of other garages. I didn't
21 hear anything from the members of the
22 public contrary to that.

23 Third, whether the request is
24 substantial. By the numbers it is, but
25 the lot itself doesn't lend --

1 ADAM SHAPIRO

2 pleasure of the Board?

3 MS. REIN: I'll make a motion to
4 approve.

5 MR. EBERHART: Second.

6 MR. DONOVAN: Just for
7 clarification, that includes the 4-foot
8 offset for the accessory structure or
9 addition?

10 CHAIRMAN SCALZO: I'll look to Ms.
11 Rein. She made the motion.

12 MS. REIN: We don't have a choice.

13 CHAIRMAN SCALZO: Sure, we do.
14 It's not built yet.

15 MS. REIN: Whatever --

16 MR. DONOVAN: I'm not making a
17 suggestion.

18 MS. REIN: I just want to be able
19 to give this gentleman what we can give
20 him without it costing him another
21 \$1,200. Whatever motion I have to do to
22 do that is what I want to do. I just
23 don't know how to say it exactly as you
24 need it.

25 MR. DONOVAN: So it would be a

1 ADAM SHAPIRO

2 motion to approve the variance as
3 requested to increase the degree of non-
4 conformity to allow the construction of a
5 5 by 12 addition and to grant a side yard
6 variance for the addition allowing the
7 structure to be 4 feet from the northerly
8 lot line.

9 MS. REIN: Okay. What he said.

10 MR. DONOVAN: I want it to be what
11 you say. You don't have to repeat it.

12 CHAIRMAN SCALZO: In the
13 construction world we call what Ms. Rein
14 just said as being contractor friendly.

15 MS. REIN: There you go.

16 CHAIRMAN SCALZO: So we have a
17 motion from Ms. Rein. Mr. Bell, did you
18 second that?

19 MR. EBERHART: It was here.

20 CHAIRMAN SCALZO: Mr. Eberhart.
21 Sorry.

22 Roll on that, Siobhan.

23 MS. JABLESNIK: Mr. Bell?

24 MR. BELL: Yes.

25 MS. JABLESNIK: Mr. Eberhart?

1 A D A M S H A P I R O

2 MR. EBERHART: Yes.

3 MS. JABLESNIK: Mr. Gramstad?

4 MR. GRAMSTAD: Yes.

5 MS. JABLESNIK: Mr. Hermance?

6 MR. HERMANCE: Yes.

7 MS. JABLESNIK: Mr. Masten?

8 MR. MASTEN: Yes.

9 MS. JABLESNIK: Ms. Rein?

10 MS. REIN: Yes.

11 MS. JABLESNIK: Mr. Scalzo?

12 CHAIRMAN SCALZO: Yes.

13 You got it.

14 MR. SHAPIRO: Thank you.

15 CHAIRMAN SCALZO: Good luck.

16

17 (Time noted: 8:28 p.m.)

18

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24

25

1 A D A M S H A P I R O

2

3

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

4

5

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

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

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

15 IN WITNESS WHEREOF, I have hereunto set
16 my hand this 2nd day of April 2023.

17

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19

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Michelle Conero

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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

PDH REALTY, LLC
(Healy Kia)

114 Route 17K, Newburgh
Section 95; Block 1; Lot 53
IB Zone

----- X

Date: March 23, 2023
Time: 8:28 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, New York

BOARD MEMBERS: DARRIN SCALZO, Chairman
DARRELL BELL
JAMES EBERHART, JR.
ROBERT GRAMSTAD
GREGORY M. HERMANCE
JOHN MASTEN
DONNA REIN

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

APPLICANT'S REPRESENTATIVE: CONNOR McCORMACK

----- X

MICHELLE L. CONERO
3 Francis Street
Newburgh, New York 12550
(845) 541-4163

1 PDH REALTY, LLC

2 CHAIRMAN SCALZO: Our next
3 applicant, which was held open from the
4 February 23rd meeting, is PDH Realty,
5 LLC, 114 Route 17K, Newburgh, seeking
6 an area variance for the setback of a
7 freestanding sign to replace the
8 existing nonconforming freestanding
9 sign on the property.

10 Here you are again. If you can
11 state your name for the record.

12 MR. McCORMACK: My name is Connor
13 McCormack, I'm with Colliers Engineering
14 & Design representing the applicant,
15 Healey Kia.

16 CHAIRMAN SCALZO: The sign is
17 already there, but Kia went through a
18 logo change and so they're re-branding.

19 MR. McCORMACK: That's essentially
20 the need to swap out the sign. It's the
21 re-branding. I went back and pulled the
22 previous application for the sign. The
23 old sign that's there today is about 24
24 feet in height. The new sign is proposed
25 to be 20 feet in height. It's going to

1 PDH REALTY, LLC

2 reduce in height. It's going to utilize
3 the same foundation. That's why we're
4 not moving it. The same foundation, use
5 the same electrical. We're really just
6 kind of swapping what goes around the
7 sign.

8 The variance is for 5 feet because
9 it's 20 feet proposed.

10 I think that covers it. It's
11 pretty simple. I don't know if you heard
12 back from the County.

13 CHAIRMAN SCALZO: It doesn't matter.

14 MR. McCORMACK: Thirty days.

15 CHAIRMAN SCALZO: The thirty days
16 is up.

17 MS. JABLESNIK: It was a Local
18 determination.

19 CHAIRMAN SCALZO: All right. This
20 is still a public hearing. Does anyone
21 from the public have any comments on this
22 application?

23 (No response.)

24 CHAIRMAN SCALZO: No. All right.
25 Board Members. Mr. Bell, I know

1 PDH REALTY, LLC

2 that's the first time you've heard it
3 because you were away, out of the
4 country, last month. Mr. Bell, do you
5 have any questions?

6 MR. BELL: No.

7 CHAIRMAN SCALZO: We asked a
8 gazillion questions.

9 MR. BELL: I bet you did. I read
10 them.

11 CHAIRMAN SCALZO: Very good.
12 Anyone else? Mr. Gramstad, Eberhart,
13 Hermance, Masten, Rein?

14 MS. REIN: I'm good.

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

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

20 MR. EBERHART: I'll make the
21 motion.

22 CHAIRMAN SCALZO: Mr. Eberhart, I'm
23 going to give that to the old timer.
24 I'll let you be the second. All in
25 favor?

1 PDH REALTY, LLC

2 MR. BELL: Aye.

3 MR. EBERHART: Aye.

4 MR. GRAMSTAD: Aye.

5 MR. HERMANCE: Aye.

6 MR. MASTEN: Aye.

7 MS. REIN: Aye.

8 CHAIRMAN SCALZO: Aye.

9 Those opposed?

10 (No response.)

11 CHAIRMAN SCALZO: Counsel, help me
12 out here.

13 MR. DONOVAN: It's an Unlisted
14 action. You need a negative declaration.

15 CHAIRMAN SCALZO: Very good. You
16 wrote that out for me last month and I
17 didn't even need it.

18 So if the Board is going to make a
19 motion to approve this application, we
20 will need a motion for a negative
21 declaration. Board Members, that's a
22 negative declaration to the sign
23 variance. I'll look to the Board. Does
24 someone want to make a motion for a
25 negative declaration?

1 PDH REALTY, LLC

2 MR. HERMANCE: I'll make a motion
3 for a negative declaration.

4 CHAIRMAN SCALZO: Thank you, Mr.
5 Hermance.

6 MR. GRAMSTAD: I'll second.

7 CHAIRMAN SCALZO: Thank you, Mr.
8 Gramstad. All in favor?

9 MR. BELL: Aye.

10 MR. EBERHART: Aye.

11 MR. GRAMSTAD: Aye.

12 MR. HERMANCE: Aye.

13 MR. MASTEN: Aye.

14 MS. REIN: Aye.

15 CHAIRMAN SCALZO: Aye.

16 Those opposed?

17 (No response.)

18 CHAIRMAN SCALZO: Very good. Now we
19 still go through the --

20 MR. DONOVAN: Five factors.

21 CHAIRMAN SCALZO: Thanks, Dave.
22 What would I do without you?

23 MR. DONOVAN: You survived last
24 month, so I think you'll do just fine.

25 CHAIRMAN SCALZO: We didn't vote on

1 PDH REALTY, LLC

2 but one last month.

3 MS. JABLESNIK: And that was a
4 holdover.

5 CHAIRMAN SCALZO: The first being
6 whether or not the benefit can be
7 achieved by other means feasible to the
8 applicant. No. They changed the way
9 their logo looks and they want people to
10 recognize what it is they're selling.

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

14 MR. BELL: No.

15 MR. EBERHART: No.

16 MR. GRAMSTAD: No.

17 MR. HERMANCE: No.

18 MR. MASTEN: No.

19 MS. REIN: No.

20 CHAIRMAN SCALZO: Not at all,
21 because there's only one there.

22 Third, whether the request is
23 substantial. While it may seem
24 substantial, he's actually lowering it
25 from what it was. It's less substantial

1 PDH REALTY, LLC

2 than it was before.

3 The fourth, whether the request
4 will have adverse physical or
5 environmental effects. I'm not sure it's
6 going to bother me when I'm pulling out
7 of the transfer station.

8 The fifth, whether the alleged
9 difficulty is self-created, which is
10 relevant but not determinative. Of
11 course it was self-created the first
12 time. Then again, our code is ambiguous
13 -- correct, Mr. Mattina -- which lands
14 all these sign people here to begin with.

15 MR. MATTINA: Correct.

16 CHAIRMAN SCALZO: Having gone
17 through the balancing tests for the
18 variance, does the Board have a motion of
19 some sort?

20 MS. REIN: I'll make a motion to
21 approve.

22 MR. BELL: I'll second.

23 CHAIRMAN SCALZO: We have a motion
24 to approve from Ms. Rein. We have a
25 second from Mr. Bell.

1 PDH REALTY, LLC

2 Can you roll on that, Siobhan?

3 MS. JABLESNIK: Mr. Bell?

4 MR. BELL: Yes.

5 MS. JABLESNIK: Mr. Eberhart?

6 MR. EBERHART: Yes.

7 MS. JABLESNIK: Mr. Gramstad?

8 MR. GRAMSTAD: Yes.

9 MS. JABLESNIK: Mr. Hermance?

10 MR. HERMANCE: Yes.

11 MS. JABLESNIK: Mr. Masten?

12 MR. MASTEN: Yes.

13 MS. JABLESNIK: Ms. Rein?

14 MS. REIN: Yes.

15 MS. JABLESNIK: Mr. Scalzo?

16 CHAIRMAN SCALZO: Yes.

17 Sorry it took us so long.

18 MR.McCORMACK: Thank you for your
19 time.

20 CHAIRMAN SCALZO: The process is
21 the process.

22 MR.McCORMACK: Have a good night.

23

24 (Time noted: 8:34 p.m.)

25

1 PDH REALTY, LLC

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

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5

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

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

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

15 IN WITNESS WHEREOF, I have hereunto set
16 my hand this 2nd day of April 2023.

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Michelle Conero

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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

JOSEPH PIMENTEL

830 Route 32, Wallkill
Section 2; Block 3; Lot 20
RR Zone

----- X

Date: March 23, 2023
Time: 8:34 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, New York

BOARD MEMBERS: DARRIN SCALZO, Chairman
DARRELL BELL
JAMES EBERHART, JR.
ROBERT GRAMSTAD
GREGORY M. HERMANCE
JOHN MASTEN
DONNA REIN

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

APPLICANT'S REPRESENTATIVE: JOSEPH & MELISSA
PIMENTEL

----- X

MICHELLE L. CONERO
3 Francis Street
Newburgh, New York 12550
(845) 541-4163

1 JOSEPH PIMENTEL

2 CHAIRMAN SCALZO: The next holdover
3 is Joseph Pimentel, 830 Route 32 in
4 Walkkill, seeking area variances of the
5 minimum front yard setback, side yard
6 setback, combined side yards and maximum
7 lot building coverage to build a covered
8 front porch, side yard carport and a rear
9 addition to a nonconforming dwelling.

10 Here you're back because of the
11 same reason that the other folks were
12 back, the County's time has expired. We
13 heard your story last time. It's been a
14 family dwelling for ages.

15 MS. PIMENTEL: Over sixty years.

16 CHAIRMAN SCALZO: It's a little
17 close to the road.

18 Mr. Bell, you say you read the
19 minutes?

20 MR. BELL: Yup.

21 CHAIRMAN SCALZO: Does anybody have
22 any other questions or comments on this
23 application?

24 MS. REIN: No.

25 MR. BELL: No.

1 JOSEPH PIMENTEL

2 CHAIRMAN SCALZO: Does anyone from
3 the public want to talk about this?

4 (No response.)

5 CHAIRMAN SCALZO: I'm going to look
6 to the Board for a motion to close the
7 public hearing.

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

10 MR. BELL: Second.

11 CHAIRMAN SCALZO: We have a motion
12 to close the public hearing from Mr.
13 Masten. We have a second from Mr. Bell.
14 All in favor?

15 MR. BELL: Aye.

16 MR. EBERHART: Aye.

17 MR. GRAMSTAD: Aye.

18 MR. HERMANCE: Aye.

19 MR. MASTEN: Aye.

20 MS. REIN: Aye.

21 CHAIRMAN SCALZO: Aye.

22 Those opposed?

23 (No response.)

24 CHAIRMAN SCALZO: Okay. Now this
25 is a Type 2 action.

1 JOSEPH PIMENTEL

2 MR. DONOVAN: A Type 2 action.

3 CHAIRMAN SCALZO: We're going to go
4 through the criteria. Here we go again.
5 The first one being whether or not the
6 benefit can be achieved by other means
7 feasible to the applicant. Not really.
8 They're not going to move the house.

9 The second one is if there's an
10 undesirable change in the neighborhood
11 character or a detriment to nearby
12 properties. I think quite the opposite.
13 It's going to create a desirable change.

14 MR. BELL: A desirable change.

15 CHAIRMAN SCALZO: The third,
16 whether the request is substantial. It's
17 really not. It's an odd shaped lot when
18 you look at the numbers.

19 Fourth, whether the request will
20 have adverse physical or environmental
21 effects. It does not appear so.

22 The fifth, whether the alleged
23 difficulty is self-created, which is
24 relevant but not determinative. This is
25 preexisting nonconforming. It was not

1 JOSEPH PIMENTEL

2 self-created.

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

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

8 MS. REIN: I'll second it.

9 CHAIRMAN SCALZO: They're all
10 screaming for you. So we have a motion
11 from Mr. Bell. Ms. Rein was the loudest,
12 so I'll say it was a second by her.

13 MS. REIN: I'm always the loudest.

14 CHAIRMAN SCALZO: Roll on that,
15 please, Siobhan.

16 MS. JABLESNIK: Mr. Bell?

17 MR. BELL: Yes.

18 MS. JABLESNIK: Mr. Eberhart?

19 MR. EBERHART: Yes.

20 MS. JABLESNIK: Mr. Gramstad?

21 MR. GRAMSTAD: Yes.

22 MS. JABLESNIK: Mr. Hermance?

23 MR. HERMANCE: Yes.

24 MS. JABLESNIK: Mr. Masten?

25 MR. MASTEN: Yes.

1 J O S E P H P I M E N T E L

2 MS. JABLESNIK: Ms. Rein?

3 MS. REIN: Yes.

4 MS. JABLESNIK: Mr. Scalzo?

5 CHAIRMAN SCALZO: Yes.

6 The motion is carried. The
7 variances are approved. Good luck.

8 MS. PIMENTEL: May I ask one
9 question? Does this mean that it now
10 goes back to you --

11 MR. MATTINA: To me.

12 MS. PIMENTEL: So we wait for you
13 to issue the permit?

14 MR. MATTINA: Or do the plan review
15 and see if there's any comments.

16 MS. PIMENTEL: Thank you very much.

17

18 (Time noted: 8:37 p.m.)

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1 JOSEPH PIMENTEL

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

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5

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

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

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

15 IN WITNESS WHEREOF, I have hereunto set
16 my hand this 2nd day of April 2023.

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Michelle Conero

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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

275 ROUTE 17K, LLC
(GreenAcre Abstract)

275 Route 17K, Newburgh
Section 90; Block 1; Lot 22
R-1 Zone

- - - - - X

Date: March 23, 2023
Time: 8:38 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, New York

BOARD MEMBERS: DARRIN SCALZO, Chairman
DARRELL BELL
JAMES EBERHART, JR.
ROBERT GRAMSTAD
GREGORY M. HERMANCE
JOHN MASTEN
DONNA REIN

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

APPLICANT'S REPRESENTATIVE: NANCY FORREST &
RYAN REID

- - - - - X

MICHELLE L. CONERO
3 Francis Street
Newburgh, New York 12550
(845) 541-4163

1 275 ROUTE 17K, LLC

2 CHAIRMAN SCALZO: All right. Next
3 up, 275 Route 17K, LLC, GreenAcre
4 Abstract, for area variances for the
5 maximum allowed size and height to
6 install an 11.6 by 13.3 freestanding
7 sign and use variance for illumination.
8 Section 185-14-L-1 of the Town of
9 Newburgh Municipal Code states non-
10 illuminated signs only.

11 MR. DONOVAN: Last month when this
12 application was here, one of the
13 questions that was raised was whether or
14 not the variance relative to illumination
15 was a use variance or an area variance.
16 Code Compliance termed it as a use
17 variance. Someone not looking like me
18 but sitting in this chair agreed it was a
19 use variance, but it's actually not.
20 It's an area variance. The criteria that
21 you go to look at to determine whether or
22 not it's a use variance or area variance
23 is the physical requirement. I'm going
24 to read the definition for you from the
25 state law. A use variance is the

1 2 7 5 R O U T E 1 7 K , L L C

2 authorization by the ZBA for the use of
3 the land for a purpose which is otherwise
4 not allowed or is prohibited by the
5 applicable zoning regulations. An area
6 variance is the authorization by the ZBA
7 for the use of land in a manner which is
8 not allowed by the dimensional or
9 physical requirements of the applicable
10 zoning regulations. The physical
11 requirement here is the use of
12 illumination. I can see how Joe reads it
13 as being a use variance, but the
14 underlying use -- the way I like to
15 analyze it, the underlying use of the
16 sign is allowed. If signs weren't
17 allowed and they wanted to put a sign, it
18 would be a use variance. Since signs are
19 allowed, the issue of illumination or not
20 illumination is judged by the area
21 variance criteria, not the use variance
22 criteria.

23 Don't hold it against me, Joe.

24 MR. MATTINA: It makes my life
25 easier for the next one.

1 2 7 5 R O U T E 1 7 K , L L C

2 CHAIRMAN SCALZO: I understand that
3 you did tell Siobhan, and I wanted to
4 take a ride and take a look at the sign
5 that is very similar to the one you were
6 going to be putting up. I was at the
7 Villa Borghese. Not Borghese.

8 MS. FORREST: Airport Drive?

9 CHAIRMAN SCALZO: I was over there
10 for something else at a place and I
11 couldn't find it afterwards. Anyway, I
12 did not get to see the sign that you were
13 discussing.

14 MS. FORREST: Sorry.

15 CHAIRMAN SCALZO: So the public
16 hearing is still open regarding this. I
17 went back out to the site and took a look
18 around, and, you know, we -- actually,
19 the gentleman is here that stood up and
20 had a few comments.

21 MS. FORREST: Yes. I would like to
22 include this. Siobhan, I don't know if
23 those photos I sent you were distributed
24 to the Board. I went out to the site. I
25 don't know if there was a mis-

1 275 ROUTE 17K, LLC

2 understanding as to where the sign is
3 going to be located, but I do have some
4 photos. If you would look at these and
5 make sure that these are where they would
6 be taken from.

7 MR. VEGA: I did ask you at the
8 last meeting --

9 MR. DONOVAN: Sorry to interrupt.
10 It works a lot better if everything is
11 directed to the Board and the Board can
12 open the public hearing. If you have a
13 submittal, make it to the Board and the
14 Board Members.

15 MS. FORREST: The answer is no,
16 Siobhan?

17 MS. JABLESNIK: I don't recall
18 receiving any. I'm looking now to see if
19 it's in my e-mail.

20 MS. FORREST: What I did is I went
21 to the site and I went to the sign
22 location closest to the building. I
23 angled the camera directly towards your
24 street in as far as it would go to the
25 corner, and you can't see your house.

1 275 ROUTE 17K, LLC

2 Then I went on your side of the street, I
3 didn't go into your property, but I stood
4 on the front corner of the road where the
5 home is, and that's what that second shot
6 is. As you can see, you cannot see the
7 existing sign. We're using the same
8 location. So that was one thing.

9 Also, the lighting, as I stated,
10 was going to be from LEDs inside, but a
11 film around all four sides of it. It's
12 not -- it's not like a bright light.
13 It's not as bright as the sign just down
14 the street. There's a white directory
15 that's internally illuminated and it's an
16 all white background.

17 When we designed the sign, if you
18 look at it, the actual signage is only 5
19 foot by 10 foot. We wanted a design to
20 go with the building, so we put some
21 decorative elements on it, which would be
22 your two columns. This is not light
23 bright. It's all covered in a film. You
24 know, like a frosted vinyl. So it's just
25 kind of a glow. You will see it, but

1 2 7 5 R O U T E 1 7 K , L L C

2 it's not for lighting purposes. We also
3 designed the sign to have an opaque
4 background. The only thing that's going
5 to light on here is going to be the
6 lettering at night. There will be no 5
7 by 10 background, just the letters almost
8 as if they're suspended there in air.

9 So again, the height we're counting
10 is not the sign, it's the column, and the
11 square footage is including the columns.
12 So again, it was designed that way not to
13 look like just a box sitting in the
14 middle of the front yard. We tried to
15 make it attractive. That's why we need
16 the variance, because it's being
17 calculated height wise with the column,
18 and then we have the internal
19 illumination given the zone. If you went
20 by it, you saw that very close by we have
21 a gas station, two more directories,
22 Gold's Gym. We're just on that other
23 side.

24 Ryan, I know they already spoke to
25 the use variance.

1 2 7 5 R O U T E 1 7 K , L L C

2 MR. REID: Yes.

3 MS. FORREST: You're okay? Okay.

4 CHAIRMAN SCALZO: Okay. Thank you.

5 As I mentioned earlier, the public
6 hearing is still open for this. We'll be
7 soliciting any comments from the public.
8 The last time we were here, you actually
9 spoke. The way I'm looking at things is
10 not necessarily all about the sign.
11 Across the street is a different
12 district. You're in the R-1 Zone.
13 Standing there again the other day, I'm
14 looking, boy did that lot like spring up.
15 I mean, it's a big building, it's a big
16 parking lot, and all I can think is that
17 -- Mr. Mattina, I don't know if you
18 looked at what the lot coverage is right
19 now on that with all the paved surfaces
20 and building coverage. It doesn't fit
21 R-1, if you know where I'm going with
22 this. The last time they were here I
23 mentioned to them, you know, you might
24 want to consider appearing before the
25 Town Board to see if you can get that

1 275 ROUTE 17K, LLC

2 line pushed across the street. I don't
3 know how that applies to what I'm saying,
4 Counsel, but if I'm getting myself in
5 trouble, please kick me in the shin.
6 Really, anything else you guys do there,
7 you're going to be in front of us because
8 you chose to not, you know, pursue that
9 avenue with the Town. So looking at that
10 and then looking around -- I met the
11 gentleman. I happened to be poking
12 around the neighborhood. I don't know
13 that he owns firearms. I was walking all
14 over the place. He's done a great job
15 with trying to protect his viewshed, if
16 you will. If you look at his fencing,
17 he's even got slats in it so he can
18 maintain his privacy. I understand where
19 he's coming from and what he's trying to
20 do. It's partially obstructed. He
21 didn't invite me in the house, but I
22 imagine if you're sitting on his couch,
23 you are looking at that.

24 I walked around the building, and
25 this is really for you, not you. The

1 275 ROUTE 17K, LLC

2 sign itself, it looks great. I'm not
3 looking to solve your problem for you.
4 You heard the comments the last time
5 regarding perhaps screening. Did you
6 even consider any screening?

7 MR. REID: We were not looking at
8 screening. You mean towards the Arbor
9 Drive area?

10 CHAIRMAN SCALZO: Yes.

11 MR. REID: I mean, that itself,
12 that could pose a traffic issue if we
13 were to screen it.

14 CHAIRMAN SCALZO: I don't know that
15 it would. You've got an awful lot of
16 pavement out there. If it was, it would
17 almost have to be by the corner of your
18 sidewalk. I just wanted to know if you
19 had considered anything there. It
20 doesn't sound like you have.

21 Something else. I walked around
22 the front of the building. The lot next
23 to you, 291 Route 17K Partners, LLC, is a
24 vacant piece of land. If you're on 17K
25 looking at it, it's to the right.

1 2 7 5 R O U T E 1 7 K , L L C

2 MR. REID: Yes. Correct.

3 CHAIRMAN SCALZO: Would you ever
4 consider -- right now the current sign
5 location is 45 feet off the property
6 line. If you were to shift that 20 feet,
7 and so you were 25 feet, or 30 feet even,
8 from that side yard property line, he
9 wouldn't be able to see it at all.

10 MS. FORREST: Did you look at the
11 photos that I just gave you?

12 CHAIRMAN SCALZO: I'm not sure you
13 know what I'm talking about. Could you
14 step up here for a second?

15 MS. FORREST: Sure. Maybe I'm
16 confused.

17 CHAIRMAN SCALZO: I apologize,
18 Michelle. You won't be able to capture
19 this.

20 The current location of the sign,
21 or proposed sign, is right there.

22 MS. FORREST: Yes.

23 CHAIRMAN SCALZO: If you were to
24 put it right here, the gentleman across
25 the street, it wouldn't impact his

1 2 7 5 R O U T E 1 7 K , L L C

2 viewshed at all. If you were to move it
3 20 feet that way --

4 MS. FORREST: Facing the building
5 to the right?

6 CHAIRMAN SCALZO: The same
7 orientation that it already is, just move
8 it west off 17K. I'm not telling you
9 what to do. I noticed, as I was walking
10 around there, that that may benefit -- it
11 might make you a nice neighborhood is
12 what it might do.

13 MR. REID: I'm not sure based on
14 the engineering portion, because we're
15 just replacing the already existing sign,
16 how moving it would affect where all the
17 electrical is already existing.

18 CHAIRMAN SCALZO: I don't know.
19 You're in an R-1 Zone and you're looking
20 to do some business type stuff here.

21 MR. REID: Correct. I mean, with
22 regard to where the sign is now, I mean,
23 it appears only about a foot can be seen
24 from his property line. I mean, if it's
25 a foot over, if it works with

1 275 ROUTE 17K, LLC

2 engineering, I don't see why not.

3 MS. FORREST: That's the
4 underground lighting. If it's a small
5 amount, it will be fine. If you're
6 looking at the front of the building --

7 CHAIRMAN SCALZO: It wouldn't be
8 centered on the building.

9 MS. FORREST: It's not centered
10 now. It's a little off to the right now.
11 Now we're looking to go 20 feet. I think
12 that's too much. Now it's going to be up
13 here. You're going to pass the building
14 and then turn in the drive. I felt that
15 those photos kind of showed that.

16 CHAIRMAN SCALZO: Unfortunately
17 they didn't make their way to us.

18 MS. FORREST: You haven't seen it
19 yet?

20 MS. JABLESNIK: The ones that you
21 just gave. I never got an e-mail.

22 MS. FORREST: I'm sorry. I know I
23 called and asked if I should send them.

24 MS. JABLESNIK: I never got an
25 e-mail. I just looked through again, I

1 275 ROUTE 17K, LLC

2 wanted to make sure.

3 MS. FORREST: I put a set up there
4 for you to look at.

5 CHAIRMAN SCALZO: I kind of went
6 off on a tangent there just with trying
7 to be helpful when I really didn't mean
8 to be.

9 At this point I'm going to --
10 unless there was something else that you
11 wanted to add.

12 MR. DONOVAN: You have something in
13 your hand. Did you wish to submit that?

14 MS. FORREST: No. I dropped those
15 off. This is just the original.

16 MR. REID: The photos that we were
17 trying to submit. I guess my only thing
18 with the question of rezoning, I mean, we
19 could rezone it, but I don't know if
20 that's really -- it is an avenue, but
21 it's not a justifiable avenue to go down,
22 because if we were to change that, it
23 could be an avenue for any, you know,
24 property, then we really wouldn't have a
25 ZBA. The ZBA would be more limited.

1 2 7 5 R O U T E 1 7 K , L L C

2 CHAIRMAN SCALZO: You'd never have
3 to see me again.

4 MR. REID: Correct, but that's
5 something -- I mean, I guess --

6 MS. FORREST: I have a question as
7 well. In order to do all your parking
8 area and all your renovations, did that
9 not go through Planning?

10 CHAIRMAN SCALZO: Your site plan
11 went through the Planning Board?

12 MR. REID: I'm not sure when we
13 went through, because it was all
14 existing.

15 MR. MATTINA: This building, it was
16 a Schoonmaker model sales office from the
17 early '80s.

18 CHAIRMAN SCALZO: The original
19 bilevel that faces 17K, and then they did
20 the two-story addition on the back were
21 Pasternak's office is.

22 MR. MATTINA: I don't know if
23 there's really a site plan or not.

24 MR. DONOVAN: Didn't you come here
25 before?

1 2 7 5 R O U T E 1 7 K , L L C

2 MR. MATTINA: At least two times.

3 MR. REID: Yes. We got a stop work
4 order placed and it was a variance that
5 was already given.

6 MR. DONOVAN: There had been an
7 interpretation like years and years ago.

8 MR. BELL: It came before us.

9 MR. DONOVAN: It's all coming back
10 to me now.

11 CHAIRMAN SCALZO: Okay. Dave, the
12 meeting you mentioned, I said during that
13 meeting you may want to consider
14 petitioning the Town. You wouldn't be
15 standing here right now if that was the
16 case. I'm going to get off my soapbox
17 now.

18 Ms. Rein, any comments on this?

19 MS. REIN: I don't think anything
20 has been resolved.

21 CHAIRMAN SCALZO: Mr. Masten?

22 MR. MASTEN: I have nothing now.

23 CHAIRMAN SCALZO: How about you,
24 Mr. Bell?

25 MR. BELL: No.

1 275 ROUTE 17K, LLC

2 CHAIRMAN SCALZO: Mr. Gramstad?

3 MR. GRAMSTAD: Nothing at this
4 time.

5 CHAIRMAN SCALZO: Mr. Eberhart?

6 MR. EBERHART: Not at this time.

7 CHAIRMAN SCALZO: Mr. Hermance?

8 MR. HERMANCE: If I recall, the
9 last time you were here, did you also
10 state that that would be on a timer? It
11 would shut off at a certain --

12 MS. FORREST: We said it will be
13 shut off when the Board says it should be
14 shut off.

15 MR. REID: Applicable to whatever
16 the illuminated sign laws are, which I
17 believe is 11 to 6. I'm not -- it would
18 be all subject to all of the applicable
19 laws.

20 MR. HERMANCE: So it's not running
21 through the night into the early morning
22 hours. If we did approve it, we could
23 put that stipulation.

24 CHAIRMAN SCALZO: I'm sure.
25 Obviously the public hearing is still

1 275 ROUTE 17K, LLC

2 open. You've heard me say my peace. I do
3 see the gentleman sitting back there. I
4 don't know if he has comments. I will
5 say this. I understand his viewshed is
6 going to be impacted, perhaps, if this is
7 in there.

8 I neglected to ask you the other
9 night. Actually, if you don't mind
10 coming up. I don't know if you were
11 prepared to speak or not. As you're
12 sitting in your living room, does your
13 living room at some point get red and
14 then yellow and green?

15 MR. VEGA: Absolutely.

16 CHAIRMAN SCALZO: It has to from
17 the signal. It's a big signal at the
18 intersection.

19 MR. VEGA: George Vega, 1 Arbor
20 Drive. Thank you for having me.

21 Absolutely it does.

22 I just needed a couple
23 clarifications. The existing sign we're
24 talking about, you don't see it from my
25 house. If you have the photos I

1 2 7 5 R O U T E 1 7 K , L L C

2 submitted last time, you can see from my
3 living room window --

4 MS. FORREST: That's why I wanted
5 to --

6 MR. VEGA: So that's what it would
7 be during the summertime. I do see it,
8 obviously.

9 I have a question about the
10 existing sign.

11 CHAIRMAN SCALZO: The existing
12 sign. Actually, there's -- well, the
13 electricity that's to it now, because if
14 it was a floodlight that was shining on
15 it, one of them is busted up.

16 MR. VEGA: I'm sitting there
17 barbecuing burgers, trying to do a
18 comparison or visualize what's going to
19 be there, and I don't really know what is
20 existing. What is the height of the sign
21 now? 11.6 by 13. Is that going to
22 change?

23 MS. FORREST: I just want to make
24 sure. I also took pictures inaccurately
25 then. I was on the front corner of your

1 275 ROUTE 17K, LLC

2 house here, as close as I could get, and
3 the sign is obviously over here. Then if
4 I'm standing, this is the very inside of
5 the sign and I'm shooting over the corner
6 of the building, I'm not seeing your
7 house.

8 MR. VEGA: That's one of my
9 questions. You're on the favorable side.
10 If you go to the roadside --

11 MS. FORREST: That's not where the
12 column is.

13 MR. VEGA: That's fine. Is that
14 dimension of the sign --

15 MS. FORREST: The actual sign?

16 MR. VEGA: -- versus the existing?

17 MS. FORREST: Let me put those
18 back.

19 CHAIRMAN SCALZO: Typically I don't
20 allow this back and forth.

21 MR. VEGA: I can't visualize it.

22 CHAIRMAN SCALZO: I want you to
23 understand. Like I say, I was out there.
24 You caught my ear. I saw what you're
25 trying to do to protect your viewshed. I

1 275 ROUTE 17K, LLC

2 was hoping there would be some type of
3 resolution here.

4 MR. VEGA: The column is
5 illuminated. Right?

6 MS. FORREST: Yeah. The column on
7 the inside.

8 MR. VEGA: Understood.

9 MS. FORREST: It's closer to the
10 wall.

11 MR. VEGA: Can you tell me the
12 existing dimensions?

13 MS. FORREST: I believe they're in
14 here. I would have to look them up.

15 MR. VEGA: I don't think it's 11.6
16 feet tall, honestly.

17 MS. FORREST: I know we're not
18 large. This sign is not either. This
19 sign is not that tall either. That is
20 just the column. As I said, the
21 decorative piece.

22 CHAIRMAN SCALZO: There are
23 dimensions on this which is online.

24 MR. VEGA: I did look at that and I
25 questioned that last time. You're

1 2 7 5 R O U T E 1 7 K , L L C

2 approving the square footage of 13.3 by
3 11.6. You are approving that square
4 footage. They can fill the whole void,
5 in my opinion, in the future. Just
6 because they show that graphic there
7 now --

8 CHAIRMAN SCALZO: You know what, we
9 are allowed to impose reasonable
10 conditions. Should this get that far, we
11 can limit them to the size of the facing
12 of the sign and not -- they might get the
13 variance for this with columns, but
14 should anything ever change and they want
15 to up the sign, we can limit them to the
16 facing of the sign as it is right now.
17 We could.

18 MR. VEGA: If it's in the position
19 that it is now, I'm just saying I'd see,
20 I'm thinking, 30 percent more. I'd see
21 that over my fence as it stands now. I
22 can see the sign as it is now, and I
23 believe it gets taller.

24 MS. FORREST: From your deck you're
25 talking?

1 2 7 5 R O U T E 1 7 K , L L C

2 MR. VEGA: From my couch, from my
3 patio, from my rear yard.

4 MR. REID: The tallest part is
5 actually going to be more towards our
6 office building itself. It's not going
7 to be on the --

8 MR. VEGA: Understood.

9 MR. REID: It's not going to be on
10 the roadway. Your concern is in the
11 future, if we wanted to amend our sign,
12 your concern is we can make it in that
13 square foot area?

14 MR. VEGA: Yes. In the location
15 that it is now, I'm going to see more of
16 the sign.

17 MS. FORREST: May I see the photos
18 that you have?

19 CHAIRMAN SCALZO: From his place.
20 Yeah.

21 Mr. Vega, what I'm understanding
22 here, the actual panel of the sign, he's
23 looking at 5 by 10, which is 50 square
24 feet, whereas if you were at 13.3 by 11,
25 that's substantially more than that. The

1 2 7 5 R O U T E 1 7 K , L L C

2 columns -- now I completely understand.
3 It's not dual columns. It's a single
4 column on one side. Correct?

5 MS. FORREST: Yes.

6 MR. REID: Yes.

7 CHAIRMAN SCALZO: A single column
8 on one side that's closest to the
9 building. There's no second column on
10 the 17K side.

11 MR. VEGA: Okay.

12 MS. FORREST: In the interest of
13 the neighbor as well, we can light the
14 column differently, if it's just the
15 column, because, as I said, we have an
16 opaque background. The sign is really
17 only 50 square feet, which is less. Only
18 the lettering lights. There's no big
19 background lit. In other words, wherever
20 you see brown, that's not lighting. None
21 of this lights, just the letters do. So
22 we could, on the column, make that an
23 opaque column, but we would ask that then
24 we would step off on each corner of it
25 with a piece of aluminum, I think that's

1 2 7 5 R O U T E 1 7 K , L L C

2 what this drawing is, and put the LEDs
3 just in the corners running up and down
4 so it would just be a halo.

5 MR. REID: Add lighting to where --

6 MS. FORREST: Do you understand a
7 halo? So it would be on the column here,
8 this would be a skirt coming up on each
9 corner angled, and inside of that we'd
10 run a strip of LEDs that you would not be
11 able to see.

12 CHAIRMAN SCALZO: It's indirect.

13 MS. FORREST: It's indirect. It
14 would be like a halo. Like a glow. Like
15 a backlit.

16 CHAIRMAN SCALZO: You've got to
17 light up the numbers.

18 MS. FORREST: Yes. They have to be
19 able to be read.

20 MR. REID: Are those pictures from
21 inside your residence or outside?

22 MR. VEGA: Both. I have one from
23 inside my living room, one from the
24 patio, one from the backyard. You know,
25 I get it from my living room now, but

1 275 ROUTE 17K, LLC

2 from my patio, my pool.

3 MR. REID: You can see the big sign
4 only from the outside?

5 MR. VEGA: I can see the whole
6 thing from my backyard.

7 MR. REID: From inside your house
8 it's not illuminated?

9 CHAIRMAN SCALZO: You can see a
10 portion of the sign.

11 MR. BELL: A portion of it.

12 MS. FORREST: Of the current sign.

13 MR. REID: It's only the version
14 that's closest to the roadway, not where
15 the --

16 CHAIRMAN SCALZO: You couldn't see
17 the entire sign. It's partial where the
18 lights are.

19 MS. FORREST: 12 foot I believe is
20 the length of that sign.

21 MR. REID: I believe in most of the
22 Town of Newburgh code, when it refers to
23 illumination, the big thing is making
24 sure the illumination is not going inside
25 of the actual dwelling unit, which we

1 2 7 5 R O U T E 1 7 K , L L C

2 would not -- we would not want to do.

3 CHAIRMAN SCALZO: Okay. Mr. Vega,
4 thank you.

5 Is there anyone else from the
6 public that wants to -- you're here for
7 the next one. All right. Let's look
8 around here.

9 Any other comments from the Board?

10 MR. BELL: I missed something
11 because I wasn't here the last time.

12 CHAIRMAN SCALZO: This has been
13 much more exciting than the last one.

14 MR. BELL: I want to make sure. So
15 this sign is illuminated from both the
16 back and the front. Correct?

17 CHAIRMAN SCALZO: It's inside.
18 Pardon me. It's peripheral lighting, if
19 I got it right.

20 MR. REID: So indirectly
21 illuminated.

22 MS. FORREST: Right. The brown
23 portion will remain brown. There's no
24 light coming through that. You stencil
25 cut the letters out of that and push the

1 2 7 5 R O U T E 1 7 K , L L C

2 white through and just the letters light.

3 MR. BELL: Facing towards the front
4 of 17K?

5 MS. FORREST: No. It's double
6 sided.

7 MR. BELL: That's what I'm asking.
8 So it's front and back. That's what I
9 was asking.

10 MS. FORREST: It is double sided.

11 MS. REIN: A lot was said here
12 tonight. Are we thinking about any
13 specific conditions?

14 CHAIRMAN SCALZO: I thought I had a
15 wonderful suggestion, but -- Mr. Bell,
16 you weren't here, but at the last one we
17 did ask about potential screening on
18 site. The applicant is -- perhaps they
19 explored it, it just isn't going to work
20 for them. I'm not sure.

21 MS. REIN: We spoke about a barrier
22 also. Some kind of a barrier.

23 CHAIRMAN SCALZO: A tree would be a
24 barrier. Like an evergreen or something
25 like that. If they're spending a few

1 2 7 5 R O U T E 1 7 K , L L C

2 dollars on a sign, they don't want to
3 block the sign either.

4 MR. BELL: Right.

5 MR. REID: At the end of the day
6 it's just replacing the delapidated
7 building -- the dilapidated sign that we
8 already do have to make it a much nicer
9 one.

10 CHAIRMAN SCALZO: I'm sure it's
11 going to be beautiful. That's not the
12 issue.

13 MR. BELL: Right. It is replacing
14 a sign that needs replacing. The issue
15 is the lighting and being in the R-1.

16 CHAIRMAN SCALZO: I don't know why
17 I didn't notice last time, but there's
18 quite the array of arborvitaes between
19 the building and the first residential
20 house on the other side. One appeared to
21 be in distress. I'm sure you're going to
22 be replanting one or two of those. So at
23 least to that aspect, you're doing the
24 right thing.

25 Back to Ms. Rein. As far as

1 275 ROUTE 17K, LLC

2 conditions go, I like to throw things out
3 there and let Dave tell me I'm wrong. If
4 you'd like to do the same thing as far as
5 if you were to consider this, what type
6 of conditions were you thinking?

7 MS. REIN: Well, what about
8 something over the sign, attached to the
9 sign but almost like a hat? Would that
10 deflect anything going into the
11 gentleman's house?

12 CHAIRMAN SCALZO: I'm not sure
13 deflection or diffusion of the light is
14 really -- nothing is pointing directly at
15 his house. It's all passive, if you will.

16 MS. FORREST: It would actually be
17 less than .2 foot candles. It would be
18 more than .1.

19 MR. REID: If we were to turn the
20 light on, we have now --

21 CHAIRMAN SCALZO: Is that on a
22 manual switch right now?

23 MR. REID: I couldn't tell you, to
24 be honest with you. It's a switch that I
25 believe we don't use.

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2 CHAIRMAN SCALZO: I could ask Mr.
3 Vega. Mr. Vega, does that light go on
4 and off with relative frequency? Is it
5 sometimes on all night?

6 MR. VEGA: I think they're getting
7 better at it.

8 MR. REID: The one on the actual
9 building?

10 MR. VEGA: The building itself.

11 CHAIRMAN SCALZO: I was talking
12 about the sign out front.

13 MR. REID: The sign out front, that
14 hasn't been turned on since we bought it.

15 CHAIRMAN SCALZO: The building
16 illumination, Code Compliance, is there
17 -- again, this is in an R-1, and that
18 just makes it difficult. I'll call it
19 light pollution. If the lights on the
20 building can be shut off --

21 MR. REID: They're on a timer.

22 CHAIRMAN SCALZO: That's not what
23 you're here for.

24 MR. REID: The sign will have --

25 CHAIRMAN SCALZO: I'm just trying

1 2 7 5 R O U T E 1 7 K , L L C

2 to get you on record saying something.
3 Anyway, I was really hoping, you know, we
4 could -- you want to be a good neighbor.
5 You're going to be there for awhile.
6 This gentleman is a young man, he's
7 probably going to be there awhile, too.

8 MS. REIN: Mr. Vega, may I ask you
9 a question?

10 MR. VEGA: Yes, ma'am.

11 MS. REIN: Are the lights from the
12 sign going directly into your house?

13 CHAIRMAN SCALZO: Ms. Rein,
14 actually right now they're not because
15 the light doesn't work.

16 MS. REIN: When it's on.

17 MR. VEGA: When it's on, yes. I
18 can visually see it. I don't know what
19 you define as light into my house. I can
20 visually see it from my couch and my bay
21 window.

22 MS. REIN: So putting a little hat
23 on top and maybe something on the sides,
24 that wouldn't help?

25 MR. VEGA: I don't think so, but

1 275 ROUTE 17K, LLC

2 I'm not a --

3 CHAIRMAN SCALZO: I don't know what
4 a hat on a light is.

5 MS. REIN: I don't know what to
6 call it.

7 MR. VEGA: A shield of some sort.
8 I don't think they make them for the
9 signage.

10 MR. BELL: I don't think they make
11 them for signs.

12 CHAIRMAN SCALZO: It would help me
13 tremendously if I could have found
14 Airport Road the other night, but I
15 didn't.

16 MR. REID: I don't believe the sign
17 -- he can see it from his property. I
18 don't think it's going to -- I mean .2
19 foot candles, I don't think it's going to
20 light up or change his way of living.

21 CHAIRMAN SCALZO: Okay.

22 MR. REID: We would not want to do
23 that, but --

24 MR. VEGA: Absolutely. I mean it's
25 my backyard. When I'm barbecuing now at

1 2 7 5 R O U T E 1 7 K , L L C

2 night, I'm going to see a bigger lit
3 sign.

4 MS. FORREST: Are you more
5 concerned with the column because that's
6 what's lighting? The other light is --
7 the push-though letters are like a lot
8 less than say the gas station or anyone
9 near you. Is it the column you're
10 concerned with, because that's what's
11 going to light?

12 MR. VEGA: To be honest, I would
13 just rather not see it. If you can shift
14 it down or screen it, I'm good.

15 CHAIRMAN SCALZO: I'm not sure we
16 can accommodate that request completely.
17 I understand your position, but just
18 trying to -- they've got to advertise
19 what they've got going on.

20 MR. VEGA: I agree.

21 MR. GRAMSTAD: What would happen if
22 you put say screening, shrubbery from
23 your sidewalk here, going out Arbor Drive
24 so he can't see it from his house? I
25 live in Colden Park and I drive past

1 275 ROUTE 17K, LLC

2 there all the time. I understand what
3 he's saying. If you have the sidewalk
4 here, his house is over here. If you put
5 shrubbery here, give him screening, he
6 doesn't have to see that.

7 MS. FORREST: How tall of shrubbery
8 are you talking?

9 MR. REID: I guess that would just
10 add to the maintenance that we have to do
11 already to it. It's going to be
12 financially more just to replace an
13 existing sign. You know, also, I don't
14 know the potential impact it does have to
15 traffic. We also want the ability to be
16 -- having a parking lot, you want to,
17 obviously, be seen.

18 MR. GRAMSTAD: I understand that.

19 MS. FORREST: You don't want it too
20 far away from where you're going to
21 enter, because that's usually what a sign
22 is for. This one is already quite a ways
23 -- if you're looking into the property,
24 it's further to the right.

25 MR. GRAMSTAD: I know exactly where

1 275 ROUTE 17K, LLC

2 it is.

3 MS. FORREST: What I'm saying is if
4 we push it further to the right, when
5 someone sees that sign, you want it to be
6 fairly close to where they're going to
7 turn so they have time to signal or pull
8 in or whatever.

9 MR. GRAMSTAD: It's not going to
10 affect anybody. You can turn in. Your
11 sign is here. This is Arbor Drive.
12 Putting shrubbery here --

13 MS. FORREST: I'm not talking about
14 the shrubbery. I was talking about the
15 moving of the sign.

16 MR. GRAMSTAD: Moving the sign,
17 it's not going to affect anybody turning
18 in.

19 MS. FORREST: I was asking what you
20 meant by shrubbery. How tall?

21 MR. GRAMSTAD: To block the vision
22 of his side, 8, 10 foot high. How high
23 is your sign going to be?

24 MR. REID: That's a pretty
25 substantial -- I understand your concern,

1 2 7 5 R O U T E 1 7 K , L L C

2 but we would have to make it as tall as
3 -- pulling out, being on a corner lot --

4 CHAIRMAN SCALZO: Let me ask you.

5 MR. DONOVAN: Just to be clear, you
6 don't want those submitted for the
7 record, then? If you take them back,
8 they're not in the record.

9 MS. FORREST: I'm going to put them
10 back. I just needed to look at
11 something, the shrubbery in the corner.

12 CHAIRMAN SCALZO: Let me throw
13 something out here. I thought that the
14 FFL one was going to be the pain in the
15 butt. The sign panel itself is 10 by 5.
16 That's 50 square feet. If you were to
17 take the column portion, you're looking
18 at about 37.6 square feet. That's 11
19 feet -- 11.6 feet high. I'm going to
20 call it 3.25, so 3 feet 3 inches. That's
21 the column width by the height. So we're
22 looking at a total of 87.375 square feet
23 with signage. The column is on the
24 backside towards the building which would
25 not be visible from Mr. Vega's house.

1 275 ROUTE 17K, LLC

2 There would only be a small portion out
3 towards the road. So if -- let me
4 finish.

5 MR. VEGA: I don't --

6 CHAIRMAN SCALZO: If we were to get
7 to the point where the variance granted
8 was only for you're going to max out at
9 say 90 square feet, because that will
10 take care of all your stuff, but it takes
11 care of that -- it would alleviate some
12 concerns that Mr. Vega brought up
13 earlier, that if you were to replace the
14 sign, you could go full width.

15 MR. REID: So make the sign
16 smaller?

17 CHAIRMAN SCALZO: No, no. All of
18 your dimensions would remain the same.
19 What it is is now your columns are -- I'm
20 taking into consideration the shape of
21 what you have.

22 MS. FORREST: Right.

23 CHAIRMAN SCALZO: I'm not squaring
24 it up. I'm giving you individual small
25 dimensions.

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2 MR. REID: So it would be specific
3 to what you have in front of you now,
4 correct, but more specific and not a
5 general --

6 CHAIRMAN SCALZO: I'd say right now
7 what you're proposing here is 87.375
8 square feet of surface area, one side,
9 whereas, you know, if you're 13.25 by
10 11.6, it's much larger. I think part of
11 the concern Mr. Vega has is should you
12 ever have to replace it, you would be
13 eligible, if we gave you that, --

14 MR. REID: To fill that area.

15 CHAIRMAN SCALZO: -- to fill that
16 entire area.

17 MR. REID: Which I believe is a
18 valid condition if it were to be approved
19 to be specific to --

20 CHAIRMAN SCALZO: I'm not asking
21 for your permission, Mr. Vega, on this.
22 You did have your hand up.

23 MR. VEGA: Visible from my house.
24 You said it won't be visible.

25 CHAIRMAN SCALZO: I didn't say

1 2 7 5 R O U T E 1 7 K , L L C

2 that. The column portion, which is going
3 to be lit as well, you will not see. If
4 the sign is where the current sign is,
5 you may see the half portion of the
6 actual sign itself, but that's it.

7 MR. VEGA: Are we just speaking
8 about my living room window? Not my
9 patio, my pool area, my shed?

10 CHAIRMAN SCALZO: The area where
11 you see the red, yellow green. Is that
12 intersection lit with other lights?

13 MR. VEGA: I believe there's a
14 cobra head at the intersection.

15 CHAIRMAN SCALZO: Okay. I'm trying
16 to come to a nice middle ground here.

17 MS. FORREST: May I add to that?
18 Instead of shifting to the right, we
19 would have the opportunity to come in 5
20 feet.

21 CHAIRMAN SCALZO: Whoa, that might
22 take care of everything. We did make the
23 setback a little bit further, and that
24 should take care of -- that works, but I
25 don't want to say meets what your desired

1 2 7 5 R O U T E 1 7 K , L L C

2 goal is here, which is to -- you know,
3 you want people to see it from as far
4 away as you can. Right?

5 MS. FORREST: Yeah, but it's a wide
6 open, straight road.

7 CHAIRMAN SCALZO: It's a controlled
8 intersection, so they're stopping there
9 anyway.

10 MS. FORREST: It's very open. When
11 you're on like, you know, the road, 17K,
12 coming in towards Newburgh, towards 84,
13 it's a long stretch. You'll see it from a
14 distance. There's nothing blocking it
15 off. Like I said, there is the traffic
16 light. Anyone going one way is
17 eventually going the other, and that
18 would still suit our needs, and it would
19 also --

20 CHAIRMAN SCALZO: Well, it would
21 help. I think we're getting somewhere.
22 I'll call it your offer. Your offer is
23 to kick the sign back 5 feet from its
24 current location, which, Mr. Vega, 5 feet
25 in you might not see it. You might see

1 275 ROUTE 17K, LLC

2 it from your yard, but I see a lot of
3 stuff from my yard. It's your living
4 room. You don't want to sit, watching,
5 you know, Blazing Saddles and have this
6 thing blazing in your front yard or front
7 window.

8 MR. DONOVAN: Just so I'm clear,
9 Mr. Chairman, what you're talking about
10 is moving the sign 5 feet in a southerly
11 direction so it's offset 20 feet instead
12 of 15 feet?

13 CHAIRMAN SCALZO: That is correct.

14 MR. DONOVAN: The variance request
15 now is for 90 square foot for area. Is
16 that --

17 CHAIRMAN SCALZO: Well, yes.
18 Instead of 87.375, 90.

19 MR. DONOVAN: And 11.5 for height.
20 That's the request?

21 CHAIRMAN SCALZO: The request is
22 11.6, yes.

23 MR. DONOVAN: I just want to be
24 clear. Is that what's reflected on the
25 plan set?

1 275 ROUTE 17K, LLC

2 CHAIRMAN SCALZO: All the fancy
3 math I did, you were only looking for 90
4 square feet to begin with. You didn't
5 consider the exterior dimensions at all.
6 You were looking at the column --

7 MS. FORREST: Oftentimes that's
8 what the Town does, they just go with the
9 max height and width. Whatever they call
10 that. But you're right. I do them in
11 circles and ovals and different shapes
12 and things. Some towns allow it and some
13 do not. Most towns, the columns are any
14 supporting thing and is not considered a
15 sign. Some areas they do.

16 CHAIRMAN SCALZO: Thanks,
17 Counselor. I thought they were
18 overreaching here, but apparently it's
19 not as dramatic as I thought. I've
20 talked entirely too much tonight.

21 Mr. Eberhart?

22 MR. EBERHART: This is a long one.

23 CHAIRMAN SCALZO: Any other comments?

24 MR. EBERHART: My concern was for
25 the gentleman and his wife, that some

1 2 7 5 R O U T E 1 7 K , L L C

2 screening be put up.

3 CHAIRMAN SCALZO: In lieu of the
4 screening, they're offering to pull the
5 sign back.

6 MR. BELL: Which should do it. I
7 think 5 feet is good.

8 CHAIRMAN SCALZO: Not that you make
9 everybody happy at these meetings, Mr.
10 Vega. It's certainly a compromise.

11 MR. VEGA: Excuse me.

12 CHAIRMAN SCALZO: Mr. Vega, yes.

13 MR. VEGA: Is the column still
14 going to be illuminated? She was talking
15 options.

16 CHAIRMAN SCALZO: I believe the
17 column would be.

18 MS. FORREST: Yes. We'd prefer to
19 leave it illuminated. If we do it and we
20 have the frosted on it and you look at it
21 and say well, maybe it's a little
22 brighter than we thought, we can double
23 that up, you know. I know you didn't get
24 to see it.

25 CHAIRMAN SCALZO: You heard that,

1 275 ROUTE 17K, LLC

2 right?

3 MR. VEGA: Do I get to --

4 MR. REID: The building inspector.

5 MS. FORREST: That's what I'm
6 saying. If you go out and see it lit and
7 you go oh, Nancy, that's much brighter
8 than you said it was going to be, then we
9 simply go back on the four sides and
10 layer another layer of frosting on it.

11 CHAIRMAN SCALZO: You have a
12 building number that's going to be on
13 that. We want that to be very easily
14 seen.

15 MS. FORREST: It will be. That
16 won't be an issue.

17 MS. REIN: Do we want to look at
18 this with conditions?

19 CHAIRMAN SCALZO: Absolutely.

20 MS. REIN: There you go.

21 CHAIRMAN SCALZO: The primary
22 condition that we're looking at, here
23 again I was doing fancy math, but they're
24 only looking for 90 square feet, thanks
25 to Joe Mattina.

1 2 7 5 R O U T E 1 7 K , L L C

2 The first condition is that they
3 push it further away from 17K by 5 feet.

4 The public hearing is still open.
5 Any final comments before I close the
6 public hearing?

7 MR. FEDDER: I just want to make
8 clear to the -- Bill Fedder, Rockwood
9 Drive. They'll have no title to the space
10 below that sign that's hanging out. They
11 can't hang stuff below. Is that right?
12 You're just giving them surface area for
13 the sign itself and not the area below
14 the sign?

15 CHAIRMAN SCALZO: That's a great
16 point that you bring up, Mr. Fedder. The
17 actual dimensions of the sign with
18 lettering is 5 by 10, plus the columns
19 themselves are, you know, the other 37.6
20 square feet. That area below would then
21 make them out of compliance.

22 MR. REID: Any changes to an
23 existing sign.

24 CHAIRMAN SCALZO: Well --

25 MS. FORREST: It's ground level

1 2 7 5 R O U T E 1 7 K , L L C

2 anyway. It's a monument. There's nowhere
3 to put it.

4 CHAIRMAN SCALZO: Underneath the
5 bottom, I'll say terrace, or whatever it
6 is.

7 MS. FORREST: Can I show him, --

8 CHAIRMAN SCALZO: Sure.

9 MS. FORREST: -- just so he
10 understands?

11 MR. REID: Any changes to signs,
12 existing signs, if it's over 20 percent.
13 If we were to change the sign, we would
14 need to go for approval anyway. I don't
15 believe there's a grandfathering clause.
16 If we were granted that variance, if we
17 were to change the sign, we would still
18 need to go in front of the building
19 inspector.

20 CHAIRMAN SCALZO: Do you really
21 want to come back in front of us?

22 MR. REID: I really don't want to.
23 Just for peace of mind. We can't just
24 say we got a variance for this square
25 footage change. If we wanted to change

1 275 ROUTE 17K, LLC

2 the sign itself afterwards, we would have
3 to still go for approval.

4 CHAIRMAN SCALZO: Mr. Vega, I saw
5 your hand up. I'll give you one more
6 shot, sir.

7 MR. VEGA: Going back to the
8 existing sign, what is permitted as of
9 right now, and was there a variance ever
10 granted for that sign?

11 MR. MATTINA: The existing sign is
12 grandfathered in. The new sign
13 regulations for an R-1 allows 4 square
14 feet.

15 CHAIRMAN SCALZO: 2 by 2 or 1 by 3.

16 MR. DONOVAN: Do you know how big
17 the existing sign is?

18 MR. MATTINA: I never measured the
19 existing.

20 MR. DONOVAN: Do you know how big
21 the existing sign is?

22 MS. FORREST: I'm pretty sure it's
23 48 square feet. It's big.

24 MR. DONOVAN: I think that's the
25 gentleman's question, what's it going to

1 275 ROUTE 17K, LLC

2 look like compared to what's there.

3 MR. VEGA: I think we hammered out
4 that it's going to look like the
5 rendering. They can't go up bigger. I
6 feel better about that.

7 CHAIRMAN SCALZO: Mr. Vega, at the
8 last meeting you had brought up the point
9 of the columns, plus the dimensions of
10 13.3 by 11.6 are not what this is going
11 to be. It was never allowed to be or
12 else they're going to come back here.
13 They don't want to do that.

14 MS. FORREST: We don't want a sign
15 that big. It's not a shopping center.

16 CHAIRMAN SCALZO: Kicking it back 5
17 feet I think is huge. I think it's going
18 to benefit you as well, sir.

19 MS. REIN: And also, if it's too
20 bright, they can put on the extra --

21 CHAIRMAN SCALZO: If it's too
22 bright, they can call Mr. Mattina and say
23 boy, that's bright, he can go out at
24 night, get a little overtime, and say
25 hey --

1 275 ROUTE 17K, LLC

2 MR. DONOVAN: Let me be clear. I
3 don't know how you make that a condition.
4 You want to be able to be guided by some
5 specific metric. Joe or someone from his
6 office is not going to say Mr. Vega
7 thinks it's too bright, I'm going to make
8 -- Mr. GreenAcres says it's fine, it's
9 not too bright. Joe is not going to be
10 Solomon.

11 MR. MATTINA: That wouldn't be
12 enforceable.

13 MR. REID: I think there are laws,
14 though, for residential for signs.

15 MR. MATTINA: Yeah. No lights.

16 CHAIRMAN SCALZO: In an R-1.

17 MR. REID: I believe electronic
18 signs are allowed.

19 MR. MATTINA: Not in an R-1.

20 CHAIRMAN SCALZO: At least you're
21 laughing. This guy is in pain waiting to
22 get his turn.

23 All right. Any other comments from
24 the public, because I'm going to ask the
25 Board to close the public hearing?

1 2 7 5 R O U T E 1 7 K , L L C

2 MR. VEGA: No, sir.

3 CHAIRMAN SCALZO: I appreciate you
4 showing up two times and I appreciate
5 your comments. They're very important.
6 It helps us for the next one. So thank
7 you, Mr. Vega.

8 MR. VEGA: Thank you.

9 CHAIRMAN SCALZO: At this point
10 I'll look to the Board. Do we have a
11 motion to close the public hearing?

12 MS. REIN: I'll make a motion.

13 MR. BELL: I'll second.

14 CHAIRMAN SCALZO: I'm looking to my
15 left. Motion by Ms. Rein, a second by
16 Mr. Bell. All in favor?

17 MR. BELL: Aye.

18 MR. EBERHART: Aye.

19 MR. GRAMSTAD: Aye.

20 MR. HERMANCE: Aye.

21 MR. MASTEN: Aye.

22 MS. REIN: Aye.

23 CHAIRMAN SCALZO: Aye.

24 Those opposed?

25 (No response.)

1 2 7 5 R O U T E 1 7 K , L L C

2 CHAIRMAN SCALZO: I do that just
3 for Mr. Fedder. Very good.

4 Counsel, this is now an Unlisted
5 action again?

6 MR. DONOVAN: That is correct, Mr.
7 Chairman.

8 CHAIRMAN SCALZO: We are going to
9 throw some conditions on this, but first
10 we need a negative declaration. Is that
11 correct?

12 MR. DONOVAN: That is correct, Mr.
13 Chairman.

14 CHAIRMAN SCALZO: Do we have a
15 motion for a negative declaration?

16 MR. GRAMSTAD: I'll make a motion
17 for a negative declaration.

18 MR. MASTEN: I'll second it.

19 CHAIRMAN SCALZO: Mr. Gramstad had
20 it, and we have a second from Mr. Masten.
21 All in favor?

22 MR. BELL: Aye.

23 MR. EBERHART: Aye.

24 MR. GRAMSTAD: Aye.

25 MR. HERMANCE: Aye.

1 2 7 5 R O U T E 1 7 K , L L C

2 MR. MASTEN: Aye.

3 MS. REIN: Aye.

4 CHAIRMAN SCALZO: Aye.

5 Counsel, we got the negative dec.
6 Now we still have to go through the other
7 criteria. Are we making a motion for
8 approval with conditions?

9 MS. REIN: Yes.

10 MR. BELL: Yes.

11 CHAIRMAN SCALZO: And that
12 condition is?

13 MR. BELL: 5 feet.

14 CHAIRMAN SCALZO: It's going to be
15 5 feet further away than the proposed
16 plan showed from 17K.

17 MR. DONOVAN: Were there hours of
18 illumination that you were talking about?

19 MR. BELL: Didn't he say the hours
20 were 11 to 6?

21 CHAIRMAN SCALZO: For R-1 there is
22 no illumination. Here's the thing. Is
23 that a two phase -- not two phase. How
24 do you keep the building number lit? Can
25 you turn off the other portion of the

1 275 ROUTE 17K, LLC

2 sign while still keeping the building
3 number lit, because that's very important
4 for emergency services?

5 MS. FORREST: I'm sure there's a
6 way.

7 MR. REID: Like the lighting on
8 275, there is lighting behind here.

9 MS. FORREST: There is --

10 MR. REID: Lighting underneath
11 that.

12 MS. FORREST: These are push-
13 through letters.

14 MR. REID: Correct. These portions
15 can be turned off.

16 MS. FORREST: You want the column
17 -- are you talking about just those being
18 lit and the column going off? The sign
19 going off and just the letters lit?

20 CHAIRMAN SCALZO: I don't know. It
21 was Mr. Bell's idea.

22 What did you have in mind, Darrell?

23 MR. BELL: Was it my idea?

24 CHAIRMAN SCALZO: I thought so.

25 MR. BELL: It wasn't my idea.

1 2 7 5 R O U T E 1 7 K , L L C

2 CHAIRMAN SCALZO: Ms. Rein, was it
3 yours?

4 MS. JABLESNIK: You said it. He was
5 just asking about hours. It was your
6 idea.

7 MR. BELL: I just asked about
8 hours.

9 CHAIRMAN SCALZO: The whole idea of
10 having a sign with some type of
11 illumination is --

12 MR. BELL: Because if it's
13 illuminated and it goes out, you'll be in
14 the dark. You want the numbers. I don't
15 think we can do that.

16 MR. DONOVAN: It was brought up
17 before. I didn't want it to be missed.

18 MR. BELL: True. He did say they
19 went off between 11 and 6.

20 CHAIRMAN SCALZO: We can talk about
21 lights on, lights off, wax on, wax off. I
22 think it was the good neighbor portion of
23 the building lights that were --

24 MR. REID: Which we fixed to end, I
25 believe, earlier. I believe at 10:00

1 275 ROUTE 17K, LLC

2 they go off.

3 MS. FORREST: It would probably be
4 easier if we duplicated the number on the
5 face of the building, maybe over the
6 front doorway, lit. That's for 911
7 purposes I'm assuming you're asking.
8 It's on the building. Doing it here
9 would be --

10 CHAIRMAN SCALZO: I'm going to
11 remind you again, if the zone were
12 different here, we wouldn't be having
13 this conversation.

14 MS. FORREST: That's a whole other
15 thing.

16 CHAIRMAN SCALZO: Yes.

17 MS. FORREST: That doesn't even
18 mean you get it, so --

19 CHAIRMAN SCALZO: Anyway, as far as
20 the sign on, sign off, I don't know how
21 much business you think you're going to
22 pick up between 11 p.m. and 5 a.m.

23 MR. BELL: It would be like any
24 other business that I kind of see that
25 has an illuminated sign that goes off at

1 275 ROUTE 17K, LLC

2 a certain time.

3 MS. FORREST: That can be dictated
4 by the Board. I mean, you want it on a
5 little bit after dark because there's
6 still traffic. You want a little
7 advertising from it. There's no need to
8 have it on from 11 until, you know --

9 CHAIRMAN SCALZO: Until 6.

10 MR. HERMANCE: It can coincide with
11 the building. Like 10 to 6.

12 MR. REID: Where illuminated signs
13 are permitted. If we were to grant the
14 variance, that means that the illuminated
15 sign would be permitted. Such illumination
16 may only be between sundown and 11 p.m.

17 CHAIRMAN SCALZO: So then it gets
18 turned off at 11 p.m.

19 MR. REID: Correct.

20 CHAIRMAN SCALZO: That's for
21 lighting in the district that allows
22 lighting, not for the district that
23 you're in.

24 MR. DONOVAN: And then it turns
25 back on itself?

1 2 7 5 R O U T E 1 7 K , L L C

2 MR. REID: I guess you would turn
3 it back on.

4 MS. FORREST: You could have it
5 setup. That would only be good if it was
6 an electronic sign.

7 MR. REID: A timer can be placed on
8 it.

9 MS. FORREST: Absolutely.

10 MR. REID: I don't think anything
11 -- our signs -- our lighting is only
12 until 10 now.

13 CHAIRMAN SCALZO: If you go ahead
14 and hit it when you hit the building
15 lights, that would be great.

16 MR. REID: 10:00.

17 MR. BELL: 10 to 6.

18 MS. FORREST: It gets dark at 9,
19 you wait for an hour.

20 MR. REID: Yeah.

21 CHAIRMAN SCALZO: In the winter
22 it's dark at 5.

23 MS. FORREST: In the winter, yeah.

24 So those would be the 5 foot
25 setback and the --

1 2 7 5 R O U T E 1 7 K , L L C

2 MR. BELL: The conditions are the 5
3 foot setback and the time off from 10 to
4 6, as conditions.

5 CHAIRMAN SCALZO: I think we're
6 getting somewhere here. So how about
7 that. All right. So those are the
8 conditions that we're looking at, off
9 from 10 to 6, 5 foot back from the
10 original proposed location.

11 Now we'll roll through whether the
12 benefit can be achieved by other means
13 feasible to the applicant. Well, I think
14 now we got somewhere. I think the other
15 means is we got it kicked back 5 feet,
16 which is certainly helpful.

17 Second, if there's an undesirable
18 change in the neighborhood character or a
19 detriment to nearby properties related to
20 the sign. You know, now that you kicked
21 it back 5 feet, I'm not sure it's going
22 to be visual from any residential
23 properties.

24 Third, whether the request is
25 substantial.

1 2 7 5 R O U T E 1 7 K , L L C

2 MR. BELL: It is.

3 CHAIRMAN SCALZO: It's almost the
4 same size as the other sign. The column
5 makes it a little more --

6 MR. BELL: The column makes it
7 brighter.

8 CHAIRMAN SCALZO: Whether the
9 request will have adverse physical or
10 environmental effects.

11 MR. BELL: No.

12 CHAIRMAN SCALZO: And the fifth,
13 whether the alleged difficulty is self-
14 created, which is relevant but not
15 determinative. Of course it's self-
16 created.

17 All right. Again, the minimum
18 variance necessary and reasonable
19 conditions. We've already discussed the
20 reasonable conditions.

21 Having gone through the balancing
22 tests there, does the Board have a motion
23 of some sort?

24 MR. GRAMSTAD: I'll make a motion
25 to approve with the conditions and the

1 275 ROUTE 17K, LLC

2 time restriction.

3 CHAIRMAN SCALZO: Which is a
4 condition.

5 MR. GRAMSTAD: Yes.

6 CHAIRMAN SCALZO: Thank you. We
7 have a motion from Mr. Gramstad. Do we
8 have a second on that?

9 MR. BELL: I'll second.

10 CHAIRMAN SCALZO: We have a second
11 from Mr. Bell.

12 Can you roll, please, Siobhan?

13 MS. JABLESNIK: Mr. Bell?

14 MR. BELL: Yes.

15 MS. JABLESNIK: Mr. Eberhart?

16 MR. EBERHART: Yes.

17 MS. JABLESNIK: Mr. Gramstad?

18 MR. GRAMSTAD: Yes.

19 MS. JABLESNIK: Mr. Hermance?

20 MR. HERMANCE: Yes.

21 MS. JABLESNIK: Mr. Masten?

22 MR. MASTEN: Yes.

23 MS. JABLESNIK: Ms. Rein?

24 MS. REIN: Yes.

25 MS. JABLESNIK: Mr. Scalzo?

1 275 ROUTE 17K, LLC

2 CHAIRMAN SCALZO: Yes.

3 We did some push-ups tonight,
4 folks.

5 MR. REID: I appreciate it.

6 MS. FORREST: Thank you very much.

7 (Time noted: 9:31 p.m.)

8

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

10

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

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

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

20 IN WITNESS WHEREOF, I have hereunto set
21 my hand this 2nd day of April 2023.

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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

LITE BRITE SIGNS
(CONEW, LLC)

1425 Route 300, Newburgh
Section 60; Block 3; Lot 32.11
IB Zone

----- X

Date: March 23, 2023
Time: 9:31 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, New York

BOARD MEMBERS: DARRIN SCALZO, Chairman
DARRELL BELL
JAMES EBERHART, JR.
ROBERT GRAMSTAD
GREGORY M. HERMANCE
JOHN MASTEN
DONNA REIN

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

----- X

MICHELLE L. CONERO
3 Francis Street
Newburgh, New York 12550
(845) 541-4163

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CHAIRMAN SCALZO: Lite Brite,
I discussed at the very beginning of
the meeting, they pulled out.

(Time noted: 9:32 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 2nd day of April 2023.

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

UMANGI PATEL

611 Gidney Avenue, Newburgh
Section 76; Block 9; Lot 3
R-3/O Zone

----- X

Date: March 23, 2023
Time: 9:32 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, New York

BOARD MEMBERS: DARRIN SCALZO, Chairman
DARRELL BELL
JAMES EBERHART, JR.
ROBERT GRAMSTAD
GREGORY M. HERMANCE
JOHN MASTEN
DONNA REIN

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

APPLICANT'S REPRESENTATIVE: THOMAS NAGLE

----- X

MICHELLE L. CONERO
3 Francis Street
Newburgh, New York 12550
(845) 541-4163

1 UMANGI PATEL

2 CHAIRMAN SCALZO: Here we are for
3 Mr. Patel, 611 Gidney Avenue, Newburgh,
4 seeking area variances for the maximum
5 allowed square footage, maximum allowed
6 height and setback to install a free-
7 standing, non-illuminated sign.

8 Unfortunately you got hammered by
9 the same thing that hammered everybody
10 else last time, which was we didn't
11 hear back from the County. It doesn't
12 matter if we did now or not. We can
13 still hear what you have to say.

14 MR. NAGLE: Tom Nagle.

15 We're replacing the existing sign
16 with a new sign because the practice was
17 taken over, or at least acquired, by New
18 York Cancer & Blood Specialists. We're
19 not asking for any change in size that's
20 there existing. We're just looking to
21 replace it with new information.

22 MS. REIN: That's Dr. Patel, isn't
23 it?

24 MR. NAGLE: Yes.

25 CHAIRMAN SCALZO: What you're

1 UMANGI PATEL

2 saying is what's there now in size is
3 going to be there when you're done but
4 with different information on it. I
5 don't know what I have to ask about this.

6 I will open it up to any members of
7 the public that wish to speak about this
8 application.

9 MS. REIN: I have nothing.

10 CHAIRMAN SCALZO: Ms. Rein, why are
11 you putting your stuff away?

12 MS. REIN: I have nothing.

13 CHAIRMAN SCALZO: This could last
14 another thirty minutes.

15 MS. REIN: No, it won't.

16 CHAIRMAN SCALZO: Any comments from
17 the Board?

18 MR. BELL: We should have done him
19 first.

20 CHAIRMAN SCALZO: I could see him
21 laughing and smiling.

22 MR. DONOVAN: To stop him from
23 crying.

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

1 U M A N G I P A T E L

2 MR. MASTEN: I'll make a motion.

3 MR. EBERHART: Second.

4 CHAIRMAN SCALZO: We have a motion
5 from Mr. Masten. We had a second from
6 Mr. Eberhart. Very good. All in favor?

7 MR. BELL: Aye.

8 MR. EBERHART: Aye.

9 MR. GRAMSTAD: Aye.

10 MR. HERMANCE: Aye.

11 MR. MASTEN: Aye.

12 MS. REIN: Aye.

13 CHAIRMAN SCALZO: Aye.

14 Those opposed?

15 (No response.)

16 CHAIRMAN SCALZO: Very good. This
17 is also an Unlisted action under SEQRA.
18 In this case I'm going to need someone
19 from the Board to make a motion for a
20 negative declaration.

21 MR. GRAMSTAD: I'll make a motion
22 for a negative declaration.

23 MR. HERMANCE: I'll second.

24 CHAIRMAN SCALZO: We have a motion
25 from Mr. Gramstad. We have a second from

1 U M A N G I P A T E L

2 Mr. Hermance. All in favor?

3 MR. BELL: Aye.

4 MR. EBERHART: Aye.

5 MR. GRAMSTAD: Aye.

6 MR. HERMANCE: Aye.

7 MR. MASTEN: Aye.

8 MS. REIN: Aye.

9 CHAIRMAN SCALZO: Yes.

10 Those opposed?

11 (No response.)

12 CHAIRMAN SCALZO: Very good. I'm
13 going to run through the criteria. The
14 benefit can be achieved by other means
15 feasible to the applicant.

16 MR. BELL: No.

17 CHAIRMAN SCALZO: If it's a new
18 person in there, they need people to know
19 who they are.

20 Second, if there's an undesirable
21 change in the neighborhood character or a
22 detriment to nearby properties. It's
23 going to be virtually unnoticed because
24 it's exactly the same size as what's
25 there now.

1 UMANGI PATEL

2 Third, whether the request is
3 substantial. No. It's exactly what's
4 there now.

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

8 MR. BELL: No.

9 CHAIRMAN SCALZO: No, because it's
10 exactly what's there now.

11 The fifth, whether the alleged
12 difficulty is self-created, which is
13 relevant but not determinative. Guess
14 what? It's not, because it's what's
15 already there now.

16 Having gone through the balancing
17 tests, does the Board have a motion of
18 some sort?

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

21 MR. MASTEN: I'll second it.

22 CHAIRMAN SCALZO: We have a motion
23 from Mr. Bell. We have a second from Mr.
24 Masten. Roll on that, please, Siobhan.

25 MS. JABLESNIK: Mr. Bell?

1 U M A N G I P A T E L

2 MR. BELL: Yes.

3 MS. JABLESNIK: Mr. Eberhart?

4 MR. EBERHART: Yes.

5 MS. JABLESNIK: Mr. Gramstad?

6 MR. GRAMSTAD: Yes.

7 MS. JABLESNIK: Mr. Hermance?

8 MR. HERMANCE: Yes.

9 MS. JABLESNIK: Mr. Masten?

10 MR. MASTEN: Yes.

11 MS. JABLESNIK: Ms. Rein?

12 MS. REIN: Yes.

13 MS. JABLESNIK: Mr. Scalzo?

14 CHAIRMAN SCALZO: Yes.

15 The motion is carried. The
16 variances are approved. I hope you got
17 paid by the hour.

18 The last thing we have to do is
19 vote on acceptance of last month's
20 meeting minutes. Will somebody make a
21 motion to approve?

22 MR. MASTEN: I'll make a motion for
23 last month's meeting.

24 MS. REIN: I'll second.

25 CHAIRMAN SCALZO: Mr. Masten, and

1 UMANGI PATEL

2 we have Ms. Rein as the second. All in
3 favor?

4 MR. BELL: Aye.

5 MR. EBERHART: Aye.

6 MR. GRAMSTAD: Aye.

7 MR. HERMANCE: Aye.

8 MR. MASTEN: Aye.

9 MS. REIN: Aye.

10 CHAIRMAN SCALZO: Aye.

11 Now I will look for a motion to
12 adjourn.

13 MS. REIN: I'll make a motion to
14 adjourn.

15 CHAIRMAN SCALZO: I think everybody
16 made that motion to adjourn.

17 MS. JABLESNIK: I'll second that.

18 CHAIRMAN SCALZO: Second from me.

19 All in favor?

20 MR. BELL: Aye.

21 MR. EBERHART: Aye.

22 MR. GRAMSTAD: Aye.

23 MR. HERMANCE: Aye.

24 MR. MASTEN: Aye.

25 MS. REIN: Aye.

1 U M A N G I P A T E L

2 CHAIRMAN SCALZO: Aye.

3 (Time noted: 9:37 p.m.)

4

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

6

7

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

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

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

17 IN WITNESS WHEREOF, I have hereunto set
18 my hand this 2nd day of April 2023.

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Michelle Conero

MICHELLE CONERO