

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

STATE OF NEW YORK : COUNTY OF ORANGE
TOWN OF NEWBURGH ZONING BOARD OF APPEALS
----- X
In the Matter of

MICHAEL FIELDS
113/119 Heather Circle, Newburgh
Section 115; Block 2; Lot 2
R-1 Zone

----- X

Date: April 28, 2022
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

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

APPLICANT'S REPRESENTATIVE: EVELYN FIELDS

----- X

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

1 MICHAEL FIELDS

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

24 Roll call, please.

25 MS. JABLESNIK: Darrell Bell?

1 M I C H A E L F I E L D S

2 MR. BELL: Here.

3 MS. JABLESNIK: James Eberhart?

4 MR. EBERHART: Present.

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: Darrin Scalzo?

12 CHAIRMAN SCALZO: Here.

13 MS. JABLESNIK: Also present is
14 our Attorney, David Donovan; from
15 Code Compliance, Joseph Mattina; and
16 our Stenographer, Michelle Conero.

17 CHAIRMAN SCALZO: Great. Could
18 you all please rise for the Pledge.
19 Mr. Hermance, would you lead us,
20 please.

21 (Pledge of Allegiance.)

22 CHAIRMAN SCALZO: Our first
23 applicant this evening is Michael
24 Fields, 113/119 Heather Circle in
25 Newburgh, seeking an area variance of

1 MICHAEL FIELDS

2 increasing the degree of non-
3 conformity of the side yard to
4 replace an existing 10 by 12 deck
5 with a new 16 by 16 deck.

6 Siobhan, do we have mailings on
7 this?

8 MS. JABLESNIK: Yes. This
9 applicant sent out 51 letters.

10 CHAIRMAN SCALZO: Very good.
11 Who do we have in front of us this
12 evening?

13 MS. FIELDS: Evelyn Fields, the
14 wife.

15 CHAIRMAN SCALZO: Very good.
16 If I have captured what it is that
17 you're trying to do adequately enough
18 for you, then we can just go ahead
19 and open the discussion. If there's
20 anything you would like to add,
21 please feel free.

22 MS. FIELDS: It's the deck that
23 I had when we first moved in in 1993.
24 We can't use it. I haven't had my
25 grandchildren or anybody on it for

1 MICHAEL FIELDS

2 two years. I thought since the deck
3 has to be replaced, I'm just asking
4 for it to be a little larger, from 10
5 by 12 to 16 by 16. Not to interfere
6 with my neighbor to the right. It
7 will go further out toward my yard
8 and the side of my house.

9 CHAIRMAN SCALZO: I understand.
10 We are obliged by our positions here
11 to go and look at it, so we've all
12 been by your place.

13 MS. FIELDS: Okay.

14 CHAIRMAN SCALZO: You're not
15 looking to go out any further to the
16 side. You're looking to go out a
17 little further back and to the left
18 along the house. Correct?

19 MS. FIELDS: Yes.

20 CHAIRMAN SCALZO: I think we
21 kind of zoned you into a position so
22 that you had to be here tonight. I
23 believe maybe the side yard
24 requirements may have changed since
25 the house was built.

1 MICHAEL FIELDS

2 MR. MATTINA: Correct. That
3 was when it went from an R-3 to an
4 R-1. She got caught in the zone
5 change.

6 CHAIRMAN SCALZO: Thank you,
7 Mr. Mattina.

8 So I'm going to call it a
9 preexisting nonconforming and now
10 you're just going to make your deck a
11 little larger.

12 MS. FIELDS: Yes.

13 CHAIRMAN SCALZO: Again, I was
14 through the neighborhood. I have no
15 comments on this.

16 I'm going to start over on the
17 end there with Mr. Gramstad. Do you
18 have any comments on this?

19 MR. GRAMSTAD: None at all.

20 CHAIRMAN SCALZO: How about
21 Mr. Eberhart?

22 MR. EBERHART: No comments.

23 CHAIRMAN SCALZO: Mr. Hermance?

24 MR. HERMANCE: No. I'm good.

25 CHAIRMAN SCALZO: Mr. Bell?

1 MICHAEL FIELDS

2 MR. BELL: No.

3 CHAIRMAN SCALZO: Mr. Masten?

4 MR. MASTEN: I have none.

5 CHAIRMAN SCALZO: Very good.

6 Is there anyone here from the public
7 to speak to this application for
8 Michael and Evelyn Fields?

9 (No response.)

10 CHAIRMAN SCALZO: It appears
11 not. Very good.

12 I'll look back to the Board.

13 Any last opportunity here?

14 (No response.)

15 CHAIRMAN SCALZO: I see a bunch
16 of shaking heads. I will look to the
17 Board for a motion to close the
18 public hearing.

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

21 MR. BELL: I'll second it.

22 CHAIRMAN SCALZO: We have a
23 motion from Mr. Masten. We have a
24 second from Mr. Bell. Roll on that,
25 please, Siobhan.

1 M I C H A E L F I E L D S

2 MS. JABLESNIK: Mr. Bell?

3 MR. BELL: Yes.

4 MS. JABLESNIK: Mr. Eberhart?

5 MR. EBERHART: Yes.

6 MS. JABLESNIK: Mr. Gramstad?

7 MR. GRAMSTAD: Yes.

8 MS. JABLESNIK: Mr. Hermance?

9 MR. HERMANCE: Yes.

10 MS. JABLESNIK: Mr. Masten?

11 MR. MASTEN: Yes.

12 MS. JABLESNIK: Mr. Scalzo?

13 CHAIRMAN SCALZO: Yes.

14 The public hearing is now
15 closed.

16 This is a Type 2 action under
17 SEQRA. Is that correct?

18 MR. DONOVAN: That's correct,
19 Mr. Chairman.

20 CHAIRMAN SCALZO: Thank you
21 very much. Therefore, we will go
22 through the variance criteria and
23 discuss the five factors which we're
24 weighing, the first one being whether
25 or not the benefit can be achieved by

1 MICHAEL FIELDS

2 other means feasible to the
3 applicant. Well, the family wants to
4 use the deck. It appears as though
5 the -- we've heard testimony that the
6 condition wouldn't allow them to use it.

7 MR. BELL: It's unsafe.

8 CHAIRMAN SCALZO: The second,
9 if there's an undesirable change in
10 the neighborhood character or a
11 detriment to nearby properties.
12 Again, it's preexisting nonconforming.

13 The third, whether the request
14 is substantial. I don't believe it
15 is. They're only going out a couple
16 extra feet and then along the house
17 line for the remaining portion.

18 The fourth, whether the request
19 will have adverse physical or
20 environmental effects. Clearly no.

21 And the fifth, whether the
22 alleged difficulty is self-created.
23 In this case it does not appear to
24 be. The zone change required the
25 applicant to be here.

1 MICHAEL FIELDS

2 So having gone through the
3 balancing test for the area variance,
4 does the Board have a motion of some
5 sort?

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

8 MR. GRAMSTAD: I'll second it.

9 CHAIRMAN SCALZO: We have a
10 motion for approval from Mr. Bell.
11 Was that Mr. Eberhart? Oh,
12 Mr. Gramstad. I was looking that
13 way. Very good. We have a motion
14 from Mr. Bell and we have a second
15 from Mr. Gramstad. Roll on that,
16 please, 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 M I C H A E L F I E L D S

2 MR. MASTEN: Yes.

3 MS. JABLESNIK: Mr. Scalzo?

4 CHAIRMAN SCALZO: Yes.

5 The area variances are

6 approved. Good luck.

7 MS. FIELDS: Thank you.

8

9 (Time noted: 7:10 p.m.)

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 MICHAEL FIELDS

2

3

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

4

5

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

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

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

16 IN WITNESS WHEREOF, I have hereunto
17 set my hand this 7th day of May 2022.

18

19

20

21

Michelle Conero

22

MICHELLE CONERO

23

24

25

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

STATE OF NEW YORK : COUNTY OF ORANGE
TOWN OF NEWBURGH ZONING BOARD OF APPEALS
----- X
In the Matter of

ANTHONY MOLINA

14 Spruce Avenue, Newburgh
Section 71; Block 6; Lot 16
R-3 Zone

----- X

Date: April 28, 2022
Time: 7:10 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

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

APPLICANT'S REPRESENTATIVE: ANTHONY MOLINA

----- X

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

1 ANTHONY MOLINA

2 CHAIRMAN SCALZO: Our second
3 applicant this evening is Anthony
4 Molina, 14 Spruce Avenue in Newburgh,
5 seeking an area variance of increasing
6 the degree of nonconformity of the
7 front and rear yards to add a second
8 story addition on an existing
9 nonconforming dwelling. Do we have
10 mailings on this, Siobhan?

11 MS. JABLESNIK: Yes. This
12 applicant sent out 37 mailings. It
13 was also mailed to the County and we
14 received that today, actually.

15 CHAIRMAN SCALZO: Very good.
16 You happen to be in luck, if you know
17 what that means. That means we can
18 act on your application this evening
19 if we need to.

20 MR. DONOVAN: I'm sorry,
21 Mr. Chairman. Was it a Local
22 determination?

23 MS. JABLESNIK: Yes. Sorry.

24 CHAIRMAN SCALZO: Thank you,
25 Counselor. Very good.

1 ANTHONY MOLINA

2 So who do we have here this
3 evening?

4 MR. MOLINA: Anthony Molina.

5 CHAIRMAN SCALZO: Very good.

6 Mr. Molina, we've been supplied with
7 the complete application package
8 including some architectural, if you
9 will. Included is the survey as
10 well. We drove past it. I see you
11 have the stockade fence out front.
12 If I've captured what it is that you
13 want to convey to us this evening by
14 that short sentence that I read, then
15 we can proceed from here. If you
16 would like to add anything to that,
17 feel free.

18 MR. MOLINA: No. I just bought
19 the house in November and I'm just
20 trying to remodel and add -- take
21 down one room from downstairs.
22 Currently it's just three bedrooms.
23 I want to take one down, make it
24 stairs, make a master suite upstairs
25 and then have a deck on the side of

1 ANTHONY MOLINA

2 the house. That's basically it.

3 CHAIRMAN SCALZO: Sure.

4 Obviously it's a dead end cul-de-sac
5 down there by 84. I'm sure it gets a
6 little noisy for you sometimes. I
7 have no comments on this.

8 I'm going to actually start at
9 the other end here. Mr. Masten?

10 MR. MASTEN: I have no comments
11 on it.

12 CHAIRMAN SCALZO: How about
13 Mr. Bell?

14 MR. BELL: No. I mean from
15 what I've seen, he does have a large
16 lot. He has the largest lot on the
17 street.

18 CHAIRMAN SCALZO: It appears
19 that way.

20 MR. BELL: It does. There are
21 other homes that are two stories on
22 that street as well.

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

25 Mr. Hermance, do you have

1 ANTHONY MOLINA

2 comments on this?

3 MR. HERMANCE: You're building
4 straight up from the existing --

5 MR. MOLINA: Exactly.

6 MR. HERMANCE: -- footprint of
7 the building. Right?

8 MR. MOLINA: Yes.

9 MR. HERMANCE: Other than that,
10 I have no other comments.

11 CHAIRMAN SCALZO: Mr. Eberhart?

12 MR. EBERHART: No comments.

13 There are other homes there that are
14 two stories.

15 CHAIRMAN SCALZO: Mr. Gramstad?

16 MR. GRAMSTAD: No comments.

17 CHAIRMAN SCALZO: Like I said,
18 looking at the Town of Newburgh, the
19 printout from Code Compliance, again,
20 the minimum required is 40. The
21 existing on one side is 37.2. Your
22 rear yard requirement is 40 and
23 existing is 31. You're not
24 increasing -- you're not going out,
25 you're just going up.

1 ANTHONY MOLINA

2 MR. MOLINA: Yup.

3 CHAIRMAN SCALZO: Very good.
4 Is there anyone here -- Mr. Masten?
5 I'm sorry.

6 MR. MASTEN: I'm thinking out
7 loud. Sorry.

8 CHAIRMAN SCALZO: No problem.
9 Is there anyone here from the public
10 to comment on this application of
11 Anthony Molina, 14 Spruce Avenue?

12 (No response.)

13 CHAIRMAN SCALZO: It appears
14 not. I'll look to the Board for any
15 additional comments?

16 (No response.)

17 CHAIRMAN SCALZO: No. Then
18 I'll look to the Board for a motion
19 to close the public hearing.

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

22 MR. GRAMSTAD: I'll second it.

23 CHAIRMAN SCALZO: I thought I
24 heard it down here from Mr. Eberhart,
25 and then I thought I heard the second

1 ANTHONY MOLINA

2 from Mr. Gramstad.

3 MR. GRAMSTAD: Yes.

4 CHAIRMAN SCALZO: Will you roll
5 on that, Siobhan, please.

6 MS. JABLESNIK: Mr. Bell?

7 MR. BELL: Yes.

8 MS. JABLESNIK: Mr. Eberhart?

9 MR. EBERHART: Yes.

10 MS. JABLESNIK: Mr. Gramstad?

11 MR. GRAMSTAD: Yes.

12 MS. JABLESNIK: Mr. Hermance?

13 MR. HERMANCE: Yes.

14 MS. JABLESNIK: Mr. Masten?

15 MR. MASTEN: Yes.

16 MS. JABLESNIK: Mr. Scalzo?

17 CHAIRMAN SCALZO: Yes.

18 The public hearing is now
19 closed.

20 This also, Counselor, is a Type
21 2 or Unlisted?

22 MR. DONOVAN: This is a Type 2
23 action.

24 CHAIRMAN SCALZO: Very good.

25 As you heard from the previous

1 ANTHONY MOLINA

2 applicant, we're going to go through
3 the balancing test, the first one
4 being whether or not the benefit can
5 be achieved by other means feasible
6 to the applicant.

7 MR. BELL: No.

8 CHAIRMAN SCALZO: The benefit
9 that he is seeking cannot be achieved
10 by other means. Very good.

11 The second, if there's an
12 undesirable change to the neighborhood
13 character or a detriment to nearby
14 properties. My personal opinion is
15 it would be an improvement.

16 Third, whether the request is
17 substantial. Again, it's preexisting
18 nonconforming. It's just going up.

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

22 MR. MASTEN: No.

23 CHAIRMAN SCALZO: It does not
24 appear so as well.

25 The fifth, whether the alleged

1 ANTHONY MOLINA

2 difficulty is self-created which is
3 relevant but not determinative. Of
4 course it's self-created, but you
5 have the right to enjoy where you live.

6 Having gone through the
7 balancing test, does the Board have a
8 motion of some sort?

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

11 MR. HERMANCE: I'll second that.

12 CHAIRMAN SCALZO: We have a
13 motion for approval from Mr. Bell.
14 We have a second I believe from
15 Mr. Hermance. Can you roll on that,
16 Siobhan, please.

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 ANTHONY MOLINA

2 MR. MASTEN: Yes.

3 MS. JABLESNIK: Mr. Scalzo?

4 CHAIRMAN SCALZO: Yes.

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

7 MR. MOLINA: Thank you.

8

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

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 ANTHONY MOLINA

2

3

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

4

5

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

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

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

16 IN WITNESS WHEREOF, I have hereunto
17 set my hand this 7th day of May 2022.

18

19

20

21

Michelle Conero

22

MICHELLE CONERO

23

24

25

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

STATE OF NEW YORK : COUNTY OF ORANGE
TOWN OF NEWBURGH ZONING BOARD OF APPEALS
----- X
In the Matter of

GRACIANA IRIART ZAINO
283 Carter Avenue, Newburgh
Section 26; Block 4; Lot 24.1
R-3 Zone

----- X

Date: April 28, 2022
Time: 7:15 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

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

APPLICANT'S REPRESENTATIVE: GRACIANA IRIART ZAINO

----- X

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

1 GRACIANA IRIART ZAINO

2 CHAIRMAN SCALZO: Our next
3 applicant this evening is Graciana
4 Iriart Zaino, 283 Carter Avenue in
5 Newburgh, seeking an area variance of
6 increasing the degree of non-
7 conformity of the front yard to
8 expand and renovate an existing
9 nonconforming second dwelling unit.

10 Siobhan, do we have mailings on
11 this?

12 MS. JABLESNIK: Yes. This
13 applicant sent out 44 letters.

14 CHAIRMAN SCALZO: 44.

15 MS. JABLESNIK: Not the winner
16 but close.

17 CHAIRMAN SCALZO: Very good.
18 Who do we have here?

19 MR. ZAINO: Graciana Zaino.

20 CHAIRMAN SCALZO: Very good.
21 If I have captured what it is that
22 you're looking to do here --
23 actually, this is a little different
24 than the other applicants that we've
25 had this evening. If I can ask you

1 GRACIANA IRIART ZAINO

2 to just give us a brief description
3 of what it is you're looking for.
4 We've all been there. We've seen the
5 carriage house. Were you here a
6 handful of years ago?

7 MR. ZAINO: Yes. For the main
8 house.

9 CHAIRMAN SCALZO: Okay. It's a
10 beautiful job --

11 MR. ZAINO: Thank you.

12 CHAIRMAN SCALZO: -- from what
13 it was before.

14 MR. ZAINO: We're going to make
15 it look like that house.

16 CHAIRMAN SCALZO: I'm very
17 curious how the deer are not eating
18 your arborvitaes.

19 MR. ZAINO: Those are Green
20 Giants. They love Emerald Greens.

21 CHAIRMAN SCALZO: That's good
22 to know. Very good. I'm sorry, but
23 I interrupted what I had asked you to
24 do. If you could, just please
25 explain why it is the front yard

1 GRACIANA IRIART ZAINO

2 you're looking at for a setback
3 issue.

4 MR. ZAINO: I don't know when
5 the private road was put in or the
6 subdivision back there, that
7 property, but as of right now, the
8 front yard setback doesn't meet the
9 requirements. I believe the
10 structure was built before the
11 requirements were in place. We're
12 not changing -- we're not enlarging
13 the structure per se. We're not
14 moving towards -- we're not
15 encroaching more into the front yard.
16 We're actually pulling some of the
17 steps back to get farther away. The
18 enlargement is towards the rear for
19 our pool shed behind the deck. We
20 have an existing deck now. We're
21 going to tear it down and rebuild it
22 roughly the same size, and we're
23 going to have a tool shed beneath it.

24 CHAIRMAN SCALZO: Very good.
25 Thank you. Town of Newburgh Code

1 GRACIANA IRIART ZAINO

2 Compliance, the chart confirms
3 everything you're saying here. The
4 dwelling unit is one, but you had
5 preexisting in the front yard again.
6 The minimum requirement is 40,
7 existing is 12. Now, that's to the
8 private road, obviously. Again, you
9 can see very well that this is a
10 habitable space.

11 Again, I don't have any
12 comments on this.

13 We'll start with Mr. Gramstad.

14 MR. GRAMSTAD: Nothing.

15 CHAIRMAN SCALZO: Mr. Eberhart?

16 MR. EBERHART: Nothing.

17 CHAIRMAN SCALZO: Mr. Hermance?

18 MR. HERMANCE: I have no comments.

19 CHAIRMAN SCALZO: Mr. Bell?

20 MR. BELL: None.

21 CHAIRMAN SCALZO: Mr. Masten?

22 MR. MASTEN: I have nothing.

23 CHAIRMAN SCALZO: Very good.

24 Thank you.

25 At this point I'll open it up

1 GRACIANA IRIART ZAINO

2 to any members of the public that
3 wish to speak about this application.

4 (No response.)

5 CHAIRMAN SCALZO: Hearing none,
6 I'll look to the Board for one other
7 opportunity to discuss this application?

8 MR. BELL: None.

9 CHAIRMAN SCALZO: Very good.
10 I'll look to the Board for a motion
11 to close the public hearing.

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

14 MR. MASTEN: I'll second it.

15 CHAIRMAN SCALZO: We have a
16 motion from Mr. Bell. We have a
17 second from Mr. Masten. Can you roll
18 on that, please, Siobhan.

19 MS. JABLESNIK: Mr. Bell?

20 MR. BELL: Yes.

21 MS. JABLESNIK: Mr. Eberhart?

22 MR. EBERHART: Yes.

23 MS. JABLESNIK: Mr. Gramstad?

24 MR. GRAMSTAD: Yes.

25 MS. JABLESNIK: Mr. Hermance?

1 GRACIANA IRIART ZAINO

2 MR. HERMANCE: Yes.

3 MS. JABLESNIK: Mr. Masten?

4 MR. MASTEN: Yes.

5 MS. JABLESNIK: Mr. Scalzo?

6 CHAIRMAN SCALZO: Yes.

7 The public hearing is closed.

8 MR. DONOVAN: Mr. Chairman, I
9 just have one quick question. I just
10 want to make sure of this. So the
11 extent of the expansion, if you will,
12 that's 75, 76 square feet?

13 MR. ZAINO: The net. Do you
14 have a copy of the plot plan?

15 MR. DONOVAN: That's what I'm
16 looking at now. It says the existing
17 is plus or minus 1,324 square feet
18 and the proposed is plus or minus
19 1,400 square feet. It's just to kind
20 of get into the record the magnitude
21 of the increase. That's about right?

22 MR. ZAINO: Yes.

23 CHAIRMAN SCALZO: Thank you,
24 Counselor.

25 Very good. The public hearing

1 GRACIANA IRIART ZAINO

2 is now closed. Therefore, this is a
3 Type 2 action under SEQRA.

4 We will again go through the
5 balancing test, the first one being
6 whether the benefit can be achieved
7 by other means feasible to the
8 applicant.

9 MR. BELL: No.

10 CHAIRMAN SCALZO: I heard no
11 from Mr. Bell. There was a whole
12 bunch of nos over there.

13 The second, if there's an
14 undesirable change in the neighborhood
15 character or a detriment to nearby
16 properties. This is preexisting
17 nonconforming, therefore I don't
18 think anybody is going to notice.

19 MR. BELL: It's going to be
20 more beautiful.

21 CHAIRMAN SCALZO: It's probably
22 going to be more aesthetically
23 pleasing when they're done.

24 Third, whether the request is
25 substantial. Again, it's preexisting

1 GRACIANA IRIART ZAINO

2 nonconforming. Very minimal increase
3 in square feet.

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

7 MR. BELL: No.

8 CHAIRMAN SCALZO: It does not
9 appear so.

10 The fifth, whether the alleged
11 difficulty is self-created which is
12 relevant but not determinative. It's
13 a minor -- yes, it is self-created
14 with the minor additions that they're
15 looking at, but everything else is
16 preexisting nonconforming.

17 MR. BELL: True.

18 CHAIRMAN SCALZO: Having gone
19 through the balancing test there, do
20 we have a motion of some sort from
21 the Board?

22 MR. GRAMSTAD: I'll make a
23 motion to approve.

24 MR. EBERHART: I'll second it.

25 CHAIRMAN SCALZO: It's been a

1 GRACIANA IRIART ZAINO

2 race tonight. Mr. Gramstad made a
3 motion to approve. It sounded like
4 Mr. Eberhart was the second there.
5 Can you roll on that, please, Siobhan.

6 MS. JABLESNIK: Mr. Bell?

7 MR. BELL: Yes.

8 MS. JABLESNIK: Mr. Eberhart?

9 MR. EBERHART: Yes.

10 MS. JABLESNIK: Mr. Gramstad?

11 MR. GRAMSTAD: Yes.

12 MS. JABLESNIK: Mr. Hermance?

13 MR. HERMANCE: Yes.

14 MS. JABLESNIK: Mr. Masten?

15 MR. MASTEN: Yes.

16 MS. JABLESNIK: Mr. Scalzo?

17 CHAIRMAN SCALZO: Yes.

18 The motions are carried. The
19 variances are approved. Good luck.

20 MR. ZAINO: Thank you.

21 CHAIRMAN SCALZO: I look
22 forward to seeing it when it's done.

23

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

25

1 GRACIANA IRIART ZAINO

2

3

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

4

5

6

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

9

10

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

11

12

13

14

15

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.

16

17

18

19

20

21

22

23

24

25

Michelle Conero

MICHELLE CONERO

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

STATE OF NEW YORK : COUNTY OF ORANGE
TOWN OF NEWBURGH ZONING BOARD OF APPEALS
----- X
In the Matter of

CECIL & KAREN CONRAD
5 Stewart Avenue, Newburgh
Section 99; Block 4; Lot 15
R-3 Zone

----- X

Date: April 28, 2022
Time: 7:20 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

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

APPLICANT'S REPRESENTATIVE: CECIL CONRAD

----- X

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

1 C E C I L & K A R E N C O N R A D

2 CHAIRMAN SCALZO: Our next
3 applicant is Cecil and Karen Conrad,
4 5 Stewart Avenue in Newburgh for area
5 variances of the front yard for
6 Stewart Avenue, front yard for
7 Putnam, the building lot coverage,
8 the lot surface coverage and
9 increasing the degree of non-
10 conformity of the side yard to
11 keep a rear covered porch and build
12 a front open deck.

13 Mailings on that, Siobhan?

14 MS. JABLESNIK: This applicant
15 sent out 33 letters. They went to
16 County as well, got it back today,
17 Local determination.

18 CHAIRMAN SCALZO: Fantastic.
19 Very good.

20 Who do we have with us tonight?

21 MR. CONRAD: Cecil Conrad.

22 CHAIRMAN SCALZO: Very good.
23 Mr. Conrad, if I have captured all of
24 what you're looking to do here --
25 I'll say it again, we have all been

1 C E C I L & K A R E N C O N R A D

2 by the site. I actually was there
3 today.

4 MR. CONRAD: Actually, I'm
5 going to change something. I am
6 going to drop the variance for the
7 front yard. I'm not going to put a
8 deck out front. I'm just going to
9 put a patio. I don't need the
10 variance for that. I just need a
11 variance for the back deck.

12 CHAIRMAN SCALZO: Okay. Hang
13 on. Mr. Mattina, I'm actually going
14 to look over to you in this case.

15 MR. CONRAD: I keep forgetting
16 I have two front yards.

17 CHAIRMAN SCALZO: I saw the
18 plate. Are you just going to cover
19 the plate? I thought there was a
20 plate for decking.

21 MR. CONRAD: I'm going to turn
22 that into like a flower pot type thing.
23 I'll just put flowers around it.

24 CHAIRMAN SCALZO: Okay. It's a
25 very neat setup you have there.

1 C E C I L & K A R E N C O N R A D

2 MR. CONRAD: Thank you.

3 CHAIRMAN SCALZO: It's a little
4 difficult pulling out of Putnam onto
5 Stewart if you're taking a left.

6 MR. CONRAD: Yeah. With the
7 shrubbery, yeah.

8 CHAIRMAN SCALZO: Again,
9 everything that you've done so far
10 appears to be quite the improvement.
11 You're really saddled with a postage
12 stamp of a lot here. I don't have
13 any comments.

14 MR. CONRAD: Okay.

15 CHAIRMAN SCALZO: I'm going to
16 look to Mr. Masten. Do you have any
17 comments?

18 MR. MASTEN: I have no comments
19 on it.

20 CHAIRMAN SCALZO: Mr. Bell?

21 MR. BELL: None.

22 CHAIRMAN SCALZO: Mr. Hermance?

23 MR. HERMANCE: You're
24 eliminating the 22 by 9 facing
25 Stewart Avenue?

1 C E C I L & K A R E N C O N R A D

2 MR. CONRAD: Correct.

3 MR. HERMANCE: Okay. I have
4 nothing further then.

5 CHAIRMAN SCALZO: Mr. Eberhart?

6 MR. EBERHART: No comments.

7 CHAIRMAN SCALZO: Mr. Gramstad?

8 MR. GRAMSTAD: None.

9 CHAIRMAN SCALZO: You don't
10 want to sit out on the front deck and
11 look at traffic go by?

12 MR. CONRAD: No. I'll put a
13 patio out there. They said do that.

14 CHAIRMAN SCALZO: Very good.

15 MR. CONRAD: You're right. Too
16 much traffic.

17 CHAIRMAN SCALZO: Very good.
18 At this point I'd like to open it up
19 to any members of the public that
20 wish to speak about this application,
21 Cecil Conrad, 5 Stewart Avenue.

22 (No response.)

23 CHAIRMAN SCALZO: Okay. I'll
24 look to the Board for one last
25 opportunity to comment on this.

1 C E C I L & K A R E N C O N R A D

2 MR. GRAMSTAD: No.

3 MR. BELL: No.

4 CHAIRMAN SCALZO: Very good.

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

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

9 CHAIRMAN SCALZO: Very good.
10 We have pretty close to a motion to
11 close the public hearing from Mr.
12 Masten.

13 MR. BELL: I'll second it.

14 CHAIRMAN SCALZO: We have a
15 second from Mr. Bell. Roll on that,
16 please, 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 E C I L & K A R E N C O N R A D

2 is substantial, but with such a small
3 lot it's very difficult to do
4 anything. I don't even know why
5 you'd own a lawnmower.

6 MR. CONRAD: I'm trying to turn
7 everything into a patio so I don't
8 have to mow.

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

12 MR. BELL: No.

13 MR. EBERHART: No.

14 MR. GRAMSTAD: No.

15 MR. HERMANCE: No.

16 MR. MASTEN: No.

17 CHAIRMAN SCALZO: It does not
18 appear so.

19 The fifth, whether the alleged
20 difficulty is self-created, which of
21 course it is self-created. It's
22 relevant, but not necessarily
23 determinative.

24 Very good. Having gone through
25 the balancing test, does the Board

1 C E C I L & K A R E N C O N R A D

2 have a motion of some sort?

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

5 MR. HERMANCE: I'll second it.

6 CHAIRMAN SCALZO: We have a
7 motion for approval from Mr. Bell.
8 We have a second from Mr. Hermance.
9 Can you roll on that, Siobhan, please.

10 MS. JABLESNIK: Mr. Bell?

11 MR. BELL: Yes.

12 MS. JABLESNIK: Mr. Eberhart?

13 MR. EBERHART: Yes.

14 MS. JABLESNIK: Mr. Gramstad?

15 MR. GRAMSTAD: Yes.

16 MS. JABLESNIK: Mr. Hermance?

17 MR. HERMANCE: Yes.

18 MS. JABLESNIK: Mr. Masten?

19 MR. MASTEN: Yes.

20 MS. JABLESNIK: Mr. Scalzo?

21 CHAIRMAN SCALZO: Yes.

22 The motion is carried. The
23 variances are approved. Good luck.

24 MR. CONRAD: Thank you.

25 (Time noted: 7:27 p.m.)

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

CECIL & KAREN CONRAD

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

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

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

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

IN WITNESS WHEREOF, I have hereunto
set my hand this 7th day of May 2022.

Michelle Conero

MICHELLE CONERO

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

STATE OF NEW YORK : COUNTY OF ORANGE
TOWN OF NEWBURGH ZONING BOARD OF APPEALS
----- X
In the Matter of

SNK PETROLEUM WHOLESALERS
747 Boulevard, Newburgh
Section 89; Block 1; Lots 80.1 & 80.2
IB Zone

----- X

Date: April 28, 2022
Time: 7:28 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

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

APPLICANT'S REPRESENTATIVE: KENNETH LYTLE

----- X

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

1 S N K P E T R O L E U M W H O L E S A L E R S

2 CHAIRMAN SCALZO: We are moving
3 on now to applications that were held
4 open from the March 24, 2022 meeting.
5 The first one we have here is SNK
6 Petroleum Wholesalers, 747 Boulevard
7 in Newburgh. This is a Planning
8 Board referral for area variances of
9 the front yard for a canopy, side
10 yard for a west canopy and rear yard
11 for the proposed building, rear and
12 side yard for east canopy and
13 variances for any proposed signage on
14 the canopy, which is a resubmission
15 from January 2021. We did receive
16 additional materials between the last
17 meeting and this meeting.

18 I see we have Mr. Lytle
19 standing here. Mr. Lytle, could you
20 go over with us, please, what changes
21 we were looking for that you have
22 addressed in your plans?

23 Sir, the one thing that I did
24 not see is any correspondence
25 regarding an easement. I hope you

1 S N K P E T R O L E U M W H O L E S A L E R S

2 can address that as well. The floor
3 is yours, Mr. Lytle.

4 MR. LYTLE: Good evening.
5 We'll address the DEP easement right
6 away. That's the easiest one. We
7 sent correspondence in regarding
8 getting an actual description of what
9 is allowed.

10 MR. DONOVAN: You sent to who?

11 MR. LYTLE: The DEP.

12 MR. DONOVAN: You said sent to
13 him.

14 MR. LYTLE: The DEP to get an
15 actual description of what it's
16 allowed to be used for for ingress
17 and egress. His response back to us
18 was very simple. As another
19 applicant who has the adjoining
20 property would make an application to
21 him to do something, they would
22 address it at that point. They had
23 no specifics in writing anywhere that
24 they could find.

25 CHAIRMAN SCALZO: Can that be

1 S N K P E T R O L E U M W H O L E S A L E R S

2 memorialized, the instructions that
3 he gave you, --

4 MR. LYTLE: Yeah.

5 CHAIRMAN SCALZO: -- by the DEP
6 and submitted to us?

7 MR. LYTLE: I believe so.

8 CHAIRMAN SCALZO: Okay.

9 MR. LYTLE: I'm going to say yes.
10 I'll forward that e-mail to you.

11 CHAIRMAN SCALZO: Okay. All
12 right. If you could, go over the
13 other issues that we were discussing
14 in the last meeting, please.

15 MR. LYTLE: Just to continue on
16 with that easement, the easement is
17 actually going to be more of a
18 planning issue, if it gets to that
19 point. I don't believe it's any part
20 of the variance that we're looking
21 for tonight.

22 Since our last meeting there
23 was a lot of discussion. I can
24 address some of those concerns. The
25 major change that happened here was

1 S N K P E T R O L E U M W H O L E S A L E R S

2 again the building, we shifted it
3 approximately 25 feet in a southerly
4 direction, closer to Route 84. In
5 doing so we actually moved it
6 additional footage from the
7 residential zone, which they voiced
8 some concerns about, and now the only
9 rear setback zoning variance we're
10 looking for is the 6 foot to the
11 corner of the building.

12 We were able to shift the
13 canopy, the gas canopy from the
14 front, again, in a southerly
15 direction, farther away from the
16 residential zone, and the diesel
17 canopies farther away from the rear
18 line. Again, so there's no rear
19 setback required for the diesel pumps
20 at all.

21 Again, we're adjusting the
22 building. The building is actually
23 going to be a little lower than its
24 current height by doing the regrading.

25 Another concern that was

1 S N K P E T R O L E U M W H O L E S A L E R S

2 actually brought up was, again,
3 access to the other property. We had
4 a retaining wall. As you can see, we
5 removed the retaining wall from that
6 area and we've adjusted that with
7 grading that will be happening in the
8 field.

9 I think I addressed most of the
10 concerns.

11 CHAIRMAN SCALZO: Thank you.
12 So I'm going to restate to you what I
13 think I just heard and then you can
14 confirm whether or not I understand you.

15 MR. LYTLE: Okay.

16 CHAIRMAN SCALZO: The building
17 itself has not increased or decreased
18 in size.

19 MR. LYTLE: That is correct.

20 CHAIRMAN SCALZO: It appears as
21 though the building has shifted
22 further into the southerly and I'll
23 say side yard setback.

24 MR. LYTLE: Yup.

25 CHAIRMAN SCALZO: But you have

1 S N K P E T R O L E U M W H O L E S A L E R S

2 also increased the distance between
3 the rear lot line and the north-
4 easterly corner of the building. So
5 that's larger than it was the last
6 time we saw this plan.

7 MR. LYTTLE: Yup.

8 CHAIRMAN SCALZO: I just wanted
9 to make sure I understood that.

10 MR. LYTTLE: Again, the aqueduct
11 is between us. It's an automatic
12 200-foot buffer between our property
13 and any adjoining property.

14 CHAIRMAN SCALZO: That's an
15 interesting observation. Okay. I'm
16 probably going to have more comments
17 as we go.

18 At this point I would like to
19 open it up to the -- the public
20 hearing is still open.

21 MR. DONOVAN: The public
22 hearing is still open.

23 CHAIRMAN SCALZO: I would like
24 to ask Mr. Masten if he has any
25 comments here?

1 S N K P E T R O L E U M W H O L E S A L E R S

2 MR. MASTEN: I don't have any
3 right now.

4 CHAIRMAN SCALZO: Very good.

5 Mr. Bell, do you have anything
6 on this?

7 MR. BELL: Not at all. I'll
8 come back.

9 CHAIRMAN SCALZO: Very good.

10 Mr. Hermance?

11 MR. HERMANCE: I have no
12 comments at this point.

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

15 MR. EBERHART: No comment.

16 CHAIRMAN SCALZO: How about
17 you, Mr. Gramstad?

18 MR. GRAMSTAD: Not at this
19 time, no.

20 CHAIRMAN SCALZO: Mr. Lytle,
21 let me ask you a question. I see
22 where you moved the building from.
23 Did you give any consideration to
24 rotating that building so you were
25 parallel with the rear setback,

1 S N K P E T R O L E U M W H O L E S A L E R S

2 therefore you wouldn't need a
3 variance for the rear lot?

4 MR. LYTLE: Yes, we did. The
5 reason that doesn't work with the
6 plan is there's certain separations
7 we need from the gas pumps and the
8 canopy to the building and from the
9 canopy to the other side. In
10 rotating that, we would actually be
11 eliminating fuel pumps to make that
12 work. Right now we're only asking
13 for a 6-foot variance in that rear
14 corner only. It's not substantial
15 from what it was before.

16 CHAIRMAN SCALZO: Thank you.
17 Mr. Lytle, this is really a Planning
18 Board question, but I've got to ask
19 it anyway. Is there a minimum
20 distance required between the parking
21 stalls and the gas pumps?

22 MR. DOMBAL: Usually it's at
23 least 30 feet.

24 CHAIRMAN SCALZO: Sir, you are
25 who?

1 S N K P E T R O L E U M W H O L E S A L E R S

2 MR. DOMBAL: I'm Mark Dombal
3 from SNK.

4 CHAIRMAN SCALZO: I'm going to
5 open it up at this point to members
6 of the public to speak, which may
7 generate more questions from the
8 Board. At this point is anyone here
9 from the public that wishes to speak
10 about this application for SNK? Go
11 ahead, sir.

12 MR. WEDDELL: Good evening
13 again. This is Tom Weddell,
14 W-E-D-D-E-L-L. I live around this
15 area.

16 Again, my first question to you
17 all was the right-of-way or the
18 easement was supposed to be resolved
19 last meeting. This meeting all I
20 hear is well I have to apply. So I
21 will apply to the DEP to get what I
22 need to have my right-of-way resolved
23 there as soon as possible.

24 Also, I was just questioning
25 what other properties in the Town of

1 S N K P E T R O L E U M W H O L E S A L E R S

2 Newburgh have their right-of-way go
3 through a gas station to get to a
4 residential property? I couldn't
5 find any.

6 CHAIRMAN SCALZO: I wouldn't
7 know myself.

8 Mr. Mattina, are you aware?

9 MR. MATTINA: No.

10 MR. WEDDELL: If I have to
11 drive through -- under this
12 arrangement I'll have to drive
13 through the gas pumps and into the
14 back side of the gas station to go to
15 my piece of property, if I go to my
16 piece of property.

17 CHAIRMAN SCALZO: It appears
18 that way, sir. Yes.

19 MR. WEDDELL: Okay. But
20 there's no other property that I
21 could find in the Town of Newburgh
22 that had that issue. They were
23 protected against that.

24 My other question is why so
25 many variances are required to do

1 S N K P E T R O L E U M W H O L E S A L E R S

2 this? If this is a piece of property
3 that's supposed to be able to build
4 this particular gas station, why are
5 so many variances that are over 50
6 percent changes from the variance
7 rules that they need to have? The
8 first one right there is proposed 25,
9 required 60. That's a 58 percent
10 change. Why so many variance changes
11 out there? That's one of the
12 questions that I have. Why so many
13 over 50 percent? You're not looking
14 for 5 feet here or 4 feet, like the
15 lady asked for her deck to be 4 feet,
16 increased from 12 to 16. They're not
17 asking for small changes. They're
18 requesting significant changes, okay.
19 Material changes need to be made to
20 make this property to conform so they
21 can put a gas station on it.

22 Also, in a discussion with the
23 bank on the piece of property, the
24 value of the property would be
25 considerably reduced, okay, in value

1 S N K P E T R O L E U M W H O L E S A L E R S

2 if I have to drive through a gas
3 station to get to the right-of-way to
4 the property that's there.

5 Those are my questions. I
6 would like the answers.

7 Again, the right-of-way was
8 supposed to be resolved. I thought
9 it was pretty clear in the last -- we
10 had gotten the paperwork they had
11 gotten. It even gave the degrees and
12 everything. Animal Hughes came up
13 and spoke and said that he had a
14 friend that worked on the aqueduct,
15 that the road had changed from Drury
16 Lane to 747. When the road was
17 built, it had changed significantly.
18 That was the way it was laid out.

19 In the last variance and the
20 last set of documents that were
21 there, it gave an exact measurement
22 of where the right-of-way was through
23 the property. So that's just my -- I
24 need to know answers, why we're
25 making these changes and why they're

1 S N K P E T R O L E U M W H O L E S A L E R S

2 so significant. What's going to
3 happen with the right-of-way?
4 They're just going to say well, the
5 DEP says no one has done anything yet
6 so we don't have to worry about it
7 right away. We do because I own a
8 piece of property and I'm going to be
9 impacted by it. Thank you.

10 CHAIRMAN SCALZO: Your comments
11 are very important. As I probably
12 mentioned at the other meetings that
13 you've been at Mr. Weddell, you did
14 hear me ask the applicant or the
15 applicant's representative this
16 evening to have any information from
17 the DEP memorialized for us to
18 review. We have not received that
19 yet. In this case, and I'm not going
20 to speak for the Members of the
21 Board, but it's typically something
22 that we would require, which may be a
23 reason for us to maintain the public
24 hearing as open.

25 MR. WEDDELL: To memorialize

1 S N K P E T R O L E U M W H O L E S A L E R S

2 something that would normally be in
3 the application. That's not saying
4 anything, that there is no easement
5 there. It's on the map. It exists.
6 It's for real and it just can't go
7 away.

8 CHAIRMAN SCALZO: Sir, I don't
9 believe that that's -- we're not
10 disputing that the easement is real.
11 We understand that the easement is
12 real. But there are other --
13 Counselor, if you could help me. I
14 thought we were looking for the use
15 of that easement a little.

16 MR. DONOVAN: So if I can,
17 Mr. Chairman, it just kind of --
18 also, we talked about this in the
19 past. The public hearing is not a
20 question and answer session, right.
21 The public hearing is for the public
22 to raise issues to the Board that can
23 assist the Board in their decision
24 making. Unfortunately, you don't
25 come here to get your questions

1 S N K P E T R O L E U M W H O L E S A L E R S

2 answered. You can come here to raise
3 issues that you want the Board to
4 consider, but the Board is not here
5 to answer specific questions. They
6 take all the information from the
7 applicant, all the information from
8 the public and they ultimately make a
9 decision.

10 MR. WEDDELL: Why have the
11 rules? Why have the rules of having
12 a 60 foot or a 50 foot required just
13 so you can waive it? Because
14 somebody wants to build a gas station
15 we can just waive it, it's okay?

16 MR. DONOVAN: That's not the
17 way it works. People are entitled to
18 make a request, and then that request
19 gets heard, because everyone is
20 entitled to due process. You will
21 raise issues and then other members
22 of the public may raise issues. The
23 Board will deliberate and make a
24 determination. That's how it works
25 and that's all I can tell you. I can

1 S N K P E T R O L E U M W H O L E S A L E R S

2 say from reading last month's
3 minutes, that the Chairman said to
4 Mr. Lytle we would like to see a
5 little more definition with regard to
6 that right-of-way. I appreciate what
7 you've done getting us to this point,
8 but I don't want to have to search
9 for things on your behalf so please
10 give me a complete package. Right.
11 So I think that's what the Chairman
12 said. I think that's what the Board
13 is looking for.

14 MR. HERMANCENCE: Yes.

15 CHAIRMAN SCALZO: Thank you,
16 Counselor.

17 Is there anyone else here from
18 the public to speak about this
19 application? Please step forward,
20 sir. Please state your name for our
21 Stenographer.

22 MR. MULHOLLAND: My name is
23 Patrick Mulholland. I've owned that
24 property thirty, forty years. Paid
25 taxes, never paid late. I lost two

1 S N K P E T R O L E U M W H O L E S A L E R S

2 homes there due to the widening of
3 the road and Route 84. I wanted to
4 move my home back so I could stay
5 there, but the Newburgh Town said you
6 can't, we're changing the zoning to
7 commercial. I had to move out of
8 there and -- which I did not make out
9 at all.

10 I always owned that property.
11 Mr. Weddell's father used to come to
12 our place of business constantly
13 saying I would like to get that -- my
14 son would like that piece of land
15 because it borders our property.
16 We're the only ones that does any
17 good. So I had Ken Lytle subdivide
18 it. I sold it to him. \$10,000 for
19 3.5 acres and he's worried about the
20 value.

21 I haven't been coming here to
22 defend myself because I just got out
23 of the hospital with a heart attack,
24 and I've had several. Of course with
25 all this going on, I have many, many

1 S N K P E T R O L E U M W H O L E S A L E R S

2 things to say. I had to fight to get
3 my property back because a mistake
4 always can be made. When I sold the
5 property, his attorney, Phil, put on
6 there my lot numbers. So we
7 caught -- my lawyer caught it and we
8 had the paperwork done to correct the
9 deed, two times. When it came time
10 to sign it, he said no, I'm not going
11 to sign it. So to me that makes it
12 from a mistake to a criminal charge.
13 He's trying to take my property. I
14 can go on.

15 Oh, the right-of-way was for me
16 to get to my property on the other
17 side. He don't own property there.
18 No reason to come to my side. He
19 owns the property that borders that
20 whole thing. That's why he wanted
21 it. We never had anything in
22 writing, nothing giving him the
23 right-of-way. Nothing. But he comes
24 here week after week telling these
25 stories.

1 S N K P E T R O L E U M W H O L E S A L E R S

2 I'm not going to keep going on.
3 I know it's not a court. For you to
4 consider, I have paperwork. We had
5 to go to Supreme Court to get my
6 property back. \$18,000 in eight
7 months. So this is how credible
8 either I am or he is. I have all the
9 paperwork to back up everything I
10 just said.

11 Thank you for your time.

12 CHAIRMAN SCALZO: Thank you,
13 sir.

14 Counselor, I always feel as
15 though -- that's an interesting piece
16 of information. I'm going to go back
17 to this because I still want a little
18 clearer understanding of what the
19 easement is, how the easement also
20 passes through the front property,
21 which I know it's going to be
22 difficult to find.

23 MR. LYTTLE: Can I ask one
24 question?

25 CHAIRMAN SCALZO: Certainly.

1 S N K P E T R O L E U M W H O L E S A L E R S

2 MR. LYTLE: So regarding that
3 actual right-of-way, I believe that
4 would be a Planning Board thing. I
5 don't believe it has anything to do
6 with the zoning variances that we're
7 going for tonight. Is that correct?

8 MR. DONOVAN: I think, Ken, the
9 location -- the extent of the
10 variances, there are a number of
11 variances that would impact the
12 location of the building. So I mean
13 in terms of the ZBA's jurisdiction, I
14 would think the ZBA would need to be
15 comfortable with everything before
16 they could pass on the application
17 aye or nay.

18 MR. LYTLE: And if we're not
19 able to get actually enough paperwork
20 or they're not able to provide us a
21 description of what's allowed, what
22 would be the next --

23 MR. DONOVAN: We can't tell you
24 how to do your job. The Chairman
25 indicated that we're not going to do

1 S N K P E T R O L E U M W H O L E S A L E R S

2 your job. If you spoke to somebody
3 at the DEP, it would be helpful to
4 have gotten him to send an e-mail or
5 a letter that you could have brought
6 tonight summarizing what you said he
7 said, or you sending a letter to him
8 summarizing the conversation, because
9 it's important, before the Board
10 takes any action, that they have a
11 record to rely upon.

12 MR. LYTLE: Okay.

13 MR. DONOVAN: So I would not
14 suggest that they rely upon a
15 conversation. This is not --

16 MR. LYTLE: I know.

17 MR. DONOVAN: This is a
18 conversation with an unnamed person
19 who may or may not have had the
20 authority to say what you heard.

21 MR. LYTLE: Certainly. I
22 understand.

23 MR. DONOVAN: Okay.

24 CHAIRMAN SCALZO: Is there
25 anyone else here to speak about this

1 S N K P E T R O L E U M W H O L E S A L E R S

2 application?

3 (No response.)

4 CHAIRMAN SCALZO: It does not
5 appear so.

6 Now I'll look back to the
7 Board. We've heard a couple things.
8 Interesting testimony. We are at the
9 point where the public hearing is
10 still open. There's some information
11 that was just indicated, or at least
12 I indicated that I would like to see
13 which would be helpful to counsel in
14 describing that.

15 I'm going to look to the Board
16 here for a motion to either keep the
17 public hearing open to allow us to
18 have a chance to receive that
19 information and evaluate it or to
20 close the public hearing. No matter
21 how you slice it, we're going to need
22 some sort of motion.

23 MR. MASTEN: I'll make a motion
24 that we keep it open for more information.

25 CHAIRMAN SCALZO: Regarding the

1 S N K P E T R O L E U M W H O L E S A L E R S

2 easement?

3 MR. MASTEN: The property line
4 and whatever.

5 CHAIRMAN SCALZO: All right.
6 So we have a motion from Mr. Masten.

7 MR. EBERHART: I'll second it.

8 CHAIRMAN SCALZO: Mr. Eberhart
9 gave us the second. Siobhan, can you
10 roll on that, please.

11 MR. DONOVAN: Just before you
12 do that, just to be clear, so that's
13 to the May meeting?

14 CHAIRMAN SCALZO: Right.

15 MR. DONOVAN: Next month's
16 meeting, to the May meeting?

17 CHAIRMAN SCALZO: Correct.

18 MR. DONOVAN: Just to be clear
19 for the people in the audience that
20 are here for this application,
21 there's no new notice mailed. We
22 just all meet again next month.

23 MR. WEDDELL: I have a question
24 on that. This originally started
25 prior to COVID. We had a lot of

1 S N K P E T R O L E U M W H O L E S A L E R S

2 people that were involved. The only
3 reason I keep coming is because I
4 come here and you keep saying you
5 don't have to give notice to anybody
6 else. Everybody else thinks this
7 project is really nowhere at this
8 point. I think it should be
9 re-noticed to all the people that are
10 now there, because there's a whole
11 slew of new houses that are up by me
12 that should be notified of this as
13 well that are not being notified. I
14 really think that there should be
15 more notice here. I think it should
16 have to go back out to be re-noticed
17 again. It was because of COVID. I
18 keep coming because I have to keep
19 coming, but no one else gets notice.
20 You've got to come next time and that
21 means I have to notify everybody.
22 I'm not the one building the project.
23 I'm not the one doing it. I do think
24 it should be re-noticed to all these
25 people again, because there is a lot

1 S N K P E T R O L E U M W H O L E S A L E R S

2 of new people in my neighborhood. Do
3 you want to go up and see the ten new
4 houses that are being built? There
5 are ten beautiful homes. They're not
6 even part of this. They don't even
7 know what's happening here. I think
8 they should be notified. That's my
9 personal opinion.

10 CHAIRMAN SCALZO: You know, we
11 can evaluate if they're -- are these
12 new homes that you're talking about
13 within 500 feet of this property?

14 MR. WEDDELL: They're not
15 within 500 feet of this property, no.
16 But all the other people that were
17 noticed here were not 500 feet within
18 this property. There are new houses
19 that are going up across from Amazon.
20 There's quite a few new beautiful
21 houses there.

22 MR. LYTTLE: It's a new project.

23 MR. WEDDELL: According to
24 this, the aqueduct is 200 feet across
25 and it's not 200 feet across.

1 S N K P E T R O L E U M W H O L E S A L E R S

2 CHAIRMAN SCALZO: I believe the
3 project you're talking about is a
4 multi-phased project. The
5 subdivision is hanging in the Town
6 Hall or in the Building Department.
7 We'll evaluate that and if we --

8 MR. WEDDELL: It's really
9 unfair. COVID really shut this down
10 and you didn't have notice. The last
11 time you had a meeting it was still
12 COVID and no one was coming out.

13 MR. DONOVAN: That's not the
14 first time this has happened. The
15 prior practice of the Board is that
16 when there is an application for a
17 public hearing and the applicant has
18 gone away for several months, that we
19 would have the applicant re-notice.
20 We have not in the past when an
21 applicant has returned month after
22 month after month. We've continued
23 the public hearings without
24 additional notice. If the Board
25 wants to change that practice, that's

1 S N K P E T R O L E U M W H O L E S A L E R S

2 up to the Board. You know, just to
3 be clear, this is well noticed in
4 terms of checking the Town website.
5 You can see that -- the Town has an
6 excellent website. You can see the
7 agenda, you can see any documents
8 that were filed. You can see the new
9 documents that were filed with the
10 Board. It's not as if it's a secret.
11 The Board has it in their discretion.
12 If you want to require that it be
13 re-noticed, you should tell him
14 tonight, but you're not required by
15 law to do that.

16 MR. LYTTLE: We just did
17 re-notify everybody a couple months
18 ago when this came back.

19 MS. JABLESNIK: It was
20 re-noticed in January or February.

21 MR. WEDDELL: And how many
22 notices were sent out?

23 CHAIRMAN SCALZO: I'm sure the
24 notices were sent out in accordance
25 with --

1 S N K P E T R O L E U M W H O L E S A L E R S

2 MR. WEDDELL: 13.

3 MR. DONOVAN: All that were
4 required by law were sent out.

5 MR. WEDDELL: Since then, there
6 is all new houses there. It would be
7 very unfair to the people. You're
8 stuffing this all up right in their
9 face. It was residential. He was
10 right. He lived there. It was
11 residential at one time. All of a
12 sudden with 747 going in, let's make
13 it commercial and forget about
14 anybody's right-of-way.

15 MR. DOMBAL: The property has
16 been for sale for a long time.

17 CHAIRMAN SCALZO: I'm sorry,
18 folks. We have closed the public
19 hearing at this point. I was
20 entertaining Mr. Weddell.

21 MR. DONOVAN: The public
22 hearing is open.

23 CHAIRMAN SCALZO: It is.

24 I'm sorry. We need more
25 information. But the back and forth

1 S N K P E T R O L E U M W H O L E S A L E R S

2 is not productive to what we're doing
3 here tonight.

4 How many do you have, Siobhan?

5 MS. JABLESNIK: There's 14 on
6 here. It's for Mr. Weddell or for
7 somebody related who owns a lot of
8 property, so it would only go to the
9 one.

10 MR. WEDDELL: I own it all.

11 MS. JABLESNIK: And then
12 there's -- they were all sent. I'm
13 not exactly sure how many there were.

14 CHAIRMAN SCALZO: And that's
15 500 feet?

16 MS. JABLESNIK: This comes from
17 the assessor's office. They generate
18 this list for the applicant.

19 MR. BELL: They're more than
20 500 feet.

21 MS. JABLESNIK: I physically go
22 through and make sure that they're
23 all there and then I mail them out.

24 CHAIRMAN SCALZO: All right.
25 We mailed them out in January 2022.

1 S N K P E T R O L E U M W H O L E S A L E R S

2 We're in April 2022. Sometimes these
3 take awhile.

4 MR. LYTTLE: I've been back each
5 month.

6 CHAIRMAN SCALZO: I'll look to
7 the Board for discussion here.

8 MR. BELL: I don't see the
9 purpose. We haven't in the past.
10 It's more than 500 feet from where
11 we're looking, you know.

12 CHAIRMAN SCALZO: We have a
13 website that indicates it.

14 MR. BELL: The website is
15 there. That's what we rely on.

16 CHAIRMAN SCALZO: Mr. Masten,
17 do you have an opinion on this?

18 MR. MASTEN: It's confusing
19 right now.

20 CHAIRMAN SCALZO: All we're
21 talking about is to re-notice.

22 MR. BELL: To re-notice.

23 MR. MASTEN: Re-notice?

24 CHAIRMAN SCALZO: Yes.

25 MR. MASTEN: I don't believe

1 S N K P E T R O L E U M W H O L E S A L E R S

2 so.

3 CHAIRMAN SCALZO: All right.

4 Mr. Gramstad?

5 MR. GRAMSTAD: No.

6 CHAIRMAN SCALZO: Mr. Eberhart?

7 MR. EBERHART: No. We don't
8 have a legal responsibility to do
9 that. You're right, the website has
10 the information. I don't think we
11 should re-notice.

12 CHAIRMAN SCALZO: Very good.

13 Mr. Hermance?

14 MR. HERMANCE: The applicant
15 has met his requirement to send out
16 the notifications and I don't believe
17 he needs to do it again.

18 CHAIRMAN SCALZO: Thank you.

19 Okay. We're not going to ask you to
20 re-notice.

21 MR. LYTLE: Thank you.

22 CHAIRMAN SCALZO: Although, I'm
23 sorry, we did or did not vote on
24 keeping the public hearing open?

25 MR. DONOVAN: I don't remember.

1 S N K P E T R O L E U M W H O L E S A L E R S

2 I believe you did the motion, but you
3 didn't -- was there a second?

4 CHAIRMAN SCALZO: We had a
5 motion from Mr. Bell. We had a
6 second from --

7 MR. DONOVAN: What happened is
8 you asked Siobhan to do the roll call
9 and I interrupted.

10 CHAIRMAN SCALZO: So we had a
11 motion to keep the public hearing
12 open as well as a second?

13 MR. DONOVAN: Correct.

14 CHAIRMAN SCALZO: Now, Siobhan,
15 can you roll on that.

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 S N K P E T R O L E U M W H O L E S A L E R S

2 MS. JABLESNIK: Mr. Scalzo?

3 CHAIRMAN SCALZO: Yes.

4 We're going to keep the public
5 hearing open. We're not going to
6 re-notice. Everyone is invited back
7 in May.

8 Mr. Lytle, please have
9 everything that we're asking for and
10 that way we can actually address all
11 of the variances that you're requesting.

12 MR. LYTLE: That would be great.

13 CHAIRMAN SCALZO: To this point
14 we have not and we cannot.

15 MR. LYTLE: Thank you.

16

17 (Time noted: 7:53 p.m.)

18

19

20

21

22

23

24

25

1 S N K P E T R O L E U M W H O L E S A L E R S

2

3

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

4

5

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

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

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

16 IN WITNESS WHEREOF, I have hereunto
17 set my hand this 7th day of May 2022.

18

19

20

21

Michelle Conero

22

MICHELLE CONERO

23

24

25

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

STATE OF NEW YORK : COUNTY OF ORANGE
TOWN OF NEWBURGH ZONING BOARD OF APPEALS
----- X
In the Matter of

WAYNE ST. OMER
4 Noah Place, Newburgh
Section 86; Block 1; Lot 95.5
R-1 Zone

----- X

Date: April 28, 2022
Time: 7:53 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

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

APPLICANT'S REPRESENTATIVE: WAYNE ST. OMER

----- X

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

1 WAYNE ST. OMER

2 CHAIRMAN SCALZO: Our next
3 applicant held open from the March
4 24, 2022 meeting is Wayne St. Omer, 4
5 Noah Place in Newburgh, seeking an
6 area variance of the side yard to
7 build a 26 by 30 two-story addition.

8 I believe we closed the public
9 hearing but we deferred our
10 determination.

11 Now, gentlemen of the Board, I
12 will tell you this. We closed it.
13 The May meeting is 63 days from when
14 we closed our public hearing,
15 therefore we need to act this
16 evening. We looked at Mr. St. Omer's
17 application. We had asked for some
18 additional information. We asked if
19 he could explore other ways of
20 looking at his addition on there.
21 Through some further research, it has
22 been revealed that if he were to try
23 to put an addition in an L shape, he
24 would have a great challenge meeting
25 the ingress/egress requirements that

1 WAYNE ST. OMER

2 are required by the New York State
3 Building Code.

4 Mr. Mattina, is that correct?

5 MR. MATTINA: Correct. The two
6 bedrooms on the back side would lose
7 their egress and light ventilation.

8 CHAIRMAN SCALZO: That makes it
9 a little different.

10 MR. ST. OMER: And the well is
11 at issue, too.

12 CHAIRMAN SCALZO: You keep
13 saying that.

14 MR. ST. OMER: It's like going
15 to be right there. I'm taking a chance.

16 CHAIRMAN SCALZO: I think we're
17 going to agree to disagree.

18 The big one for me was why he
19 couldn't explore that, looking at an
20 L shape, or going off the other side,
21 because that would require major
22 moves to his plumbing, which brings
23 it back to me, to the Zoning Board of
24 Appeals, the zoning required to grant
25 the minimum variance necessary for

1 WAYNE ST. OMER

2 this. So I'm not -- that's an
3 observation. As you're all aware, I
4 talk a lot. I would really
5 appreciate it if the remaining five
6 of you could weigh in on your
7 thoughts here.

8 Mr. Masten, do you have anything
9 else that you may want to -- it's
10 been awhile since we've actually
11 looked at this property. We had the
12 fence -- I believe the fence was not
13 on your property, or it was?

14 MR. ST. OMER: No. The fence
15 is set back 3 feet.

16 CHAIRMAN SCALZO: And that's
17 the fence on the left-hand side if
18 you're facing your house.

19 MR. ST. OMER: Yes.

20 CHAIRMAN SCALZO: Mr. Masten, I
21 can come back to you, unless you had
22 something.

23 MR. MASTEN: I'm good.

24 CHAIRMAN SCALZO: Okay. Not a
25 problem.

1 WAYNE ST. OMER

2 Mr. Bell, what are your
3 thoughts on this?

4 MR. BELL: I had to read the
5 minutes because I wasn't at the last
6 meeting.

7 CHAIRMAN SCALZO: There wasn't
8 a whole bunch of conversation there.

9 MR. BELL: There wasn't. And I
10 remember that we were asking about
11 putting it into an L shape, but
12 you're saying that it cannot be
13 because of what again?

14 MR. MATTINA: On the back side
15 of the house there's two bedrooms.
16 Each bedroom has an egress window
17 which allows light and ventilation
18 and is part of the ingress and
19 egress. If you put it on the back of
20 the building, you would lose those
21 two windows. It would make those
22 rooms nonconforming and it wouldn't
23 be permitted.

24 MR. BELL: Exactly. It cuts
25 off those windows with the new

1 WAYNE ST. OMER

2 attachment.

3 MR. MATTINA: Correct.

4 MR. BELL: I'm good. Go ahead.

5 CHAIRMAN SCALZO: Thank you,

6 Mr. Bell.

7 Mr. Hermance, do you have anything?

8 MR. HERMANCE: Just to clarify,
9 the existing fence is not on the
10 property?

11 MR. ST. OMER: No. It's 3 feet
12 back from the property.

13 MR. HERMANCE: It's 3 feet. So
14 if they decided to move it --

15 MR. ST. OMER: I'm not putting
16 no windows or anything on the side of
17 the house. I don't want no windows
18 on the side because none of the --
19 only one of them actually on the
20 property has windows facing the next
21 property. Everyone else is like -- I
22 don't know. She built it that way.
23 It's like a privacy issue. They
24 don't have windows that the neighbors
25 can look in or you're looking over.

1 WAYNE ST. OMER

2 I don't want windows on the side. I
3 basically just want to give them more
4 room.

5 MR. HERMANCE: So you've
6 explored other avenues.

7 MR. ST. OMER: On the opposite
8 side they said I have to stay 60 feet
9 off or 50 feet, I'm not sure, from
10 Rock Cut Road.

11 MR. HERMANCE: It's a County road.

12 MR. ST. OMER: Yeah. So it's
13 like I only have 20 feet on that
14 side. If I build -- I'm literally
15 going to be reconfiguring the whole
16 house. I'm really trying to do the
17 bedrooms and give them a little more
18 space basically.

19 CHAIRMAN SCALZO: And have a
20 garage that your wife can drive
21 straight into.

22 MR. ST. OMER: That, too. You
23 keep bringing it up. Yeah. And
24 giving me a little workshop so that I
25 don't have to be dirtying up her car

1 WAYNE ST. OMER

2 when I'm cutting boards in the garage.

3 CHAIRMAN SCALZO: Mr. Eberhart?

4 MR. EBERHART: I had nothing
5 for this.

6 CHAIRMAN SCALZO: Mr. Gramstad?

7 MR. GRAMSTAD: Nothing at all.

8 CHAIRMAN SCALZO: As I said,
9 this public hearing was closed. Are
10 there any other thoughts on this?

11 MR. BELL: I'm good.

12 CHAIRMAN SCALZO: So this is a
13 Type 2 action under SEQRA. I'm going
14 to go through the five factors here,
15 the first one being whether or not
16 the benefit can be achieved by other
17 means feasible to the applicant. Let
18 me ask this. I believe the
19 dimensions of what we're looking for
20 here is 26 by 30. You would have a
21 two-bay garage facing the street.
22 Correct?

23 MR. ST. OMER: Yes.

24 CHAIRMAN SCALZO: That
25 dimension across the front of the

1 WAYNE ST. OMER

2 house, that is the 30-foot dimension
3 or the 26-foot dimension?

4 MR. ST. OMER: That's the 26.

5 CHAIRMAN SCALZO: Okay. Which
6 would remain 10 feet from your
7 property line.

8 Am I looking at this right, Mr.
9 Mattina?

10 MR. MATTINA: I don't have the
11 worksheets anymore.

12 CHAIRMAN SCALZO: I understand.
13 I actually have it right here. Side
14 yard of 30, existing is 37, proposed
15 11. Could you live without one of
16 those garage bays and that would
17 bring you in conformance, or closer
18 to conformance? I'm just asking. We
19 will vote on the application as it is
20 submitted unless you were to -- I'm
21 not here to suggest anything. I'm
22 just making an observation here.

23 MR. ST. OMER: I already park
24 in the driveway, so I just won't be
25 able to pull in the garage. That's

1 WAYNE ST. OMER

2 going to limit me -- like I was
3 trying to get the boys an extra 8
4 feet, I think, to give them more room
5 in their bedrooms, move them down.

6 CHAIRMAN SCALZO: Again, it's
7 just an observation. All right. Let
8 me get back to our factors here. I
9 believe that was the first factor.

10 Second, if there's an undesirable
11 change in the neighborhood character
12 or a detriment to nearby properties.
13 In that case I really don't believe so.

14 MR. BELL: No.

15 MR. EBERHART: No.

16 MR. GRAMSTAD: No.

17 MR. HERMANCE: No.

18 MR. MASTEN: No.

19 CHAIRMAN SCALZO: The third,
20 whether the request is substantial.
21 Well, it is. The fact that you had
22 one garage bay and even, say, a side
23 door. You would still have other
24 access in there to get your side yard
25 to 15 feet which may not -- it's not

1 WAYNE ST. OMER

2 the side yard requirement for this
3 zone, but it's -- I use the same
4 example all the time. You have a
5 two-story building. You need to get
6 a ladder to get to the peak of your
7 roof. If you've used a ladder
8 before, I don't know how far away
9 from your house you'd be, but, you
10 know, two stories, you're going to be
11 pretty close there.

12 MR. ST. OMER: If I've got to
13 cut it back to get that 15-foot
14 minimum, then I have no choice. I'll
15 take away that center and just do a
16 one door.

17 CHAIRMAN SCALZO: Counselor?

18 MR. DONOVAN: We've talked
19 about this before. Oftentimes when
20 we look at the substantial nature of
21 a variance, you look at it on a
22 percentage deviation. There's a
23 number of court cases that indicate
24 that substantiality of the variance
25 is irrelevant. Substantiality cannot

1 WAYNE ST. OMER

2 be judged solely by comparison to the
3 percentage deviation of the mandated
4 requirements. Instead, the overall
5 effect of the granting of the relief
6 would be relevant. So when you're
7 looking at it and you're weighing
8 your five factors, is there going to
9 be a detrimental effect to the
10 neighborhood, and you look at that
11 factor in the prism, if you will, of
12 substantiality, what's the overall
13 effect. You can't necessarily say
14 draw a magic line, 50 percent is
15 substantial, 40 percent is not
16 substantial. It's the overall
17 effect. That could be one of your
18 factors that you may look into for
19 substantiality. It's the overall
20 effect or impact of granting the
21 variance would have on the character
22 of the neighborhood and the detriment
23 to any nearby homes. Does that
24 answer your question?

25 MR. EBERHART: It's a judgment

1 WAYNE ST. OMER

2 call.

3 MR. DONOVAN: At the end of the
4 day. When you balance the five
5 factors, it's not like you say well,
6 three you don't meet, two you do,
7 therefore you lose. It's just an
8 overall -- it's a little common
9 sense. You hate to say that when
10 you're applying the law. There is a
11 little common sense. At the end of
12 the day when you weigh these things,
13 you say it's balanced and we think
14 you should get the variance or not.

15 CHAIRMAN SCALZO: Thank you.

16 The fourth factor, whether the
17 request will have adverse physical or
18 environmental effects.

19 MR. BELL: No.

20 MR. EBERHART: No.

21 MR. GRAMSTAD: No.

22 MR. HERMANCE: No.

23 MR. MASTEN: No.

24 CHAIRMAN SCALZO: I don't
25 believe so, either.

1 WAYNE ST. OMER

2 The fifth, whether the alleged
3 difficulty is self-created which is
4 relevant but not determinative. Of
5 course it's self-created.

6 MR. BELL: It is.

7 CHAIRMAN SCALZO: So if the
8 Board approves, it shall grant the
9 minimum variance necessary and may
10 impose reasonable conditions.

11 So at this point I'm going to
12 look to the Board for a motion of
13 some sort.

14 MR. BELL: I'll make a motion
15 for approval as is.

16 MR. MASTEN: I'll second it.

17 CHAIRMAN SCALZO: It sounds
18 like we have a motion for approval as
19 is from Mr. Bell. It sounds like
20 Mr. Masten jumped in on top of the
21 other side of the table. We have a
22 motion and a second. Siobhan, can
23 you roll on that, please.

24 MS. JABLESNIK: Mr. Bell?

25 MR. BELL: Yes.

1 WAYNE ST. OMER

2 MS. JABLESNIK: Mr. Eberhart?

3 MR. EBERHART: Yes.

4 MS. JABLESNIK: Mr. Gramstad?

5 MR. GRAMSTAD: Yes.

6 MS. JABLESNIK: Mr. Hermance?

7 MR. HERMANCENCE: No.

8 MS. JABLESNIK: Mr. Masten?

9 MR. MASTEN: Yes.

10 MS. JABLESNIK: Mr. Scalzo?

11 CHAIRMAN SCALZO: No.

12 That's four to two. I believe
13 the motion still carries.

14 MR. DONOVAN: That's correct.

15 CHAIRMAN SCALZO: The variances
16 are approved. Good luck.

17 MR. ST. OMER: Thank you so
18 much.

19

20 (Time noted: 8:05 p.m.)

21

22

23

24

25

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

WAYNE ST. OMER

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

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

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

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

IN WITNESS WHEREOF, I have hereunto
set my hand this 7th day of May 2022.

Michelle Conero

MICHELLE CONERO

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

STATE OF NEW YORK : COUNTY OF ORANGE
TOWN OF NEWBURGH ZONING BOARD OF APPEALS
----- X
In the Matter of

NICOLAS DiBRIZZI
13 Anchor Drive, Newburgh
Section 121; Block 1; Lot 15
R-1 Zone

----- X

Date: April 28, 2022
Time: 8:05 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

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

APPLICANT'S REPRESENTATIVE: KELLY LIBOLT

----- X

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

1 N I C O L A S D I B R I Z Z I

2 CHAIRMAN SCALZO: All right.
3 Members of the Board, this is our
4 final applicant for the evening, also
5 held over from March 24th, Nicolas
6 DiBrizzi, 13 Anchor Drive in
7 Newburgh, a variance to continue
8 building an accessory structure
9 previously approved by the ZBA. The
10 height of the new structure is --

11 MS. JABLESNIK: 23.5.

12 CHAIRMAN SCALZO: You actually
13 gave me two, Siobhan. You wrote it
14 in one and I happen to have the other
15 one in front of me.

16 The height of the new structure
17 is 23.5 feet. The previously
18 approved was 13.6 feet.

19 All right. Members of the
20 Board, I will say what I said for the
21 previous application. The public
22 hearing on this is closed. 63 days
23 from now is when the next meeting is.
24 Therefore, we need to act this
25 evening.

1 N I C O L A S D I B R I Z Z I

2 I will remind the Members of
3 the Board, the Members that were not
4 here last month, I reached out to you
5 all this morning and asked you to
6 refresh yourself with this
7 application as well as read the
8 meeting minutes from last month's
9 meeting. It was quite the
10 interesting meeting.

11 I will remind the Board that
12 while this application comes with a
13 lot of noise behind it, we are here
14 because the applicant is requesting a
15 height variance. We will receive no
16 input from anyone on that side of the
17 table. We need to discuss this.
18 This is certainly a challenge.

19 Again, I want to oversimplify
20 it. We're looking at a height
21 variance.

22 Mr. Gramstad, did you get a
23 chance to take a look at the meeting
24 minutes from last month?

25 MR. GRAMSTAD: Yes, I did.

1 N I C O L A S D I B R I Z Z I

2 CHAIRMAN SCALZO: As you were
3 here. Were there any questions or
4 perhaps inconsistencies that we can
5 discuss where you'll have a clearer
6 picture of what we're trying -- what
7 the applicant is requesting tonight?

8 MR. GRAMSTAD: I don't think
9 so. I read them over and I went over
10 what's been presented to us. I've
11 gone back to the site a couple times
12 and looked at it. A legitimate
13 mistake was made on how they
14 measured. That's, you know -- that's
15 what I find.

16 CHAIRMAN SCALZO: Mr. Gramstad,
17 I appreciate that you put the extra
18 effort in. Thank you.

19 Mr. Eberhart?

20 MR. EBERHART: No. It got
21 caught up. There's a lot going on
22 there. As you had recommended, I
23 stayed focused on the issue at hand,
24 that being the height issue. I agree
25 that a mistake was made in how they

1 N I C O L A S D I B R I Z Z I

2 went about determining the height, so
3 -- but I feel comfortable.

4 CHAIRMAN SCALZO: We're going
5 to continue. I just wanted to make
6 sure that you understood why we're
7 here and that you refreshed yourself.

8 MR. EBERHART: There was a
9 whole lot of stuff there.

10 CHAIRMAN SCALZO: Sure. Very
11 good. Thank you for putting in the
12 effort, Mr. Eberhart.

13 Mr. Hermance, do you understand
14 what it is we're here for?

15 MR. HERMANCE: Yes.

16 CHAIRMAN SCALZO: Were there
17 any other perhaps ambiguities of
18 testimony that we had heard regarding
19 the height variance?

20 MR. HERMANCE: No. Not on the
21 height variance itself. I just had a
22 question on the actual construction
23 method when you're working next to a
24 bank like that, that there's no
25 temporary shoring. I know that's not

1 N I C O L A S D I B R I Z Z I

2 a zoning question, but it just seems
3 that a lot could have been avoided
4 with a temporary retaining wall to
5 protect the neighbors.

6 CHAIRMAN SCALZO: Sure.
7 Mr. Hermance, we're just discussing
8 this. We're all here on this side of
9 the table.

10 MR. HERMANCE: We're here for
11 the height variance. That's
12 understood.

13 CHAIRMAN SCALZO: Okay. We
14 need to remain focused on what the
15 application states.

16 Mr. Bell?

17 MR. BELL: That's it. We're
18 here for the height variance and
19 that's where the focus needs to be.

20 CHAIRMAN SCALZO: Mr. Masten?

21 MR. MASTEN: I'd go with the
22 height variance.

23 CHAIRMAN SCALZO: And we're
24 entertaining nothing else.

25 MR. MASTEN: Nothing else.

1 N I C O L A S D I B R I Z Z I

2 CHAIRMAN SCALZO: Like I said,
3 there is a lot of noise behind this.

4 MR. BELL: But it's not our
5 responsibility.

6 CHAIRMAN SCALZO: Counsel had
7 mentioned -- actually, I feel like
8 I'm in church. The passage that you
9 read earlier regarding our criteria,
10 Counsel, it seems almost appropriate
11 to hear it again.

12 MR. DONOVAN: Let me ask you
13 this, Mr. Chairman. Do you want to
14 go through the five factors or do you
15 want me to just talk about the
16 balancing test? Substantiality or
17 balancing test?

18 CHAIRMAN SCALZO: Both.

19 MR. DONOVAN: Just to repeat,
20 and I think I said this like a couple
21 weeks ago or months ago when we had a
22 little education class, this is not,
23 you know, column A and column B,
24 right. If you fail those, you lose.
25 If you pass those, you win. It's a

1 N I C O L A S D I B R I Z Z I

2 balancing test. You take the five
3 factors. You have to consider each
4 of the factors and at the end of the
5 day you -- I call it that you balance
6 the equities. If they lean in favor,
7 does the benefit to the applicant
8 outweigh any detriment to any nearby
9 properties. At the end of the day
10 that's what you're trying to
11 accomplish. Obviously there are
12 other things going on here.

13 Also in terms of the
14 jurisdiction of this Board, in this
15 application you sit as what's known
16 as an appellate, almost a court.
17 ZBAs are quasi judicial. You look in
18 overseeing the Building Department
19 because there's a request for a
20 variance. If the Building Department
21 says the structure is too high,
22 they're appealing that to this Board,
23 you have the ability to grant a
24 variance. You're constrained by
25 going through the five factors.

1 N I C O L A S D I B R I Z Z I

2 If we talk about
3 substantiality, remember, that's the
4 overall impact and effect, not just a
5 pure mathematical computation.

6 Is that okay, Mr. Chairman?

7 CHAIRMAN SCALZO: Thank you,
8 Counselor. As you had said in
9 discussing the criteria, let's go
10 ahead and move right through them.
11 Every Board Member here has reviewed
12 the minutes. We understand why we're
13 here.

14 The first one being whether or
15 not the benefit can be achieved by
16 other means feasible to the
17 applicant. Well, again, what they
18 are -- the benefit that they are
19 trying to attempt to achieve here was
20 developed through professional plans.

21 Going back to the other
22 variances that they received last
23 year, we were all under the
24 impression at that point that -- I
25 don't think anything has changed

1 N I C O L A S D I B R I Z Z I

2 substantially since then. There was
3 a misinterpretation of our code by
4 the design professionals. Now, I
5 don't know if that satisfies what
6 we're looking --

7 MR. DONOVAN: You know, every
8 application, you have to rely on the
9 facts.

10 CHAIRMAN SCALZO: On its
11 merits.

12 MR. DONOVAN: That's correct.
13 You have to look at where the
14 application is now. So an issue was
15 discovered by Code Compliance during
16 construction and is it now feasible
17 for the applicant to get what they
18 want without a variance. I would
19 suggest that's the way you would
20 analyze it. I would suggest to the
21 other Board Members to kind of offer
22 their view on that.

23 CHAIRMAN SCALZO: So let's
24 start with offering some views, as
25 Counsel just said. I'm sorry. I'm

1 NICOLAS DiBRIZZI

2 looking to my right.

3 Mr. Gramstad -- usually I'm
4 looking to my left -- your views on
5 that, whether the benefit can be
6 achieved by other means feasible?
7 I'm going to do it to everybody so
8 don't feel funny.

9 MR. GRAMSTAD: What they're
10 looking for, I don't think there is
11 any other way for them to get it.

12 CHAIRMAN SCALZO: Okay. I'll
13 take it.

14 Mr. Eberhart?

15 MR. EBERHART: I believe
16 perhaps there is another way, but I
17 think at this point I would lean
18 towards looking at it in its
19 totality, understanding that there
20 may have been a miscalculation by the
21 design professionals in the overall
22 scheme of things.

23 CHAIRMAN SCALZO: Very good.
24 Mr. Eberhart, can you pull your
25 microphone down a little closer to

1 N I C O L A S D I B R I Z Z I

2 your face?

3 MR. EBERHART: Yes.

4 CHAIRMAN SCALZO: Thank you.

5 Mr. Hermance?

6 MR. HERMANCE: I believe it
7 could be achieved by other means, but
8 at this point I think we're beyond
9 that.

10 CHAIRMAN SCALZO: Thank you,
11 Mr. Hermance.

12 Mr. Bell?

13 MR. BELL: I think we're beyond
14 any changes at this point.

15 CHAIRMAN SCALZO: All right.
16 Mr. Masten?

17 MR. MASTEN: I believe it can
18 be achieved by a different way.

19 CHAIRMAN SCALZO: Okay. Thank
20 you.

21 All right. I'll move on to the
22 second criteria, Counselor?

23 MR. DONOVAN: That would be
24 appropriate, Mr. Chairman.

25 CHAIRMAN SCALZO: If there's an

1 N I C O L A S D I B R I Z Z I

2 undesirable change in the
3 neighborhood character or a detriment
4 to nearby properties. If we look at
5 this as two separate statements, is
6 there an undesirable change in the
7 neighborhood character, my opinion is
8 it's quite in character with the
9 neighborhood. However, looking at
10 the subdivision itself and the lots
11 that are currently developed, it is
12 in character.

13 Now the detriment to nearby
14 properties; Counsel, help me out with
15 this. That is, for lack of a better
16 phrase, the finished product. Am I
17 correct?

18 MR. DONOVAN: That is for the
19 height of the structure. Would the
20 height of the structure as proposed
21 result in that detriment.

22 CHAIRMAN SCALZO: Got you. I
23 do recall my own comments from the
24 original, that tucking it into the
25 hill was going to minimize that. All

1 N I C O L A S D I B R I Z Z I

2 right. So that's my position there.

3 Now I'm going to go the other
4 way and look to Mr. Masten. I'm
5 going to need your input for the
6 second criteria here. Is there an
7 undesirable change in the
8 neighborhood character or a detriment
9 to nearby properties created by this
10 height variance request?

11 MR. MASTEN: I believe there
12 will be.

13 CHAIRMAN SCALZO: Okay. Mr. Bell?

14 MR. BELL: Well, yes, I believe
15 there is. There has been some
16 detriment to the properties next
17 door.

18 CHAIRMAN SCALZO: Hold it.
19 That's why I was asking for
20 clarification from Counsel. We're
21 talking about detriment to the
22 properties contiguous with it or
23 surrounding it, close to it based on
24 the height variance, not of any
25 construction activities that may have

1 NICOLAS DiBRIZZI

2 caused an issue.

3 MR. BELL: Okay. I'd go with
4 the -- I like the example that I read
5 about the gazebo.

6 CHAIRMAN SCALZO: The gazebo,
7 if they were to place it on the old
8 portion and it would be as high or
9 perhaps even higher?

10 MR. BELL: Right. So to me I
11 feel that there is, but just keep
12 moving forward.

13 CHAIRMAN SCALZO: Okay, Mr.
14 Bell. Thank you.

15 Mr. Hermance? And I'll say it
16 again, if there's an undesirable
17 change in the neighborhood character
18 or a detriment to nearby properties
19 due to the height variance.

20 MR. HERMANCE: Due to the
21 height variance, I would say no. It
22 doesn't affect the neighborhood.

23 CHAIRMAN SCALZO: Mr. Eberhart?

24 MR. EBERHART: Just based on
25 the height variance, no. Other

1 N I C O L A S D I B R I Z Z I

2 things, there's an issue.

3 CHAIRMAN SCALZO: That's not
4 why we're here.

5 CHAIRMAN SCALZO: Mr. Gramstad?

6 MR. GRAMSTAD: I think it fits
7 right in with the area it's in. No
8 detriment at all.

9 CHAIRMAN SCALZO: Okay. The
10 third, whether the request is
11 substantial. Well, Counsel will kick
12 me in the shins. I'm an engineer so
13 I'm a numbers guy. When you say
14 substantial, you know, I look at
15 numbers. By the numbers it is
16 substantial. However, the geographic
17 considerations here, some may
18 consider that it wouldn't be. As I
19 say, it's tucked into the hill,
20 although there's not a hill to
21 compare it to at the moment. It's an
22 oddity.

23 So now I'm going to go like my
24 baseball draft, it's an old saying,
25 back to where I started. Now I'm

1 NICOLAS DiBRIZZI

2 back to you, Mr. Gramstad. Let's go
3 back. Do you think the request is substantial?

4 MR. GRAMSTAD: I think it is,
5 but I don't think there's any way of
6 getting around it.

7 CHAIRMAN SCALZO: Okay. Mr. Eberhart?

8 MR. EBERHART: Like you, I'm an
9 engineer. I think it is substantial,
10 but by --

11 CHAIRMAN SCALZO: By the
12 numbers I would agree with you.

13 CHAIRMAN SCALZO: Mr. Hermance?

14 MR. HERMANCE: I agree that it
15 is a substantial request.

16 CHAIRMAN SCALZO: I mean at
17 23.5 feet, you know, there aren't a
18 lot that come in here at that height.

19 Mr. Bell?

20 MR. BELL: Yes, it is.

21 CHAIRMAN SCALZO: Okay. Do you
22 have anything to add on that?

23 MR. BELL: No.

24 CHAIRMAN SCALZO: Very good.

25 Mr. Masten? I'll read it again

1 N I C O L A S D I B R I Z Z I

2 just so we're clear. Whether the
3 request is substantial with regard to
4 this height variance request.

5 MR. MASTEN: Yes, it is.

6 CHAIRMAN SCALZO: I like it.

7 One word. Yes. We're there. Okay.

8 Counsel, I'm moving on to the
9 fourth. Whether the request will
10 have adverse physical or
11 environmental effects. So whether
12 the request will have adverse
13 physical or environmental effects.
14 My opinion is a physical or
15 environmental effect, I don't believe
16 so.

17 MR. DONOVAN: We're just
18 talking about the height variance.

19 CHAIRMAN SCALZO: So now,
20 again, back to my -- Mr. Masten, do
21 you feel as though the request will
22 have adverse physical or
23 environmental effects?

24 MR. MASTEN: I don't believe it
25 would have an environmental effect.

1 N I C O L A S D I B R I Z Z I

2 I stand with what I said before.

3 CHAIRMAN SCALZO: Okay. Mr. Bell?

4 MR. BELL: No.

5 CHAIRMAN SCALZO: I like it.

6 Mr. Hermance?

7 MR. HERMANCE: No.

8 CHAIRMAN SCALZO: Mr. Eberhart?

9 MR. EBERHART: No.

10 CHAIRMAN SCALZO: Mr. Gramstad?

11 MR. GRAMSTAD: No.

12 CHAIRMAN SCALZO: That was

13 great.

14 And the fifth criteria, whether
15 the alleged difficulty is
16 self-created which is relevant but not
17 determinative.

18 MR. BELL: Yes.

19 CHAIRMAN SCALZO: Of course,
20 yes, it's self-created. A few
21 misinterpretations led to it being --
22 well, yeah. Misinterpretation led to
23 this difficulty here. As I say with
24 all the others, it is relevant but
25 not determinative.

1 N I C O L A S D I B R I Z Z I

2 So back to Mr. Gramstad in this
3 case. I'll read it again, whether
4 the alleged difficulty is
5 self-created.

6 MR. GRAMSTAD: Yes.

7 CHAIRMAN SCALZO: Mr. Eberhart?

8 MR. EBERHART: Yes.

9 CHAIRMAN SCALZO: Mr. Hermance?

10 MR. HERMANCE: Yes.

11 CHAIRMAN SCALZO: Mr. Bell?

12 MR. BELL: Yes.

13 CHAIRMAN SCALZO: Mr. Masten?

14 MR. MASTEN: Yes.

15 CHAIRMAN SCALZO: That was an
16 easy one.

17 If the Board approves, it shall
18 grant the minimum variance necessary
19 and may impose reasonable conditions.
20 We're all aware of that.

21 Having gone through the
22 balancing test of the area variance,
23 in a moment I'm going to ask the
24 Board if we have a motion of some
25 sort, again keeping in mind that it

1 NICOLAS DiBRIZZI

2 needs to occur this evening.

3 Counselor, have I adequately
4 gone through the balancing test this evening?

5 MR. DONOVAN: So Mr. Chairman,
6 yes. I'll keep the theme. The
7 answer is yes. The requirement is
8 that you analyze or to some degree
9 balance each of the five factors.
10 You've gone through them
11 individually. You've all stated your
12 opinion. Just to repeat, it's not
13 four yes, one no. It's after you've
14 done the overall balancing should you
15 grant the variances or not -- or the
16 variance, a single variance.

17 CHAIRMAN SCALZO: A single
18 variance for a height of 23.5 where
19 the requirement is 15.

20 So as I said, I was going to
21 ask in a moment and the moment is
22 now. Does the Board have a motion of
23 some sort?

24 MR. EBERHART: I'll move that
25 we approve.

1 N I C O L A S D I B R I Z Z I

2 CHAIRMAN SCALZO: We have a
3 motion for approval from Mr.
4 Eberhart.

5 MR. BELL: I'll second it.

6 CHAIRMAN SCALZO: We have a
7 second from Mr. Bell. Can you roll
8 on that, please, Siobhan.

9 MS. JABLESNIK: Mr. Bell?

10 MR. BELL: Yes.

11 MS. JABLESNIK: Mr. Eberhart?

12 MR. EBERHART: Yes.

13 MS. JABLESNIK: Mr. Gramstad?

14 MR. GRAMSTAD: Yes.

15 MS. JABLESNIK: Mr. Hermance?

16 MR. HERMANCE: Yes.

17 MS. JABLESNIK: Mr. Masten?

18 MR. MASTEN: Yes.

19 MS. JABLESNIK: Mr. Scalzo?

20 CHAIRMAN SCALZO: No. Although
21 the variance is approved. The motion
22 has carried.

23 That is all the business that
24 the Board has this evening.

25 Actually, we have one more

1 N I C O L A S D I B R I Z Z I

2 piece of business. I know the answer
3 to this, which is fantastic. Let's
4 move to approve the meeting minutes
5 from last month. I called every one
6 of you and made sure you did it.

7 MR. BELL: That was a lot of
8 reading. It took 45 minutes.

9 CHAIRMAN SCALZO: So I'm
10 looking for a motion to accept the
11 meeting minutes from the March
12 meeting.

13 MR. MASTEN: I'll make the
14 motion.

15 MR. BELL: I'll second it.

16 CHAIRMAN SCALZO: We have a
17 motion from Mr. Masten. We have a
18 second from Mr. Bell. In this case,
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 CHAIRMAN SCALZO: Aye.

1 N I C O L A S D I B R I Z Z I

2 Opposed?

3 (No response.)

4 CHAIRMAN SCALZO: None. I am
5 looking to the Board for a motion to
6 close the meeting.

7 MR. BELL: I'll make a motion
8 to close the meeting.

9 MR. MASTEN: I'll second it.

10 CHAIRMAN SCALZO: I have a
11 motion to close or adjourn the
12 meeting from Mr. Bell. I have a
13 second from Mr. Masten. All in
14 favor?

15 MR. BELL: Aye.

16 MR. EBERHART: Aye.

17 MR. GRAMSTAD: Aye.

18 MR. HERMANCE: Aye.

19 MR. MASTEN: Aye.

20 CHAIRMAN SCALZO: Aye.

21

22 (Time noted: 8:26 p.m.)

23

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

25

1 N I C O L A S D I B R I Z Z I

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

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

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

12 IN WITNESS WHEREOF, I have hereunto
13 set my hand this 7th day of May 2022.

14

15

16

Michelle Conero

17

MICHELLE CONERO

18

19

20

21

22

23

24

25