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

- - - - - X
In the Matter of

ROSS & DONNA HUBERT

29 Wildwood Drive, Rock Tavern
Section 126; Block 1; Lot 15
R-3/Cluster Zone

- - - - - X

Date: March 27, 2025
Time: 7:00 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, New York

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

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

APPLICANT'S REPRESENTATIVE: ROSS HUBERT
DONNA HUBERT

- - - - - X

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

2 MR. BELL: Good evening. We're
3 going to call the meeting of the ZBA to
4 order. Our Chairman, Mr. Scalzo, is out
5 this evening. We'll go ahead and proceed.

6 The first order of business are the
7 public hearings scheduled today. The
8 procedure of the Board is that the
9 applicants will be called upon to step
10 forward, state their request and explain
11 why it should be granted. The Board will
12 then ask the applicant any questions it
13 might have, and then any questions or
14 comments from the public will be
15 entertained. The Board will then
16 consider the applications in the order
17 heard and will render a decision this
18 evening, but it could take up to 62 days
19 to reach a determination.

20 I would ask that if anybody has a
21 cellphone, to please turn it off or put
22 it on silent. When speaking, if you
23 could step forward and speak directly
24 into the microphone because this meeting
25 is being recorded.

2 Roll call, Siobhan.

3 MS. JABLESNIK: Darrell Bell.

4 MR. BELL: Here.

5 MS. JABLESNIK: James Eberhart.

6 MR. EBERHART: Here.

7 MS. JABLESNIK: Greg Hermance.

8 MR. HERMANCE: Here.

9 MS. JABLESNIK: John Masten.

10 MR. MASTEN: Here.

11 MS. JABLESNIK: Donna Rein.

12 MS. REIN: Here.

13 MS. JABLESNIK: Absent this evening,
14 like the Vice Chairman said, is Darrin
15 Scalzo.

16 Also present is our Attorney, Dave
17 Donovan; from Code Compliance, Joseph
18 Mattina; and our Stenographer, Michelle
19 Conero.

20 MR. BELL: If we all can stand,
21 please, for the Pledge of Allegiance to
22 the flag.

23 (Pledge of Allegiance.)

24 MR. BELL: The first application on
25 this evening is Ross and Donna Hubert,

2 29 Wildwood Drive, Rock Tavern. This
3 is for an interpretation of the
4 application of Ross and Donna Hubert.
5 It's an interpretation of the ordinance.
6 The applicant is looking to install a
7 16 by 32 inground pool in a cluster
8 development.

9 If you would state your names
10 for the stenographer, please.

11 MR. HUBERT: Ross Hubert.

12 MS. HUBERT: Donna Hubert.

13 MR. HUBERT: We want to install an
14 inground pool. We've looked at what Code
15 Compliance requires. Our property meets
16 those standards.

17 When we went to submit the
18 application, we were told simply it was
19 just we're not going to review it because
20 you can't do it in a cluster development.
21 My wife Donna spent a lot of time
22 speaking with people. We asked why is
23 this a policy. Where we live, it's
24 called Aerie Preserve. Apparently it was
25 originally developed as Drury Heights

2 which was supposed to have, I guess, many
3 more properties in it. It sounds like
4 some stuff may have been copied over.

5 We would like the ability to put an
6 inground pool in. We have two young
7 children. We're expanding our living
8 space. We moved here in September of
9 2024. Really it roots us into the
10 community. Also, I think it overall
11 improves the value of homes and will help
12 generate more taxes for the Town.

13 We meet code. It meets code. It
14 sounds like it would based on, you know,
15 everything we've researched. It's just
16 been -- nobody can tell us a reason of
17 why other than when it was written.
18 Donna talked to, like, the Planning
19 Board.

20 Who else have you talked to, Donna?

21 MS. HUBERT: Code Compliance.

22 MR. HUBERT: Everything like that.

23 Now it's been all brought to you folks to
24 make a decision.

25 We want it. We feel like it roots

2 us in the community more. We feel like
3 it improves the property. We have a one
4 year old and a two year old. That's the
5 big motivation behind it. We want it for
6 our kids.

7 Do you have anything to add?

8 MS. HUBERT: No.

9 MR. HUBERT: We're using contractors
10 in Orange County, so we're keeping
11 everything local. The electrician and
12 the contractor. We've been mindful of,
13 you know, being part of the community
14 as well with that.

15 Nobody can really tell us, like,
16 a reason.

17 MR. DONOVAN: Mr. Hubert, if I may
18 interrupt for a second.

19 Joe, if I can ask you a question to
20 see if I understand this. So the cluster
21 development is authorized in the R-3
22 District in the bulk table use group D.
23 Right?

24 MR. MATTINA: D-3. Yes.

25 MR. DONOVAN: D-3. If we look

2 under column A, accessory uses, swimming
3 pools are permitted under C-1 through 3,
4 not under D.

5 MR. MATTINA: Correct.

6 MR. DONOVAN: Is that the basis for
7 Code Compliance's determination?

8 MR. MATTINA: Correct.

9 MR. DONOVAN: Do you understand that?

10 MR. HUBERT: No.

11 MR. DONOVAN: Accessory uses,
12 swimming pools, are permitted for single-
13 family homes not in a cluster development.
14 In other words, in a cluster development --

15 MR. HUBERT: I do understand.

16 MR. DONOVAN: Right. Are there any
17 other cluster developments in the --

18 MR. MATTINA: Meadow Winds. That
19 started in 1998. We've had the same
20 issue with sheds and pools.

21 MR. DONOVAN: What, if anything,
22 have you done there? Are there any sheds
23 or pools in that one?

24 MR. MATTINA: No.

25 MR. DONOVAN: Have there been

2 applications?

3 MR. MATTINA: There's been
4 applications. We've referred them and
5 nobody has ever taken it to this point.
6 Back in the early 2000s we had a memo to
7 Grace. Grace wouldn't entertain the
8 thought because she said it was a
9 Planning Board issue.

10 MR. DONOVAN: I'm not going to put
11 words in your mouth. I guess you're
12 asking this Board to interpret the code
13 to --

14 MR. HUBERT: The Planning Board
15 said it's not their issue.

16 Who was it?

17 MS. HUBERT: Mr. Ewasutyn.

18 MR. HUBERT: He said it is not a
19 Planning Board issue.

20 MR. DONOVAN: Generally when
21 someone comes here for an interpretation,
22 they say we want you to interpret this
23 provision of the code to say X. Can
24 you tell us what you want?

25 MR. HUBERT: We want a pool to be

2 allowed for single-family homes classified
3 under D based on what you just read to us.
4 That is what we want.

5 MS. REIN: Dave, is there a specific
6 reason why these things are not allowed
7 in a cluster development?

8 MR. DONOVAN: I don't know the
9 answer to that. I don't know the answer
10 to that.

11 Joe, do you know the answer?

12 MR. MATTINA: I've asked. I have
13 no answer.

14 MS. HUBERT: We've asked.

15 MR. DONOVAN: I have an idea. I
16 have an idea.

17 MS. REIN: What is your idea?

18 MR. DONOVAN: I don't know if I
19 should say it. I have an idea it's an
20 oversight.

21 MR. HUBERT: That's kind of what we
22 were told.

23 MR. DONOVAN: Am I off base there,
24 Joe?

25 MR. MATTINA: It's not so much an

2 oversight when you look at the Meadow
3 Winds development. They were actually
4 designed with a swimming pool and a
5 clubhouse. This cluster development was
6 not. I don't know if it was an oversight
7 in the code or they just decided not to
8 put in a swimming pool and a clubhouse in
9 this cluster.

10 MR. DONOVAN: I looked at it. I
11 thought that's what you were saying. I
12 understand where you're coming from. On
13 the other hand, you must have paid
14 \$700,000 for your house and now you can't
15 put a pool in it.

16 MR. HUBERT: That was never disclosed.
17 It's not disclosed in the deed. We
18 e-mailed the builder and asked him to
19 refer us to a contractor. He said oh, we
20 don't do pools, but we'll refer you to a
21 contractor. He never followed up with us.
22 We haven't taken this to them yet because
23 we wanted to go through the Town.

24 You know, I was under the impression
25 that it was supposed to be disclosed in

2 the deed if there are provisions like
3 that, which has nothing to do with
4 you folks.

5 Also, I know from when Donna
6 was talking, it sounds like the Drury
7 Heights development was going to have
8 many more homes.

9 MR. DONOVAN: If I can speak on
10 this. My partner Mike Donnelly was the
11 Planning Board attorney when Drury
12 Heights was approved. I actually went
13 through the resolution. There's no
14 mention of a pool at all.

15 MS. HUBERT: We don't have an HOA.

16 MR. DONOVAN: There was no
17 prohibition against it back when it was
18 approved that many years ago.

19 MS. REIN: The issue I think here
20 is this decision is going to be very
21 important, because if the Board approves
22 it, that sets a precedent. You're going
23 to have a flood of requests.

24 MR. HUBERT: It doesn't sound like
25 it based on other people's follow up.

2 MR. EBERHART: Why would it be
3 problematic if there was?

4 MS. REIN: There's no reason why it
5 would be problematic.

6 MR. BELL: Based on our conversation,
7 you mentioned that the developer told you
8 that you could have one?

9 MR. HUBERT: It's advertised on
10 Zillow on some of the properties.

11 MS. HUBERT: We've spoken to --
12 I've spoken to a neighbor who says the
13 developer has said you could have one.
14 Before we had gotten contractors, we
15 e-mailed the developer and we're like,
16 hey, we want to put a pool in, do you
17 have a recommendation. They said we
18 don't do pool packages, but we'll check
19 with our contractors. We found listings
20 on Zillow, this would be a great place
21 for a pool. We know maybe not every
22 single house in our development will meet
23 code, therefore -- ours does.

24 MR. HUBERT: Ours sounds like it
25 will. There are other houses that would

2 as well.

3 MR. BELL: There's quite a few that
4 won't. Anything down below is not going
5 to.

6 MS. HUBERT: That would be a code
7 compliance issue. It shouldn't be a
8 neighborhood issue.

9 MR. BELL: I understand. I
10 understand.

11 MR. DONOVAN: Do any other Board
12 Members have any questions, comments?

13 MR. EBERHART: No. I was going to
14 say I apologize for my limited ability to
15 get around.

16 MR. HUBERT: That's fine.

17 MR. HERMANCE: I have nothing else.

18 MR. BELL: Mr. Masten.

19 MR. MASTEN: I don't have anything
20 right now.

21 MR. BELL: Ms. Rein.

22 MS. REIN: I'm just concerned that
23 we don't have an answer to that question
24 as to why there cannot be a pool.

25 MR. DONOVAN: I think -- well --

2 MR. BELL: Excuse me. Sir, could
3 you step outside and have a conversation.
4 It kind of echoes up here.

5 MR. DONOVAN: Does Code Compliance
6 have a position one way or another on
7 this?

8 MR. MATTINA: No. One thing we
9 have to take into consideration, when you
10 do lot surface coverages and stuff for a
11 cluster, it's for the entire cluster. A
12 swimming pool is step one. Sheds and
13 stuff are step two. You need to consider
14 the entire cluster for coverages. Is
15 this single-family part of a solo single-
16 family or is it just part one of 150
17 houses of a cluster. That's what has to
18 be answered.

19 MR. HERMANCENCE: Have you asked the
20 builder about building a community pool?

21 MR. HUBERT: We don't really want a
22 community pool.

23 MS. HUBERT: We don't really want a
24 community pool.

25 MR. HERMANCENCE: Everything is so

2 tight in there.

3 MS. HUBERT: We definitely would
4 love a little more property, but we love
5 our neighborhood. I've spoken to some
6 neighbors and they've all been like -- they
7 didn't necessarily know.

8 MR. HERMANCE: There's the hill there.
9 If there's ever an issue with the pool, --

10 MS. HUBERT: We did talk to contractors.

11 MR. HERMANCE: -- it could flood out
12 your neighbors below you.

13 MS. HUBERT: We did talk to the
14 contractor. We're not using our property
15 line at ten feet from the property. They
16 said that's not an issue. We're using
17 our ten feet from the end of the hill.
18 Like I said, we talked to three or four
19 contractors.

20 MR. HERMANCE: You getting
21 machinery back there would be a little
22 bit challenging.

23 MR. HUBERT: We were looking at a
24 steel pool, not fiberglass. There would
25 be no crane or anything going over the

2 house.

3 MS. HUBERT: Everything could be
4 brought in.

5 MR. HUBERT: They have to resod
6 afterwards.

7 MS. HUBERT: A lot of our neighbors
8 have done that because they've done
9 retaining walls.

10 MR. HUBERT: Hardscaping.

11 MR. MASTEN: I've got a question.
12 When I was out there, the neighbor next
13 door opened her window and yelled at me,
14 what are you doing on private property?
15 I says I'm from the Zoning Board. Oh.
16 She shut the window and that was the end
17 of her. I don't know who she was. My
18 wife said who was that? I said some lady
19 in that house.

20 MS. HUBERT: We don't know. We
21 know people in our neighborhood. We
22 don't know our neighbors too well.

23 MR. MASTEN: I have to be here to
24 look at the property. That's all I said.

25 MR. HUBERT: There was no mention

2 of it to us.

3 MS. HUBERT: They haven't said
4 anything to us.

5 MR. HUBERT: A lot of the other
6 ones are much more friendly.

7 MS. JABLESNIK: You can't go
8 knocking on people's doors anymore.
9 People are crazy.

10 MR. MASTEN: I got out of the car,
11 walked between the two houses.

12 MR. DONOVAN: You do have that
13 suspicious look about you, John.

14 MR. MASTEN: I could say I was
15 looking for a dog.

16 MS. REIN: Dave, is there a way to
17 maybe put in a compromise or to hold the
18 decision up until we find out why they
19 don't want the pool there? As I said,
20 it's going to set a precedent.

21 I've looked at this property. It's
22 gorgeous. It's perfect for a pool. How
23 it affects the rest of the community --

24 MR. DONOVAN: I would suggest first
25 you listen to the public, then what I'm

2 going to say to you and every other
3 applicant tonight, this is a seven-member
4 Board. There's one vacancy and there's one
5 member absent. For a favorable determination
6 for everybody tonight, you need four of the
7 five members to vote in your favor. The
8 first item on the agenda actually pulled
9 off for that specific reason, because
10 obviously the more Board Members that are
11 here, the better the odds are of approval.
12 You have the right to ask the Board not to
13 vote. The Board could close the public
14 hearing and wait the 62 days to vote.

15 You could try to get an answer as
16 to why, Donna. I'm going to say the young
17 folks standing in front of you are going
18 to say they couldn't find an answer.

19 MS. HUBERT: We've been doing this
20 since July.

21 MR. DONOVAN: I speculated and I
22 called it an oversight, that it may not
23 have been taken into consideration when
24 the cluster was approved, right, that
25 people may want to have swimming pools.

2 I see where it's not allowed, but the
3 cluster provision of the code doesn't say
4 swimming pools or accessory structures
5 are not permitted. It's silent on that
6 issue.

7 MR. MATTINA: That's why I went
8 with 185-F.

9 MR. DONOVAN: Donna, you're one
10 hundred percent correct, the action
11 tonight will certainly have precedential
12 effects.

13 MS. REIN: I'm kind of torn. These
14 people should have their pool. However,
15 how is it going to affect the rest of the
16 community and what is the reason that
17 they can't have the pool? Is there some
18 kind of environmental reason? Is
19 somebody worried about flooding? I have
20 no idea. There's no answer.

21 MR. BELL: I think it's more or
22 less the size, from what I'm seeing.

23 MR. DONOVAN: I think it's all
24 speculation because we don't really know.

25 MR. BELL: Okay. With that said;

2 Siobhan, how many letters did we receive?

3 MS. JABLESNIK: Forty.

4 MR. BELL: The applicant sent out
5 forty letters. Thank you.

6 Is there anyone from the public
7 that is here to speak on this matter?

8 Can you come forward, ma'am, and
9 state your name.

10 MS. WASHINGTON: My name is Joanne
11 Washington, I live at 85 Wildwood.

12 I'm in agreement. Due to personal
13 reasons, I have not been able to take it
14 to this point, but I saw the letter.
15 Things have changed for me considerably,
16 so I came to support.

17 MR. BELL: I've driven the whole
18 area. Where do you live?

19 MS. WASHINGTON: When you come up
20 the development, there's three homes on
21 your left. I'm the one in the middle.
22 I'm the black house.

23 MR. EBERHART: I remember that house.

24 MR. BELL: I remember that.

25 MS. REIN: Thank you.

2 MR. BELL: Is there anyone else
3 from the public that wishes to speak on
4 this matter?

5 (No response.)

6 MR. BELL: No.

7 Okay. The Board, any last thing?

8 MS. REIN: I'll make a motion to
9 close the public hearing.

10 MR. BELL: I was getting ready to
11 ask that.

12 MR. EBERHART: I'll second it.

13 MR. BELL: There's been a motion
14 by Ms. Rein first and Mr. Eberhart
15 seconded. All in favor?

16 MR. EBERHART: Aye.

17 MR. HERMANCE: Aye.

18 MR. BELL: Aye.

19 MR. MASTEN: Aye.

20 MS. REIN: Aye.

21 MR. DONOVAN: You don't have to go
22 through the five-factor balancing tests
23 because it's an interpretation.

24 I guess the question is, is the
25 Board in a position where they want to

2 vote? Does the applicant want us to
3 vote? You have 62 days. Do you want to
4 take some time to try to find out more?

5 MR. EBERHART: I'm personally ready
6 to vote.

7 MS. REIN: Is there any other
8 avenue that we can go down to get an
9 answer for these folks?

10 MR. BELL: Joe, do you foresee --

11 MR. MATTINA: You guys are the
12 avenue.

13 MS. REIN: We're it.

14 MR. DONOVAN: Donna, there could be
15 a legislative change. The Town Board
16 could clarify this one way or another.
17 The Town Board has an awful lot on their
18 plate. The way for that to happen would
19 take some time.

20 If the Board is inclined to act
21 favorably, I don't want to put words in
22 anybody's mouth, you may want to consider
23 a limitation for detached single-family
24 homes, because it would be different with
25 attached single-family or attached

2 multi-family. It's a detached single-
3 family that meets all requirements --
4 code compliance issues for a pool, if
5 you're inclined to act tonight.

6 MS. WASHINGTON: I have another
7 question. I'm so sorry.

8 MR. BELL: This young lady.

9 MR. DONOVAN: The public hearing is
10 closed.

11 MS. WASHINGTON: It's closed? All
12 right. Forget it.

13 MR. DONOVAN: It's good to be
14 Chairman.

15 MS. WASHINGTON: Thank you. So
16 they're asking about a pool. I heard
17 reference to a shed. Does that include
18 that as well? That's what I wanted to
19 know.

20 MR. DONOVAN: No. The Board would
21 only vote on what's in front of them
22 tonight.

23 MR. BELL: That was great because I
24 was going to state that next. Thank you.

25 What is the motion of the Board?

2 M S . R E I N : I ' l l m a k e a m o t i o n t o
3 a p p r o v e .

4 M R . E B E R H A R T : I ' l l s e c o n d i t .

5 M R . D O N O V A N : W i t h a n y c o n d i t i o n s ?

6 M S . R E I N : Y e s . W h a t y o u s a i d .

7 M R . D O N O V A N : O k a y . I s t h a t c l e a r
8 e n o u g h f o r C o d e C o m p l i a n c e ?

9 M R . M A T T I N A : W h a t w a s t h a t ?

10 M R . D O N O V A N : T h e m o t i o n i s t o
11 a p p r o v e t h e p o o l f o r a d e t a c h e d s i n g l e -
12 f a m i l y h o m e i n a c l u s t e r d e v e l o p m e n t t h a t
13 m e e t s a l l o t h e r a p p l i c a b l e r e q u i r e m e n t s .
14 W o u l d t h a t b e c l e a r e n o u g h --

15 M R . M A T T I N A : Y e s .

16 M R . D O N O V A N : -- w h e n t h e s e f o l k s
17 b r i n g t h e i r p l a n i n a n d a n o t h e r 140
18 p e o p l e d o a l s o ?

19 M R . B E L L : T h i s d o e s n o t i n c l u d e
20 s h e d s .

21 M R . D O N O V A N : T h e p o o l i s t h e o n l y
22 t h i n g i n f r o n t o f u s .

23 M R . B E L L : W i t h t h a t s a i d , w e ' v e
24 g o t a m o t i o n f o r a p p r o v a l f r o m M s . R e i n
25 a n d a s e c o n d f r o m M r . E b e r h a r t .

2 Can you roll on that, Siobhan.

3 MS. JABLESNIK: I have a question.
4 I know I'm not on the Board. Does
5 that include all cluster developments
6 or just this one?

7 MR. DONOVAN: To be clear, all it
8 affects is this specific application,
9 but another application could come in
10 from a cluster development and say to
11 the Board we're the same as the Huberts,
12 therefore we want our application.
13 We have to address that as --

14 MS. JABLESNIK: They would each
15 have to come to --

16 MR. DONOVAN: Or Code Compliance
17 could say this is exactly the same so
18 we're just going to issue it. If it's
19 different, we're going to send it to the
20 ZBA.

21 Right, Joe?

22 MR. MATTINA: What would be
23 different? That's putting me behind the
24 eight ball here saying, you know, why is
25 mine different than yours. That's

2 putting me in liability.

3 MR. BELL: Wouldn't it only be if
4 they meet the --

5 MR. MATTINA: That would go for any
6 pool.

7 MR. DONOVAN: Understand, Joe, we
8 can't legislate. Only the Town Board can
9 legislate. We can pass on this application.
10 I think if a similar application came in,
11 a detached single-family home in a
12 cluster development that meets all the
13 requirements, you can grant that permit
14 without sending it here.

15 MR. MATTINA: Exactly. A cluster
16 development is only single-family
17 detached. Anybody with a pool, once you
18 approve this --

19 MR. BELL: I see where you're going.

20 MS. REIN: As long as they meet
21 code compliance.

22 MR. MATTINA: As long as they meet
23 the pool setbacks.

24 MR. BELL: And this does.

25 MR. MATTINA: This meets the

2 requirements. It doesn't meet the use
3 maybe.

4 MR. DONOVAN: Is everybody clear on
5 that?

6 MS. REIN: Yes.

7 MS. JABLESNIK: Mr. Bell.

8 MR. BELL: Yes.

9 MS. JABLESNIK: Mr. Eberhart.

10 MR. EBERHART: Yes.

11 MS. JABLESNIK: Mr. Hermance.

12 MR. HERMANCE: No.

13 MS. JABLESNIK: Mr. Masten.

14 MR. MASTEN: No.

15 MS. JABLESNIK: Ms. Rein.

16 MS. REIN: Yes.

17 MR. BELL: We have a split.

18 MR. DONOVAN: You have a three to
19 two vote. I feel like this is déjà vu
20 all over again. The motion fails.

21 You can ask the Board to revote.
22 You need four votes for this to pass.
23 You only have three. You can request the
24 Board vote at a subsequent meeting, but
25 you've got to make your request within a

2 certain period of time. You should make
3 the request within thirty days.

4 MR. HUBERT: So as of right now
5 it's a no?

6 MR. DONOVAN: That's correct.

7 MS. HUBERT: Do we have to redo
8 everything?

9 MR. DONOVAN: You can simply ask
10 for a revote.

11 MS. JABLESNIK: Just send me an
12 e-mail.

13 MR. HUBERT: We're definitely going
14 to request that.

15 MR. DONOVAN: There's no guarantee
16 that either the Board's position -- the
17 vacant position is filled or the absent
18 member, the Chairman, votes any
19 differently. Just so you're aware of
20 that.

21 MR. BELL: Right now we are down
22 one member from a vacant seat. Only the
23 Chairman is not here tonight.

24 MR. HUBERT: Got you.

25 MR. BELL: We'll see what his vote

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will be. We don't know.

MS. REIN: You want to get it on
the agenda for next month.

(Time noted: 7:26 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
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I further certify that I am not
related to any of the parties to this
proceeding by blood or by marriage and that
I am in no way interested in the outcome of
this matter.

IN WITNESS WHEREOF, I have hereunto
set my hand this 2nd day of April 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: March 27, 2025
Time: 7:26 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, New York

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

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

APPLICANT'S REPRESENTATIVE: KENNETH LYTTLE

----- X

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

2 MR. BELL: Next on the agenda are
3 the holdovers. The first one is Cerone
4 Enterprises for area variances of the
5 minimum lot area, minimum lot depth and
6 minimum side yard setback to build a new
7 single-family dwelling on the lot. I
8 know we went through this one last month.

9 Go ahead, sir.

10 MR. LYTTLE: The last time we were
11 here I believe we opened and closed the
12 public hearing.

13 I know we held off because at the
14 end you were going to have them submit
15 plans over to Joe to take a look at the
16 well and septic situation. I don't know
17 if the plans were resubmitted.

18 MR. MATTINA: Nothing was submitted.

19 MR. BELL: It was my understanding
20 that was all we were waiting on last
21 month. There was nothing there.

22 MS. JABLESNIK: The application for
23 the other property.

24 MR. MATTINA: The property down
25 below put in an application for a well,

2 but this applicant never submitted new
3 documents.

4 MR. DONOVAN: The concern that was
5 raised was the neighboring property was
6 concerned that approval of this
7 application would adversely impact her
8 ability because of the separation between
9 the well and the septic. I think that
10 person has attempted to resolve that
11 issue by getting a well permit.

12 MR. MATTINA: There is a well
13 permit on the downhill parcel.

14 MR. DONOVAN: That's been issued.
15 I'm not telling you anything you don't
16 know. You have to meet the separation
17 with your sanitary system.

18 MR. LYTTLE: I'm assuming they put
19 where it was on the lot.

20 MR. MATTINA: He even moved it back
21 more.

22 MR. LYTTLE: We have an additional
23 plan which I have not submitted to Joe.
24 We're readjusting our septic, the
25 laterals, shortening them, adding more

2 laterals and showing we meet the Orange
3 County requirements for standards. We'll
4 submit that to Joe. I didn't know if
5 anything was submitted.

6 There's no effect on the zoning
7 variance for the house. That's for the
8 building permit, when he does his review
9 for the septic and well. Is that
10 correct?

11 MR. MATTINA: Yes.

12 MR. LYTTLE: Can you actually go for
13 a well permit by itself?

14 MR. MATTINA: Yes.

15 MR. DONOVAN: Did you think he was
16 going to say no.

17 MR. LYTTLE: I never heard of that
18 happening.

19 MR. MATTINA: Technically the New
20 York State code says you must supply
21 proof of adequate water before you can
22 build a house.

23 MR. LYTTLE: Question. When that
24 well was located, I guess the lot is
25 closer to Orange Lake, so there will

2 never be anything built on it?

3 MR. MATTINA: Correct.

4 MS. REIN: This is a shared
5 property with one family.

6 MR. LYTLE: This is a one-family
7 residence. Nothing shared.

8 MR. BELL: Single family. It's a
9 single-family residence.

10 MS. REIN: Doesn't the other part
11 of the family own the lot next to it?

12 MR. BELL: No. What it was is
13 there's a family -- there was a lot that
14 was across the street.

15 MR. LYTLE: Downhill.

16 MR. BELL: Down the hill from it.
17 There was no joint or shared property.

18 MS. REIN: Thank you.

19 MR. BELL: If I'm not mistaken, I
20 made a note last time that the Town did
21 not have the plans. Was that for the --

22 MR. LYTLE: Downhill lot.

23 MR. BELL: That was the downhill
24 lot.

25 MR. LYTLE: They went for a well

2 permit.

3 MR. BELL: I'm just making sure.
4 I'm going back over my notes.

5 MR. HERMANCE: This new design
6 would meet the proper separation?

7 MR. LYTLE: If the well is placed
8 actually where he had proposed it on his
9 map, it will meet it. No matter what,
10 we'll work it out with Joe.

11 MR. BELL: That would be Code
12 Compliance.

13 MR. MATTINA: Yes.

14 MR. BELL: That's a Code Compliance
15 issue.

16 All right. I guess we can go
17 ahead.

18 MR. DONOVAN: So the public hearing
19 is closed. You can go through the five
20 factors.

21 MR. BELL: This is a Type 2?

22 MR. DONOVAN: This is a Type 2.

23 MS. REIN: This is a Type 2?

24 MR. DONOVAN: Yes, it is.

25 MR. BELL: We'll go through the

2 five factors, the first being whether or
3 not the benefits can be achieved by other
4 means feasible to the applicant.

5 MR. EBERHART: No.

6 MR. HERMANCE: No.

7 MR. BELL: No.

8 MR. MASTEN: No.

9 MS. REIN: No.

10 MR. BELL: Okay. Number two, is
11 there an undesirable change in the
12 neighborhood character or a detriment to
13 nearby properties. I don't think so.

14 MS. REIN: No.

15 MR. BELL: It's been resolved --
16 this issue should be resolved, the well
17 issue.

18 Okay. Third, whether the request
19 is substantial.

20 MS. REIN: No.

21 MR. BELL: No.

22 Mr. Hermance?

23 MR. HERMANCE: No.

24 MR. EBERHART: No.

25 MR. MASTEN: No.

2 MR. BELL: Okay. Fourth, whether
3 the request will have adverse physical or
4 environmental effects.

5 MS. REIN: No.

6 MR. EBERHART: No.

7 MR. BELL: It won't.

8 Fifth, whether the alleged
9 difficulty is self-created.

10 MR. EBERHART: Yes.

11 MR. HERMANCE: Yes.

12 MR. BELL: With that being said,
13 going through the balancing tests, what's
14 the motion of the Board?

15 MR. EBERHART: I'll move for
16 approval.

17 MR. BELL: We've got an approval
18 from Mr. Eberhart.

19 MS. REIN: I'll second it.

20 MR. BELL: A second from Ms. Rein.

21 MR. HERMANCE: With a condition
22 that it will meet the setbacks with --
23 the new drawings will meet the setback
24 distances from the well location on the
25 other side.

2 MR. BELL: Okay. With an added
3 condition that the wells meet the proper
4 setback requirements.

5 MR. LYTTLE: Joe will be reviewing
6 that.

7 MR. BELL: Joe from Code Compliance
8 will verify.

9 MR. LYTTLE: That's correct.

10 MR. BELL: Roll call, Siobhan.

11 MS. JABLESNIK: Mr. Bell.

12 MR. BELL: Yes.

13 MS. JABLESNIK: Mr. Eberhart.

14 MR. EBERHART: Yes.

15 MS. JABLESNIK: Mr. Hermance.

16 MR. HERMANCE: Yes.

17 MS. JABLESNIK: Mr. Masten.

18 MR. MASTEN: Yes.

19 MS. JABLESNIK: Ms. Rein.

20 MS. REIN: Yes.

21 MR. LYTTLE: Thank you.

22 MR. BELL: It's approved.

23 MR. LYTTLE: Joe, can I ask you one
24 question while I'm here? If we have a
25 septic plan already submitted, how are

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you going to approve the well location
down below?

MR. MATTINA: It hasn't been
reviewed. It doesn't get reviewed until
it gets approved.

MR. LYTLE: Thank you.

(Time noted: 7:35 p.m.)

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

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

----- X

Date: March 27, 2025
Time: 7:35 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, New York

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

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

APPLICANT'S REPRESENTATIVE: FLOYD JOHNSON

----- X

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

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MR. BELL: The next applicant is Joseph Accettura, area variances for the minimum front yard setback to a state road, a structure placed within 80 feet of the center line on 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 addition.

I know you guys were here the last time and you spoke on it.

It's my understanding you were supposed to come back with the dimensions.

MR. JOHNSON: The Chairman had asked that the rear and the front setback be adjusted because he felt they weren't perpendicular. I changed that. The 20.5 went to 20, so we lost 6 inches. This number here was originally 29.4 and we changed it to 27 feet 2 inches.

MR. BELL: All right.

MR. DONOVAN: There's a Board rule, as I recall, that anybody that wears a Mets jacket can't get their application

2 approved. If you had a Yankee jacket in
3 the car --

4 MR. JOHNSON: He was saying it
5 wasn't perpendicular. We'll get the
6 Building Department an updated drawing
7 showing those are the changes.

8 MR. BELL: One of the things was
9 making sure that the parking layout was
10 parallel to meet the needs of what you're
11 trying to do.

12 MR. JOHNSON: The other setbacks,
13 the 80 feet would require that we ask for
14 a variance of 32 feet.

15 There was the area coverage which
16 was -- the requirement is 10,211. We
17 have 10,614. We're asking for a variance
18 of 403 square feet.

19 MR. BELL: Do we have any questions
20 here from the Board?

21 MS. REIN: No.

22 MR. DONOVAN: One of the things I'm
23 going to have to ask, I don't think that
24 revised plan has been submitted to the
25 Zoning Board's office.

2 MR. JOHNSON: No. He just asked us
3 to do the adjustment.

4 MR. DONOVAN: This is all going in
5 your favor. When the decision is written
6 and when this goes to Code Compliance,
7 its got to approve what's on your map.
8 The map is the reference. The map needs
9 to be submitted.

10 How many copies, Siobhan?

11 MS. JABLESNIK: I can take one copy.

12 MR. DONOVAN: One copy of the map
13 needs to be submitted to Siobhan. All we
14 have is the old map on file. We need the
15 new revised map on file.

16 MR. JOHNSON: Just one?

17 MS. JABLESNIK: Just one is fine.
18 I can e-mail it to everybody.

19 MR. JOHNSON: You can have that one.

20 MS. JABLESNIK: Perfect.

21 MR. DONOVAN: Do you need a PDF?

22 MS. JABLESNIK: I can scan it.

23 MS. REIN: That would be one of the
24 conditions for approval?

25 MR. DONOVAN: You can make it a

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condition. When I write the decision, it's going to reference this plan -- the revision date on this plan.

MR. BELL: Any other questions?

MS. REIN: No.

MR. DONOVAN: The public hearing has been closed.

It's a Type 2 action. You can go through the five factors.

MR. BELL: The five factors, the first one being whether or not the benefit can be achieved by other means fee feasible to the applicant.

MR. EBERHART: No.

MR. HERMANCE: No.

MR. MASTEN: No.

MS. REIN: No.

MR. BELL: No.

Second, is there an undesirable change in the neighborhood character or a detriment to nearby properties.

MR. EBERHART: No.

MR. HERMANCE: No.

MR. MASTEN: No.

2 MS. REIN: No.

3 MR. BELL: No.

4 Third, whether the request is
5 substantial. It is, but it's not.

6 Number four, whether the request
7 will have adverse physical or environmental
8 effects. I don't think so.

9 Fifth, whether the alleged difficulty
10 is self-created, which it is. They're the
11 ones who are going to do the --

12 MS. REIN: There's no other way to
13 do it.

14 MR. BELL: -- renovation.

15 With that said, do we have a
16 motion?

17 MS. REIN: I'll make a motion to
18 approve.

19 MR. MASTEN: I'll second it.

20 MR. BELL: We have an approval from
21 Ms. Rein first and Mr. Masten with a
22 second.

23 Siobhan, can you roll on that.

24 MS. JABLESNIK: Mr. Bell.

25 MR. BELL: Yes.

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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.

MR. BELL: All right. It's been approved with the condition that you make sure you give her that copy.

(Time noted: 7:42 p.m.)

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

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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: March 27, 2025
Time: 7:42 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, New York

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

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

----- X

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

2 MR. BELL: We have one more.

3 MR. DONOVAN: John J. Lease. He
4 appeared by his engineer, Vince Pietrzak,
5 and his attorney, Mr. Gagliano, as I
6 recall. They were asked to submit
7 additional information because they
8 didn't have sufficient information for
9 the Board to act on the use variance. I
10 did check with Siobhan today. No
11 additional information was submitted by
12 the folks.

13 When this has happened in the past,
14 you've had me write a letter saying you
15 didn't appear, we put you over to the
16 next month. If you don't appear, your
17 application is going to be deemed
18 withdrawn.

19 MS. REIN: What happens if it's
20 withdrawn? They have to reapply?

21 MR. DONOVAN: They would have to
22 reapply. Your other alternative is to
23 vote. I mean, there's an application
24 here. No one has asked for an
25 adjournment. You could vote and deny

2 it. If they came back they would
3 need a unanimous vote to reopen,
4 though. It's different when there's
5 a motion to approve that doesn't have
6 enough votes. In that circumstance
7 you can ask for a revote within 62
8 days.

9 You can do what I suggested,
10 which has been the practice of the
11 Board before, and say we'll put you
12 on the April agenda. If you don't
13 show up, it's going to be deemed
14 withdrawn, or you could vote.

15 MS. REIN: I think that's fair.

16 MR. BELL: We'll move it to April
17 and do the letter. If they do not
18 respond, they're dropped.

19 All in favor?

20 MR. EBERHART: Aye.

21 MR. HERMANCE: Aye.

22 MR. BELL: Aye.

23 MR. MASTEN: Aye.

24 MS. REIN: Aye.

25 MR. BELL: At this time we'll go

2 ahead and make a motion to close the
3 meeting.

4 MR. MASTEN: I'll make a motion.

5 MR. HERMANCE: Do we have to vote
6 on the minutes before we close the
7 meeting? The February minutes?

8 MR. BELL: Everybody got a copy of
9 the minutes from the last meeting.

10 MS. REIN: They were perfect.

11 MR. BELL: We could have a vote on
12 the minutes. Everyone agrees and
13 approves?

14 MR. EBERHART: Aye.

15 MR. HERMANCE: Aye.

16 MR. BELL: Aye.

17 MR. MASTEN: Aye.

18 MS. REIN: Aye.

19 MR. BELL: Now we'll make a motion
20 to close the meeting.

21 MR. MASTEN: I'll make a motion to
22 close the meeting.

23 MR. BELL: John. I'll second it.
24 All in favor?

25 MR. EBERHART: Aye.

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MR. HERMANCE: Aye.

MR. BELL: Aye.

MR. MASTEN: Aye.

MS. REIN: Aye.

(Time noted: 7:47 p.m.)

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

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