CODE ENFORCEMENT OFFICE TOWN OF NEWBURGH

308 GARDNERTOWN ROAD NEWBURGH, NEW YORK 12550 (845) 564-7801

ORDER TO REMEDY VIOLATION

DATE: 03/23/2012

TO: CLIFFORD AMANDA L

4 STANLEY PL

NEWBURGH, NY 12550

SEC-BLK-LOT: 77-5-9.

VIOL NO: 12-42

ORIG. COMP NO: 12-34

LOCATION: # 4 STANLEY PLACE NEWBURGH, NEW YORK 12550

PLEASE TAKE NOTICE, there exists a violation at the location described above, in that the above named individual(s) did commit or allow to exist the following offense:

SEE ATTACHED SCHEDULE A

which is in violation of:

Town of Newburgh Municipal Code

SEC: 71-8

SUB-DIV: A

TITLE: BUILDING PERMITS AND C/O'S

PAGE: 71.4

Based upon the following:

YOU ARE THEREFORE DIRECTED AND ORDERED to comply with the law and to remedy the condition above mentioned forthwith on or before: 04/11/2012

Failure to remedy the conditions aforesaid and to comply with the applicable provisions of law may constitute an offense punishable by fine or imprisonment or both.

JOHN J. TERRY, Code Compliance

YOUR IMMEDIATE AND PROMPT RESPONSE TO THIS DOTICE IS MANDATORY.

TOWN OF NEWBURGH 308 GARDNERTOWN ROAD NEWBURGH, NEW YORK 12550

SEC-BLK-LOT: 77-5-9.

PAGE: 2

DATE: 03/23/2012

LOCATION: # 4 STANLEY PLACE NEWBURGH, NEW YORK 12550 INCIDENT NO: 12-42

ORDER TO REMEDY VIOLATION - SCHEDULE A -

IN VIOLATION OF:

TOWN OF NEWBURGH MUNICIPAL CODE

SEC: 71-8 SUB-DIV: A

TITLE: BUILDING PERMITS AND C/O'S

PAGE: PAGE 71.4

A. Improvements or demolition. No person shall commence the construction, alteration, conversion, repair, removal or demolition of any building, structure, sign or sanitary facilities thereto, excepting agricultural equipment in existing farm structures, without first obtaining a building permit from the Building Inspector. No permit shall be required for ordinary nonstructural repairs.

ON MARCH 9, 2012 AT APPROXIMATELY 10:35 AM, I PLACED A STOP WORK ORDER FOR THE ALTERATIONS IN PROGRESS AND GAVE THE STOP WORK ORDER TO THE OWNER OF THE PROPERTY, MR. CLIFFORD. I OBSERVED BY WAY OF THE OWNER OF THE PROPERTY AND BY WAY OF AN INTERIOR INSPECTION THAT THE EXISTING SCREENED PORCH IS UNDERGOING ALTERATIONS. NEW WINDOWS, STUDS, BEAMS AND OTHER STRUCTURAL ELEMENTS HAVE REPLACED MOST OF THE PREVIOUSLY EXISTING STRUCTURE. MR. CLIFFORD STATED THAT HE WILL APPLY FOR A BUILDING PERMIT.

MARCH 23, 2012 IT DOES NOT APPEAR THAT MR. CLIFFORD HAS SUBMITTED AN APPLICATION FOR A BUILDING PERMIT OR HAS A BUILDING PERMIT BEEN ISSUED FOR THE ALTERATIONS WHICH HE HAD BEGUN ON HIS EXISTING SCREENED PORCH SINCE A STOP WORK ORDER WAS GIVEN TO HIM ON MARCH 9, 2012. ALTERATIONS OF THIS TYPE REQUIRE A BUILDING PERMIT(S) AND THE REQUIRED INSPECTIONS BY THE BUILDING DEPARTMENT OF THE TOWN OF NEWBURGH IN ORDER FOR THE DWELLING TO OBTAIN A CERTIFICATE OR COMPLIANCE AND/OR CERTIFICATE OF OCCUPANCY.

HISTORY OF A COMPLAINT

COMP #: 12-34 **DATE REPORTED:** 03/09/2012 **S-B-L:** 77-5-9.

LOCN: # 4 STANLEY PLACE NEWBURGH, NEW YORK 12550

BY: ASSESSORS OFFICE

1496 RTE 300

NEWBURGH, NEW YORK 12550

PHONE:

OWNER: CLIFFORD AMANDA L AGNST: AMANDA CLIFFORD

4 STANLEY PLACE 4 STANLEY PL

NEWBURGH, NEW YORK 12550 NEWBURGH, NY 12550

PHONE: PHONE:

COMPLNT:

INSPECTION 1 conducted on 03/23/2012 at 3:23 PM IT DOES NOT APPEAR THAT THE HUSBAND OF THE OWNER HAS SUBMITTED AN APPLICATION FO R THE WORK HE HAS STARTED ON HIS ORIGINAL SCREENED PORCH AND THE REBUILDING AND RECONSTRUCTION INTO AN ENCLOSED PORCH. AN ORDER TO REMEDY SHALL BE PLACED AGAINS T THE PROPERTY AS REQUIRED. JLT

TOWN OF NEWBURGH

-Crossroads of the Northeast-

OLD TOWN HALL 308 GARDNERTOWN ROAD NEWBURGH, NEW YORK 12550

CODE COMPLIANCE DEPT. TELEPHONE 845-564-7801 FAX LINE 845-564-7802

March 23, 2012

Ms. Amanda L. Clifford

4 Stanley Place

Newburgh, NY 12550

Re: Parcel ID 77-5-9

Re: Complaint 12-34 of 3/9/12.

Re: Building without a Permit

Re: ORDER TO REMEDY No. 12-42

Ms. Clifford:

Our records appear to indicate that a Building Permit has not been issued or applied for as of this date for the interior alterations and reconstruction of an attached screened porch at 4 Stanley Place in the Town of Newburgh.

This is a VIOLATION of the Town of Newburgh Municipal Code.

An ORDER TO REMEDY VIOLATION No. 12-42 has been issued.

As a courtesy we are writing you. If you were to sell or refinance your home, this could present some difficulty.

You are required to contact our office prior to April 11, 2012 so that we are not forced to take further action.

Thank you,

John L. Terry

Asst. Building Inspector

Town of Newburgh

308 Gardnertown Road

Newburgh, NY 12550

TOWN OF NEWBURGH

Crossroads of the Northeast-

OLD TOWN HALL 308 GARDNERTOWN ROAD NEWBURGH, NEW YORK 12550

CODE COMPLIANCE DEPT. TELEPHONE 845-564-7801 FAX LINE 845-564-7802

CERTIFICATE OF COMPLIANCE

Location: 4 STANLEY PLACE, NEWBURGH, NY 12550

Building Permit No: 0-22021

Sec-Blk-Lot: 77-5-9.0

Cert. No: 14453 Cert. Date: 10/02/2008

THIS CERTIFIES that the structure described herein, conforms substantially to the approved plans and specifications heretofore filed in this office with Application for Building Permit dated: 07/15/2008, pursuant to which Building Permit was issued, and conforms to all the requirements of the applicable provisions of the law.

The structure for which this certificate is issued is as follows:

Material: FRAME

No. Stories:0.0

No. Families: 0

Dim. of Stru.:11' X 10'8

No. Bedrooms: 0

No. Toilets: 0

Use of Stru.: DECK/SCREEN

Dim. of Lot:80' X 135'

Census Code: 434

No. Bathrooms: 0.0

0 Heating Plant:

FOR :

RECEIPT #'S 51188, 51189

EXISTING DECK & SCREENED PORCH

ZBA APPROVED 6/26/2008

This certificate is issued to: CYNTHIA & DAVID TOPPS

for the aforesaid structure.

CODE COMPLIANCE DEPARTMENT

(The Certificate of Compliance will be issued only after affidavits or other competent evidence is submitted to the Superintendent of Buildings that the completion of the construction in compliance with the State Building Construction Code and with other laws, ordinances or regulations affecting the premises, and in conformity with the approved plans and specifications. A final electrical, plumbing, heating or sanitation certificate or other evidence of compliance may be required before the issuance of the Certificate of Compliance).

Cinda J. Zwart, R.A.

31 Meadowood Rd., Montgomery, New York, 12549 (845-361-2969)

15 July 2008

Town of Newburgh Code Compliance Department 308 Gardnertown Rd.
Newburgh, NY 12550
attn: Jim Campbell, Asst. Building Inspector

RE: The Topps Residence, 4 Stanley Place, T/Newburgh tracking #828

Dear Mr. Campbell,

I have completed a structural evaluation of the screened porch located at the above referenced residence.

According to the current owner, the screened porch was constructed in approximately 1995, which means it would have been built under the NYS Uniform Fire Prevention and Building Code. The structure is attached to the rear corner of the residence and is approx. 10'-10" x 11'-7". The roof structure is a shed style roof constructed over the main roof consisting of 2x6 rafters @ 16" o.c. The rafter span is supported mid-span by (2)2x10 beam. The floor joists are 2x8 joists @ 16" o.c. These basic elements of the structure meet or exceed the applicable building code in force at the time of construction.

The final component of the structure consists of 4x4 posts on concrete piers. The original piers do not extend below the frost line. In my professional opinion, the piers that are located at (near) the original, rear, exterior wall of the house are acceptable as is. I feel the ground in the area is stable and will not be subject to a 'freeze/thaw cycle' due to its proximity to the heated residence.

However, the piers located away from the house, at the rear wall of the screened porch, are not acceptable. At some point, the current owners addressed this potential problem by having three 12" concrete piers, which extend below the frost line, installed at the rear wall. The piers are located approx. 14" from the either end and at the mid point of the wall. Unfortunately, the roof load was never positively transferred to these piers.

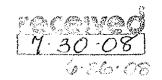
I am proposing that a new beam be located at the end wall directly under the rafters to carry the roof load. Two new pressure treated posts shall be installed on the acceptable end concrete piers to carry the beam. Attached is a diagram to illustrate the work to be completed.

With this work completed, I would recommend that the screened porch is eligible to receive the required Certificate of Occupancy.

Please contact me with any questions or concerns regarding this report.

Junda Shiva K

Linda L Zwart, Reg. Architect



Section 77, Block 5, Lot 9

TOWN OF NEWBURGH: COUNTY OF OR ZONING BOARD OF APPEALS		
In the Matter of the Application of		
DAVID TOPPS AND CYNTHIA TOPPS	*	
For area variances as follows:	Di	ECISION
Grant of a variance allowing a side yard back of 14.92 feet where a minimum of 1 feet is required;		
Grant of a variance allowing a combined side yard of 23.21 feet where a minimum 30 feet is required.	n of	

Introduction

David Topps and Cynthia Topps have constructed, without benefit of the necessary permits and approvals from the Town Building Department, an enclosed porch. The porch is attached to the back of their home. The enclosed porch encroaches into the required side yard. Accordingly, the applicants seek area variances as follows: (1) An area variance allowing a side yard setback of 14.92 feet where a minimum of 15 feet is required; and (2) An area variance allowing combined side yards of 23.21 feet where a minimum of 30 feet is required.

The property is located at 4 Stanley Place in the R-3 Zoning District and is identified on the Town of Newburgh tax maps as Section 77, Block 5, Lot 9.

A public hearing was held on June 26, 2008, notice of which was pub-

lished in *The Mid-Hudson Times* and *The Sentinel* and mailed to adjoining property owners as required by Code.

Law

Section 185-11 of the Code of Ordinances of the Town of Newburgh [Zoning], entitled "Utilization of Bulk Table," requires compliance with the bulk regulations set forth in the bulk and use schedules set forth within the zoning ordinance.

These schedules require, for this single family dwelling in the R-3 Zoning District, a minimum side yard setback of 15 feet and a minimum combined side yard of 30 feet.

Background

After receiving all the materials presented by the applicant and the testimony of the applicant at the public hearing held before the Zoning Board of Appeals on June 26, 2008, the Board makes the following findings of fact:

- 1. The applicant is the owner of an 11,000+/- square foot lot (tax parcel 77-5-9) located at 4 Stanley Place.
- 2. The lot is improved by a single family dwelling. The applicants have already constructed an enclosed porch. The porch is attached to the rear of the home. As set forth herein, the porch encroaches into the permitted side yard necessitating this application for two area variances.
- 3. The applicants' proposal is set forth on a survey prepared by Richard Dekay dated April 30, 2008. Several photographs have also been

submitted. These plans and photographs are hereby incorporated into this decision and a set shall remain in the zoning board's file in this matter.

4. The required, existing and proposed dimensions (in feet) and the extent of the variances requested are as follows:

Bulk Requirement	Allowance	Existing	Proposed	Variance	Percentage
Side Yard Setback	15'	14.92%	14 92	.08'	5.33%
Combined Side Yard	30'	23.21	23.21	6.79'	22.5%

- 5. No members of the public were heard during the hearing.
- The Building Inspector denied a building permit application by letter dated March 20, 2008.

The applicant has appealed the Building Inspector's determination seeking variances to keep the enclosed porch.

After hearing the testimony at the public hearing and considering the materials received by the Board and after viewing the subject site, the Board decides as follows:

SEQRA

This matter constitutes a Type II action under the State Environmental Quality Review Act inasmuch as it involves the granting of an area variance(s) for a single-family, two-family or three-family residence [6 NYCRR §617.5(c)(13)]. As such, this project is not subject to review under the State Environmental Quality Review Act.

GML 239 Referral

This application is not required to be referred to the Orange County Planning Department for review.

Findings

In reviewing the facts presented for the requested area variances, the Board considered the five standards for determining whether the applicant has sustained its burden of proof as required by Town Law Section 267–b (3). Each factor has been considered relevant to the decision of the board of appeals, but no single one is viewed as precluding the granting of the variances.

(1) Undesirable Change—Detriment to Nearby Properties

No undesirable change in the character of this neighborhood or detriment to the neighbors in that neighborhood will result if the requested variance is granted.

The applicants testified at the hearing that the enclosed porch is in harmony with this existing, mature, neighborhood and does not in any way result in any undesirable changes to the neighborhood nor cause any detriment to any nearby properties. The placement, size, configuration and orientation of the porch were designed in a fashion that is consistent with the existing character of the neighborhood. The enclosed porch is at the rear of the home and is, thus, minimally visible from the public street line.

No contrary evidence or testimony was submitted at public hearing.

Absent any testimony or evidence indicating such, the Board cannot conclude that any undesirable change in the character of the neighborhood or detriment to the neighbors in that neighborhood will result from allowing the applicants to keep the porch.

Accordingly, based upon the evidence and testimony submitted to the Board, the Board finds that the request of the area variances will not result in any serious, undesirable, detriment to surrounding property owners.

(2) Need for Variance

It would appear that the need for the variance is generated by the applicants' desire to keep the enclosed porch. It is, of course, extremely difficult for the Board to evaluate this objective as it relates to the *need* for a variance. However, there was no contrary testimony and there was no public opposition to the variance requested. The applicant further testified that the proposed location was the only location feasible for the construction of the porch. Moreover, the Board notes that the existing principal dwelling is very close (varying from between 2 feet and 4 feet) to the westerly side yard lot line (the *opposite* side lot line from where the enclosed porch was constructed). It would thus be extremely difficult to ever construct any type of addition that would comply the side yard requirements.

There was no contrary testimony or evidence submitted at the hearing.

Based upon the testimony and evidence received by the Board, it appears that the relief sought by the applicant may only be obtained by the variance sought herein.

(3) Substantial Nature of Variances Requested

The variance relating to the minimum required combined side yards is substantial when viewed in the context of the percentage deviation from the minimum requirement. However, the Board finds that the overall effect of granting the variance – which relates only to a small enclosed porch – will be minimal.

Moreover, because the focus of the inquiry by the Zoning Board of Appeals is upon the character of the neighborhood in question, we believe, under the circumstances presented here, that the substantial nature of this variance does not prohibit us from granting the application as it will not result in any change to the neighborhood nor cause any adverse impact upon the neighborhood.

The variance requested regarding the one side yard is not substantial.

(4) Adverse Physical & Environmental Effects

No testimony was given, nor was any evidence provided, that would indicate that issuance of the requested variance would result in any adverse physical and/or environmental effects.

Based upon the evidence and testimony before the Board, therefore, the Board cannot conclude that any adverse physical or environmental effects would occur if the variance were granted.

(5) Self-Created Difficulty

The need for this variance is clearly self-created in the sense that the applicant purchased this property charged with the knowledge of the existing non-conformity and therefore aware of the need to obtain a variance in order to construct an enclosed porch.

However, because of the existing nonconformity and because it is not feasible to preserve the porch without a variance of some kind, the board believes, under the circumstances presented, that the self-created nature of the need for the variance requested does not preclude granting the application. Moreover, as noted earlier, no undesirable change in the character of the neighborhood will occur as the result of the granting of these variances.

Decision

In employing the balancing tests set forth in Town Law Section 267-b (3),

the Board hereby determines that the applicant has satisfied the requisites of

Section 267-b and grants the variance as requested upon the following condi-

tions:

1. The variance hereby granted is granted for the purpose of authoriz-

ing construction of what is shown on the plans or described within

the application materials only. No construction other than as shown

or described (architectural refinements aside) is authorized by this

decision.

2. Compliance with all Building Department rules, regulations and re-

quirements.

3. Section 185-55 [Procedure; construal of provisions; conflict with

state law] of the Code of Ordinances of the Town of Newburgh pro-

vides, in subdivision "D," that this grant of variance shall become

null and void at the expiration of six months from issuance, unless

extended by this board for one additional six-month period.

Dated: June 26, 2008

Grace Cardone, Chair

Town of Newburgh ZBA

By roll call a motion to adopt the decision was voted as follows:

- 7 -

AYES:

Chair Grace Cardone

Member Brenda Drake

Member Ronald Hughes

Member John McKelvey

Member Ruth Eaton

Member James Manley

Member Michael Mahar

NAYS:

None

ABSENT:

None

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

I, Betty Gennarelli, Secretary to the Zoning Board of Appeals of the Town of Newburgh, do hereby certify that the foregoing is a true and exact copy of a Decision maintained in the office of the Town of Newburgh Zoning Board of Appeals, said resulting from a vote having been taken by the Zoning Board at a meeting of said Board held on June 26, 2008.

BETTA GENNARELLI, SECRETARY

Town of Newburgh Zoning Board of Appeals

I, Andrew J. Zarutskie, Clerk of the Town of Newburgh, do hereby certify that the foregoing Decision was filed in the Office of the Town Clerk on

ANDREW J. ZARUTSKIE, CLERK

Town of Newburgh

O:\lrm\Town and Village Files\Newburgh ZBA\Topps Side Yard.doc TN-ZBA: 1831.07

ZBA MEETING - JUNE 26, 2008

(Time Noted – 8:15 PM)

DAVID & CYNTHIA TOPPS

4 STANLEY PLACE, NBGH (77-5-9) R-3 ZONE

Applicant is seeking an area variance for one side yard and combined both side yards setbacks to keep a prior built enclosed rear porch.

Chairperson Cardone: Our next applicant David and Cynthia Topps.

Ms. Gennarelli: The Public Hearing Notice was published in The Sentinel on June 17th and in The Mid-Hudson Times on June 18th. The applicant sent out forty-one registered letters, forty were returned. All the mailings and publications were in order.

Ms. Topps: Good evening, I'm Cynthia Topps and this is my husband David. Thirteen years ago we built a small porch on the back of our house and we're asking for a variance. Apparently it's 14.8 or 9 feet from the side and it needs to be 15 and we're asking for a 1-foot variance for that so we can then get a Permit to get the porch approved to sell the house which we have a contract on.

Chairperson Cardone: Do we have questions from the Board?

Ms. Topps: As you can see the house kind of sits at a little angle, which is...

(Inaudible)

Mr. McKelvey: One of the problems you have in the neighborhood and we have in a lot of neighborhoods is the houses are so close together.

Ms. Topps: Yes as you can see our house kind of sits at a slight angle.

Chairperson Cardone: O.K. I'm in receipt of a letter concerning this application. Dear Madame Chairperson and Board Members: I am writing not as Town Clerk but as a resident of the neighborhood of 4 Stanley Place, where Mr. and Mrs. Topps have applied for a variance. I regret I unable to appear in person. I am in a unique position because I lived with my parents at 79 Chestnut Lane from the age of three until the age of twenty-six (excluding being away at college). Now, I have recently moved back into the family house and hope to spend my twilight years in residence there. Please be aware that I support granting this variance to allow an enclosed rear porch. I witnessed as a child the construction of the homes on Stanley Place and their growth. This particular house, now designated number 4, was for many years one of the few, if not the only, home in the neighborhood that was not owner occupied. From the 1950's, throughout the 1960's, and well into the 1970's, residents of the house were renters, who generally stayed for only a

year or so and then moved on. For this reason, the normal improvements and expansions on the homes in the neighborhood made over the years --- including enclosed porches, garages, decks, etc. --- bypassed 4 Stanley Place. The construction of this porch in fact brings the house into conformity with its neighbors. When the Topps family purchased the house, they brought with them stability and a sense of community. They were good, responsible homeowners and an asset to the neighborhood. I remarked recently to Mrs. Topps that our back yards are in clear and full view of each other. I have since been amazed to find that my childhood memories are outdated and no longer valid. Large trees have grown since then which now shield the view of this back yard from my own back yard and those of other neighbors. Besides making me feel very, very old, this fact only underscores that this porch is in no way an inconvenience or eyesore for the rest of us. The view of it is in fact obscured. The Topps family has been good neighbors. I urge the ZBA to grant the variance necessary for this totally reasonable home improvement. Sincerely Andrew J. Zarutskie

Ms. Topps: He is a very sweet man and a good neighbor, very good neighbor.

Chairperson Cardone: Do we have any other comments from the public? Do I have a motion to close the Public Hearing?

Mr. Maher: I'll make a motion.

Ms. Drake: Second.

Ms. Gennarelli: Roll call.

John McKelvey: Yes

Brenda Drake: Yes

Ruth Eaton: Yes

Ronald Hughes: Yes

Michael Maher: Yes

James Manley: Yes

Grace Cardone: Yes

Ms. Topps: Thank you.

(Time Noted - 8:19 PM)

ZBA MEETING – JUNE 26, 2008

(Resumption for decision: 9:42 PM)

DAVID & CYNTHIA TOPPS

4 STANLEY PLACE, NBGH (77-5-9) R-3 ZONE

Applicant is seeking an area variance for one side yard and combined both side yards setbacks to keep a prior built enclosed rear porch.

Chairperson Cardone: On the application of David and Cynthia Topps at 4 Stanley Place seeking an area variance for one side yard and combined both side yards setbacks to keep a prior built enclosed rear porch. This is a Type II Action under SEQRA. Do we have discussion on this application?

Mr. Hughes: I think we went over that pretty well.

Mr. McKelvey: Yes, I think they've got to make it equal to the other houses in the area.

Ms. Drake: And it's not a substantial variance.

Mr. McKelvey: I'll make a motion we approve.

Ms. Eaton: Second.

Ms. Gennarelli: Roll call.

John McKelvey: Yes

Brenda Drake: Yes

Ruth Eaton: Yes

Ronald Hughes: Yes

Michael Maher: Yes

James Manley: Yes

Grace Cardone: Yes

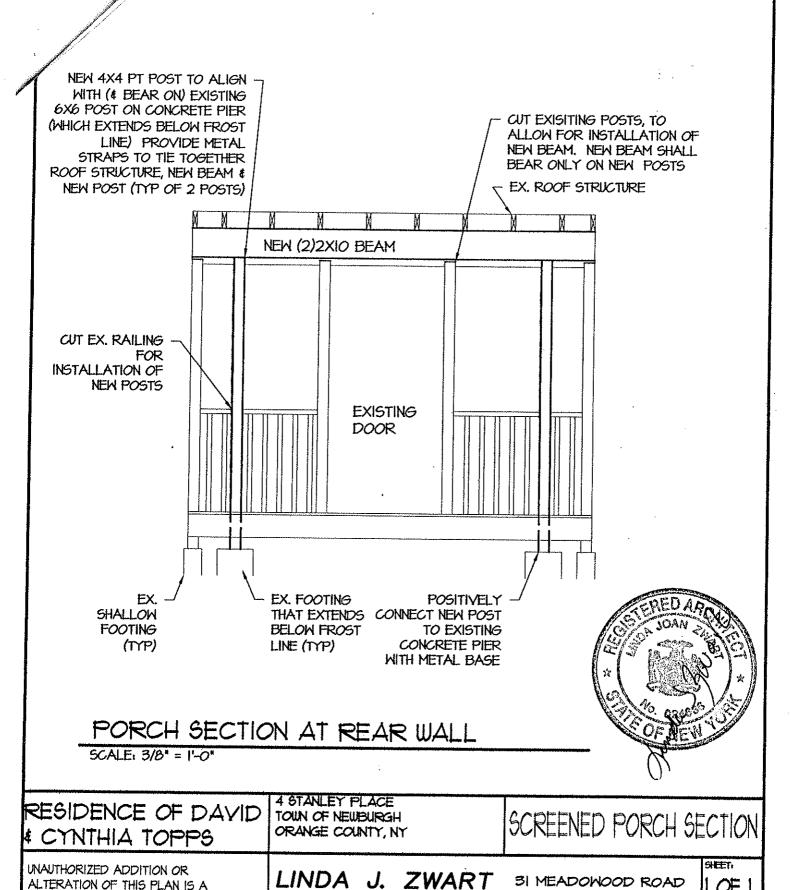
Chairperson Cardone: The motion is carried.

PRESENT ARE:

GRACE CARDONE JOHN MC KELVEY BRENDA DRAKE RUTH EATON RONALD HUGHES MICHAEL MAHER JAMES MANLEY

DAVID A. DONOVAN, ESQ.

(Time Noted – 9:43 PM)



ARCHITECT

LICENSED: NEW YORK STATE

ALTERATION OF THIS PLAN IS A

NEW YORK STATE EDUCATION LAW.

VIOLATION OF SECTION 7209(2) OF THE

OFI DATE:

MONTGOMERY, NY 12549

845-361-2969

14 JULY 08

