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

- - - - - X
In the Matter of

GARDNER RIDGE ASSOCIATES, LLC

Gardnertown Road, Newburgh
Section 75; Block 1; Lot 4.12
R-3 Zone

- - - - - X

Date: February 27, 2025
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.
GREGORY M. HERMANCE
JOHN MASTEN
DONNA REIN

ALSO PRESENT: DAVID DONOVAN, ESQ.
SIOBHAN JABLESNIK

APPLICANT'S REPRESENTATIVES: JACOB AMIR
DARREN DOCE

- - - - - X

MICHELLE L. CONERO
Court Reporter
Michelleconero@hotmail.com
(845) 541-4163

2 CHAIRMAN SCALZO: I'd like to call
3 the meeting of the Zoning Board of
4 Appeals to order. The order of business
5 this evening are the public hearings
6 which have been scheduled. The procedure
7 of the Board is that the applicant will
8 be called upon to step forward, state
9 their request and explain why it should
10 be granted. The Board will then ask the
11 applicant any questions it may have, and
12 then any questions or comments from the
13 public will be entertained. The Board
14 will then consider the applications and
15 will try to render a decision this
16 evening but may take up to 62 days to
17 reach a determination.

18 I would ask that if you have a
19 cellphone, to please turn it off or put
20 it on silent, or in your pocket as I just
21 did. When speaking, please speak directly
22 into the microphone as this is being
23 recorded by our stenographer.

24 Roll call, please.

25 MS. JABLESNIK: Darrell Bell.

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MR. BELL: Here.

MS. JABLESNIK: James Eberhart.

MR. EBERHART: Here.

MS. JABLESNIK: Greg Hermance.

MR. HERMANCE: Here.

MS. JABLESNIK: John Masten.

MR. MASTEN: Here.

MS. JABLESNIK: Donna Rein.

MS. REIN: Here.

MS. JABLESNIK: Darrin Scalzo.

CHAIRMAN SCALZO: Here.

MS. JABLESNIK: Also present is our Attorney and our Stenographer, Michelle Conero. I guess no Joseph Mattina this evening.

CHAIRMAN SCALZO: Very good.

Please rise for the Pledge.

(Pledge of Allegiance.)

CHAIRMAN SCALZO: Our first applicant this evening is Gardner Ridge Associates, LLC on Gardnertown Road. This is a Planning Board referral for an area variance to build a bus stop gazebo located in a front yard.

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Siobhan, do we have mailings on this?

MS. JABLESNIK: This applicant sent out 48 letters.

CHAIRMAN SCALZO: Did this have to go to County?

MS. JABLESNIK: It did. We received it back.

CHAIRMAN SCALZO: We received it back. I'm assuming it was a Local determination.

MS. JABLESNIK: It was.

CHAIRMAN SCALZO: Very good.

Who do we have with us this evening?

MR. AMIR: Good evening, Mr. Chairman, Members of the Board and Staff, my name is Jacob and I'm here from Zarin & Steinmetz. I'm here on behalf of the applicant with Darren Doce to my left.

As the Chair said, this is a referral from the Planning Board. Conditional site plan approval was granted. One element of the site plan was for the applicant to construct a gazebo bus stop. In order to do that, it needed to go to

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this Board for a variance for that.

The applicant is looking for this Board to grant two variances. One, a variance from the 50-foot front setback allowing 33.9 feet, and to allow the accessory building for the gazebo bus stop in the front yard.

Just as background, the reason why is because -- I was not involved in the Planning Board process, but I understand the school buses would not go into the project. In order to accommodate, the Planning Board has requested the applicant to install a gazebo bus stop onsite.

I can go through the five elements for the area variance.

CHAIRMAN SCALZO: We're going to do that later.

MR. AMIR: Okay.

CHAIRMAN SCALZO: Thank you.

MR. AMIR: It's all in the application.

MR. DONOVAN: There is a written submission that addresses that. Actually,

2 the gazebo was part of the Planning Board
3 approval that required it. I did my
4 homework.

5 CHAIRMAN SCALZO: I see that. Very
6 good.

7 MR. AMIR: I don't have anything
8 further. If there are any questions.

9 CHAIRMAN SCALZO: That is perfect.
10 I did go through the application and I
11 did see on the last sheet of the
12 application, it was a rendering of the
13 gazebo. On the maps that have been
14 provided with the application, I didn't
15 see where that location was. My
16 assumption is it's not in the plunge
17 pool. Perhaps on the other side of the
18 access road.

19 MR. DOCE: Darren Doce. It's a
20 very small circle right here.

21 CHAIRMAN SCALZO: Okay. Thank you.
22 It is tiny when you're looking at the
23 large map. Okay. It's even labeled. I
24 see it now. I didn't see it when I was
25 reviewing the application. I appreciate

2 that.

3 I think it's wonderful that you're
4 going to have a gazebo. I think it's
5 going to be awesome to see just how many
6 children walk that 1,100 feet from the
7 closest building down that road to stay
8 dry after they walked 1,100 feet.

9 MR. AMIR: Good exercise.

10 CHAIRMAN SCALZO: Honestly, I have
11 no questions or comments myself. I
12 thought it was a fantastic idea.

13 I'm going to start off with
14 Mr. Eberhart. Do you have any questions?

15 MR. EBERHART: No questions.

16 CHAIRMAN SCALZO: You're curious,
17 too, aren't you?

18 MR. EBERHART: It's funny. Being
19 nosey, I drove into the housing area and
20 that was my thought, school buses, kids.

21 CHAIRMAN SCALZO: That's going to
22 be a trick when the bus is actually
23 stopped there coming down. I'm sure the
24 Planning Board did their traffic reviews,
25 traffic studies, stopping sight distance

2 and all that stuff.

3 Mr. Hermance, do you have any
4 questions or comments?

5 MR. HERMANCE: I have nothing.
6 It's a good idea.

7 CHAIRMAN SCALZO: Mr. Bell?

8 MR. BELL: I think it's a great
9 idea. I wish they would gather them all
10 together instead of coming out one by
11 one, out their doors.

12 CHAIRMAN SCALZO: That's great
13 also. Things were very different from
14 when I was a child and had to take a bus.
15 Everybody gathered in one spot, much like
16 a gazebo. Now they seem to stop at every
17 driveway.

18 MR. BELL: It's a good idea.

19 CHAIRMAN SCALZO: You have to leave
20 ten minutes earlier for work.

21 Mr. Masten, how about you?

22 MR. MASTEN: I have nothing really.

23 CHAIRMAN SCALZO: Ms. Rein?

24 MS. REIN: How are the busses
25 getting there? Where are they going?

2 How are the kids getting on them?

3 CHAIRMAN SCALZO: The buses are
4 going to be on Gardnertown Road. The
5 buses will not enter into that condo
6 complex.

7 MS. REIN: How are the kids getting
8 to the buses prior to the gazebo?

9 MR. DONOVAN: It's not built.

10 MS. REIN: I know it's not built.
11 How do they get to the buses now?

12 MR. AMIR: I'm not understanding --
13 I'm not sure from where they would be
14 coming from.

15 CHAIRMAN SCALZO: If this is not
16 developed yet --

17 MS. REIN: I understand that. What
18 I'm trying to put my head around is are
19 they gathering someplace else now? Are
20 they being picked up individually?
21 What's the process?

22 MR. BELL: What she's asking is,
23 since there's no gazebo there, there's no
24 designated area, how are they getting
25 picked up from the location they're at.

2 MS. REIN: Exactly.

3 MR. AMIR: I think the gazebo is in
4 anticipation of the development. It's in
5 order to accommodate the development.

6 MS. REIN: Okay.

7 MR. AMIR: I don't understand the --

8 MS. REIN: I understand. I understand.
9 What type is this? Is this a Type 2?

10 MR. DONOVAN: Actually, this is a
11 Type 1 action, but SEQRA is finished
12 because this gazebo was part of the
13 overall plan that was studied by the
14 Planning Board for which a negative
15 declaration was issued.

16 MS. REIN: This was a negative
17 declaration.

18 CHAIRMAN SCALZO: Which we don't
19 have to --

20 MR. DONOVAN: This was already
21 studied. There's no environmental review
22 undertaken by this Board.

23 MS. REIN: Okay. Then these
24 questions are irrelevant.

25 CHAIRMAN SCALZO: Okay. Anything

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else, Ms. Rein?

MS. REIN: That's it. Thank you.

CHAIRMAN SCALZO: I do appreciate seeing the tabbed up application.

MS. REIN: You've got to read the small print.

CHAIRMAN SCALZO: Okay. At this point I'll turn it over. Do any members of the public wish to speak about this application?

(No response.)

CHAIRMAN SCALZO: Hearing none, I'll look back to the Board one last time.

(No response.)

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

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

MS. REIN: I'll second it.

CHAIRMAN SCALZO: We have a motion to close from Mr. Masten. We have a second from Ms. Rein. All in favor?

MR. EBERHART: Aye.

2 MR. HERMANCENCE: Aye.

3 CHAIRMAN SCALZO: Aye.

4 MR. BELL: Aye.

5 MR. MASTEN: Aye.

6 MS. REIN: Aye.

7 CHAIRMAN SCALZO: Those opposed?

8 (No response.)

9 CHAIRMAN SCALZO: Very good.

10 Counsel, because it's a Type 1, we
11 still go through our criteria?

12 MR. DONOVAN: You go through the
13 five factors. That's correct.

14 CHAIRMAN SCALZO: That's what I was
15 assuming. It's not often we get a Type 1
16 in here that we don't have to.

17 We are going to utilize the same
18 criteria as we would for an area variance,
19 which is to discuss the five factors, the
20 first one being whether or not the benefit
21 can be achieved by other means feasible to
22 the applicant. We actually heard that the
23 applicant -- it was a request of the
24 Planning Board. I don't know how that is
25 going to weigh in here.

2 The second, if there's an undesirable
3 change in the neighborhood character or a
4 detriment to nearby properties.

5 MR. BELL: No.

6 CHAIRMAN SCALZO: The third, whether
7 the request is substantial. Only because
8 it's an accessory building out by the
9 road. We typically don't allow that.
10 Again, it's a request by the Planning
11 Board.

12 Fourth, whether the request will
13 have adverse physical or environmental
14 effects.

15 MR. EBERHART: No.

16 MR. HERMANCE: No.

17 MR. BELL: No.

18 MR. MASTEN: No.

19 MS. REIN: No.

20 CHAIRMAN SCALZO: The fifth, whether
21 the alleged difficulty is self-created,
22 which is relevant but not determinative.
23 Of course it's self-created because the
24 entire development is going to be brand
25 new.

2 We have the opportunity here to
3 grant the minimum variance necessary.

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

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

9 MR. MASTEN: I'll second it.

10 CHAIRMAN SCALZO: We have a motion
11 for approval from Mr. Bell. We have a
12 second from Mr. Masten.

13 Siobhan, can you roll on that, please.

14 MS. JABLESNIK: Mr. Bell?

15 MR. BELL: Yes.

16 MS. JABLESNIK: Mr. Eberhart?

17 MR. EBERHART: Yes.

18 MS. JABLESNIK: Mr. Hermance?

19 MR. HERMANCE: Yes.

20 MS. JABLESNIK: Mr. Masten?

21 MR. MASTEN: Yes.

22 MS. JABLESNIK: Ms. Rein?

23 MS. REIN: Yes.

24 MS. JABLESNIK: Mr. Scalzo?

25 CHAIRMAN SCALZO: Yes.

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

MR. AMIR: Thank you.

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

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

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

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

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

IN WITNESS WHEREOF, I have hereunto
set my hand this 5th day of March 2025.

Michelle Conero

MICHELLE CONERO

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

- - - - - X

In the Matter of

ELAINE GERACI LIVING TRUST

272 Frozen Ridge Road, Marlboro
Section 6; Block 1; Lot 86.2
AR Zone

- - - - - X

Date: February 27, 2025
Time: 7:12 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, New York

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

ALSO PRESENT: DAVID DONOVAN, ESQ.
SIOBHAN JABLESNIK

APPLICANT'S REPRESENTATIVE: CARMEN MESSINA

- - - - - X

MICHELLE L. CONERO
Court Reporter
Michelleconero@hotmail.com
(845) 541-4163

2 CHAIRMAN SCALZO: Our second
3 applicant this evening is the Elaine
4 Geraci Living Trust which is at 272
5 Frozen Ridge Road in Marlboro. This is
6 also a Planning Board referral for area
7 variances of the front yard and side yard
8 setbacks of an existing nonconforming
9 single-family residence on lot 1 for a
10 proposed four-lot subdivision. Proposed
11 lot 2 has an existing barn structure --
12 actually, it doesn't -- that will require
13 an area variance of maximum height if it
14 remains.

15 Do we have mailings on this, Siobhan?

16 MS. JABLESNIK: This applicant sent
17 35 letters.

18 CHAIRMAN SCALZO: 35 letters. Very
19 good.

20 Who do we have with us this evening?

21 We have Mr. Messina.

22 MR. MESSINA: For the record, Carmen
23 Messina, surveyor and engineer for the
24 property.

25 As the Chairman stated, we have

2 a 14.3 acre parcel. It's going to be
3 proposed as a four-lot subdivision.
4 It has an existing house in the
5 northwest corner of the property.
6 The map that we submitted shows the
7 barn, but since we submitted those
8 maps, the barn has now been removed.

9 CHAIRMAN SCALZO: The foundation
10 remains.

11 MR. MESSINA: Yes.

12 CHAIRMAN SCALZO: Very good.

13 Mr. Messina, I don't want to cut
14 you off. If there's anything more that
15 needs to be captured other than the
16 description that I read --

17 MR. MESSINA: No.

18 CHAIRMAN SCALZO: Very good.

19 We are here for a preexisting
20 nonconforming condition, folks.

21 We did receive some correspondence
22 from a neighbor with regard to access,
23 right-of-ways, et cetera.

24 I just want to remind the Board, as
25 far as my position -- Counsel, please

2 kick me if I go wrong -- that is
3 something that would be addressed by the
4 Planning Board. We are here for the
5 preexisting nonconforming conditions on
6 lot 1.

7 Counsel, is that correct?

8 MR. DONOVAN: That is correct,
9 Mr. Chairman. We do have a letter.
10 If the member of the public is here
11 this evening, he can speak on that
12 issue, about access on the private
13 road. That's not in front of the
14 Board. Access needs to be taken up
15 by the Planning Board. The only
16 thing before the Board is the fact
17 that the existing house is too close
18 to the front yard.

19 CHAIRMAN SCALZO: Correct. I did
20 have a concern because we had, last year,
21 an application that had an access issue.
22 That is very different than this because
23 the right-of-way or access couldn't be
24 located. A different situation than
25 this.

2 I don't have any comments or
3 questions regarding this.

4 I'm sorry, Siobhan. Did I ask how
5 many mailings went out on this?

6 MS. JABLESNIK: Yes.

7 CHAIRMAN SCALZO: I don't have any
8 comments or questions on this.

9 I'll start with you, Donna. Do you
10 have any questions?

11 MS. REIN: No. Nothing.

12 CHAIRMAN SCALZO: How about you,
13 Mr. Masten?

14 MR. MASTEN: I have nothing.

15 CHAIRMAN SCALZO: Okay. Mr. Bell?

16 MR. BELL: No.

17 CHAIRMAN SCALZO: Mr. Hermance?

18 MR. HERMANCE: I have nothing.

19 CHAIRMAN SCALZO: Mr. Eberhart?

20 MR. EBERHART: Nothing.

21 CHAIRMAN SCALZO: You guys are
22 really going to help me out tonight.

23 You look like you want to speak,
24 Mr. Messina.

25 MR. MESSINA: I don't know when the

2 Planning Board submitted the variances we
3 needed. There were some mistakes in the
4 numbers. The side yard measurement is
5 28.9 feet from the property line.

6 CHAIRMAN SCALZO: That is what
7 appears on the map.

8 MR. MESSINA: Yes, it appears on
9 the map.

10 CHAIRMAN SCALZO: When the decision
11 is crafted, we will certainly make sure --

12 MR. MESSINA: Okay.

13 CHAIRMAN SCALZO: -- that the
14 appropriate dimension is recited.

15 MR. MESSINA: I just wanted to be
16 sure of that.

17 CHAIRMAN SCALZO: At this point I'm
18 going to open it up to any members of the
19 public that wish to speak about this
20 application.

21 (No response.)

22 CHAIRMAN SCALZO: All right. A
23 quiet bunch tonight.

24 I'll look back to the Board. Any
25 additional comments?

2 MR. EBERHART: No.

3 MR. HERMANCE: No.

4 MR. BELL: No.

5 MR. MASTEN: No.

6 MS. REIN: No.

7 CHAIRMAN SCALZO: I'll look to the
8 Board for a motion to close the public
9 hearing.

10 MS. REIN: I'll make the motion to
11 close the public hearing.

12 MR. MASTEN: I'll second it.

13 CHAIRMAN SCALZO: Very good. We
14 have a motion from Ms. Rein. We have a
15 second from Mr. Masten. All in favor?

16 MR. EBERHART: Aye.

17 MR. HERMANCE: Aye.

18 CHAIRMAN SCALZO: Aye.

19 MR. BELL: Aye.

20 MR. MASTEN: Aye.

21 MS. REIN: Aye.

22 CHAIRMAN SCALZO: Those opposed?

23 (No response.)

24 CHAIRMAN SCALZO: This is a Type 2
25 action under SEQRA. We are going to go

2 through those five factors which you just
3 heard a few minutes ago for the other
4 application, the first one being whether
5 or not the benefit can be achieved by
6 other means feasible to the applicant.
7 Nobody is going to ask the applicant to
8 pick the house up and move it.

9 Second, if there's an undesirable
10 change in the neighborhood character or a
11 detriment to nearby properties. It's
12 going to remain, with regard to the
13 variances that are being requested,
14 exactly as it is today.

15 The third, whether the request is
16 substantial. Well, it may be. However,
17 it's there and those are the right-of-way
18 lines as they are perpendicular to the
19 improvements.

20 Fourth, whether the request will
21 have adverse physical or environmental
22 effects.

23 MR. EBERHART: No.

24 MR. HERMANCE: No.

25 MR. BELL: No.

2 MR. MASTEN: No.

3 MS. REIN: No.

4 CHAIRMAN SCALZO: The fifth,
5 whether the alleged difficulty is self-
6 created, which we all understand it is
7 not.

8 Therefore, having gone through the
9 balancing tests, does the Board have a
10 motion of some sort?

11 MS. REIN: I'll make a motion to
12 approve.

13 MR. BELL: I'll second it.

14 CHAIRMAN SCALZO: We have a motion
15 for approval from Ms. Rein. We have a
16 second from Mr. Bell.

17 Can you roll on that, please,
18 Siobhan.

19 MS. JABLESNIK: Mr. Bell?

20 MR. BELL: Yes.

21 MS. JABLESNIK: Mr. Eberhart?

22 MR. EBERHART: Yes.

23 MS. JABLESNIK: Mr. Hermance?

24 MR. HERMANCE: Yes.

25 MS. JABLESNIK: Mr. Masten?

2 MR. MASTEN: Yes.

3 MS. JABLESNIK: Ms. Rein?

4 MS. REIN: Yes.

5 MS. JABLESNIK: Mr. Scalzo?

6 CHAIRMAN SCALZO: Yes.

7 The motion is carried. The
8 variances are approved.

9 Mr. Messina, you haven't been here
10 in front of this Board in quite a long
11 time, but I do understand that you are in
12 front of other boards. How do you like
13 that this Board has you bring in the
14 mailings and then you don't have to go
15 through that whole process of --

16 MR. MESSINA: I think it's
17 beautiful.

18 CHAIRMAN SCALZO: Isn't it the
19 best. We're the best.

20 MR. MESSINA: Yes.

21 MS. JABLESNIK: It's cheaper. Much
22 cheaper.

23 MR. MESSINA: It is true, the
24 mailings can be expensive. This happens
25 to be a simple situation. No one comes

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to comment and you send out 35 notices.

Thank you.

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

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

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

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

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

IN WITNESS WHEREOF, I have hereunto
set my hand this 5th day of March 2025.

Michelle Conero

MICHELLE CONERO

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

In the Matter of

CERONE ENTERPRISES

Smith Avenue, Walden
Section 31; Block 3; Lot 1.2
R-1 Zone

----- X

Date: February 27, 2025
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.
GREGORY M. HERMANCE
JOHN MASTEN
DONNA REIN

ALSO PRESENT: DAVID DONOVAN, ESQ.
SIOBHAN JABLESNIK

APPLICANT'S REPRESENTATIVE: KENNETH LYTLE

----- X

MICHELLE L. CONERO
Court Reporter
Michelleconero@hotmail.com
(845) 541-4163

2 CHAIRMAN SCALZO: Our next
3 applicant this evening is Cerone
4 Enterprises on Smith Avenue in Walden
5 for area variances of the minimum lot
6 area, minimum lot depth and minimum side
7 yard setback to build a new single-family
8 dwelling on the lot.

9 Siobhan, do we have mailings on this?

10 MS. JABLESNIK: This applicant sent
11 49 letters.

12 CHAIRMAN SCALZO: 49 letters. They
13 didn't have to be certified return receipt
14 requested.

15 MS. JABLESNIK: Aren't you grateful?

16 MR. LYTTLE: I'm very grateful. You
17 are the best Board.

18 CHAIRMAN SCALZO: Very good. That
19 was a short one sentence there, Mr. Lytle.
20 Please introduce yourself for those who
21 don't know you for the record, and then
22 you can carry on from there.

23 MR. LYTTLE: I'm Ken Lytle representing
24 Cerone Enterprises.

25 It's a lot on the corner of Third

2 Street and Smith Avenue. It's an
3 existing, nonconforming, very small lot
4 on Orange Lake.

5 I'm here before the Board tonight
6 for the area. Again, it's existing
7 nonconforming. The lot depth is 120
8 feet. 150 is required. Again, it's
9 existing nonconforming.

10 During the construction of a new
11 home, they would like to put a deck on
12 the back of the house. The actual
13 variance is in the backyard. Besides
14 that, we meet all the other criteria.
15 That's what's before the Board.

16 CHAIRMAN SCALZO: Very good.

17 Board Members, you heard Mr. Lytle
18 say really this is all about the deck.
19 It's not all about the deck. The lot is
20 small.

21 MR. BELL: There's a reason why
22 it's here.

23 CHAIRMAN SCALZO: I have a deck and
24 I like it.

25 MS. REIN: What type is this?

2 CHAIRMAN SCALZO: This is a Type 2,
3 Donna.

4 Again, it's a neighborhood of homes
5 that are pretty close to each other. It
6 kind of falls right in line with what the
7 character is, in my opinion. I don't
8 have any comments on this one either.

9 I'm going to start to my right.
10 Mr. Eberhart, do you have comments or
11 questions on this application?

12 MR. EBERHART: I got lost down there.
13 I was driving around Sunday morning.

14 No comments.

15 CHAIRMAN SCALZO: Mr. Hermance?

16 MR. HERMANCE: I have no comments.
17 It's just for the deck?

18 CHAIRMAN SCALZO: Yes. Well, again,
19 the lot size is what it is.

20 Mr. Bell?

21 MR. BELL: None.

22 CHAIRMAN SCALZO: Mr. Masten?

23 MR. MASTEN: I have nothing.

24 CHAIRMAN SCALZO: Ms. Rein?

25 MS. REIN: As long as this deck is

2 not going to interfere with the bald
3 eagle, we're good.

4 MR. LYTLE: You're good.

5 CHAIRMAN SCALZO: No nesting?

6 MR. LYTLE: There are no trees on
7 the lot. There are very few trees.
8 There are some.

9 CHAIRMAN SCALZO: Maybe next door.
10 I'm going to open it up to any
11 members of the public that wish to speak.
12 Please step forward. You need to state
13 your name for the record.

14 MS. KUCER: I'm Kirsten Kucer, I'm
15 at 244 Valley Avenue. I'm the neighbor.

16 My only question, it's not about
17 the house or the variance. My concern is
18 that the well and the sewage is to code.
19 I'm up on the hill and he's below me.
20 That's my only question.

21 CHAIRMAN SCALZO: Mr. Lytle, has
22 this been floated through the Orange
23 County Health Department or is it just a
24 Local determination?

25 MR. LYTLE: A Local determination.

2 CHAIRMAN SCALZO: Were there any
3 setbacks that were marginal that you had
4 difficulty achieving?

5 MR. LYTLE: On Monday this week I
6 was actually approached by a neighbor on
7 the low side who actually has a proposed
8 plan to do something over there. In
9 doing so, we can adjust our septic a
10 little bit to accommodate his well.
11 That's the only separation issue we have.
12 Everything else is without a problem.

13 MR. DONOVAN: Mr. Chairman, the
14 Code Compliance packet, in their comments
15 they've indicated they haven't done a
16 plan or septic review. They would have
17 to do that. This would have to comply.
18 They may very well ask for Mr. Lytle to
19 locate adjacent wells on adjacent
20 properties to make sure he meets those
21 separations. That will be reviewed by
22 Code Compliance.

23 MS. KUCER: Will we be notified?
24 Code Compliance gives its blessing and
25 that's it?

2 CHAIRMAN SCALZO: I don't think
3 you'll hear from them after that. Once
4 they get their building permit, they
5 can --

6 MS. KUCER: I can trust they're
7 doing the right thing?

8 CHAIRMAN SCALZO: We would hope so.

9 MS. KUCER: I don't mean to be
10 rude. I'm new.

11 CHAIRMAN SCALZO: I've got to be
12 honest with you. When people show up to
13 public hearings and ask questions, that's
14 a beautiful thing. I'm glad you're here.
15 I'm glad you took the time out of your
16 schedule to be here. These questions are
17 important. It's a matter of public
18 record once it gets entered into the
19 meeting minutes. Thank you.

20 MR. BELL: It has to be to code
21 anyway.

22 CHAIRMAN SCALZO: It has to meet
23 all the criteria.

24 MS. ALEXANDRA O'DONNELL: My name
25 is Alexandra O'Donnell. I have to oppose

2 these variances. I am the owner of the
3 property across the street. I currently
4 have a fully engineered and approved site
5 plan for my property with no variances
6 required in order to obtain my building
7 permit. If these variances are approved,
8 it will have a detrimental impact on my
9 property because their property does not
10 meet the appropriate setbacks for their
11 septic system related to the location of
12 my well.

13 I have made a significant financial
14 investment in my property. Approving these
15 variances would completely jeopardize that
16 investment. I don't find it appropriate
17 to disadvantage my property, which has no
18 conditions or obstacles in order for me
19 to build a house, in order to accommodate
20 a property which exists already as
21 nonconforming.

22 I will close by saying, given that
23 my property has no hindrances on my
24 ability to build, I think that the burden
25 to do so should not be shifted from them

2 to me.

3 CHAIRMAN SCALZO: Very good.

4 Again, as I said to the previous member
5 of the public that spoke about it, your
6 comments are very important.

7 Can you walk over there and point
8 on the map to where your lot is in
9 relation to --

10 MR. LYTLE: She's downhill, actually
11 across Third Street.

12 CHAIRMAN SCALZO: Mr. Lytle, we
13 just heard some testimony that indicates
14 that the separation distances won't be
15 met. Is that what I'm hearing?

16 MR. LYTLE: Again, I was contacted
17 earlier this week by your father, Mike.
18 He sent over a map that hasn't been
19 filed. That's why there wasn't anything
20 on record.

21 We located their well on this other
22 sheet showing where the well is proposed.
23 By adjusting our septic down to shorter
24 laterals, we can meet the separation on
25 that.

2 CHAIRMAN SCALZO: Okay. Ma'am,
3 were you aware that their septic had been
4 adjusted for that?

5 MS. SHERRI O'DONNELL: It's actually
6 a 200-foot separation that's needed.

7 MS. ALEXANDRA O'DONNELL: Right.
8 It's downhill and it does not meet the
9 separation. I cannot move my well
10 because it will go into the wetlands.
11 I can't move my well. It has to be there.

12 CHAIRMAN SCALZO: I understand the
13 200-foot separation distance when you're
14 downhill. I understand that if there's,
15 I'll call it a boundary between it, then
16 100 foot is typically an acceptable --
17 the concern with septic failing is
18 overland flow. If the septic failed,
19 would it make it into a roadside ditch or
20 would it cross the road and run into your
21 yard. That's typically what the concerns
22 are when it comes to separation distances
23 with wells and septic.

24 That being said, as a professional
25 engineer I don't do a lot of work in

2 Orange County. I do Ulster County work.
3 I don't know if the County steps in for
4 this. I don't know if the County of
5 Orange has a 200-foot separation distance
6 no matter what.

7 Ken, can you answer that?

8 MR. LYTLE: That's something Joe
9 will be reviewing as this project
10 continues. It's not the variance for
11 tonight.

12 Usually what we do, on the bottom
13 of the left lateral you do a 45-degree
14 line off. Anything above that would have
15 the 100-foot separation, which we're able
16 to achieve. Anything below that would
17 have a 200-foot separation. The possible
18 chance that overflow water could actually
19 get to the well, that's why we adjusted
20 our laterals to shorten that to make that
21 happen.

22 MS. SHERRI O'DONNELL: The 200 was --

23 MR. DONOVAN: Ma'am, you have to
24 tell us who you are.

25 MS. SHERRI O'DONNELL: I'm Sherri

2 O'Donnell, Alexandra's mother. I also
3 live around the corner on Snider. I also
4 oppose this.

5 That was per Joe Mattina, the 200.
6 We talked to Joe.

7 CHAIRMAN SCALZO: Joe is not a
8 professional engineer. Joe may be
9 following what the Orange County Health
10 Department requirements are.

11 MS. SHERRI O'DONNELL: If those are
12 the requirements, then it does affect my
13 daughter's well.

14 MS. ALEXANDRA O'DONNELL: I will
15 not be able to build a house on my
16 property if I cannot put in a well. I
17 have a fully engineered lot. I've
18 invested several thousands of dollars
19 into a house plan, into my engineering.
20 It's stamped and approved. I will not be
21 able to build my house, which is very
22 close to my parents for a reason.

23 MS. SHERRI O'DONNELL: Right. She
24 has a vested interest where this is also
25 a spec house.

2 MS. ALEXANDRA O'DONNELL: I just
3 want to be clear that I'm not opposed to
4 the building of the house. I want to be
5 very clear about that. The problem that
6 I have is that if the variances are
7 approved as it stands, the septic is too
8 close to my well. Ken knows that we did
9 the due diligence to figure out the
10 septic is too close to my well. I cannot
11 move my well. I would move it if I
12 could, right. I cannot move it because
13 it is where it has to be on my property
14 because of the wetlands and the setbacks
15 on my property. It cannot be moved. If
16 this is approved, I am basically out of
17 my land. I mean, literally I would have
18 nothing to do with my land if this is
19 approved. That's the only reason I'm
20 opposing it. It's not because I don't
21 want a house there. I'm sure it's going
22 to look great. Of course it's going to
23 bring value to the neighborhood. We like
24 all those things. I don't like, however,
25 that I have no -- right now I could build

2 my house tomorrow. I don't need any
3 approvals. I don't need, like, any other
4 variances. Nothing, okay. To shift the
5 burden, if this is approved, to me is not
6 ethical, frankly, because this is a
7 property that is not -- it's not -- I
8 don't know if zoned is the appropriate
9 word. I'm not an engineer. It's not
10 accommodating a house, this property that
11 Mr. Cerone is proposing. Mine does with
12 no issues. That's it.

13 I'm very passionate about it
14 because this is very important to me. If
15 it's approved, it's going to detrimentally
16 impact my property and my ability to build
17 a house.

18 CHAIRMAN SCALZO: Again, your
19 comments are wonderful. Those are all
20 going to be part of the public record.

21 The variances that are being sought
22 for this lot have nothing to do with the
23 septic or the well. That is out of our
24 control. The variances that are being
25 requested are for lot size, which the lot

2 is the size that it is, which is
3 substandard. The lots were created
4 before zoning was created. They're in
5 here looking for variances to put a deck
6 on the back of the house. When it comes
7 to the separation distances, the minimum
8 requirements, that's going to end up
9 being left to the Building Department.
10 Other than that, your position is very
11 clear.

12 What do you think would be reasonable?

13 MS. ALEXANDRA O'DONNELL: I mean, I
14 think it's reasonable not to approve it
15 because, again --

16 CHAIRMAN SCALZO: Hang on. Just
17 flat out not approve it so the lot stays
18 vacant forever?

19 MS. ALEXANDRA O'DONNELL: No. I
20 need to be able to build my house. I
21 need to not go through hoops that I would
22 not have to go through were it not for
23 this, right.

24 CHAIRMAN SCALZO: The Building
25 Department, they have your plans?

2 If you're going to talk, just tell
3 us who you are, sir.

4 MR. O'DONNELL: Mike O'Donnell,
5 dad. They don't have the plans as of
6 yet. Like Alexandra stated, it is an
7 approved engineered lot. Obviously I did
8 go down there --

9 CHAIRMAN SCALZO: You say an
10 approved engineered lot. The Town does
11 not have the plans yet. Signed by a
12 professional is what you're saying?

13 MR. O'DONNELL: Exactly.

14 CHAIRMAN SCALZO: As well as this
15 lot has.

16 MR. O'DONNELL: Right. I think the
17 reasonable thing to do is assurances for
18 Alexandra that it will not have a
19 negative impact on her ability to build,
20 meaning they would have to get approval
21 from the Department of Health if it in
22 fact does not meet the requirements for
23 the separation.

24 CHAIRMAN SCALZO: Right. From your
25 application that was in here a couple

2 years ago, I know you know exactly what
3 the process is.

4 MR. O'DONNELL: Exactly. I think
5 the unknown is really what she's worried
6 about, as we are too. I think the
7 assurances -- I know it's not the Board's
8 place with separation for sanitary and
9 everything --

10 CHAIRMAN SCALZO: Thank you for
11 recognizing that. When the application
12 is submitted, it is for certain
13 dimensional improvements that are above
14 ground.

15 MR. O'DONNELL: Right.

16 CHAIRMAN SCALZO: I'm certainly
17 sympathetic to exactly what you're
18 saying, but when it comes to that, you're
19 going to have to rely on the Town's
20 Building Department to ensure that all of
21 the separation distances are met. That's
22 out of -- we can certainly look at --
23 he's looking for these variances. The
24 lot size, according to bulk table, does
25 not meet it. However, these were created

2 before zoning. If there's no deck on the
3 back of that, it appears that the house
4 fits inside the building envelop. Really
5 we're looking at the deck. That's what
6 this Board is looking at.

7 Counsel, am I --

8 MR. DONOVAN: That's what I pointed
9 out in the beginning. Code Compliance's
10 letter clearly states no septic review
11 has been undertaken.

12 MR. O'DONNELL: I think with the
13 updated plan that Mr. Lytle is going to
14 present to the Building Department, it
15 will show the well for Alexandra's lot,
16 it will show the 100-foot separation.
17 It's still downhill and we can't be
18 confident that he will approve it --
19 he'll accept it.

20 CHAIRMAN SCALZO: Then perhaps the
21 builder comes in with -- instead of a
22 three-bedroom home, he comes in with a
23 two, further reducing the size of the
24 planned septic field. Again, that's not
25 our scope.

2 I'm certainly sympathetic to you.
3 I admire your passion. You need to
4 understand that's not what we're here
5 for.

6 MR. O'DONNELL: Thank you.

7 CHAIRMAN SCALZO: Are there any
8 other members of the public that wish to
9 speak about this application?

10 (No response.)

11 CHAIRMAN SCALZO: No.

12 Well, I'll look to the Board. Any
13 other questions?

14 (No response.)

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

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

20 MS. REIN: I'll second it.

21 CHAIRMAN SCALZO: We have a motion
22 to close the public hearing from Mr. Bell.
23 We have a second from Ms. Rein. All in
24 favor?

25 MR. EBERHART: Aye.

2 MR. HERMANCENCE: Aye.

3 CHAIRMAN SCALZO: Aye.

4 MR. BELL: Aye.

5 MR. MASTEN: Aye.

6 MS. REIN: Aye.

7 CHAIRMAN SCALZO: Those opposed?

8 (No response.)

9 CHAIRMAN SCALZO: Okay. We did
10 hear testimony from, not necessarily an
11 adjoiner but someone close to being
12 within a 100 feet of this lot. Most of
13 the comments were with regard to the
14 separation distances between the well and
15 the septic.

16 I don't recall, please help me out,
17 was there opposition to the deck on the
18 back?

19 MR. EBERHART: No.

20 MR. HERMANCENCE: No.

21 MR. BELL: No.

22 MR. MASTEN: No.

23 MS. REIN: Whether or not this gets
24 approved -- whether or not we approve it,
25 it's irrelevant to what they're talking

2 about?

3 CHAIRMAN SCALZO: If they can't
4 meet the separation requirements, the
5 design engineer will have to either
6 abandon the project or find a way to meet
7 the criteria.

8 MS. REIN: Irregardless of what we
9 say tonight? Our input really does not
10 have an impact on that? Our decision
11 whether to approve this or not approve it
12 does not impact what the young lady was
13 talking about because it has nothing to
14 do with the well or the septic?

15 CHAIRMAN SCALZO: Our determination
16 this evening does not.

17 MS. REIN: Right.

18 CHAIRMAN SCALZO: That's a wonderful
19 point.

20 MR. DONOVAN: (Inaudible.)

21 MR. LYTLE: Can I answer that
22 question?

23 MS. REIN: I didn't hear it.

24 CHAIRMAN SCALZO: Perhaps as a
25 condition of the variance -- again, this

2 is -- the variance is for the --

3 MR. LYTLE: The deck.

4 CHAIRMAN SCALZO: -- deck. That's
5 why it's a difficult situation for us to
6 impose a condition here.

7 The only thing that I can ask
8 Counsel is, could we ask for concurrent
9 review from the Building Department for
10 both lots?

11 MR. DONOVAN: What I whispered to
12 the Chairman, who asked me do we have
13 anything to do, practically speaking,
14 legally speaking, we don't. At the same
15 point in time, let's assume Mr. Lytle's
16 lot gets approved and built and your lot
17 does not and you come in five years from
18 now and you're told you don't -- you
19 can't build -- I have no idea what your
20 house looks like. You can't build on it
21 because your well is going to be too
22 close to their septic system. That's not
23 necessarily a legal problem relative to
24 Mr. Lytle's application, but it's -- I
25 don't want to put blinders on. It's a

2 real world issue, right.

3 The Chairman is saying can we ask
4 for concurrent reviews, understanding
5 Mr. O'Donnell and his family are not
6 applicants. If you would cooperate,
7 maybe we could get a good result, if
8 that's okay with the Board and
9 everyone standing looking at this.

10 MR. O'DONNELL: As my daughter
11 said, we're not opposed to a house going
12 there. We just want to be sure that it's
13 all going to work cohesively and not put
14 us in, you know, any way --

15 MR. DONOVAN: What if you continued
16 the hearing until next month?

17 CHAIRMAN SCALZO: We can do that.
18 Do you think you're going to be submitting
19 your information to the Building Department
20 between now and next month?

21 MR. O'DONNELL: I believe so. We
22 can get some answers.

23 CHAIRMAN SCALZO: This guy is worth
24 his weight in gold, I'll tell you what.

25 Members of the Board, I think

2 Counsel kind of had a wonderful
3 suggestion, that if we were to --

4 MR. BELL: It's only fair.

5 CHAIRMAN SCALZO: It is only fair.
6 However, Mr. Bell, again I just want to
7 remind you, this is all about the deck.

8 In the spirit of partnering, I
9 think what we're going to do is hold this
10 open to gather a little more information
11 and go from there.

12 I can't do that myself. I need a
13 motion from the Board to extend to next
14 month.

15 MR. LYTLE: Darrin, can I ask you
16 one more question? If we're able to get
17 the variance tonight for this and we
18 agree to review the septic --

19 CHAIRMAN SCALZO: We'd feel better,
20 Mr. Lytle, if we had a little piece of
21 that.

22 MR. LYTLE: I understand. My only
23 concern is my client is going to ask me
24 if we hold it open and they don't submit
25 by next month --

2 CHAIRMAN SCALZO: We have the
3 ability to put certain conditions on
4 this. We will act at next month's
5 meeting whether we have information or
6 not.

7 MR. LYTTLE: We'll try to work it
8 out. Absolutely. Thanks.

9 CHAIRMAN SCALZO: I think that's a
10 very reasonable compromise.

11 I'll look to the Board for a motion
12 to defer determination until --

13 MR. DONOVAN: A motion to keep the
14 public hearing open.

15 CHAIRMAN SCALZO: We already closed
16 it. We want to gather a little more --

17 MR. DONOVAN: You can wait until
18 the 62 days.

19 CHAIRMAN SCALZO: We have 62 days
20 to make this determination. However, as
21 part of that, I would like confirmation
22 from the Building Department whether or
23 not they receive information from
24 contiguous adjoiners.

25 MS. REIN: So then are we asking

2 for an extension?

3 MR. DONOVAN: You have 62 days.
4 You typically make a motion to defer to
5 your next meeting. It would just be a
6 motion to defer.

7 CHAIRMAN SCALZO: The public
8 hearing is closed.

9 MS. REIN: I'll make a motion to
10 defer to the March meeting.

11 MR. BELL: I'll second.

12 CHAIRMAN SCALZO: We have a motion
13 to defer to the March meeting by Ms. Rein.
14 We have a second from Mr. Bell.

15 Can you roll on that, please, Siobhan.

16 MS. JABLESNIK: Mr. Bell?

17 MR. BELL: Yes.

18 MS. JABLESNIK: Mr. Eberhart?

19 MR. EBERHART: Yes.

20 MS. JABLESNIK: Mr. Hermance?

21 MR. HERMANCE: Yes.

22 MS. JABLESNIK: Mr. Masten?

23 MR. MASTEN: Yes.

24 MS. JABLESNIK: Ms. Rein?

25 MS. REIN: Yes.

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MS. JABLESNIK: Mr. Scalzo?

CHAIRMAN SCALZO: Yes.

The motion is carried. We are going to defer this to the March meeting. I hope everybody has what they need.

MR. LYTTLE: What's the date of that meeting?

MS. JABLESNIK: March 27th.

MR. LYTTLE: Thanks so much.

(Time noted: 7:40 p.m.)

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

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

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

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

IN WITNESS WHEREOF, I have hereunto
set my hand this 5th day of March 2025.

Michelle Conero

MICHELLE CONERO

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

JOSEPH ACCETTURA
1463 Route 300, Newburgh
Section 62; Block 1; Lot 8
B Zone

----- X

Date: February 27, 2025
Time: 7:40 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, New York

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

ALSO PRESENT: DAVID DONOVAN, ESQ.
SIOBHAN JABLESNIK

APPLICANT'S REPRESENTATIVE: FLOYD JOHNSON

----- X

MICHELLE L. CONERO
Court Reporter
Michelleconero@hotmail.com
(845) 541-4163

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CHAIRMAN SCALZO: Our next applicant is Joseph Accettura -- I hope I'm saying that correctly -- 1463 Route 300, seeking area variances of the minimum front yard setback to a State road, a structure placed within 80 feet of the center line of Union Avenue Extension, lot surface coverage and increasing the degree of nonconformity of the rear yard to build a 16 by 28 two-story garage and bedroom addition.

Siobhan, do we have mailings on this?

MS. JABLESNIK: This applicant sent 32 letters.

CHAIRMAN SCALZO: 32 letters.

Since this is on a State highway, did we send it to County?

MS. JABLESNIK: We did. They timed out. I have not received it.

CHAIRMAN SCALZO: You, sir, are in luck. That means we can move forward with this application this evening.

Who do we have with us this evening?

MR. JOHNSON: Floyd Johnson.

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CHAIRMAN SCALZO: Sir, I did read two sentences on what it is that your application is looking to accomplish. If there was anything else that you had, if you wanted to add some commentary to that, please feel free.

MR. JOHNSON: The structure was built -- this structure right here was built in 1957. The structure cannot meet today's present setback requirements.

The Building Department had sent us before the Zoning Board to get variances on the rear, the front, the center of the road and lot coverage.

CHAIRMAN SCALZO: Okay. This is right up the street.

MR. JOHNSON: Yes.

CHAIRMAN SCALZO: I'm very familiar with where it is, what it is. Your map indicates where this is going to be. If you're facing the current driveway, not the parking lot but the driveway, it's going to be to the right of the existing garage --

2 MR. JOHNSON: Correct.

3 CHAIRMAN SCALZO: -- as depicted on
4 your plans?

5 MR. JOHNSON: It's mainly the
6 existing structure itself cannot meet
7 those present day setbacks.

8 CHAIRMAN SCALZO: Right. However,
9 the proposed garage addition is going to
10 be -- the dimensions are not perpendicular
11 to the right-of-way line, but I'm assuming
12 -- actually, that's something I'm going
13 to need. If you could have --

14 Do you understand what I mean,
15 Counsel, when I say that?

16 We have a perpendicular offset to
17 the property line from the existing
18 building. If we're going to grant any
19 variances for this -- the dimensions
20 that we have now are parallel with
21 the building face out to the lot,
22 therefore they appear larger than they
23 actually will be. Do you understand?

24 MR. DONOVAN: Mm'hm'.

25 CHAIRMAN SCALZO: Moving forward,

2 sir, we are going to need accurate
3 information on a perpendicular offset to
4 the right-of-way line because that is one
5 of the variances that you are seeking. I
6 can sketch it for you if you'd like to
7 see what I'm talking about.

8 MR. JOHNSON: Okay. From the
9 Building Department, when we went there
10 they were mainly talking about the rear
11 and this angle here.

12 CHAIRMAN SCALZO: I'm not concerned
13 with the existing structure. I'm only
14 concerned with the addition. The
15 existing structure is a preexisting
16 nonconforming condition. I'm only
17 interested, because my -- if I laid a
18 scale on this, it's already 32.8 feet
19 which currently exists to the existing
20 garage. Your front yard setback will be
21 decreased from that 32.8 feet. I'm just
22 going to need accurate information on
23 that.

24 MR. JOHNSON: Okay.

25 CHAIRMAN SCALZO: That's just me.

2 I'm going to start with Mr. Eberhart.

3 Other than that, I have no other
4 comments or questions. That's been a
5 business for years before. I don't know
6 if it's being used as residential now or
7 not. I think it was a chiropractic
8 office for awhile.

9 Anyway, you're going to the right.
10 It's pretty dense with shrubbery between
11 that and the neighbor to the other side.

12 Anyway, Mr. Eberhart, do you have
13 any questions or comments regarding this?

14 MR. EBERHART: No questions or
15 comments.

16 CHAIRMAN SCALZO: Mr. Hermance?

17 MR. HERMANCE: That dimension would
18 be important for us to know.

19 CHAIRMAN SCALZO: Actually, if it
20 makes its way to a decision, I need to
21 know that down to a tenth of a foot.

22 MR. HERMANCE: Right.

23 CHAIRMAN SCALZO: Mr. Bell?

24 MR. BELL: No.

25 CHAIRMAN SCALZO: Mr. Masten?

2 MR. MASTEN: I have nothing right
3 now.

4 CHAIRMAN SCALZO: Ms. Rein?

5 MS. REIN: I'm a little confused.
6 Maybe I didn't read it correctly. I am
7 not an engineer, but --

8 CHAIRMAN SCALZO: You don't have to
9 be. You could have stayed at the Holiday
10 Inn Express last night and it would have
11 been just as good.

12 MS. REIN: From now on you don't
13 call me Ms. Rein, you call me Dr. Rein.

14 I was under the impression that
15 this was a height variance. Am I wrong?

16 CHAIRMAN SCALZO: Is there a height
17 component to this that I overlooked? I
18 don't believe so.

19 MR. DONOVAN: No.

20 MR. BELL: It's a two-story garage.

21 MS. REIN: When I was there and I
22 was speaking to the daughter, because
23 Dr. Accettura and his wife were out
24 of the country, she was telling me it
25 was just supposed to be a height

2 variance. That didn't make sense to
3 me. I didn't know if I read this
4 wrong or she was misinformed.

5 CHAIRMAN SCALZO: Dr. Rein, I
6 didn't pick up --

7 MS. REIN: You can call me Ms. Rein.

8 CHAIRMAN SCALZO: I did not pick up
9 on height. I believe this is all
10 dimensional.

11 MR. DONOVAN: The notice of
12 disapproval from Code Compliance
13 indicates front yard setback on a State
14 road, no structure placed within 80 feet
15 of center line, lot surface coverage and
16 increased degree of nonconformity. Not
17 height.

18 MS. REIN: Nothing was added on for
19 height?

20 MR. JOHNSON: The Building
21 Department didn't comment on height.

22 MS. REIN: I can't hear you, sir.

23 MR. JOHNSON: The Building
24 Department didn't comment on height.
25 I believe we are within the allowable

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height.

MS. REIN: When I was there, Alexa told me that it was only going to be about height, his daughter. I didn't know if there was a change and there was something else going on. This is it? It's not going to involve height at all?

MR. JOHNSON: No.

CHAIRMAN SCALZO: I believe 2.5 stories is the maximum, which would be 30 feet. Even if they were going to put a second story on with a peaked roof, most of them fall below that.

MR. JOHNSON: We're not over the maximum height.

MS. REIN: That was my only question.

MR. JOHNSON: The dimension that you're talking about is this dimension that the surveyor put in?

CHAIRMAN SCALZO: Well, if the surveyor put that dimension of 29 feet 3 inches, I don't know about you, but we don't use inches very often. That's an architect for you.

2 MR. JOHNSON: That's a dimension
3 that the surveyor put on the drawing.

4 CHAIRMAN SCALZO: That may be, sir,
5 the case. We will certainly be very
6 clear with what it is we're looking for
7 here. Currently the way it's depicted,
8 it does not meet what we're looking for.

9 Mr. Bell -- I'm sorry. Mr. Masten,
10 I skipped right over you.

11 MR. MASTEN: I have nothing right
12 now, Darrin.

13 CHAIRMAN SCALZO: Very good.

14 Mr. Bell?

15 MR. BELL: Nothing.

16 CHAIRMAN SCALZO: Mr. Hermance?

17 MR. HERMANCE: I have nothing.

18 CHAIRMAN SCALZO: Mr. Eberhart?

19 MR. EBERHART: Nothing.

20 CHAIRMAN SCALZO: All right. At
21 this point are there any members of the
22 public that wish to speak regarding this
23 application?

24 (No response.)

25 CHAIRMAN SCALZO: No.

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All right. I don't know if I need anything more than that dimension or those dimensions. The rear corner of the proposed garage addition, it appears it's parallel with the property line, so the distance would be perpendicular to the property line. I don't know that I need that. That's 20 feet 5 inches, which, again, if you could convert those to engineering feet, that would be wonderful.

MR. JOHNSON: Yup.

CHAIRMAN SCALZO: Counsel, should we move to close the public hearing and defer our determination? We don't need to leave the public hearing open for that?

MR. DONOVAN: You had no public comment. Everyone knows exactly where this building is proposed. You have dimensions that are on a plan that's not sealed, stamped or signed that says by a PE, but we all know that didn't happen.

CHAIRMAN SCALZO: Okay. I understand that. Sure. I forgot that's

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who -- Lou Dubois is the PE on this. We also have Valdina coming in tonight.

Anyway, we can close the public hearing?

MR. DONOVAN: Yes.

CHAIRMAN SCALZO: We'll just defer our determination until we receive the information from the applicant that we're requesting.

MR. JOHNSON: Okay.

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

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

MR. HERMANCE: Second.

CHAIRMAN SCALZO: We have a motion from Mr. Bell. We have a second from Mr. Hermance. All in favor?

MR. EBERHART: Aye.

MR. HERMANCE: Aye.

CHAIRMAN SCALZO: Aye.

MR. BELL: Aye.

MR. MASTEN: Aye.

2 MS. REIN: Aye.

3 CHAIRMAN SCALZO: Now I'll look to
4 the Board for a motion to defer our
5 determination until we receive additional
6 materials from the applicant.

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

8 MR. BELL: Second.

9 CHAIRMAN SCALZO: We have that
10 motion from Mr. Masten. I believe we had
11 a second from Mr. Bell. In this instance,
12 all in favor?

13 MR. EBERHART: Aye.

14 MR. HERMANCENCE: Aye.

15 CHAIRMAN SCALZO: Aye.

16 MR. BELL: Aye.

17 MR. MASTEN: Aye.

18 MS. REIN: Aye.

19 CHAIRMAN SCALZO: Those opposed?

20 (No response.)

21 CHAIRMAN SCALZO: Very good. Sir,
22 we'll see you next month.

23 MR. DONOVAN: Are you clear on what
24 the Chairman is asking for?

25 MR. JOHNSON: That dimension is a

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concern because it's not --

CHAIRMAN SCALZO: Give me one second, sir. If you come up here, I will show you exactly what it is that I'm looking for.

MR. DONOVAN: Can you take the smaller paper map off and bring it up to the Chairman?

CHAIRMAN SCALZO: The dimension that we're going to be looking for is that. That little square down there means it's perpendicular. I'm going to need that dimension and this dimension. I'll even write it for you.

MR. BELL: He's writing.

CHAIRMAN SCALZO: Very good. All right, sir. Thank you.

MR. JOHNSON: Okay. Thank you.

CHAIRMAN SCALZO: We'll see you next month.

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

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

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

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

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

IN WITNESS WHEREOF, I have hereunto
set my hand this 5th day of March 2025.

Michelle Conero

MICHELLE CONERO

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

JOHN J. LEASE III
North Plank Road, Newburgh
Section 42; Block 1; Lot 2.222
R-3 Zone

----- X

Date: February 27, 2025
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.
GREGORY M. HERMANCE
JOHN MASTEN
DONNA REIN

ALSO PRESENT: DAVID DONOVAN, ESQ.
SIOBHAN JABLESNIK

APPLICANT'S REPRESENTATIVES: VINCENT PIETRZAK
KEVIN GAGLIANO

----- X

MICHELLE L. CONERO
Court Reporter
Michelleconero@hotmail.com
(845) 541-4163

2 CHAIRMAN SCALZO: Our next
3 applicant this evening is John J. Lease,
4 North Plank Road in Newburgh, requesting
5 a use variance for a 7,200 square foot
6 proposed mixed use building located in an
7 R-3 Zoning District.

8 Do we have mailings on this, Siobhan?

9 MS. JABLESNIK: This applicant sent
10 95 letters.

11 CHAIRMAN SCALZO: 95. That I think
12 might be the winner for the evening.

13 MS. JABLESNIK: We have not
14 received County back yet.

15 CHAIRMAN SCALZO: We have not
16 received County back. Are you aware of
17 what that means to you?

18 MR. PIETRZAK: Yes. We'll be here
19 next month.

20 CHAIRMAN SCALZO: No matter what
21 happens, if the County hasn't had the
22 opportunity to weigh in, then we can't
23 act on it this evening.

24 I know who you are, but if you
25 could introduce yourself.

2 MR. PIETRZAK: I'm Vince Pietrzak
3 here tonight for John Lease's project.

4 MR. GAGLIANO: Kevin Gagliano.

5 CHAIRMAN SCALZO: Mr. Pietrzak, I
6 said two sentences regarding this. If
7 that captures what it is -- actually,
8 this is a bigger project. Let me let you
9 go ahead.

10 MR. PIETRZAK: It's a residential
11 zone that the property is in. We're
12 looking to put in a 7,200 square foot
13 building for a business use.

14 We've been to the Planning Board
15 and they referred us here because of
16 that.

17 MR. DONOVAN: So Vince -- maybe I
18 should speak to the attorney. The
19 criteria for a use variance is fairly
20 strenuous. I was inquiring of the
21 Chairman whether there are additional
22 submissions that you wish to make.

23 MR. GAGLIANO: At this time we did
24 submit a broker's opinion.

25 A little color on the parcel

2 location. It's at the foot of a heavy
3 commercial corridor. As you head
4 southeast, you would have the former Shop
5 Rite plaza, Ethan Allen. As you head
6 north, you have less heavy commercial.
7 You have the former Big 3 Deli, you have
8 some doctors' offices. The adjacent
9 parcel is Orange County property to the
10 north. To the south is the Flaming Chef,
11 the Chinese restaurant, and then a flag
12 residential lot. The character of this
13 parcel, where it's located, it would not
14 heavily impact the character of the area.
15 By its location and proximity, we feel
16 the highest and best use would be
17 commercial.

18 The economic return and viability
19 of a residential project we've deemed not
20 to be sufficient to move forward with a
21 project of a permitted use under the
22 current zoning.

23 CHAIRMAN SCALZO: Thank you.

24 Counsel, the last criteria that
25 it's self-created --

2 MR. DONOVAN: If a use variance is
3 self-created, unlike an area variance,
4 the fact -- in the use variance context,
5 the hardship is self-created, you don't
6 have a project. I don't know if you have
7 anything on the self-created nature of
8 the hardship.

9 MR. GAGLIANO: So this parcel is
10 located nearby the hundred year flood
11 zone which heavily limits what you could
12 put on the property residential wise.
13 It's also located near a relatively busy
14 highway. There's really no true
15 comparable for a residential existing
16 build that you can use to --

17 MR. DONOVAN: I guess my question,
18 it looks like -- I'm sorry to interrupt.
19 It looks like they purchased the property
20 in October 2019. If the property in 2019
21 was zoned residential and this use wasn't
22 allowed, you've got a problem. You've
23 got a month to try to figure it out.

24 CHAIRMAN SCALZO: Perhaps whatever
25 the building is proposed for, if it were

2 to meet what would fit in the district,
3 you may have a shot.

4 MR. DONOVAN: May.

5 CHAIRMAN SCALZO: May.

6 MR. DONOVAN: It's a tough road to
7 hoe. This isn't your first rodeo. You
8 got what you got and you're trying to
9 make the best of it.

10 The concern of the Board is not --
11 they're not -- what's the right word --
12 unsympathetic to your client's plan. At
13 the same point in time, use variances
14 come here from time to time. The Board
15 is always concerned about following the
16 precedent. If you don't meet, again
17 different from an area variance, the five
18 factor balancing tests, the four factors
19 of the use variance, if you don't meet
20 one of them, you get denied. We've had a
21 few here over the years, a few that have
22 been litigated. You know, I've had
23 judges say you need appraisal proof
24 before and after. The broker's letter is
25 the broker's letter. It says specifically

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this is not an appraisal. I could also understand a client saying I don't want to spend 20 grand to lose. I get all that. The Board has a job to do up here.

MR. GAGLIANO: Understood.

CHAIRMAN SCALZO: As mentioned at the start of this application, we have not received anything back from County yet, so we couldn't act anyway. We can certainly leave this open for you if you want to go ahead and marshall your arguments for next month and go from there.

MR. PIETRZAK: Would we be able to have the public hearing at least to see if there's anybody from the public?

CHAIRMAN SCALZO: Certainly. We're not going to close that.

MR. DONOVAN: We're not kicking you out yet.

CHAIRMAN SCALZO: That's not it at all. We're going to follow the procedure. That being said, I'm going to

2 start with my Board Members. Dr. Rein?

3 MS. REIN: What are you asking me?

4 CHAIRMAN SCALZO: Do you have any
5 thoughts on this application? Any
6 comments or questions for the applicants?

7 MS. REIN: I'm going to wait until
8 next month.

9 CHAIRMAN SCALZO: Not a problem.
10 Mr. Masten?

11 MR. MASTEN: I'm going to hold off.

12 CHAIRMAN SCALZO: You're going to
13 wait until next month just like the good
14 doctor.

15 MR. BELL: Following the doctor's
16 orders.

17 CHAIRMAN SCALZO: She is a doctor.
18 Mr. Hermance?

19 MR. HERMANCE: As stated, the use
20 variance would be difficult to get
21 approved. You have to prove all of those
22 factors before we can --

23 CHAIRMAN SCALZO: At least you have
24 to give us competent evidence that they're
25 all being met.

2 Mr. Eberhart?

3 MR. EBERHART: I don't want to say
4 the doctor comment. I have nothing right
5 now.

6 CHAIRMAN SCALZO: You're digging
7 deep. All right.

8 Do any members of the public wish
9 to speak about this application?

10 (No response.)

11 CHAIRMAN SCALZO: Mr. Pietrzak, you
12 were hoping.

13 MR. PIETRZAK: Got lucky that time.

14 CHAIRMAN SCALZO: It's pretty quiet
15 behind you.

16 I'm going to look to the Board for
17 a motion to keep the public hearing open
18 for a host of reasons, but most notably
19 because we haven't heard back from the
20 County.

21 MR. HERMANCE: I'll make a motion
22 to keep the public hearing open.

23 MR. MASTEN: I'll second it.

24 CHAIRMAN SCALZO: We have a motion
25 to keep the public hearing open from

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Mr. Hermance. We have a second from
Mr. Masten. All in favor?

MR. EBERHART: Aye.

MR. HERMANCE: Aye.

CHAIRMAN SCALZO: Aye.

MR. BELL: Aye.

MR. MASTEN: Aye.

MS. REIN: Aye.

CHAIRMAN SCALZO: Those opposed?

(No response.)

MR. PIETRZAK: Thank you. Have a
great evening. We'll see you next month.

(Time noted: 8:01 p.m.)

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

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

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

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

IN WITNESS WHEREOF, I have hereunto
set my hand this 5th day of March 2025.

Michelle Conero

MICHELLE CONERO

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

----- X
In the Matter of

JOE'S KWIK MARTS, LLC
1215 Route 300, Newburgh
Section 95; Block 1; Lot 38.2
IB Zone

----- X

Date: February 27, 2025
Time: 8:02 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, New York

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

ALSO PRESENT: DAVID DONOVAN, ESQ.
SIOBHAN JABLESNIK

APPLICANT'S REPRESENTATIVE: STANLEY BARTH

----- X

MICHELLE L. CONERO
Court Reporter
Michelleconero@hotmail.com
(845) 541-4163

2 CHAIRMAN SCALZO: Moving on to our
3 next applicant this evening, Joe's Kwik
4 Marts, LLC, 1215 Route 300, Newburgh,
5 seeking an area variance of the existing
6 setback of a freestanding sign to the
7 property line to change the panels and
8 reface the existing nonconforming sign
9 from Speedway to Exxon.

10 Do we have mailings on that, Siobhan?

11 MS. JABLESNIK: This applicant sent
12 12 letters.

13 CHAIRMAN SCALZO: 12 letters. This
14 is on Route 300.

15 MS. JABLESNIK: It went to County.
16 We received it.

17 CHAIRMAN SCALZO: Local determination?

18 MS. JABLESNIK: Yes.

19 CHAIRMAN SCALZO: That means good
20 news for you.

21 MR. BARTH: I pulled the short straw
22 at work. They sent me. I've never been
23 involved in any of this. This is
24 entertaining.

25 CHAIRMAN SCALZO: Did you not hear

2 me at the beginning of the meeting.
3 We're the best.

4 Sir --

5 MR. BARTH: I'm Stan Barth. I work
6 for Joe's Kwik Mart. I pulled the short
7 straw. That's why I'm here.

8 CHAIRMAN SCALZO: Stan Barth. Very
9 good. I read a very short sentence here,
10 but I'm going to prompt you for some
11 answers.

12 The sign that you're replacing, are
13 you making it any larger than it currently
14 is?

15 MR. BARTH: No.

16 CHAIRMAN SCALZO: Are you moving the
17 sign closer to the road, away from the
18 road or is it exactly --

19 MR. BARTH: The exact same spot.

20 CHAIRMAN SCALZO: Are you putting
21 any brighter lights behind it or on it?

22 MR. BARTH: No.

23 CHAIRMAN SCALZO: This is easy.
24 Those are the questions that I wanted to
25 ask.

2 Now I'm going to look down to
3 Mr. Eberhart. What do you think, sir?

4 MR. EBERHART: Why did you get rid
5 of the Godfather sandwich?

6 MR. BARTH: Speedway got rid of
7 that, not me.

8 MR. EBERHART: No questions.

9 MR. HERMANCE: I have no questions.

10 CHAIRMAN SCALZO: Very technical in
11 nature.

12 Mr. Bell?

13 MR. BELL: Nothing.

14 CHAIRMAN SCALZO: Mr. Masten?

15 MR. MASTEN: I have nothing.

16 CHAIRMAN SCALZO: Nothing about the
17 godmother or the doctor.

18 MS. REIN: Nothing.

19 CHAIRMAN SCALZO: Do any members of
20 the public wish to speak about this
21 application?

22 (No response.)

23 CHAIRMAN SCALZO: These are the
24 easy ones.

25 I know why you're here. It's

2 because our sign code is tough sometimes,
3 especially if you're a little too close
4 to the right-of-way.

5 No one from the public. Nothing
6 from the Board. I'll look to the Board
7 for a motion to close the public hearing.

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

10 MR. MASTEN: I'll second it.

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

15 MR. EBERHART: Aye.

16 MR. HERMANCE: Aye.

17 CHAIRMAN SCALZO: Aye.

18 MR. BELL: Aye.

19 MR. MASTEN: Aye.

20 MS. REIN: Aye.

21 CHAIRMAN SCALZO: Those opposed?

22 (No response.)

23 CHAIRMAN SCALZO: Very good. This
24 is a Type 2 action under SEQRA, Counsel?

25 MR. DONOVAN: This is a Type 2

2 action, replacement in kind.

3 CHAIRMAN SCALZO: Very good. Thank
4 you.

5 We still need to run through our
6 five factors, the first one being whether
7 or not the benefit can be achieved by
8 other means feasible to the applicant.
9 If it's changing business names, it's
10 kind of necessary.

11 Second, if there's an undesirable
12 change in the neighborhood character or a
13 detriment to nearby properties. Except
14 for the color scheme and the sign itself,
15 it will be unnoticed.

16 Third, whether the request is
17 substantial. No.

18 Fourth, whether the request will
19 have adverse physical or environmental
20 effects. No more than already there.

21 The fifth, whether the alleged
22 difficulty is self-created which is
23 relevant but not determinative. Of
24 course it's self-created. If the
25 business is changing names, we kind of

2 need to know the name.

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

6 MS. REIN: I'll make a motion to
7 approve.

8 MR. BELL: I'll second it.

9 CHAIRMAN SCALZO: We have a motion
10 for approval from Ms. Rein. We have a
11 second from Mr. Bell.

12 Can you roll on that, please, Siobhan.

13 MS. JABLESNIK: Mr. Bell?

14 MR. BELL: Yes.

15 MS. JABLESNIK: Mr. Eberhart?

16 MR. EBERHART: Yes.

17 MS. JABLESNIK: Mr. Hermance?

18 MR. HERMANCE: Yes.

19 MS. JABLESNIK: Mr. Masten?

20 MR. MASTEN: Yes.

21 MS. JABLESNIK: Ms. Rein?

22 MS. REIN: Yes.

23 MS. JABLESNIK: Mr. Scalzo?

24 CHAIRMAN SCALZO: Yes.

25 The motion is carried. The

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variances are approved. The short straw is not a bad thing.

MR. BARTON: Thank you. You're the best.

(Time noted: 8:06 p.m.)

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

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

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

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

IN WITNESS WHEREOF, I have hereunto set my hand this 5th day of March 2025.

Michelle Conero

MICHELLE CONERO

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

- - - - - X

In the Matter of

MICHAEL O'DONNELL

38 Snider Avenue, Walden
Section 31; Block 5; Lot 6
R-1 Zone

- - - - - X

Date: February 27, 2025
Time: 8:07 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, New York

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

ALSO PRESENT: DAVID DONOVAN, ESQ.
SIOBHAN JABLESNIK

APPLICANT'S REPRESENTATIVES: MICHAEL O'DONNELL

- - - - - X

MICHELLE L. CONERO
Court Reporter
Michelleconero@hotmail.com
(845) 541-4163

2 CHAIRMAN SCALZO: Our next
3 applicant this evening is Michael
4 O'Donnell, 38 Snider Avenue, seeking area
5 variances of the maximum allowed yard
6 coverage, building surface coverage and
7 lot surface coverage to install a 10 by
8 20 accessory building.

9 Siobhan, do we have mailings on
10 this?

11 MS. JABLESNIK: This applicant sent
12 26 letters.

13 CHAIRMAN SCALZO: 26 letters. Very
14 good.

15 You're not close enough to any
16 County or State Road.

17 MR. O'DONNELL: Hi again.

18 CHAIRMAN SCALZO: How are you, sir?

19 MR. O'DONNELL: I'm good. Mike
20 O'Donnell.

21 CHAIRMAN SCALZO: I heard that a
22 little earlier. Michelle needs to record
23 that for this application.

24 Sir, a beautiful home you built. I
25 remember when you were in here last time.

2 It was, I'll call it a challenging
3 neighbor that had a bunch of concerns
4 themselves.

5 MR. O'DONNELL: It's understandable.

6 CHAIRMAN SCALZO: There were some
7 trees that your house -- he was worried
8 that your house was going to be too close
9 to the lake for him to be able to get the
10 panoramic view that he was used to
11 seeing. I've got a pretty good memory
12 for this stuff.

13 The house is beautiful. I hope
14 it's serving the needs you built it for.

15 Now you're in here looking for an
16 accessory building, I'm assuming to put
17 your boat or water equipment in.

18 MR. O'DONNELL: We have things. No
19 basement, no storage. Very, very little
20 storage above the garage. We're obviously
21 on the water, so we have kayaks and stuff.
22 I just want to add to the aesthetics.
23 It's going to look just like part of the
24 house, but obviously not connected. It
25 will have the same kind of finishes.

2 We like to keep things clean and
3 neat. My garage is a mess. I'd like
4 the extra room to store things and live.

5 CHAIRMAN SCALZO: I understand.
6 It's proposed 10 by 20.

7 MR. O'DONNELL: Yeah.

8 CHAIRMAN SCALZO: The sketch that's
9 been provided with the application shows
10 that it's going to be back, so it's not
11 going to extend any further than what
12 you're --

13 MR. O'DONNELL: It's kind of
14 basically the only real area that it
15 could go. We have the septic, the tank,
16 the pump chamber on that side of the
17 house. Obviously we can't put it there.
18 I don't want it in the backyard. I want
19 it up, you know, on the side yard.

20 CHAIRMAN SCALZO: It makes sense. I
21 understand by looking at this.

22 Now, how many other sheds in your
23 neighborhood of that size?

24 MR. O'DONNELL: I'm not sure about
25 that size, but there's many sheds.

2 There's sheds everywhere.

3 CHAIRMAN SCALZO: That's fine. The
4 quick drive through, it was getting near
5 sundown, I didn't really pick up on that
6 myself. I'm hoping some of the other
7 Board Members did. Like I say, when it
8 comes to the character of the
9 neighborhood, I'm not sure. Again, I
10 didn't pick up on that.

11 I know you're not here to talk
12 about any separation distances, but
13 something that Joe Mattina may want to
14 check out, I know septic tanks, the
15 minimum is 10 feet away from the
16 dwelling.

17 MR. O'DONNELL: The shed I believe
18 is 10 feet and 5 feet from the property
19 line. We kind of make it on both ends
20 within inches. That's why I --

21 MR. DONOVAN: I'm pretty sure fire
22 code requires a 10-foot separation from
23 the main structure.

24 CHAIRMAN SCALZO: That I'm aware
25 of. Also, where your septic tank is

2 located on there, perhaps the sketch is
3 inaccurate. I don't know.

4 MR. O'DONNELL: The shed --

5 CHAIRMAN SCALZO: I don't know
6 about the separation distance between
7 your shed and, say, your septic tank.

8 MR. O'DONNELL: I don't know if
9 there is such a distance. We have room
10 to shift it. I don't know 10 feet would
11 really --

12 CHAIRMAN SCALZO: I understand
13 that.

14 MR. O'DONNELL: I don't believe
15 there is any --

16 CHAIRMAN SCALZO: We're obviously
17 just getting started. You're proposing a
18 10 by 20. Would a 10 by 12 fit your
19 stuff? I don't know how long a kayak is.
20 The kayak --

21 MS. SHERRI O'DONNELL: We also want
22 to put mowers.

23 MR. O'DONNELL: 10 by 12 would be a
24 little tight. We have no storage. We
25 have no basement because of the water

2 levels.

3 CHAIRMAN SCALZO: You knew that
4 when you built the house.

5 MR. O'DONNELL: We knew that when
6 we built the house. Just a couple extra
7 feet on the garage that we gave up
8 originally without --

9 CHAIRMAN SCALZO: I recall.

10 MR. O'DONNELL: Yeah. Obviously a
11 little bit bigger. 10 by 20 would really
12 suffice and we wouldn't have to worry
13 about things outside. Right now the
14 kayaks are in the back of our house on
15 the patio, I've got things at my office.
16 We're kind of scattered a little bit.

17 CHAIRMAN SCALZO: It's not going on
18 the cutout of the house because you'd be
19 blocking windows.

20 MR. O'DONNELL: Exactly. We're on
21 the side. We have windows and we can see
22 our neighbors.

23 CHAIRMAN SCALZO: How about your
24 neighbor's windows? The gentleman that
25 was in opposition to your developing your

2 lot, is he still in the house?

3 MR. O'DONNELL: Yeah, yeah. He's
4 still there.

5 CHAIRMAN SCALZO: Have you
6 discussed this with him by chance?

7 MR. O'DONNELL: I didn't. We're
8 cordial. He might be here. I'm not sure.

9 CHAIRMAN SCALZO: You guys were
10 here for that.

11 MR. O'DONNELL: That would actually
12 be a barrier because we can see right to
13 his back door. Obviously he can probably
14 see right into our house. That would be
15 kind of a buffer between the two of us.
16 At this point, with the placement of our
17 house, it wouldn't be -- it wouldn't take
18 any vision or visual aspect away.

19 CHAIRMAN SCALZO: His panoramic
20 view, that was the last concern. You
21 know, these are important questions.

22 MR. O'DONNELL: Yeah.

23 CHAIRMAN SCALZO: Okay. You're not
24 going to remove any trees?

25 MR. O'DONNELL: No. There's really

2 nothing.

3 CHAIRMAN SCALZO: You're certain
4 that you will meet your 10.5 from the
5 house and 5.5 from the property line?

6 MR. O'DONNELL: Well, 10 foot and 5
7 foot.

8 CHAIRMAN SCALZO: That's the
9 minimum.

10 MR. O'DONNELL: Definitely we'll
11 make it. Joe will not let that go.

12 CHAIRMAN SCALZO: When I see plus
13 or minus, plus or minus could be 2 feet.

14 MR. O'DONNELL: I think it's like
15 10 foot 2 inches and 5 foot 2 inches.

16 CHAIRMAN SCALZO: I don't talk in
17 inches.

18 MR. O'DONNELL: Guaranteed it
19 definitely will not be closer than 10
20 feet or closer than 5 foot from the
21 property line.

22 CHAIRMAN SCALZO: Okay. That's all
23 I've got. I talked plenty on this one.

24 Ms. Rein?

25 MS. REIN: I'm good.

2 CHAIRMAN SCALZO: Mr. Masten?

3 MR. MASTEN: No questions.

4 MR. BELL: No questions.

5 CHAIRMAN SCALZO: Mr. Hermance?

6 MR. HERMANCE: What would be the
7 final height of the shed?

8 MR. O'DONNELL: So, I didn't bring
9 it.

10 CHAIRMAN SCALZO: Did it come in
11 for that reason?

12 MR. DONOVAN: It's not in for
13 height.

14 MR. O'DONNELL: We might be 12 feet
15 to the peak or something. It's not a two
16 story.

17 MR. HERMANCE: Do you know the
18 dimension from the back side of the tank
19 to the front of the shed?

20 MR. O'DONNELL: I'm not sure if I
21 scaled it off. That would be at least 5
22 feet from the back of the tank, the
23 septic tank. My invert pipe comes out of
24 the house to the back of that point, so
25 I'll have separation if I ever needed to

2 do anything with that pipe.

3 CHAIRMAN SCALZO: Have you pumped
4 -- I mean, the house is new.

5 MR. O'DONNELL: We did pump it.

6 CHAIRMAN SCALZO: Your access hole,
7 is that on the front of the tank or the
8 side closer to where you want to put the
9 shed?

10 MR. O'DONNELL: It will be on the
11 front part of the property.

12 CHAIRMAN SCALZO: Typically there's
13 two or more --

14 MR. O'DONNELL: There's three on
15 this. There are three access points and
16 then the pump chamber has its own access
17 point. If you're looking at the house,
18 that would be closest to the front of the
19 property.

20 CHAIRMAN SCALZO: You're only
21 pumping the solids out of the big tank.

22 MR. O'DONNELL: Exactly.

23 MS. SHERRI O'DONNELL: That's what
24 we do for a living, actually.

25 CHAIRMAN SCALZO: Now that you say

2 that. You have some special
3 certification that nobody else does.

4 MR. O'DONNELL: Yeah. We have
5 actually pumped it already. It will be
6 easy access. The access points are above
7 grade and visible. They'll stay that
8 way.

9 CHAIRMAN SCALZO: Got you.

10 I left off on Mr. Hermance.

11 MR. HERMANCE: To get into the shed
12 in front of it --

13 MR. O'DONNELL: That would be on
14 the lake side.

15 MR. HERMANCE: Oh, on the lake
16 side.

17 MR. O'DONNELL: You won't see
18 anything from the road.

19 MR. HERMANCE: That would be a
20 little difficult driving over the caps to
21 get in.

22 MR. O'DONNELL: We won't be able to
23 do that. Exactly.

24 CHAIRMAN SCALZO: If you needed to
25 get a vehicle down through there, you're

2 still going to have enough room between
3 the shed and the house and still meet the
4 offset --

5 MR. O'DONNELL: I actually have a
6 drive-through garage. We can drive
7 through the garage around to the back.

8 CHAIRMAN SCALZO: Got you. I
9 didn't notice that. Okay. Very good.

10 Mr. Eberhart?

11 MR. EBERHART: No issues.

12 CHAIRMAN SCALZO: Very good. At
13 this point we're going to open it up to
14 any members of the public that are here
15 to speak about this application.

16 MR. KUPRYCH: I'm the neighbor next
17 door.

18 CHAIRMAN SCALZO: We recall you
19 from, I want to say three years ago.

20 MR. KUPRYCH: That's correct. Nice
21 to see you in person. It was COVID the
22 last time.

23 CHAIRMAN SCALZO: Maybe it was
24 online we were doing this.

25 MR. KUPRYCH: You were very fast

2 versus what I've seen here tonight where
3 you have put things off. It's good that
4 we can get together and talk about it.

5 Now, there's a lot going on here.

6 MR. DONOVAN: If you could just
7 tell us who you are for the record,
8 please.

9 MR. KUPRYCH: Paul Kuprych, the
10 next door neighbor, 36 Snider Avenue.

11 CHAIRMAN SCALZO: Just make sure
12 you take a deep breath before you speak
13 so we can all hear you.

14 MR. KUPRYCH: Very good. I'm happy
15 to do that.

16 Mr. Scalzo, my concern is water.
17 When we talked about this house in the
18 first place, it was all about water and
19 runoff, et cetera. There are five other
20 things here as well.

21 CHAIRMAN SCALZO: Since you brought
22 up water -- I'm going to let you have
23 plenty of time to speak.

24 MR. KUPRYCH: Okay.

25 CHAIRMAN SCALZO: Was the water --

2 MR. KUPRYCH: The topography has
3 completely changed. You walked the lot.
4 You have a good memory. Right?

5 CHAIRMAN SCALZO: Pretty good.

6 MR. KUPRYCH: You walked the lot?

7 CHAIRMAN SCALZO: Not this time.

8 MR. KUPRYCH: You walked it the
9 first time?

10 CHAIRMAN SCALZO: I did.

11 MR. KUPRYCH: You walked down.
12 Right?

13 CHAIRMAN SCALZO: If I recall,
14 there were a lot of trees -- I say trees.
15 It was kind of undulating. Let's just
16 call it that.

17 MR. KUPRYCH: There's only one tree
18 on the lot in front. There's only three
19 in the back.

20 CHAIRMAN SCALZO: I thought that
21 was taken down.

22 MR. KUPRYCH: It was taken down,
23 but there's only one tree.

24 CHAIRMAN SCALZO: Let's go back to
25 the drainage that you were concerned

2 about.

3 MR. KUPRYCH: You walk down to the
4 lake, --

5 CHAIRMAN SCALZO: Yes.

6 MR. KUPRYCH: -- an enormous amount
7 of fill was brought into the property
8 where the road is now equal to the level
9 of the house. There's a swale. Dirt was
10 put all around the entire house. There
11 was a swale. What's happening is, in the
12 drawings of the septic system, that side
13 of the house is to be left for a swale
14 and all the water goes down.

15 I had a complaint in May of '22.
16 My property flooded. I've got the
17 topography, how that's a low point of the
18 area. He wants to put a shed there now.
19 Come on.

20 Look it, I don't object to you
21 having a shed.

22 MR. O'DONNELL: If I may. The
23 grade --

24 MR. KUPRYCH: Put it somewhere
25 else. Put it somewhere else. He's got

2 the room to do it. He's got a 100-foot
3 lot by about 175. Mine is a 62.5-foot
4 lot. I have no shed.

5 MS. SHERRI O'DONNELL: You want us
6 to block your view?

7 CHAIRMAN SCALZO: He has the floor
8 at the moment. Please hold your comments
9 until we call you.

10 MS. SHERRI O'DONNELL: Okay.

11 MR. KUPRYCH: His garage is
12 practically empty, too.

13 CHAIRMAN SCALZO: Sir, I'm going to
14 direct you back to, actually as I did a
15 previous applicant, we're here to talk
16 about the area variances. I don't want
17 to talk about fill. If the drainage is
18 an issue due to the shed that he's
19 requesting the variances for, we'll
20 certainly entertain that conversation.
21 With regard to the development of the lot
22 as it exists right now, we're only here
23 to talk about the shed.

24 MR. KUPRYCH: Okay. "There was a
25 drainage swale that was designed with

2 engineering plans that would capture any
3 drainage runoff from the street. The
4 swale would run down parallel to the
5 house and then towards the lake." That's
6 you.

7 CHAIRMAN SCALZO: Okay.

8 MR. KUPRYCH: So everyone is aware
9 that you needed that space for the water
10 to run.

11 CHAIRMAN SCALZO: Was there a
12 dimension of this swale called out in
13 those meeting minutes or no? Did I say
14 it had to be 4 feet or 6 feet?

15 MR. KUPRYCH: You didn't say
16 anything.

17 CHAIRMAN SCALZO: A swale. Just
18 something to convey water from one place
19 to another. Correct?

20 MR. KUPRYCH: There are certain
21 requirements to design a septic system,
22 to obtain the separation between the
23 house and septic field itself, which is
24 20 feet. There's also a requirement of a
25 minimum of 10 feet off the property line.

2 If you're 20 feet off the house and 10
3 feet off the property line, whatever is
4 left between those two is where you can
5 put your septic. I haven't scaled it on
6 this map, but as far as the front
7 placement of the house, I have to really
8 evaluate this harder or have the engineer
9 do it for them.

10 CHAIRMAN SCALZO: The information
11 that was provided with the application,
12 which is all online, they're showing 10.4
13 feet. The septic tank itself runs
14 parallel with the property line and is
15 contiguous to you. 10.4 feet. The
16 applicant is proposing putting his shed
17 forward of that tank with a minimum of 5
18 feet -- minimum of 5. He's looking at
19 5.5.

20 MR. KUPRYCH: On his application he
21 has -- he's got --

22 CHAIRMAN SCALZO: A 10 by 20 shed.

23 MR. KUPRYCH: But he has something
24 else. He's got a drawing that he
25 submitted that says it's 10.5 and 5.5.

2 On the original -- unless something has
3 changed, on his original house when he
4 built it there's 24 feet that was
5 approved between the two properties.

6 CHAIRMAN SCALZO: The application
7 does not include any offset distances
8 from the dwelling, however.

9 MR. KUPRYCH: I'm telling you, from
10 the map that I saw in the office today,
11 from his house to my property line is 24
12 feet.

13 CHAIRMAN SCALZO: I'll tell you
14 what, sir. Here's what I do know.
15 Typical septic tanks of 1,000, 1,250 are
16 a minimum of 5 feet wide. There's a
17 dimension here which is to the tenth of a
18 foot from the side of his house to the
19 tank is 11 feet. Say you add 5 for the
20 width of the tank, and then there's
21 another dimension from the tank to the
22 property line which is 10.4. So we're
23 looking at 21.4 plus 5.

24 MR. KUPRYCH: 26.5.

25 CHAIRMAN SCALZO: Yes.

2 MR. KUPRYCH: There's not 26.5
3 there. It's 24 feet from the house and
4 the foundation to the property line.

5 CHAIRMAN SCALZO: Sir, I'm not
6 going to argue with you.

7 MR. KUPRYCH: I'm only going by the
8 plans that I saw.

9 CHAIRMAN SCALZO: I have one right
10 in front of me. It's part of the
11 application. I'm guessing at the width
12 of the --

13 MR. KUPRYCH: The application dated
14 what?

15 CHAIRMAN SCALZO: The most recent
16 application.

17 MR. KUPRYCH: I'm talking about the
18 application for the house that was built.

19 CHAIRMAN SCALZO: We're not here
20 for that, sir. We're here to talk about
21 the shed.

22 MR. KUPRYCH: We're talking about
23 the placement of that shed.

24 CHAIRMAN SCALZO: You have a runoff
25 issue and there's not a swale there. Is

2 that what you're saying?

3 MR. KUPRYCH: Yes. It's going to
4 interfere with it.

5 CHAIRMAN SCALZO: All right. If I
6 could have you hold where you are.

7 Mr. O'Donnell, is there a swale
8 there currently?

9 MR. O'DONNELL: Yes.

10 CHAIRMAN SCALZO: Mr. O'Donnell, is
11 it your intent to relocate that swale?

12 MR. O'DONNELL: No. You have 5
13 feet that will remain.

14 CHAIRMAN SCALZO: Is your shed
15 going to fit without manipulation of that
16 swale?

17 MR. O'DONNELL: Yes.

18 CHAIRMAN SCALZO: Is the swale
19 entirely on your property?

20 MR. O'DONNELL: Yes.

21 CHAIRMAN SCALZO: Do you dispute
22 that, sir?

23 MR. KUPRYCH: No, I don't dispute
24 that. I don't dispute that the swale is
25 on his property.

2 CHAIRMAN SCALZO: Okay. If he can
3 fit his shed on the other side of the
4 swale on his property, I'm failing to
5 recognize where the issue is.

6 MR. KUPRYCH: Well, he's putting
7 the shed there, but he doesn't have to
8 put the shed there. He doesn't have to
9 come in front of the Board to get the
10 variance. He could put the shed on
11 another portion of his property.

12 CHAIRMAN SCALZO: That's not true.
13 With the lot size, there are criteria
14 that he would have landed in front of us
15 anyway.

16 MR. O'DONNELL: That's correct.
17 Regardless, I had to come here no matter
18 where I put it.

19 MR. KUPRYCH: Look it, he designed
20 the whole --

21 CHAIRMAN SCALZO: What do you think
22 is reasonable, sir?

23 MR. KUPRYCH: To move it.

24 CHAIRMAN SCALZO: To where?

25 MR. KUPRYCH: Well, first of all,

2 you asked a question earlier, is there
3 any shed on the west side of the lake
4 that's as big as that. No. That is
5 gigantic. Wherever he wanted to move it
6 would be good by me, except not near my
7 property. It's close enough as it is.
8 Look it, 100 feet -- he's probably taken
9 75 feet length. He's got the biggest
10 footprint house on the west side of the
11 lake. There's no footprint bigger than
12 that.

13 CHAIRMAN SCALZO: Even Art Fowler?

14 MR. KUPRYCH: Much bigger than Art
15 Fowler's. It's just unreasonable.

16 CHAIRMAN SCALZO: I understand what
17 you're saying. With the placement --
18 he's here for -- he does meet side yard
19 setback, which would be more than 5 feet.
20 He does meet the separation from his
21 house, which is more than 10 feet. It
22 appears your issue is you don't like the
23 placement of the shed.

24 MR. KUPRYCH: Look it, you know,
25 when you talked about -- can I get off

2 subject besides water for a second?

3 CHAIRMAN SCALZO: We have a very
4 big agenda tonight, so I'm going to give
5 you 30 seconds.

6 MR. KUPRYCH: Well, you probably
7 don't remember this, but because I
8 couldn't come in here, they restricted
9 people from coming in, he handed the
10 Board some visuals and I said -- you can
11 read it in the minutes -- that that's
12 unfair to me, I can't see what he's
13 handing you. The visuals that he handed
14 this Board were false. My vision, I'm
15 blocked. I have them right here. I can
16 show you if you want to see that. I
17 don't want another thing that's going to
18 be obstructive besides -- I mean, there
19 are several reasons.

20 CHAIRMAN SCALZO: Actually, if you
21 recall, and you were listening to the
22 start of this application, I had asked is
23 the front of the shed going to be any
24 further than the main portion of the
25 house. It's not even going to meet the

2 covered veranda. Without standing at
3 your house to look out your windows, it
4 appears that the view wouldn't be any
5 more obstructed than it already is.

6 MR. KUPRYCH: It's obstructive.
7 It's going to add more obstruction. It's
8 going to be coming closer to my property.
9 I mean, you may as well have built the
10 house to the edge of the property.

11 CHAIRMAN SCALZO: All right, sir.
12 If you could wrap up your comments.

13 MR. KUPRYCH: You know, I told
14 everyone in the meeting that I was
15 concerned with the water. What happened
16 is the house now is practically level
17 with the road, but with a slight pitch.
18 I explained to everyone that I was
19 concerned with my walls. A lot of
20 movement of dirt was made along my
21 property edge. Now what's happening,
22 after 60 years of being there, is part of
23 the wall is beginning to buckle towards
24 his property. This is an issue.

25 MR. O'DONNELL: If I might. I'm

2 just going to respond. I don't really
3 want to. His roof drains are emptying
4 behind the wall and causing that issue.
5 It has nothing to do with our site plan
6 which was approved and we constructed it
7 as per plan. The swale will stay. It's
8 not going to be impeded by the shed. I
9 have to level the shed, but it will not
10 obstruct the swale that is continuous all
11 the way to the lake.

12 MR. KUPRYCH: That's not true, what
13 he said.

14 MR. O'DONNELL: Again --

15 CHAIRMAN SCALZO: I'm going to let
16 him finish his statement.

17 MR. KUPRYCH: All the water from
18 the front of the house, all the gutters
19 are pushed forward towards the road.
20 There's nothing exiting the left side --
21 as you're facing the house from the road,
22 there's nothing exiting the left side of
23 the house.

24 CHAIRMAN SCALZO: Okay. I'm giving
25 you an opportunity to speak, sir.

2 MR. KUPRYCH: There is my house
3 here.

4 CHAIRMAN SCALZO: Michelle, just
5 for the record, the adjoining neighbor
6 is showing us photos of a house under
7 construction.

8 MR. KUPRYCH: You can see the
9 water is all along the edge. You can
10 see the water flooding my property.
11 That happened in the same spot in May
12 of '22. This is what the property
13 looked like. Everything is sloping
14 down. He built a wall, he brought in
15 all this fill here, dug a hole. My
16 property was higher than his property.
17 The same with McCarthy. That's what,
18 6 feet off?

19 MR. O'DONNELL: I can't see it.

20 MR. KUPRYCH: So this is facing his
21 house now. His house is 6 feet higher
22 than my property minimum. Everything
23 dives down here. All the elevation here.
24 Elevation front. All this water is
25 coming towards my property. Here is the

2 front. He's got a round, circular
3 driveway.

4 These are for the record.

5 CHAIRMAN SCALZO: Siobhan will take
6 those.

7 MS. SHERRI O'DONNELL: Do you go
8 around photographing my home?

9 MR. KUPRYCH: Those are online.

10 CHAIRMAN SCALZO: Ma'am.

11 MR. KUPRYCH: I would invite the
12 Board to take a look at the property.
13 Here's the things for the swale,
14 et cetera. I think the shed should
15 be put somewhere else.

16 I want to give you one other
17 thing.

18 CHAIRMAN SCALZO: Can I ask you,
19 sir, is the swale working?

20 MR. KUPRYCH: No. Like I said, I
21 had a flood in '22. May of '22.

22 CHAIRMAN SCALZO: Right.

23 MR. KUPRYCH: A complaint was made
24 and it was dismissed.

25 CHAIRMAN SCALZO: Was the house

2 under construction in '22?

3 MR. KUPRYCH: No. It was done.

4 MR. O'DONNELL: '22? When did we
5 finish?

6 CHAIRMAN SCALZO: It appears from
7 the photos that you showed me, sir, that
8 the site wasn't mature, I'll call it.

9 MS. SHERRI O'DONNELL: We haven't
10 been in the home for two years.

11 CHAIRMAN SCALZO: Sir, I believe
12 all of your points we've heard. We are
13 certainly diverging from why the
14 applicant is here. I think, unless you
15 have something relevant to the shed, I'm
16 pretty sure we've given you enough time,
17 sir.

18 MR. KUPRYCH: I appreciate the
19 time. Hopefully you go out to take a
20 look at the property and postpone this
21 until you see it. It's up to you.

22 Thank you very much.

23 CHAIRMAN SCALZO: Thank you.

24 Are there any other members of the
25 public that wish to speak about this

2 application? Ma'am.

3 MS. ALEXANDRA O'DONNELL: Alexandra
4 O'Donnell again. I just want eight
5 seconds of your time.

6 CHAIRMAN SCALZO: Let's talk about
7 the shed.

8 MS. ALEXANDRA O'DONNELL: Listen, I
9 think the shed should be approved. It's
10 going to be a very nice looking shed.
11 It's not going to impede Mr. Kuprych's
12 view.

13 As a matter of fact, I would really
14 encourage Mr. Kuprych to apply for his
15 own shed to get his garbage off the back
16 of his lawn.

17 Thank you.

18 CHAIRMAN SCALZO: Does anyone else
19 from the public wish to speak about this
20 application?

21 MS. SHERRI O'DONNELL: I just want
22 to say, if you recall, Mr. Kuprych wants
23 to tell us where to put -- remember, he
24 wanted to tell us where -- he didn't
25 oppose our home, but he wanted it where

2 he wanted it. Now he's doing the same
3 thing with the shed.

4 The other option to put the shed
5 would be the backyard, which would --

6 CHAIRMAN SCALZO: Closer to the
7 lake.

8 MS. SHERRI O'DONNELL: Right. Then
9 he would have no view. I would think
10 that he would like the separation because
11 he does not like us and he would see us
12 less. Anything we do he is going to
13 oppose. He does not want us there.

14 CHAIRMAN SCALZO: That's not
15 relative to the application, but thank
16 you for your comments.

17 MR. O'DONNELL: That's my wife
18 Sherri, by the way.

19 CHAIRMAN SCALZO: We understand. I
20 have one of those, too.

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

23 (No response.)

24 CHAIRMAN SCALZO: No.

25 All right. My fellow Board Members,

2 we've heard quite a bit of testimony.

3 MS. REIN: Yes, we have.

4 CHAIRMAN SCALZO: Does anyone have
5 any comments or questions after what
6 we've heard?

7 MR. DONOVAN: If I can, Mr. Chairman,
8 to focus the Board. This is here for
9 surface coverage. The dimensions to
10 the property line and from the house
11 are compliant. The height is compliant.
12 The only thing that's before the Board
13 is surface coverage, which wherever the
14 shed went on the property, it would be
15 here for the surface coverage.

16 MR. O'DONNELL: I'd still be here
17 for whatever size it is anyway.

18 CHAIRMAN SCALZO: That's it.

19 MR. BELL: I don't have any comments.

20 CHAIRMAN SCALZO: Do any other members
21 of the public wish to speak?

22 (No response.)

23 CHAIRMAN SCALZO: I'm going to look
24 to the Board for a motion to close the
25 public hearing.

2 MS. REIN: I'll make a motion to
3 close the public hearing.

4 MR. EBERHART: I'll second it.

5 CHAIRMAN SCALZO: We have a motion
6 to close the public hearing from Ms. Rein.
7 We have a second, I believe from Mr. Eberhart.
8 All in favor?

9 MR. EBERHART: Aye.

10 MR. HERMANCE: Aye.

11 CHAIRMAN SCALZO: Aye.

12 MR. BELL: Aye.

13 MR. MASTEN: Aye.

14 MS. REIN: Aye.

15 CHAIRMAN SCALZO: Those opposed?

16 (No response.)

17 CHAIRMAN SCALZO: The public hearing
18 is now closed.

19 This is a Type 2 action under SEQRA?

20 MR. DONOVAN: Correct, Mr. Chairman.

21 CHAIRMAN SCALZO: Thank you, Counsel.

22 We're going to go through the area
23 variance criteria, the first one being
24 whether or not the benefit can be
25 achieved by other means feasible to the

2 applicant. As Counsel reminded us, this
3 is for lot surface coverage. It has
4 nothing to do with the height, dimensions
5 of the shed.

6 The second, if there's an undesirable
7 change in the neighborhood character or a
8 detriment to nearby properties. That's
9 subjective, of course.

10 MR. BELL: The swale is where it's
11 at. He's not messing with it.

12 CHAIRMAN SCALZO: The third, whether
13 the request is substantial. When it
14 comes to lot surface coverage, perhaps
15 it is, which is what landed him here.
16 In the grand scheme of things, it's one
17 accessory building on the lot.

18 Fourth, whether the request will
19 have adverse physical or environmental
20 effects.

21 MS. REIN: No.

22 MR. BELL: No.

23 MR. DONOVAN: You have a statement
24 from a neighbor that it's an existing
25 problem. You have a statement from the

2 owner saying the swale will not be
3 impacted.

4 CHAIRMAN SCALZO: You know what, as
5 we make our way through this, depending
6 on the determination of the outcome --
7 well, let me get through the others.

8 Fifth, whether the alleged
9 difficulty is self-created which is
10 relevant but not determinative. Of
11 course it is. Again, relative but not
12 determinative.

13 Having gone through the area
14 variance criteria, we have a decision to
15 make. However, there is a concern with
16 regard to perhaps drainage. What we
17 could do is ask that the Code Compliance
18 Department verify the existence and
19 function-ability of that swale.

20 Counsel, is there a way to --

21 MR. DONOVAN: If the Board is
22 looking to issue an approval with
23 conditions, the condition would be that
24 Code Compliance verify there be no
25 adverse impact on the existing swale and

2 the existing drainage pattern.

3 CHAIRMAN SCALZO: Thank you. Great
4 words from Counsel.

5 MS. REIN: I'll make a motion --

6 CHAIRMAN SCALZO: Any agreement or
7 opposition to that statement?

8 MS. REIN: I'll make a motion to
9 approve with those conditions.

10 CHAIRMAN SCALZO: We have a motion
11 for approval from Ms. Rein. Do we have a
12 second?

13 MR. MASTEN: I'll second it.

14 CHAIRMAN SCALZO: We have a second
15 from Mr. Masten.

16 Can you roll on that, please, Siobhan.

17 MS. JABLESNIK: Mr. Bell?

18 MR. BELL: Yes.

19 MS. JABLESNIK: Mr. Eberhart?

20 MR. EBERHART: Yes.

21 MS. JABLESNIK: Mr. Hermance?

22 MR. HERMANCE: Yes.

23 MS. JABLESNIK: Mr. Masten?

24 MR. MASTEN: Yes.

25 MS. JABLESNIK: Ms. Rein?

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MS. REIN: Yes.

MS. JABLESNIK: Mr. Scalzo?

CHAIRMAN SCALZO: Yes.

The motion is carried. The
variances are approved.

MR. BELL: With that condition.

CHAIRMAN SCALZO: With the
conditions. A little extra check.

MR. O'DONNELL: No problem.

CHAIRMAN SCALZO: Be in touch with
the Building Department for a few items.

MR. O'DONNELL: I'll reach out
tomorrow. Thank you.

(Time noted: 8:38 p.m.)

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

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

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

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

IN WITNESS WHEREOF, I have hereunto
set my hand this 5th day of March 2025.

Michelle Conero

MICHELLE CONERO

1
2 STATE OF NEW YORK : COUNTY OF ORANGE
3 TOWN OF NEWBURGH ZONING BOARD OF APPEALS
4 ----- X
5 In the Matter of

6 BARBARA WATT
7 Gardnertown Road, Newburgh
8 Section 51; Block 9; Lot 7
9 R-1 Zone

10 THOMAS WATT
11 Gardnertown Road, Newburgh
12 Section 51; Block 9; Lot 8
13 R-1 Zone

14 ----- X

15 Date: February 27, 2025
16 Time: 8:38 p.m.
17 Place: Town of Newburgh
18 Town Hall
19 1496 Route 300
20 Newburgh, New York

21 BOARD MEMBERS: DARRIN SCALZO, Chairman
22 DARRELL BELL
23 JAMES EBERHART, JR.
24 GREGORY M. HERMANCE
25 JOHN MASTEN
DONNA REIN

ALSO PRESENT: DAVID DONOVAN, ESQ.
SIOBHAN JABLESNIK

APPLICANT'S REPRESENTATIVES: THOMAS WATT
FRANK VALDINA

----- X

MICHELLE L. CONERO
Court Reporter
Michelleconero@hotmail.com
(845) 541-4163

2 CHAIRMAN SCALZO: Our next
3 applicant this evening is Barbara Watt.
4 Actually, did we lump these two together?

5 MR. DONOVAN: I hope so.

6 MR. WATT: She's not here. I'm her
7 proxy. I'm also married to her.

8 CHAIRMAN SCALZO: We have two
9 applications which are on contiguous
10 properties next door to each other over
11 on Gardnertown Road. I think there was
12 one shed up on the property.

13 Are you okay, Mr. Bell?

14 MR. BELL: I need to take a break.

15 CHAIRMAN SCALZO: We're going to
16 take three minutes.

17 (A recess was taken from 8:38 p.m.
18 until 8:45 p.m.)

19 CHAIRMAN SCALZO: We have a
20 combined application, Barbara Watt and
21 Thomas Watt, both on Gardnertown Road.
22 They're contiguous properties, both
23 seeking area variances of the minimum lot
24 area, lot width and lot depth to construct
25 a new single-family residence on the lot.

2 Lo and behold, the second description
3 is exactly the same as the first.
4 Here we are talking with -- Mr. Watt
5 stands before us.

6 Mr. Watt, if I've captured
7 everything that you're looking to do
8 in that one sentence, we can go ahead
9 and move forward.

10 MR. WATT: Well, I'd just like to
11 add a little bit.

12 CHAIRMAN SCALZO: Flavor. I love
13 it.

14 MR. WATT: There is a live sewer
15 line that runs into the middle of those
16 properties to an easement on my lot,
17 which is number 8. The Town had two.
18 Other houses tied into it. Seventeen
19 years ago the Town Council had an
20 agreement drawn up that if we run the
21 sewer line, we can run it to a one-
22 family house on these properties. It
23 doesn't say anything about a variance.
24 Those two lots were subdivided in 1987.
25 I understand. In fair play we submitted

2 building permits. Mr. Valdina did the
3 engineering. I'm going to let him speak
4 on that. Basically we're trying to get
5 along with the Building Department to get
6 this passed so we can move forward.

7 CHAIRMAN SCALZO: Very good. Mr.
8 Watt, I appreciate what you're saying.
9 With regard to the easement, we're not
10 here to talk about that.

11 MR. WATT: I understand. I
12 understand.

13 CHAIRMAN SCALZO: You're only
14 asking for relief from dimensional
15 requirements --

16 MR. WATT: Correct.

17 CHAIRMAN SCALZO: -- for side yard
18 and --

19 MR. WATT: Well, I'll let Mr. Valdina
20 explain.

21 CHAIRMAN SCALZO: You have lots
22 that, I want to say they were created in
23 the '80s.

24 MR. WATT: Yup.

25 CHAIRMAN SCALZO: I'm not sure if

2 the zoning changed.

3 MR. WATT: They were R-3. Now
4 they're R-1.

5 CHAIRMAN SCALZO: You kind of are
6 the victim of the zoning change.

7 MR. WATT: Absolutely.

8 CHAIRMAN SCALZO: Mr. Valdina, if
9 you'd like to come up here and speak.

10 MR. WATT: Who is the oldest one?

11 CHAIRMAN SCALZO: Do you know Lou
12 Dubois?

13 MR. VALDINA: I'm Frank Valdina, 8
14 South Plank Road.

15 The concern is, as Mr. Watt had
16 said, the subdivision was approved and
17 filed in 1987. In 2007 the Town came
18 through and rezoned from an R-3 to an
19 R-1. Why they went down the center of
20 Gardnertown Road when they already had
21 existing homes there in the R-3, it
22 impacted him to the fact that now he
23 doesn't meet the current code.

24 The basic request is he be allowed
25 to build in accordance with the approved

2 subdivision plan back in '87.

3 It was not a hardship created by
4 himself. The Town changed the zoning
5 unbeknownst, as he mentioned.

6 There is a sewer agreement with the
7 Town pertaining to he installed a pumping
8 station, a force main from the property
9 up to Gardnertown Road. There are other
10 Town residents connected to it. The
11 agreement basically refers to the --
12 there are two agreements, one for each
13 lot, to the tax map parcel and so on,
14 leading the Watts to believe the Town
15 said they can put a residence there, they
16 didn't have any problem, until he went to
17 get a building permit and the Building
18 Department said you don't meet the code.
19 This is why we're here, to get the
20 necessary variances so they can proceed
21 and construct residences on those two
22 lots.

23 CHAIRMAN SCALZO: Very good. This
24 is more straightforward than you may
25 think. I'm going to ask you a couple of

2 questions. Perhaps you can answer them
3 as best you can.

4 Will both proposed dwellings tie
5 into this sewer line that's there?

6 MR. VALDINA: Yes.

7 CHAIRMAN SCALZO: Number two, the
8 dwellings that you are looking to
9 construct there, are they in character
10 with what's already in the neighborhood?

11 MR. WATT: Yes. Raised ranches.
12 Yes.

13 CHAIRMAN SCALZO: That's exactly
14 what's there.

15 As far as offsets from property
16 lines to the side, left or right, or
17 front yard for that matter, you're
18 generally going to be in line with the
19 homes that are close to you?

20 MR. WATT: Well, the one problem
21 that I don't like, the existing homes are
22 40 foot from the road to the front of the
23 house. Now we're being pushed to 50
24 foot. The Town widened the road, so we
25 lost 5 foot there, another 10. The

2 houses we were going to build, the front
3 is going to be 15 feet back from the
4 front of the existing houses. We're
5 trying to get along with the R-1 Zoning.
6 It's like taking a 7-inch pizza and
7 putting it into an 18-inch box, but you
8 can't take an 18-inch pizza and put it
9 into a 7-inch box. We're trying to get
10 along with the Town, but --

11 CHAIRMAN SCALZO: I think I got
12 your point there, Mr. Watt. You're
13 making me hungry.

14 MR. VALDINA: The only thing the
15 sketch showed was the front yard
16 requirement was what the R-1 required.
17 We showed we can meet it even though the
18 adjoining homes are closer than the 50-
19 foot setback requirement.

20 What Mr. Watt is referring to is he
21 would rather also have a front yard
22 variance to go to the 40-foot setback so
23 it's in accordance with the original
24 approved plans.

25 CHAIRMAN SCALZO: Okay. Hang on.

2 Let me go to the videotape here.

3 MS. REIN: Is this a Type 2?

4 MR. DONOVAN: Yes.

5 CHAIRMAN SCALZO: The only thing
6 that we're looking at, your reason for
7 denial, is because the lot isn't 40,000
8 square feet, which it's an approved lot
9 from the '80s. That's preexisting
10 nonconforming in my opinion. Bulk table
11 schedule 3 requires a minimum lot depth
12 of 150 feet. Again, we're talking about
13 lots that were created in the '80s. If
14 you're here looking for a 40-foot front
15 yard as opposed to the 50, that doesn't
16 appear on the application.

17 MR. VALDINA: That is correct.
18 That is not part of the application. I'm
19 going based on what Mr. Watt says. There
20 is a section in the code based upon
21 existing houses, et cetera, et cetera, in
22 your code.

23 CHAIRMAN SCALZO: This even became
24 more simple than we're talking about.

25 I'm going to start with Ms. Rein.

2 Do you have any questions regarding this?

3 MS. REIN: No.

4 MR. MASTEN: I have nothing.

5 CHAIRMAN SCALZO: Mr. Bell?

6 MR. BELL: No.

7 MR. HERMANCENCE: No.

8 MR. EBERHART: No.

9 CHAIRMAN SCALZO: Do any members of
10 the public wish to speak about this
11 application?

12 MR. MATA: I just had a quick
13 question.

14 CHAIRMAN SCALZO: Please state your
15 name for the record.

16 MR. MATA: My name is Gerardo Mata.
17 I live in one of those houses right
18 behind.

19 I was just curious, would that
20 affect my well in any way if they build
21 two houses?

22 CHAIRMAN SCALZO: Typically, no.
23 The separation that was -- because you
24 have sewer, you can almost put wells 20
25 feet away from each other. As far as a

2 well yield, that's anybody's guess. When
3 they do drill a well, the well driller
4 will provide a log. Perhaps you can ask
5 them what their yield is. I don't know
6 if you're familiar with what your yield
7 is, how many gallons per minute. Any
8 idea?

9 MR. MATA: No.

10 CHAIRMAN SCALZO: The minimum
11 required is 5. If you have 5, you really
12 don't like 5 so you put an expansion tank
13 in your house. Not you, but --

14 MR. MATA: Right.

15 CHAIRMAN SCALZO: The minimum
16 requirement by Health Department
17 standards is 5. If they can't get 5,
18 they go deeper or do something different.
19 I can't answer your question really. I'm
20 just trying to help you understand.

21 MR. MATA: I was just curious if
22 anybody would know if they put two
23 houses, if my well --

24 CHAIRMAN SCALZO: The only
25 requirement is that the well needs to

2 be 15 feet off any property line.

3 MR. MATA: Thank you.

4 CHAIRMAN SCALZO: Is there anyone
5 else from the public that wishes to speak
6 about this application?

7 (No response.)

8 CHAIRMAN SCALZO: No. All right.
9 Back to the Board.

10 MR. EBERHART: No.

11 MR. HERMANCE: No.

12 MR. BELL: No.

13 MR. MASTEN: No.

14 MS. REIN: No.

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

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

20 MR. MASTEN: I'll second it.

21 CHAIRMAN SCALZO: We have a motion
22 to close the public hearing from Mr. Bell.
23 We have a second from Mr. Masten. All in
24 favor?

25 MR. EBERHART: Aye.

2 M R . H E R M A N C E : A y e .

3 C H A I R M A N S C A L Z O : A y e .

4 M R . B E L L : A y e .

5 M R . M A S T E N : A y e .

6 M S . R E I N : A y e .

7 M R . D O N O V A N : J u s t t o b e c l e a r ,
8 t h a t ' s o n T h o m a s W a t t a n d B a r b a r a W a t t .

9 C H A I R M A N S C A L Z O : Y e s .

10 M R . D O N O V A N : Y o u ' r e g o i n g t o t h e
11 d u e l i n g f i v e f a c t o r r e v i e w s .

12 C H A I R M A N S C A L Z O : I o n l y w a n t t o
13 s a y i t o n c e , C o u n s e l .

14 N o w w e ' r e g o i n g t o g o t h r o u g h t h e
15 b a l a n c i n g f a c t o r s . A c t a s t h o u g h y o u ' r e
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20 s u b d i v i s i o n c r e a t e d i n t h e ' 8 0 s c r e a t e d
21 t h e s e l o t s . P r e e x i s t i n g n o n c o n f o r m i n g ,
22 f o l k s .

23 S e c o n d , i f t h e r e ' s a n u n d e s i r a b l e
24 c h a n g e i n t h e n e i g h b o r h o o d c h a r a c t e r o r a
25 d e t r i m e n t t o n e a r b y p r o p e r t i e s . W e ' v e

2 heard testimony.

3 MR. BELL: No.

4 CHAIRMAN SCALZO: The third,
5 whether the request is substantial.
6 Again, it's preexisting nonconforming.
7 It's not substantial if you look at it
8 the way we originally did.

9 The fourth, whether the request
10 will have adverse physical or
11 environmental effects. It does not
12 appear so.

13 The fifth, whether the alleged
14 difficulty is self-created which is
15 relevant but not determinative. Well, we
16 discussed that. It is preexisting
17 nonconforming, so it's really not self-
18 created.

19 Having gone through the balancing
20 tests of the area variance, does the
21 Board have a motion of some sort?

22 MR. BELL: I'll make a motion for
23 approval.

24 MR. MASTEN: I'll second it.

25 CHAIRMAN SCALZO: We have a motion

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for approval from Mr. Bell. We have a
second from Mr. Masten.

Can you roll on that, please, Siobhan.

MS. JABLESNIK: Mr. Bell?

MR. BELL: Yes.

MS. JABLESNIK: Mr. Eberhart?

MR. EBERHART: Yes.

MS. JABLESNIK: Mr. Hermance?

MR. HERMANCE: Yes.

MS. JABLESNIK: Mr. Masten?

MR. MASTEN: Yes.

MS. JABLESNIK: Ms. Rein?

MS. REIN: Yes.

MS. JABLESNIK: Mr. Scalzo?

CHAIRMAN SCALZO: Yes.

The motion is carried. The
variances for both lots are approved.

MR. WATT: Thank you.

MR. VALDINA: Thank you.

(Time noted: 8:54 p.m.)

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

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

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

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

IN WITNESS WHEREOF, I have hereunto
set my hand this 5th day of March 2025.

Michelle Conero

MICHELLE CONERO

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

PRIME AND TUVEL
2 Lakeside Road, Newburgh
Section 86; Block 1; Lot 39.3
IB Zone

----- X

Date: February 27, 2025
Time: 8:55 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, New York

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

ALSO PRESENT: DAVID DONOVAN, ESQ.
SIOBHAN JABLESNIK

APPLICANT'S REPRESENTATIVE: ADAM LAZAROS

----- X

MICHELLE L. CONERO
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CHAIRMAN SCALZO: Moving on to the application of Prime and Tuvel, 2 Lakeside Road. This is an application request for a revote for the following: This was a Planning Board referral for an area variance for the construction of a new gas station to be located within 1,000 feet of another.

In this instance I'm going to defer to Counsel. This one has been a real head scratcher for me. I think I got in my own way a lot. It really comes down to this 1,000 feet. We can talk about a lot of different things.

Anyway, Counsel, can you --

MR. DONOVAN: I want to talk about procedure for a second, how we ended up here, how we started when it was 90 degrees and ended when it was 0 degrees. I don't know how we did that, but we did that.

The Town of Newburgh ZBA is a seven-member Board. Even though we only have six members presently serving, it's

2 a seven-member Board. The law requires,
3 for any resolution to pass, you need four
4 affirmative votes. What happened back on
5 January 23rd, the public hearing that
6 stretched on for a number of months was
7 closed. The Board issued a negative
8 declaration saying that this Unlisted
9 action would not have any significant
10 adverse environmental impact. The Board
11 went through the five-factor test, then
12 Mr. Eberhart made a motion for approval,
13 seconded by Mr. Hermance. The vote ended
14 up with three in favor, two opposed. It
15 was a failed motion. The Board is
16 authorized to revote on a failed motion.

17 I would suggest you are -- the
18 public hearing has been closed, you've
19 gone through the five factors, you issued
20 a negative declaration -- that there be a
21 revote. I don't think you need any
22 public -- Lord knows you've heard enough.
23 It's here for a revote.

24 You are voting again because it
25 only got three affirmative votes. That's

2 what I have to say.

3 CHAIRMAN SCALZO: As I started with
4 the revisiting of this application, I was
5 one of the no votes in last month's
6 meeting. As I stated, I understand our
7 concern as a Board with the traffic
8 implications that may be caused by this
9 application. I've still just got to run
10 back to it's a 1,000 foot separation
11 variance being requested. I poured over
12 this more than any other application in
13 my eleven years on the Board. I'll tell
14 you right now, after all my review again,
15 given this opportunity, I will be
16 changing my vote.

17 Counsel, how do I go about it?

18 MR. DONOVAN: Just to reiterate, we
19 talked about this the last time. You are
20 looking at that one issue. There is
21 going to be an extensive review at the
22 Planning Board. The traffic will be
23 analyzed by the traffic consultants, the
24 Board's traffic consultant and the
25 applicant's traffic consultant. That

2 issue is going to get addressed where it
3 really needs to be addressed, at the
4 Planning Board.

5 Mr. Chairman, you've stated on the
6 record it would just be now if someone on
7 the Board is inclined to make a motion to
8 approve, and that motion was seconded,
9 then you would revote.

10 MR. BELL: You still have to do it
11 with the negative --

12 MR. DONOVAN: That's done. It's
13 just a revote.

14 MR. BELL: A total revote. I'm
15 good.

16 CHAIRMAN SCALZO: At this point
17 I'll look to the Board for a motion of
18 some sort.

19 MR. BELL: I'll make a motion for
20 approval.

21 MR. HERMANCENCE: Second.

22 CHAIRMAN SCALZO: We have a motion
23 for approval from Mr. Bell. We have a
24 second from Mr. Hermance.

25 Can you roll on that, please, Siobhan.

2 MS. JABLESNIK: Mr. Bell?

3 MR. BELL: Yes.

4 MS. JABLESNIK: Mr. Eberhart?

5 MR. EBERHART: Yes.

6 MS. JABLESNIK: Mr. Hermance?

7 MR. HERMANCE: Yes.

8 MS. JABLESNIK: Mr. Masten?

9 MR. MASTEN: No.

10 MS. JABLESNIK: Ms. Rein?

11 MS. REIN: No.

12 MS. JABLESNIK: Mr. Scalzo?

13 CHAIRMAN SCALZO: Yes.

14 This is now different, Counsel. So
15 we have two nos and four yeses.

16 MR. DONOVAN: The motion passes.

17 MR. SCALZO: The motion passes.

18 MR. LAZAROS: Thank you.

19 CHAIRMAN SCALZO: We did finally
20 receive meeting minutes for December. I
21 need a motion to approve the meeting
22 minutes from December.

23 MR. HERMANCE: I'll make a motion
24 to approve the meeting minutes.

25 MR. EBERHART: Second.

2 CHAIRMAN SCALZO: We have a motion
3 for approval for the meeting minutes from
4 Mr. Hermance and we have a second from
5 Mr. Eberhart. All in favor?

6 MR. EBERHART: Aye.

7 MR. HERMANCE: Aye.

8 CHAIRMAN SCALZO: Aye.

9 MR. BELL: Aye.

10 MR. MASTEN: Aye.

11 MS. REIN: Aye.

12 CHAIRMAN SCALZO: If anyone has
13 read the meeting minutes from January and
14 they would like to make a motion for
15 approval of those meeting minutes, so
16 state.

17 MS. REIN: I did. I'll make a
18 motion for approval.

19 CHAIRMAN SCALZO: We have a motion
20 for approval of the January meeting
21 minutes from Ms. Rein. Do we have a
22 second?

23 MR. EBERHART: Second.

24 CHAIRMAN SCALZO: All in favor?

25 MR. EBERHART: Aye.

2 MR. HERMANCE: Aye.

3 CHAIRMAN SCALZO: I'll abstain.

4 MR. BELL: Aye.

5 MR. MASTEN: Aye.

6 MS. REIN: Aye.

7 CHAIRMAN SCALZO: A motion to
8 adjourn?

9 MS. REIN: I'll make a motion to
10 adjourn.

11 MR. BELL: Second.

12 CHAIRMAN SCALZO: All in favor?

13 MR. EBERHART: Aye.

14 MR. HERMANCE: Aye.

15 CHAIRMAN SCALZO: Aye.

16 MR. BELL: Aye.

17 MR. MASTEN: Aye.

18 MS. REIN: Aye.

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20 (Time noted: 8:57 p.m.)

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

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

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

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

IN WITNESS WHEREOF, I have hereunto
set my hand this 5th day of March 2025.

Michelle Conero

MICHELLE CONERO